

doing would be understood and supposedly intended by those who supported it.

Instead, we are being asked here on very short notice, without the kind of debate we need, to regulate in a way that is not necessary one section of our economy—the energy and the minerals transactions related to derivatives.

Again, if the argument is going to be made that we need to protect investors in America, it is hard to see that because these are not investor transactions; they are transactions between highly sophisticated individuals. If it is true that derivatives are somehow a threat to the investor community and the safety of the investments of the American public is at risk because of something wrong with the way we manage derivatives, then why don't we cover all commodities? As I said earlier, it seems to me the question of how we regulate Treasury bonds or foreign exchange or interest rates or other financial transactions is every bit as important to the American investor as is the question of how we regulate minerals or how we regulate energy transactions.

I know in today's climate, with the Enron collapse and with the energy troubles we faced a few years ago in California, there are those who want to look at every aspect of financial and other transactions relating to energy and see if there is some way we can improve it. But I suggest it does not necessarily mean that more regulation and more government bureaucracy is the best way to solve these problems, particularly when you have the Secretary of the Treasury and the Chairman of the Federal Reserve telling us we have to have the kind of resiliency in our economy that derivatives provide to us.

In conclusion, I believe the bottom line is that each side can point to those who support their positions and those who oppose them. Each side can come up with arguments about why what we are doing now is or is not working. But no side can say we have the background information necessary to make this decision, because we have not had the kind of hearings and congressional evaluation of this issue we should have had.

Because of that, I stand firmly opposed to the amendment. I believe ultimately the American people will be much better served if we do our jobs in the Senate the way our procedures are set up to do them. The procedures and the policies of the Senate have been established to make very clear that we can have the time to evaluate issues such as this and do the study necessary to have good, solid support.

I also believe, as has been indicated by those who debate here, if we went through that process I have suggested—having a study and then further congressional evaluation and then maybe propose legislation—we would probably have much more support for whatever came forth, if anything. We

would build the collaboration, we would build the consensus, and we would come forward, because the one thing that there has been agreement on today is that nobody wants to have the problems we saw occur in California.

Nobody wants to see any kind of fraud or abuse from financial transactions or derivatives transactions. Everybody is willing to make sure that antifraud provisions and price protection provisions and the recordkeeping provisions are adequately available for derivatives transactions as necessary, so that we do not cause or increase any risk of problems in the economy.

If we will follow the procedures and the processes of the Senate, let this matter be handled by the committee of jurisdiction, which I believe is probably the Agriculture Committee, and then let other related committees handle their parts of it, with studies in support from the private sector and from our regulating agencies, I believe we can get the information necessary for us to do a good job, build consensus, and come forward with a solution that can be broadly supported on both sides of the aisle.

I thank the Chair very much for this time.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. CINTON).

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

AMENDMENT NO. 2989, AS MODIFIED

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I rise again, as I did a week ago when we debated derivatives, in opposition to the derivatives amendment. It offers no solutions to problems that caused either Enron or the California energy crisis. In fact, the amendment we have is a solution looking for a problem.

I am glad we have had a little time to study the amendment further because we have asked a number of regulators what their position is regarding the additional regulation of this relatively new form of business. We have heard from two regulators who have jurisdiction over the trading markets. They both have come back with the same response: This is not needed at this time. CFTC Chairman Newsome has said:

This amendment would rescind significant advances brought about by the Commodity Futures Modernization Act.

In response to a letter I sent to the Securities and Exchange Commission, Chairman Pitt responded:

The Securities and Exchange Commission believes this legislative change is premature at this time.

This amendment will disrupt a market that is working efficiently and providing important tools for energy companies. For instance, this amendment would require new capital requirements on electronic trading exchanges, even if they simply match buyers and sellers. These exchanges bear no risk associated with trading but this legislation could provide additional new taxes.

This amendment also provides new regulation on metals. I don't know of anyone who can point to how metals had anything to do with Enron or the California energy crisis. The regulatory model for metals has offered no problems. In fact, if you take a look at the derivatives market, there isn't a problem with any of the markets. I will speak about that in a moment.

Yet the supporters of this amendment believe we should quickly enact some new form of regulation to oversee the metals market. Enron was not caused by the trading of energy derivatives. As I said last week, Enron was not an energy trading problem. Enron was not an accounting problem. Enron was a fraud problem.

In fact, when the Chairman of the Federal Reserve, Alan Greenspan, was asked at a Senate Banking Committee hearing whether a nexus existed between energy derivatives trading and the collapse of Enron, he responded that "he hadn't seen anything" that would indicate that.

Why are we rushing to regulate an emerging business when the collapse of Enron was likely caused by potentially illegal acts by executives and, furthermore, that the collapse of Enron did not cause a blip on the scope of derivatives trading?

I know this is something everybody uses on a daily basis. In the example I gave a week ago, I cited some examples of things that might help to understand derivatives trading. I will not go into that again. I am kidding about this being something that everybody works with on a daily basis. In fact, we have been taking some classes in my office on how to spell "derivatives." It isn't a common, ordinary thing, but it is a new market that we have looked at extensively, held hearings on, and have done work on in the past through the regular channels. Again, there was not a blip in that system when Enron went down.

We recently passed the Commodities Futures Modernization Act. Most of us in the Senate worked on this legislation extensively.

This legislation examined the regulation of energy derivatives. This legislation was debated at public hearings. It was negotiated. It was drafted over a significant period of time with full participation and input from members of the Clinton administration and the committees of jurisdiction. What