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PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. EWING).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 1, 1999.

I hereby appoint the Honorable THOMAS W. EWING to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Chris Geeslin, Harvest Christian Fellowship, Frederick, Maryland, offered the following prayer:

Almighty God, we acknowledge our dependence on Thee, and we beg Thy blessing upon our children, our parents, our teachers, our leaders, and our country.

Gracious Father, we thank You for the great prosperity You have given us, the wealthiest Nation in the world. Yet, we come this morning with sorrowful hearts at the recent tragedies and continued social ills in our Nation.

Lord, we humbly ask that You would heal our land. We rededicate our Nation and ourselves to Your gracious Lordship. Pour out Your love, acceptance, and forgiveness as we come with heartfelt humility and repentance before You.

O God, we recognize that some things cannot be changed by legislation, but only by our Nation being reconciled to You, as stated in Your word, ''If my people who are called by my name will humble themselves and pray, and seek my face and turn from their wicked ways, then I will hear from heaven, I will forgive their sin, and will heal their land.''

Bless this Congress with Your protection, Your provision, and Your priesthood. Give them wisdom to make the right decisions before a holy, righteous and loving God. In Jesus' name, Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. EWING). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. ESHOO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker pro tempore's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. ESHOO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 8, rule XX, further proceedings on the question of approving the Journal are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 21. Joint resolution to designate September 29, 1999, as ''Veterans of Foreign Wars of the United States Day''.

WELCOMING REVEREND CHRIS GEESLIN, HARVEST CHRISTIAN FELLOWSHIP, FREDERICK, MD

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute.)

Mr. BARTLETT of Maryland. Mr. Speaker, it gives me great pleasure to introduce to my colleagues a constituent and a friend, Pastor Chris Geeslin.

Pastor Geeslin is a graduate of the Evangel Seminary of Harrisonburg, Virginia, with a Master's degree in theological studies, and is currently a doctoral candidate at the Wagner Institute in Colorado Springs, Colorado.

Pastor Chris resides in Frederick, Maryland, with his wife of 15 years, Maryellen and their four children. Pastor Chris started the Frederick Worship Center, an evangelical transdenominational church in Frederick 19 years ago. His church was instrumental in starting the Crisis Pregnancy Center, my favorite charity; the Downtown Community Church, a ministry to the inner-city of Frederick; and most recently has completed a merger with the Word of Life Church, now called the Harvest Christian Fellowship.

Pastor Chris is also the executive director of Servant Ministries, a hub-ministry for pastors, intercessors, and ministry leaders who desire to be networked in prayer for their community, city, and national leader so that ''none should perish.''

Please join me in welcoming Pastor Chris Geeslin.

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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize 5 one-minutes on each side.

COMMEMORATING 25TH ANNIVERSARY OF FBI'S ''CRISIS NEGOTIATION PROGRAM''

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, July 5 will mark the 25th anniversary of the Federal Bureau of Investigation's Crisis Negotiation Program. The program created the Crisis Negotiation Unit, which has worked to negotiate the release of hostages for the last 25 years.

We live in a very dangerous world, one that has for two decades seen a steady rise in hostage-taking incidents. We know that we will face new challenges from criminals and terrorists in the next century and that the work of this unit will be even more vital to the security of the American people both at home and abroad.

The FBI Special Agents who serve in the Crisis Negotiation Unit deserve the gratitude of our Nation for their bravery and for their devotion. They deserve recognition of the fact that they have saved the lives of countless hostages and law enforcement personnel in the most dire of circumstances.

The Crisis Negotiation Unit has also protected numerous potential innocent bystanders from harm in many high-profile hostage crises, like the Lufthansa skyjacking at John F. Kennedy Airport in 1993 to many serious incidents that have received little or no publicity.

On behalf of the House of Representatives, I commend and congratulate the Crisis Negotiation Unit and its Special Agents on their 25th anniversary. They deserve our special thanks for a job well done and our prayers for all the dangers they are sure to face in the coming years.

IN APPRECIATION OF THE VETERANS OF THE UNITED STATES

(Mr. MCNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCNULTY. Mr. Speaker, we are about to again celebrate our independence day. I mentioned on the floor yesterday how grateful we should be to all the men and women who wore the uniform of the United States military through the years. Because had it not been for their sacrifice, we would not have the privilege of going around bragging about how we live in the freest and most open democracy on the face of the Earth.

Freedom is not free. We paid a tremendous price for it. But it goes beyond freedom in the United States of America. Just in the past decade, we have seen the tearing down of the Berlin Wall, the democratization of all of Eastern Europe, the breakup of the Soviet Union. And we should recognize that the sacrifice of our soldiers have meant freedom and democracy for hundreds of millions of other people all around the world.

So it is a weekend where we should practice great gratitude. And, in my opinion, Mr. Speaker, I hope more and more Americans do what I do every morning when I get up. First I thank God for my life, and then I thank veterans for my way of life.

DEPARTMENT OF INTERIOR COMPLIANCE REQUIREMENT ENDANGERS RANCHING INDUSTRY

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the Department of Interior has issued a policy that requires compliance with the National Environmental Policy Act prior to the renewal or transfer of any livestock grazing permits.

Well, the Department now also requires that the Bureau of Land Management complete an environmental assessment or environmental impact statement prior to this grazing permit reissuance or transfer.

If any of these studies are challenged by some extremist special-interest groups or if the analyses are not complete before the permit or lease expires, the permittee is kicked off the allotment without recourse even if the range is in excellent condition.

Completing these analyses and implementing the resulting decisions will likely take many, many years. During those years, the permittee will be excluded from the allotment, essentially destroying their livelihood, and bankrupting another family business.

The problem here, Mr. Speaker, is that NEPA applies to ''a major Federal action significantly impacting the quality of the human environment.'' The Department of Interior has not explained why a simple paper transaction requires years of study.

The Secretary of Interior is attempting to destroy the ranching industry and is assaulting generations of families who have nurtured and cared for our public lands. Such unreasonable regulation is the death of all good business.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces to all the Members that the Chair will recognize up to ten 1-minutes on each side, not five.

MAKING RESEARCH AND DEVELOPMENT TAX CREDIT PERMANENT

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, yesterday the Research and Development tax credit in our Nation expired. H.R. 835, a bipartisan bill supported by over 150 of our colleagues, would make this Research and Development tax credit permanent.

Mr. Speaker, because the tax credit has expired, we need to act. What are we waiting for? We really should pass this bill because the bill is good public policy. Making the R&D tax credit permanent is critical to the continuing growth of America's economy, especially our new economy.

