

and Senator LUGAR. My understanding is they believe we should close the loophole entirely, not leave one area sort of in the dark, so to speak.

I am troubled by the amendment because our reading of the amendment indicates that it effectively exempts metals entirely without any oversight or regulation by the CFTC, even less than under current law. In good conscience, I cannot do that.

So I think we made the arguments, Madam President. And with what has happened—and now that we know the extent of the fraud that has taken place online—not to close that loophole, I think, would be a terrible blot on this Congress.

So I am hopeful we will have a positive vote.

I thank the Chair for your indulgence and yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. REID. Mr. President, I have been working with the two sponsors of this legislation. They have agreed to take my amendment. I have spoken with the majority and they say, no, they didn't want it to be done tonight, maybe tomorrow. I would simply say that we in good faith have worked, as I told the majority leader I would do, to try to move this bill along. Moving this bill along does not mean they are only going to be happy if we offer amendments that they like. The Senator from California in good faith offered this amendment. Whether people like it or not, if we are going to move this Energy bill along, we have to vote on it in some way. But it is my understanding that tonight nothing is going to happen.

It is pretty obvious nothing is going to happen. There has been nobody here. There has been nobody here to oppose her amendment. Of course, no other amendments can be offered until this one is set aside.

I just want the record to so reflect at a later time, when people come and say, we should try to move this bill along, and there have been statements on the floor made by the manager and the majority leader that they wanted to finish this bill this week.

I was asked at lunchtime, how did I feel about finishing the bill this week. I said to the reporters asking me: When you step back a little bit, there is about as much chance of our finishing this bill this week as my turning a back flip here in front of the two of you.

The record should reflect, I can't turn a back flip and never have been able to.

My point, I repeat, is that I am doing my very best to cooperate as I have been advised by the Democratic leader we should do everything we can to help with this bill. But help is a two-way street. When an amendment is offered that people don't like, you just can't have them leave rather than a single word being spoken against the amendment of the Senator from California other than my amendment which they have agreed to accept.

Having said that, wanting to continue to move this important piece of legislation, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EDWARDS. Mr. President, I was unavoidably absent for rollcall vote No. 212 on the Dorgan amendment. Were I present for that vote, I would have voted in favor of the amendment.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak for a period not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

#### IRAN

Mr. BROWNBACK. Mr. President, I don't want to overly belabor the point but there is a very important thing happening on the other side of the world, in Iran, at this very time. My office has been receiving, now, numerous reports of a growing protest in Iran taking place right now. This is within the past couple of hours. It is dawn in Tehran, as I speak. It is estimated that this past evening between 5,000 to 8,000 students are joining protests against the Government's crackdown on student democracy dissidents.

Recently, five student leaders were arrested in advance of the July 9 anniversary of the original mass student protest in 1999. Even though it is now almost dawn in Tehran, the protest has continued.

I understand during the night there was a dissipation of the protest. A number of the student protesters—this was outside Tehran University—who were protesting dissipated. Rather than going back to their dorm rooms, they have gone and dispersed to other places because, after the 1999 protest, a number of the Iranian military guard went to the dormitories and arrested en masse a number of students and they were roundly punished.

We have also received reports that Iranian Government forces are beating up on the protesters, firing warning shots at them. I do not have that verified but we have received these reports.

I call this to the attention of Members of this body because there has been a lot of discussion going on at the present time of U.S. policy towards Iran. I think it is clear the United States should clearly stand with those who stand for democracy.

We don't know if the student protest is going to go ahead and mature further or not, or if it is going to further brutally be put down.

This is in a buildup to a July 9 protest that had been planned for a number of months, to recognize the July 9, 1999, student protest that was brutally put down by the regime. This has been building. In anticipation of that, the regime in Tehran—and this is a dictatorial regime that has never been elected, the rulers have never been selected by the people in Iran—arrested these student leaders in advance of July 9 in an effort to put it down before it gets started.

This is deplorable. This is not democracy. The United States should stand with those who stand for democracy. We should have a clear official policy that our position toward Iran is to support those who support democracy and we support democracy in Iran. We stand for that with the Iranian people.

There has been a growing, burgeoning movement in Iran of young people who do not want anything to do with this dictatorial regime. They have lived, now, some 25 years, over 25 years under this militant, dictatorial regime that supposedly has put Islamic law in place and they are tired of it and they want no more of it. They want no more of it and they are willing to put forward their lives in this gallant effort, this brave push for democracy. That is their desire.

I call on the Iranian Government to stop beating and harassing their own people. The students are shouting: Khatami, Khatami, go away.

These are the same students who gave President Khatami his start 7 years ago. He was elected as a reformer, which he has not produced on. Instead, he has continued with the same totalitarian way.

I believe he was one of seven candidates at the time selected by the ruling mullahs to be able to run in front of the people, and the people selected the most reformist, most hope minded.

He has not produced. But they didn't get a free selection. Nor does Khatami—I want to identify this as well—have free control. The ruling mullahs continue to control the military secret police, foreign policy, and the treasury.

They control, not President Khatami. So it is a system where unelected, unselected dictators brutalize a country, an elected reformer is not allowed to reform, and he isn't even selected by the people. He has to go through a selection process by the ruling mullahs, so only appropriate candidates can run for office. And the students are tired of it. They are fed up with it, they are protesting, and they are being brutalized in the process.

We should support the student movement for the July 9 nationwide protest in Iran. We should state that it is U.S. policy to stand for true democracy in Iran.

This is a great nation of great people. It is going to make a wonderful open democracy when it is liberated and opened up. These students are trying to pave the way for that to occur.

This is how history is made. It is made one brave act at a time. The world is watching how the regime treats the students, the protesters, and it will hold this regime accountable.