If this tax credit were made permanent, our GDP would increase by nearly $28 billion over the next 20 years.

American businesses, Mr. Speaker, cannot base their planning on a year-to-year renewal of this credit anymore than the American family should base their financial planning on a year-to-year renewal of the home mortgage deduction.

So now that the tax credit has expired, Congress should extend it. What are we waiting for, Mr. Speaker? Let us take action on this and expand our economy in a new and better way.

SALUTE TO NEW MILITARY SERVICE STUDENTS OF PENNSYLVANIA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, as we celebrate the Declaration of Independence on the 4th of July this weekend, I rise to talk about the students who will ensure that the United States remains a beacon of freedom throughout the world.

This year I had the pleasure of nominating 25 young men and women from the 16th Congressional District of Pennsylvania to the United States military services academies. A number of those students were appointed to the academies.

This week, those young men and women will start a journey; four years of study at premier institutions of higher learning, followed by active duty in the United States Armed Forces. Throughout their 4 years, they will not only study academics but prepare themselves militarily and physically for service to the Nation as military officers. They are living proof that patriotism is alive at the turn of the millennium, and they are tomorrow's leaders. Therefore, I would like to join their parents and friends in saluting these outstanding students.

PRESIDENTIAL ELECTION DEBATES SHOULD INCLUDE ALL VIABLE CANDIDATES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, last November polls in Minnesota said it was a two-man race for governor. Beam me up. Who were they polling? Bullwinkle? Jesse Ventura, the third candidate, actually won due to the debates and quite frankly he is a breath of fresh air in our country.

That is the reason, another reason, why I have reintroduced my bill that would require that all presidential debates must include every candidate that has a mathematical chance of winning. They qualify on enough State ballots. They qualify for matching funds. They give the American people a choice, and they make the two major party candidates tell us what they really feel.

I yield back Bullwinkle, and I yield back the fact that the Federal Election Commission can do this without my bill.

□ 1015

U.S. MISSES BOAT ON LATIN AMERICAN TRADE

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, we have all heard the old expression, ''You snooze, you lose.'' An article in yesterday's Washington Times brings that old expression to mind. It was entitled, EU, that is European Union, Latin Trade Zone Doesn't Include U.S.

It seems that while our government has dawdled, European governments have worked hard to cultivate trade relationships in our own backyard. Latin American countries and the European Union worked toward lowering trade barriers, and our government stands idly by.

Trade means jobs. Trade means economic growth. Trade means a higher standard of living for the American people. Let us not continue to sit back and watch while Europe and Latin America reap the benefits of an aggressive trade policy. Let us work with our trading partners to tear down barriers and open up markets for American products around the world. Mr. Speaker, we can ill afford to be pushed out of the international trade markets. Let us get back in the game.

Mr. DREIER. Mr. Speaker, if the gentleman will yield, I would simply like to congratulate the gentleman on his remarks; and I would like to associate myself with the gentleman's statement.

THE PRESIDENT'S MEDICARE PROPOSAL

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, it is time that this Congress gets smart and starts to invest in our 39 million Medicare beneficiaries. I urge my colleagues to stop hemming and hawing and take heed of the needs of our seniors.

Plainly speaking, the President has a plan to save Medicare by dedicating 15 percent of the Federal budget surplus. The plan modernizes Medicare by adding a vital drug benefit, eliminating the copay on preventive services, providing a buy-in option for the vulnerable and offering needed assistance for low-income beneficiaries. The Republican leadership has no Medicare plan and really has only one choice. Roll up your sleeves, work with the Democrats, save Medicare.

Mr. Speaker, we need to protect our seniors. We can do it and we can do it now.

COMPASSIONATE CONSERVATISM

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, Dr. Joseph Jacobs wrote an exceptional book about ''compassionate conservatism,'' a slogan today adopted by the distinguished governor of Texas, George W. Bush. The concept reminds me that many liberals go through their lives thinking that they are compassionate because of their willingness to spend other people's money.

So often there is absolutely no recognition from liberals that conservatives share many of the same ultimate goals. But we certainly disagree over the best ways in which to achieve them. That is why we hear day after day on the House floor the motives of conservatives attacked. In my view, the liberal version of compassion has done more harm and has had more devastating consequences on the less fortunate than the most fiscally conservative lawmaker ever could have. Theirs is the philosophy of dependence on government. We conservatives share the philosophy of celebrating individual self-reliance. Compassion is not a product of policy. It is a product of the human heart. There is no compassion in destroying the motivation of the less fortunate to achieve, to grow and to prosper.

MEDICARE

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, since the bipartisan Medicare Commission met, the Medicare debate has come front and center. Republicans want to improve the access of seniors to prescription drugs. No senior should have to worry about whether they can afford the medicines they need to stay healthy. We need to work in a bipartisan manner to solve this problem, putting politics aside. This issue is too important.

The President has recently entered this debate, and we are awaiting bill language, but it brings up some interesting questions. What does the President's plan do? Does it target those most in need? Does it threaten the solvency of Medicare? Does it take money out of the Social Security Trust Fund? Who pays? Will seniors pay higher premiums? Will the Government set price controls? Will all Americans face higher taxes? Will payments to hospitals, doctors and other health care providers be cut? Does the plan address holistic medicine and Medicare fraud, waste and abuse? Will Medicare innovation be threatened? Will seniors be able to participate based upon their choice?

What we need to focus on is providing drug coverage, solvency and choice to our seniors. That is what we will be working for.

PASS RESEARCH AND DEVELOPMENT TAX CREDIT

(Mr. UDALL of Colorado asked and was given permission to address the House for 1 minute.)

Mr. UDALL of Colorado. Mr. Speaker, it is July. Half a year is gone. Next week we will go home to tell our constituents what the House has accomplished. What will we say? If we are candid, we will have to say, not enough.

We have not acted to protect patients' rights. We have not acted to reform campaign finance. We have not acted to help communities respond to growth and sprawl. We have not even done an easy thing like renewing the research and development tax credit. It expired last night.

We need to do better. In fact, we need to make the credit permanent and broaden it. A temporary credit like the one that expired last night is a less effective credit because researchers cannot count on it. Making it permanent would end this uncertainty. A broader credit would benefit small businesses and high-tech entrepreneurial startups. Under the law that just expired, these firms did not benefit. We should go further and use the credit to promote collaboration between the Federal Government, the private sector and universities like the University of Colorado in my district.

Half the year is gone, but half remains. We need to stop wasting time and missing deadlines. Let us pass this tax credit as soon as possible.

TOP TEN TERRIBLE TAX ACT

(Mr. TANCREDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TANCREDO. Mr. Speaker, the House will soon consider legislation to implement the budget resolution's call for $778 billion in tax relief over the next 10 years. While I believe today's complicated and cumbersome Tax Code needs to be completely replaced, this will take time as the American people debate alternative tax systems. In the meantime, we can take a major step

toward tax simplification by eliminating 10 of the worst taxes in the Tax Code today. We should pull these taxes out by their roots, not just reduce them, trim them or cut them back or decrease them. This will make it more difficult for them ever to grow back again.

That is why I am introducing the Top Ten Terrible Tax Act today—boy, that is quite alliterative—which would completely eliminate 10 of the most egregious taxes on the American people, including estate and gift taxes, the tax on telephone calls, capital gains taxes and the tax increase on Social Security beneficiaries. The American people deserve to keep more of their hard-earned money and the Top Ten Terrible Tax Act would provide much-needed tangible tax relief to every American.

THE JOURNAL

The SPEAKER pro tempore (Mr. EWING). Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 56, answered ''present'' 1, not voting 19, as follows:

[Roll No. 262]

YEAS—358

Abercrombie
Ackerman
Allen
Andrews
Armey
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Coyne
Cramer
Crowley
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Everett
Ewing
Farr
Fattah
Fletcher
Foley
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pascrell
Paul
Payne
Pease
Pelosi
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Toomey
Towns
Traficant
Turner
Upton
Vento
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Weygand
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—56

Aderholt
Baird
Bilbray
Bonior
Borski
Clay
Costello
Crane
DeFazio
English
Filner
Ford
Frank (MA)
Gephardt
Gillmor
Hall (OH)
Hastings (FL)
Hefley
Hilliard
Hinchey
Kucinich
LaFalce
Lee
LoBiondo
Markey
McDermott
McGovern
McNulty
Meek (FL)
Meeks (NY)
Miller, George
Moran (KS)
Neal
Oberstar
Pallone
Pastor
Peterson (MN)
Pickett
Pomeroy
Ramstad
Riley
Sabo
Schaffer
Schakowsky
Stupak
Sweeney
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Weller

ANSWERED ''PRESENT''—1

Carson

NOT VOTING—19

Archer
Blunt
Brown (CA)
Conyers
Cox
Cubin
Cummings
Ehrlich
Evans
Fossella
Green (TX)
Hutchinson
Hyde
Nadler
Rangel
Scott
Tierney
Wise
Young (AK)

□ 1106

So the Journal was approved.

The result of the vote was announced as above recorded.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 775, YEAR 2000 READINESS AND RESPONSIBILITY ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 234 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 234

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. EWING). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from South Boston, Massachusetts (Mr. MOAKLEY), the distinguished ranking minority member of the Committee on Rules, pending which I yield myself such time as I might consume. During consideration of this rule, all time that I will be yielding is for debate purposes only.

Mr. Speaker, the resolution provides for the consideration of the conference report to accompany H.R. 775, the Y2K Act. The rule waives points of order against the conference report and its consideration. The rule further provides that the conference report be considered as read. This rule is a fair rule which will enable the House to expeditiously consider this important and very timely matter.

Mr. Speaker, we all know the year 2000 is right around the corner, and most Americans have heard that some computers may, I underscore may, have a problem dealing with this historic date change. Now, I am not an alarmist, and I hope that we will not suffer major problems, but that does

not mean that we can sit back and ignore this very important issue.

The fact is we live in the computer age. We have a digital economy. Therefore, we have a responsibility to do what we can to help people solve Y2K problems before anything goes wrong. That is what we are doing here today by passing this bipartisan conference report on H.R. 775, the Year 2000 Readiness and Responsibility Act.

Mr. Speaker, I come to this issue with the belief that the American private sector is clearly the most energetic, creative, and powerful force in the world. In particular, our high technology, computer and software companies are the best and the brightest. If anyone is up to tackling this technology challenge, they are. Mr. Speaker, I am very glad that they are on our team.

But make no mistake about it, there are some hurdles standing in the way of the kind of teamwork and cooperation needed to solve Y2K problems. A broad coalition of private sector companies believe that uncertainty regarding unbridled Y2K litigation is the biggest hurdle for them of all. This view is not limited just to the high-tech and computer companies. It cuts across the business community large and small, including retail, manufacturing, and services alike.

Fixing the Y2K computer bug should not be a partisan issue. That is why over a year ago I began to work with my colleagues on both sides of the aisle, and with a broad private sector coalition, to enact a targeted Y2K litigation reform bill. Mr. Speaker, I am happy to say that we are now nearing the finishing line.

In particular, I want to applaud the work of my colleagues, the gentleman from Virginia (Mr. DAVIS), the gentleman from California (Mr. DOOLEY), the gentleman from California (Mr. COX), the gentleman from Virginia (Mr. MORAN), and the gentleman from Alabama (Mr. CRAMER) for joining in this bipartisan introduction of H.R. 775.

The conference agreement is clearly a product of compromise, and that is not a criticism of it. It says a lot about the leadership and skill of our colleagues, the gentleman from Virginia (Mr. GOODLATTE), and the gentleman from Illinois (Mr. HYDE), and the gentleman from Detroit, Michigan (Mr. CONYERS), and the gentlewoman from California (Ms. LOFGREN).

I will say that I greatly appreciated when the gentleman from Michigan (Mr. CONYERS) was able to sit upstairs in the Committee on Rules with the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Virginia (Mr. DAVIS) in support of this conference agreement.

When I joined my friend from Fairfax, Virginia (Mr. DAVIS) in introducing H.R. 775 on February 23, we talked about the importance of enacting meaningful bipartisan Y2K litigation reform as quickly as possible this year so that we would lift the shadow of frivolous litigation in time to do some good. Mr. Speaker, that is exactly what we are doing today.

So I strongly urge all of my colleagues to support this bipartisan conference report. It is a credit to this institution and to the bipartisan teamwork that is so often critical to enacting meaningful legislation. So I urge support of both the rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California (Mr. DREIER), my dear friend, the chairman of the Committee on Rules for yielding me the customary half hour.

Mr. Speaker, when the House version of this bill came to the floor a few weeks ago, it was a massive tort reform package masquerading as a way to exterminate the millennium bug. The version of that bill was dangerous and probably would have made matters even worse. Fortunately, this bill has changed significantly from the original version. Although I still have some concerns over the measure, it is still a vast improvement over the last version.