In Iran they have a saying that they yell frequently: "Free Iran." As these protesters are yelling "Free Iran," that should be our call as well: Free Iran.

Mr. President, I yield the floor.

#### VOTE EXPLANATION

Mr. BIDEN. Mr. President, yesterday evening the Senate confirmed the nomination of Michael Chertoff to the United States Court of Appeals for the Third Circuit. I was in Delaware attending a funeral last evening and, accordingly, was unable to attend yesterday's vote on Mr. Chertoff's nomination. I wish to note for the record, however, that I would have voted for Mr. Chertoff's confirmation yesterday, having voted to report favorably his nomination from the Judiciary Committee last month.

#### THE COAL ACT

Mr. GRASSLEY. Mr. President, I rise today to call attention to an issue whose time for reform and resolution has come. I am speaking of the so-called "reachback" and "super-reachback" issues enacted in the Coal Act in the 1992 Energy bill. This insidious tax has caused numerous businesses to fail over the past 10 years as a result of its inequitable taking from those that should not have been included in this effort in the first place.

The Coal Act obligated companies to pay an annual tax to cover premiums of coal miner retirees' health care benefits. Not only did the Coal Act require companies then active in the coal mining business to pay but it also retroactively required companies—referred

to as the reachback companies—that were no longer in the coal mining business to participate and assessed them liability to pay in to the Coal Act's combined benefit fund, CBF. This retroactive tax has been so crippling for a number of companies that many have been driven into bankruptcy. The very existence of many other companies that are subject to this tax is in danger due to the heavy obligation this tax imposes on them.

Needless to say, the provisions of the Coal Act that created the CBF were hastily crafted and rushed into law without the benefit of hearings in the Senate Finance Committee or serious examination by the Senate.

The combined benefit fund is not only financed by the taxes on these reachback and super-reachback companies. At its inception, the coal miners' pension funds were used for part of the startup money for the fund. It is additionally funded through current transfers of the surplus interest income of the abandoned mine lands reclamation fund, or the AML. As of 2003, those transfers have been in the hundreds of millions of dollars.

Since the beginning, the solvency of the CBF has been in question. Even now, the possibility exists that, without reform in the near future, this fund could fail putting in jeopardy the coal miner retirees' health care benefits. To temporarily stabilize the CBF, Congress appropriated \$68 million for fiscal year 2000 and another \$96 million for fiscal year 2001 and \$35 million for fiscal year 2003. These ad hoc appropriations are not a permanent solution and do nothing to guarantee that retirees will continue to receive health benefits in future years. For some younger retirees, the benefits from the CBF is their only source of health care until they are eligible for Medicare. For older retirees, it serves as a kind of Medigap policy.

In addition to reachback companies, the current law imposed crippling taxes on companies such as Plumb Supply in my home State of Iowa. Plumb Supply has been designated as a super-reachback company. The super-reachback companies were relieved of their prospective liability by the U.S. Supreme Court since 1998. They were not, however, afforded refunds of those improperly assessed taxes they had been required to pay into the CBF. This hurts Plumb Supply and all other similarly situated companies. The super-reachback companies have been waiting patiently for the return of their money for nearly 7 years.

Many of us in the Senate, along with our colleagues in the House of Representatives, pursued legislation aimed at solving the reachback issue in a comprehensive manner during the 106th and 107th Congresses. We took on these efforts in order to create stability and fairness in the combined benefit fund, and to thereby provide a solution that would address the needs of all interested parties.

I sincerely hope that the Ways and Means Committee will take up legislation during this session of Congress to continue this program for coal mine retirees and their beneficiaries in a responsible fashion, while ending the unfair taxation imposed on businesses no longer active in the coal mining business.

Such legislation should do four things. First, it should provide for permanent solvency for the combined benefit fund. Second, it should relieve all reachback companies of prospective liability. Third, the long-overdue refunds to the super-reachback companies should be satisfied immediately. Finally companies with an ongoing reachback liability should be given an opportunity to prefund their obligations on an actuarially sound basis.

If the Ways and Means Committee can send us this legislation, the Finance Committee will be most happy to receive and examine it so this issue can finally be resolved.

#### BURMESE FREEDOM AND DEMOCRACY ACT

Mr. LEAHY. Mr. President, I strongly support the Burmese Freedom and Democracy Act of 2002, introduced by Senator MCCONNELL and Senator FEINSTEIN. This legislation seeks to pressure the military junta in Burma to release Aung San Suu Kyi and help bring democracy and human rights to Burma.

Several days last week, Senator MCCONNELL came to the floor to speak on this issue. I want to commend him for his steadfast leadership, and associate myself with his remarks. I have also joined as an original cosponsor of this legislation.

The message that we are sending to the ruling junta in Burma is clear: Its behavior is outrageous. Aung San Suu Kyi is the rightful, democratically elected leader of Burma. She and her fellow opposition leaders must be immediately released. This legislation also sends a clear signal to the administration, ASEAN members, and the international community that we need to turn up the heat on this illegitimate regime.

The efforts of Senators MCCONNELL and FEINSTEIN are already having an impact. On June 5, 2003, the State Department issued a strong statement on this matter, which reads:

The continued detention in isolation of Aung San Suu Kyi and other members of her political party is outrageous and unacceptable. We call on the SPDC to release them immediately, and to provide all necessary medical attention to those who have been injured, including assistance from international specialists. The offices of the National League for Democracy closed by the SPDC should be reopened without delay and their activities no longer proscribed.

But we all know that U.S. actions can only go so far. Bringing democracy and human rights to Burma will require active pressure from its neighbors in Southeast Asia, particularly