Mr. Speaker, in exactly 6 months, all of us will find out whether the predictions of doom and gloom surrounding the event of the year 2000 are all they are cracked up to be. We will see whether or not medical care, food safety, and environmental safety are compromised in any way because, right now, high-tech companies from Boston to Silicon Valley are working very hard to correct their programs in order to ward off potential disasters. I certainly hope that they succeed.

But in case they do not, Mr. Speaker, they should be held responsible for problems that might arise within reason because even though we need to weed out frivolous claims and encourage alternatives to lawsuits, we still need to preserve the people's judicial recourse.

What I would prefer, Mr. Speaker, is for companies to work out these problems before anything horrible happens. I hope this bill will help get us there, and I hope Congress will keep working with the high-tech firms to help them fix the problem now so that we can minimize the amount of pain and suffering felt in the days following January 1, 2000.

Mr. Speaker, I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no speakers at this time, and I would urge that we move ahead with the expeditious consideration of this rule. I hope that my friend on the minority could help us move along.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. LOFGREN).

□ 1115

Ms. LOFGREN. Mr. Speaker, I am very pleased to support the rule on this conference report and look forward to voting for the conference report itself. I think that this is a good example of what we can accomplish when we extend our hands across the aisle and work in a bi-partisan way to come up with solutions that are practical and effective.

As I mentioned about a week ago today, there are probably a dozen different ways we could draft a bill that would address the Y2K issues. The conference report is one of them. There is no one way it is perfect, but certainly it is workable and one approach that I think will gain broad support in this House on both sides of the aisle.

I wanted to say something else today about bi-partisanship. I want to note that yesterday, once again, as has happend for years now, the research and development tax credit expired. This is a terrible situation that we have allowed to occur once again. High-tech companies in Silicon Valley become frustrated when the research and development tax credit expires each year. And, as we know, if the research and development tax credit is not lengthy or permanent, it is very difficult to get the maximum value out of that research and development tax credit.

That's why I and 157 other Members of this House, support H.R. 835, a bill to make the research and development tax credit permanent. We have not yet acted on this bill. I would therefore ask, in the spirit of bi-partisanship evidenced by this Y2K bill, that we bring the R&D permanent tax credit to this floor for a vote no later than the week of July 12. I know that once we get the R&D tax credit to the floor, we will have an overwhelming vote in support of that permanent extension. I look forward to doing that.

I do not want, as has happened several times each year in the past, to have a gap where the R&D tax credit was not renewed and, did not exist, as it does not exist today.

We know from the 1998 study by Coopers & Lybrand that the permanent R&D tax credit would likely have prompted an additional $41 billion in research and development investment from 1998 through 2010, a 31-percent return on investments.

So let us celebrate what we have achieved here on the Y2K remediation bill, and let it serve as a challenge to us to do the same thing with regard to the R&D tax credit by making it permanent.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to simply congratulate my California colleague on her superb statement, and I

would say that the spirit of bipartisanship which we have shown on this Y2K litigation reform bill is, I hope, a model we can use not only for, as she said, research and development tax credit, making that permanent, but also in just a few minutes when we consider the very important rule on H.R. 10, financial services modernization.

With that, I urge support of the rule and the conference report.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EWING). All time has expired.

Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 423, nays 1, not voting 10, as follows:

[Roll No. 263]

YEAS—423

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Kucinich

NOT VOTING—10

Becerra
Brown (CA)
Brown (FL)
Cox
Doolittle
Ehrlich
Fossella
Green (TX)
Lewis (CA)
Pickett

□ 1141

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. DOOLITTLE. Mr. Speaker, on rollcall No. 263, I voted "yes" on the Y2K Rule, but my vote was not recorded. On the subsequent vote, I discovered that my voting was not being read by the voting machine. The card has been turned in for replacement. Had I been present, I would have voted "yes."

PROVIDING FOR CONSIDERATION OF H.R. 10, FINANCIAL SERVICES ACT OF 1999

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 235 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 235

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed 90 minutes, with 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Financial Services and 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of the Rules Committee Print dated June 24, 1999. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the

Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1145

The SPEAKER pro tempore (Mr. EWING). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, this legislation before us is a structured rule providing for the consideration of H.R. 10, the Financial Services Modernization Act of 1999. Passage of this rule today is another step in the long and carefully considered repeal of the Depression-era rules that govern our Nation's modern financial services industry.

The rule provides for 90 minutes of general debate, 45 minutes equally divided between the chairman and the ranking member of the Committee on Banking and Financial Services and 45 minutes divided equally between the chairman and ranking member of the Committee on Commerce.

The rule also waives all points of order against consideration of the bill. The rule makes in order an amendment in the nature of a substitute consisting of the text of the Committee on Rules print dated June 24, 1999, as original text for the purposes of amendment.

The rule also waives all points of order against the amendment in the nature of a substitute.

The rule further provides that no amendment to the amendment in the nature of a substitute shall be in order except those printed in the Committee on Rules report, which may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and opponent, and shall not be subject to amendment and shall not be subject to a demand for a division of the question.

The rule also waives all points of order against the amendments printed in the report.

The rule allows the chairman of the Committee of the Whole to reduce voting time to 5 minutes on any postponed question, provided voting time on the first in any series of questions is not less than 15 minutes. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, this rule allows for consideration of a total of 11 amendments, five which are offered by the Democrats on a bipartisan basis. The rule, like the underlying legislation, deserves strong bipartisan support.

Ten of the amendments made in order with this rule are debatable for 10 minutes each. They address important issues such as limitation of fees associated with acquiring financial products and taking steps to prevent institutions from requiring customers to purchase insurance products as a condition of receiving a loan and other important items.

This rule also allows 30 minutes of debate on an important amendment, crafted in a bipartisan manner to strengthen the bill's provisions related to maintaining the privacy of a consumer's personal financial information.

This privacy amendment is truly historic. It represents the strongest pro-consumer privacy language ever considered by the House.

This work product that we present today comes as a result of extensive work out of two major committees, including the Committee on Banking and Financial Services and the Committee on Commerce who have primary jurisdiction over this bill. In an intensely bipartisan effort to bring together or to merge the best parts of both of these bills, colleagues of mine on the Committee on Rules on both sides of the aisle have crafted what I think is the best legislation for America. In fact, a senior member of the Committee on Banking and Financial Services, the gentleman from Minnesota (Mr. VENTO), yesterday stated in testimony before the Committee on Rules, and I quote, ''Obviously the issues with privacy that have been worked out here are stronger than either bill from the other committees.'' This compromise is well crafted and bipartisan.

Mr. Speaker, this rule meets the twin goals the Committee on Rules grappled with yesterday, allowing fair and vigorous debate on various alternatives, yet moving this delicate compromise forward to House passage.

Mr. Speaker, 65 years ago, on the heels of the great Depression, the Glass-Steagall Act was passed, prohibiting affiliation between commercial banking, insurance and securities.

However, merely 2 years after passage, the first attempt at repealing Glass-Steagall was instituted by Senator Carter Glass, one of the sponsors of the legislation. He recognized that changes in the world and in the marketplace called for more effective legislation.

Two generations later, the need to modernize our financial laws is more appropriate than ever.

There is no doubt about it, reexamination of regulation of the financial services industry in America is a complicated matter. Congress recognizes that busy American families where many times both parents work to make ends meet have little time to consider complicated banking law. But Congress now is working again to repeal Glass-Steagall with exactly these hard-working Americans in mind.

This legislation is designed to give all Americans the benefit of one-stop shopping for all their financial services needs. New companies will offer a broad array of financial products under one roof, bringing convenience and competition. More products will be offered to more people at a lower price.

As a result of this legislation, Americans will have more time to spend with their families, more money to spend on their children, and the opportunity to save for their future.

Americans deserve the most efficient borrowing and investment choices. Americans deserve the freedom to pursue financial options without being charged three different times by three different companies for a product.

This legislation is designed to increase market forces in an already competitive marketplace to drive down costs and broaden the number of potential customers for securities and other products that are before us today.

Mr. Speaker, I urge my colleagues to support this well-balanced rule that is an extremely complicated and delicate piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague from Texas for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, Congress has been working on a banking modernization bill for decades. Last night, June 30, 1999, we finally had a chance to get it right. Last night, we had a bill that managed the confusing crossroads where banks, insurance companies and securities industries meet. It had bipartisan support in two committees. It would have passed the House overwhelmingly. It would have been signed by the President quickly. And for the first time since 1933, Mr. Speaker, the United States would have updated its banking laws.

But, for some reason, the Republican leadership decided that it was more important to keep Democrats out of the process than to pass this banking bill. After years, Democrats and Republicans together worked out a bill to modernize financial services, but the Republican leadership decided to make war instead of history and remove several important provisions because they were authored by Democrats.

This pattern of sabotaging bills with overwhelming bipartisan support in committees then removing Democratic-authored provisions and passing bills by the narrowest of margins with the fewest Democratic votes is becoming more the rule than the exception.

Mr. Speaker, we do not have to look any further than the agriculture appropriations bill, the legislative branch appropriations bill, the DOD rule and the juvenile justice bill to see the pattern that has emerged.

Mr. Speaker, why does the Republican leadership feel compelled to do this? On a substantive level, it is the American people who ultimately lose out.

The gentlewoman from California (Ms. LEE) had an amendment to require insurance companies to treat people from low-income areas the same as anyone else. It passed the Committee on Banking and Financial Services. It was part of the bill. And, last night, the Republican Committee on Rules took it out.

The gentlewoman from New York (Ms. SLAUGHTER) had an amendment to strengthen family decision-making by requiring parents' signatures on credit card increases for children under 18. Last night, the Committee on Rules' Republican members refused to allow it.

The gentleman from Massachusetts (Mr. MARKEY) had an amendment to protect people's private information from becoming part of Big Brother's marketing arsenal. Last night, the Republican leadership refused to allow it.

The gentleman from Oklahoma (Mr. LARGENT) had a great amendment, to enable the Federal Reserve to protect small towns and rural areas from being taken over by mega-banks the way hardware stores have been taken over by Wal-Mart. It was part of the Commerce bill. Last night, the Republican Committee on Rules took it out.

The gentleman from California (Mr. CONDIT) had an amendment to keep people's personal medical records private. Last night, the Committee on Rules refused to allow it.

The gentlewoman from Colorado (Ms. DEGETTE) had an amendment to prohibit insurance companies from discriminating against victims of domestic abuse. It passed the committee overwhelmingly, but the Republican leadership took it out.

Meanwhile, for some reason, Mr. Speaker, that I still cannot fathom, last night the Republican leadership included an amendment which will shut down the Bank Secrecy Act and cripple law enforcement's ability to trace and recover ill-gotten money.

In other words, the Republican leadership is protecting the privacy of suspected felons while at the same time opening up the private lives of American families. They are choosing enormous corporations over victims of abuse and profits over progress.

Mr. Speaker, when this new Congress began, I was hopeful about the new Republican leadership. I was hopeful they would put partisanship aside, reinvigorate the committee process and pass some bills to help the American people. But, Mr. Speaker, I am very sorry to see that party politics is still winning out over responsible legislating, and I think it is time the American people get a little more from their Congress.

Mr. Speaker, I feel the American people have had enough investigations, they have had enough partisanship. They want their Medicare protected, they want their Social Security shored up, they want their medical records kept private, and they want their banks to operate fairly.

□ 1200

They want their Congress to pass some bills, even if Democrats vote for them, that will make their lives just a little bit easier, their children a little bit safer and their world a little bit fairer.

Mr. Speaker, I am sorry that I have to withdraw my support from this rule. I hoped we could have passed this bill with a wide range of support. I had hoped the American people would be put first.

I urge my colleagues to oppose this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased and honored to have the gentleman from Massachusetts (Mr. MOAKLEY) to stand up and to talk about this process that we have been going through. As he is well aware, for many weeks we have worked together in a bipartisan basis. It is absolutely true that last night we came at the time a vote was necessary for us to decide what would be made in order, and I would like to reiterate that there were 11 amendments, 5 which were offered by Democrats or on a bipartisan basis that were accepted, and one of those amendments that was accepted was crafted very carefully, with a lot of hard work by the gentlewoman from Ohio (Ms. PRYCE).

Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE) to join in this debate.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding this time to me. I rise in strong support of this fair and balanced rule which the House or which allows the House to debate and vote on the Financial Services Act. Updating our Nation's antiquated banking laws has been a goal of Congress for nearly 20 years, and we are finally standing on the doorstep of success. The journey to this point has been arduous, but those of us who have worked on this legislation understand the great benefit to our Nation's competitiveness and to American consumers who will enjoy more seamless financial services as a result.

The delicately crafted compromise legislation that will allow us to achieve these goals is protected by this balanced rule, and anyone who claims to be for financial services modernization should support the rule. It is our best chance to go forward.

There are many who have sacrificed their own key issues and set aside their view of a perfect world in order to achieve the laudable goals of financial modernization, but, Mr. Speaker, sadly last night the spirit of compromise and sacrifice broke down in spite of the fact that 5 of 11 of the amendments that were adopted had Democratic names on them; broke down, and my Democrat colleagues on the Committee on Rules decided to undermine the years of hard work and jeopardize the success of financial modernization over the fate of one amendment.

Perhaps more disappointing is their decision to dishonor a commitment to bipartisanship on the bill and on an amendment that will protect the privacy of consumers' financial personal information. This is not a policy issue. The substance of the privacy amendment has not changed. It is a case of political one-upsmanship that dismisses the interest of the American people.

I hate to say it, but it appears that the Democrats are grasping at straws to find any issue with traction that bolsters their political advantage whether or not the policy is sound.

As a moderate Republican and a person who advocates reaching out across party lines to build consensus, I have to say that today I understand the public's cynicism about politics and politicians. It is truly a sad day for America when their elected representatives expend their energy to create chaos for political gain rather than progress for the American people. It is no wonder the American people are jaded. I know I am. But I cling to the hope that we will use our better judgment and redeem ourselves by voting to pass this rule and moving forward to pass historic bipartisan financial modernization legislation. I urge a yes vote on the previous question and the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. FROST), a member of the Committee on Rules and the caucus chair.

Mr. FROST. Mr. Speaker, it is with great sadness that I rise in opposition to this rule. I do so, Mr. Speaker, in spite of my efforts to work with the Republican majority to pass a meaningful and bipartisan financial services modernization bill.

Mr. Speaker, I must oppose this rule because the Republican majority has deliberately given short shrift to redlining, an issue fundamental to Democrats and has denied us even the right to bring this subject up on the floor today. Democratic opposition to this rule because of this move on the part of the Republican leadership should come as no surprise. I would like to review how we reached this situation.

Several weeks ago, I was encouraged by the Republican leadership on the Committee on Rules to work on a bipartisan solution to the issue of financial privacy. I along with ranking Democrats on the Committee on Banking and Financial Services, the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota

(Mr. VENTO) worked closely with my colleague on the Committee on Rules, the gentlewoman from Ohio (Ms. PRYCE) to develop a reasonable compromise on what has become a very contentious issue. We believed we had come up with just such a compromise. While our amendment gained support of a number of members of the Democratic Caucus, a significant number of our caucus oppose it because they believe it does not go far enough.

While my Democratic colleagues and I were working to fashion this compromise, it came to my attention that the leadership of the Committee on Banking and Financial Services and the Committee on Commerce had unilaterally dropped from H.R. 10 an important provision relating to insurance redlining against minorities and women. This provision had been part of the Committee on Banking and Financial Services bill reported by the Committee on Banking and Financial Services, and its inclusion had been instrumental in assuring the large bipartisan majority approval of the bill in the Committee on Banking and Financial Services.

The gentleman from Iowa (Mr. LEACH) had been told by his ranking member that this provision had to stay in the text of the bill in order for Democrats to continue to support the bill. Yet when the Committee on Banking and Financial Services and the Committee on Commerce Republicans met to reconcile the two differing versions of the bill, the antiredlining language was dropped.

Let us talk about what was dropped. This is a provision that seeks to prevent a financial holding company from engaging in the new activities allowed by H.R. 10 if an affiliated insurance company engages in discriminatory insurance redlining. Mr. Speaker, this is a fundamental issue for Democrats. This is an issue of fairness and equity. It is an issue that divides right from wrong.

I told the Republicans on the Committee on Rules in no uncertain terms that it would be unlikely that a single Democrat would vote for this rule if this language were not restored to the bill either by incorporating it into the base text or allowing an amendment to restore it on the floor. Let there be no mistake. I made this very clear long before last night's meeting. This was no surprise.

Yet, Mr. Speaker, last night the Republican majority on the Committee on Rules cavalierly ignored my advice. By doing so they have created a situation in which it is impossible to consider this bill on a bipartisan basis. They have thrown away the bipartisan goodwill and the hard work and dedication to the issue of financial services modernization as well as the hard work that went into what could have been a true bipartisan compromise on the most contentious issue of the bill, that of financial privacy.

It is clear that the Republican leadership has decided to try to pass this rule without Democrat support. In doing so they have made a decision to jeopardize essential and critical legislation if even a few members of their own party desert them. Stated more simply: The Republican leadership runs the very real risk of snatching defeat from the jaws of victory.

This is a tragedy for our country. It is high time that we pass financial modernization legislation, that we leave behind the depression era laws that hamstring the financial services industry and prevent them from becoming truly competitive in the global marketplace. With the hard work of a number of Members of good will on both sides of the aisle, that objective was in sight, yet, Mr. Speaker, the Committee on Rules majority last night denied the one amendment that could have guaranteed passage of the rule and perhaps the bill.

I cannot understand how the Republican leadership could let this happen. But their decision has been made, and now all of us must live with the consequences.

Mr. SESSIONS. Mr. Speaker, I yield 2 minute to the gentleman from Findley, Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, the gentleman protested too much.

When I came to the Committee on Rules yesterday in support of the bipartisan amendment on privacy and I was greeted by my friends on both sides of the aisle saying that we had a positive amendment that was going to deal with the privacy issue, it was supported by broad sectors of both parties, and when I left the Committee on Rules late yesterday afternoon, my assumption was that not only would that amendment be made in order, but the amendment would be cosponsored by Democrats and Republicans alike. When I found out later that evening, last evening, that there had been a failure on the part of my friends on the Democratic side to cosponsor the bill, I was deeply offended.

Now I do not get on this floor very often and get partisan, but I am telling my colleagues, around this place your word is your bond, and if you tell me that you are going to cosponsor an amendment with me, I fully expect that you will carry through. And the fact is that because of some political gamesmanship and somebody trying to take partisan advantage of somebody of goodwill, we find ourselves today in a partisan debate over an issue like financial services that has been bipartisan and supported by bipartisan majorities in both the Committee on Commerce and the Committee on Banking and Financial Services. And I think it is an outrage, an outrage, for people like me who acted in good faith to have the rug pulled out from under me because of some political game playing.

Now I want everybody to support the rule. This is a good rule, it is a fair rule, and I suspect that when our amendment is offered on the floor, there are going to be a lot of Democrats who were going to cosponsor that amendment who were going to vote with us on that amendment because they thought it was a good amendment last night and they think it is a good amendment today.

So let us support the rule, let us get away from this nonsense of partisanship, pass this rule and pass this historic legislation as well.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE), the ranking member on the Committee on Banking and Financial Services.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, I regret so very much that I must come here and oppose the rule because from the beginning of this Congress I have worked so closely with the chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), and so many Members on my side of the aisle such as the gentleman from Minnesota (Mr. VENTO), et cetera, to craft a bill that we could wrap up and give almost as a gift and say: Pass it. And I think we did, and unfortunately last night the gift was unraveled.

We thought that there would be basic Committee on Banking and Financial Services text. In considerable part there was, but in some important parts there was not. For example, the issue of insurance redlining, I advised my chairman that this was taking on increased importance. I went to the Committee on Rules and said, I have a consumer amendment that I would like to offer with four parts; the most important part is the Barbara Lee amendment. I cannot begin to tell you how many Democratic votes I might lose if this is not base text or at least permitted as an amendment.

There was something else I said too: Look at the gentleman from Ohio (Mr. OXLEY), he said we worked out a good bipartisan amendment on privacy. He is right, it is good. It could be better, no question about it, but it is very, very good. But on the issue of medical privacy, which is totally different, I said we have a big concern.

Virtually every medical association and health association in the entire United States is concerned. We can deal with that concern by either making crystal clear, explicit that the language on medical privacy does not preempt the right of the Secretary of HHS to issue regulations subsequent to August 21, and the bill, the amendment of the gentleman from Iowa (Mr. GANSKE), just does not do that, it does not address the issue. Or alternatively, take the amendment of the gentleman from California (Mr. WAXMAN) which

would delete the medical privacy provisions. The amendment of the gentleman from Ohio (Mr. OXLEY) and myself and others does not deal with that issue at all; that is in base text now.

They did not do that. They allowed some other amendments that are atrocious, that undermine the Bank Secrecy Act. It would permit the redomestication of mutual insurance companies that has nothing whatsoever to do with financial services.

□ 1215

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Atlanta, Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding the time.

Mr. Speaker, I rise in strong support for House Resolution 235, a structured rule providing for consideration of H.R. 10, the Financial Services Act of 1999.

Mr. Speaker, what we are witnessing this afternoon is the politics of legislative destruction. There are some in this Congress whose game is to stop important legislation, especially historic legislation, and there should be no doubt that this banking bill is an historic accomplishment.

This bill has been painstakingly crafted to achieve a balance between all of the parties, and we have a great opportunity to promote competition, protect consumers and give firms the ability to compete globally as we enter the 21st century, and this rule will hold together the compromise legislation that Members have constructed after many years of hard work. Unfortunately, because some Members did not get everything they wanted, they decided to threaten the passage of the legislation.

Earlier this week, we had a strong, bipartisan privacy amendment with Democrat and Republican cosponsors. I sat through 4 hours of testimony in the Committee on Rules yesterday, and leading Democrats on the Committee on Banking and Financial Services argued that this privacy legislation was a great accomplishment and that the language would benefit American consumers. Then last night, because they did not get everything they wanted, some Members took their names off the bipartisan amendment and decided for partisan purposes to jeopardize this important legislation.

Perhaps because of this kind of partisan demagoguery, and we are going to hear the minority demagogue privacy and redlining all afternoon, much of the financial services industry remains the same as it was 66 years ago. We have a chance to change the New Deal regulations that locked down certain activities and interests of financial security. H.R. 10 will free the market to determine the future of the financial services industry.

I am also surprised that any Member would endanger banking modernization, because the timing of this legislation is critical. American institutions are losing market share to foreign financial institutions. This bill will modernize the industry and relieve U.S. financial institutions of their current international competitive disadvantage.

It comes down to this: The philosophy of this Congress is to encourage competition in order to provide more efficient service and superior products to the consumer. We did that in telecommunications. We put market forces to work in crafting Medicare. Today we lay the foundation for a new financial services industry that creates more choices and lower prices for consumers and enables companies to compete in the global marketplace.

Are all the interested parties happy with everything in the bill? No, certainly not; including me.

There is an amendment that I wish were made in order but it could not be, and that is probably a pretty good indication that we have a good piece of legislation in front of us.

I urge all of my colleagues to ignore the demagoguery, understand that there is an effort here to make a partisan victory. Support this rule and pass this historic legislation.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was just handed a letter written by Robert Rubin, Department of Treasury, who I am sure is not engaged in this political plight. I would like to read a paragraph.

''While the amendment purports to be about bank customer privacy, in reality it will significantly undermine the crucial law enforcement tool, the Bank Secrecy Act. The amendment would eliminate the mandatory reporting of suspicious activity, enabling money launderers to deposit as much as $25,000 of dirty money with no report being filed, and eviscerate provisions aimed at preventing money laundering at financial institutions.'' Signed Robert Rubin.

This was done away with as a result of the Paul amendment.

Mr. Speaker, I include the letter for the RECORD.

DEPARTMENT OF THE TREASURY,
Washington, DC, July 1, 1999.

Hon. RICHARD A. GEPHARDT,
Minority Leader,
House of Representatives, Washington, DC.

DEAR DICK: I write to express my concern about the Paul-Barr-Campbell amendment to H.R. 10, the Financial Services Act of 1999. The Department of the Treasury strongly opposes this amendment.

While the amendment purports to be about bank customer privacy, in reality it will significantly undermine a critical law enforcement tool—the Bank Secrecy Act (BSA). The amendment would eliminate the mandatory reporting of suspicious activity enable money launderers to deposit as much as $25,000 of dirty money with no report being filed, and eviscerate provisions aimed at preventing money laundering at financial institutions.

For nearly 30 years, the BSA has been a critical component of our attack on money laundering. Its requirements help prevent the placement of dirty money in our financial institutions and provide information vital to detecting and investigating money laundering. Combating money laundering, in turn, has proven to be a remarkably effective way to attack drug cartels and other criminal groups. In Operation Casablanca, the largest drug money laundering case in U.S. history. Customs used suspicious activity reports (SARs) and currency transaction reports (CTRs) to identify subjects and assets linked to the overall conspiracy. By weakening these BSA reporting requirements, Paul-Barr-Campbell would mark a retreat in our fight against narcotraffickers.

In addition to keeping drug money out of our financial institutions, the record-keeping and reporting requirements also help law enforcement detect and investigate financial crimes aimed at those institutions. According to the FBI, during FY 1998, it used SARs in 98 percent of the cases initiated by its financial institution fraud unit. In the same period, the Department of Justice secured 2,613 fraud-related convictions in cases involving SARs, and restored more than $490 million in proceeds to victims of fraud schemes.

Every Administration since 1970 has supported the BSA. Because of the BSA, the United States is viewed as a leader throughout the world in assuring that individual freedom and reasonable financial transparency are not only compatible but go hand in hand. I urge you to support law enforcement and protect the integrity of our financial institutions from drug traffickers and other criminals by opposing the Paul-Barr-Campbell amendment.

Sincerely,

ROBERT E. RUBIN.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, this is a bad rule. It is a bad bill, and the process is arrogantly crafted to deny the House the opportunity to consider important questions.

It is the function of the Committee on Rules to make possible an orderly debate but also to see to it that important national questions are discussed. This is not a rule; it is a gag rule.

The committee has chosen to deny the committees and the Members of this body opportunities to discuss very important matters.

The rule is unfair to taxpayers. It greatly prevents us from addressing the question of how we will assure that banking insurance paid for by the taxpayer will not be used to cover risky, speculative activities. No amendment can be offered on this point.

The rule is unfair to consumers. The rule does not permit amendments to restore consumer protections stripped out of the bill by the Committee on Rules.

The bill preempts more than 1,700 State insurance laws across the country, and, if this bill passes in its current form, every State insurance law that is to protect consumers of insurance products will be essentially rendered null and void.

We will be allowed to consider one consumer-related provision. That is an

amendment to deny consumers meaningful information on the costs of products that they buy, and we will change that.

This rule is unfair to investors. The bill still contains enormous loopholes in investor protections when securities are sold or underwritten by banks. An amendment to close just one of those loopholes was denied by the Committee on Rules.

The worst thing that this bill does is it denies protection of privacy of American people. It does not allow the ordinary citizen to know that his personal financial information is not going to be thrown around wherever the holder of that particular information might choose to place it.

We have an amendment which would have assured protection of that. That amendment is prohibited by this rule.

In like fashion, the medical information of every citizen is, under this legislation, thrown open to the gaze of all. The result of that, of course, is going to be significant loss of personal privacy by ordinary citizens with regard to medical conditions and medical care.

I think that is wrong. The Committee on Rules did not permit an amendment to address that question.

My question to the Republican leadership, my question to the Committee on Rules is: What are they afraid of? Why is it they are gagging this body? Why is it that they refuse to allow these questions to be debated?

Let us allow the House to work its will. Let us allow fair consideration of all of the important questions that need to be addressed. If my colleagues are right, I am sure they will prevail. If they have the votes, they might even prevail when they are not right, but the hard fact of the matter is at least allow the House to address these questions. They are important.

I am sorry to see the day when the Committee on Rules would exert such outrageous power.

Mr. SESSIONS. Mr. Speaker, I would inquire as to the time remaining on both sides.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Texas (Mr. SESSIONS) has 15½ minutes remaining. The gentleman from Massachusetts (Mr. MOAKLEY) has 14 minutes remaining.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Des Moines, Iowa (Mr. GANSKE).

(Mr. GANSKE asked and was given permission to revise and extend his remarks.)

Mr. GANSKE. Mr. Speaker, as Members on both sides of the aisle know, I have stood on this floor night after night talking about abuses in the HMO industry and insurance, and I do that not to bash the insurance industry but to try to protect patients.

There is a provision in this bill that I think helps protect consumers. We are talking about creating an entity that combines insurance, banking and securities. I think there should be a provision in this bill that protects a person who has insurance information on their health from having that information transferred over to the banking side.

I do not want information like this, or HIV positive status, being transferred to the banking component. So in this bill there is a provision that was passed by the Committee on Banking and Financial Services with a lot of Democrat votes. Most of the Democrats on the Committee on Banking and Financial Services voted for this language that says that unless a consumer authorizes, someone cannot take that health information from the insurance portion and transfer it to the banking portion, or outside of it.

Nothing in this legislation precludes the Secretary of Health and Human Services from going ahead and issuing her regulations. I want it to be on the record that the intent of the author of this provision, me, specifically says this legislation does not preclude the Secretary from going ahead and issuing regulations. Specifically in this bill, this language, it says that if comprehensive medical privacy legislation passes, it supersedes this language. This is an important consumer consideration. We should have something in this bill that protects a consumer from thinking that their private health insurance information can be shared with those affiliates within that financial services company.

This is a consumer protection. Does it go as far as some of the people who want comprehensive language? No. Does it deal with research? No. Those are very complicated issues that we need to deal with, but this is something that we all should support, and I urge my colleagues to support the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY), the author of the privacy amendment that was not allowed.

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY) for yielding me this time.

Mr. Speaker, this is a terrible rule. The gentlewoman from California (Ms. LEE) in the Committee on Banking and Financial Services wanted an amendment to protect against insurance companies redlining the poorest people in our country. The Committee on Rules strips out the protection for those poor people, just strips it out. That is not fair. It is a bad rule.

I won my amendment in the Committee on Commerce guaranteeing the protection of privacy for the checks, for the mortgages, for the insurance records, for the brokerage receipts of every American, inside the bank, outside the bank. The Committee on Rules strips it out. They will not allow for those protections to be built into this bill, and no amendment will be put on the floor which makes it possible.

The gentleman from California (Mr. CONDIT) asked the Committee on Rules to put in order an amendment which would allow for medical records, your children's Ritalin, your daughter's anorexia, your wife's breast condition, your father's prostate condition to be protected. They will not allow the Condit amendment to be debated on the floor.

Mr. Speaker, there is a Dickensian quality to this wire. Yes, we want financial industries to be able to work more efficiently, but it is the best of wires and the worse of wires simultaneously.

The Republicans are saying we need commerce but commerce without a conscience, without any protection for poor people, without any protection for medical records, without any protection for everyone's financial secrets that no one else has any business getting into.

Mr. Speaker, they are willing to protect people's secrets from being robbed by third parties but not against embezzlement inside of a bank. They can take someone's information and sell it to anybody they want.

This is a terrible rule. This is a rule which compromises the individual integrity of every American in our country. I strongly urge a no vote on the rule so that we can have the proper amendments put in order to give the American individual the protections which they are going to need as we move to this new era of cyber-banking.

Every American has a right to knowledge about information being gathered about them, notice that it is going to be reused for purposes other than that which they originally intended, and the right to say no to banks, to hospitals, to insurance companies, to anyone else that seeks to use a family's private information as a product.

The Ganske amendment does not provide that protection. The exceptions in the Ganske amendment swallow this rule. There is no protection against medical records being compromised. Vote no on this rule. Send it back to the Committee on Rules. Allow for these amendments to be brought out here on the floor for a full debate of the modern financial era and what it means to every American in our country.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH), the gentleman who is the chairman of the Committee on Banking and Financial Services and a gentleman who has been engaged in the methodical, bipartisan effort to get this bill where it is.

□ 1230

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding time to me.

Frankly, Mr. Speaker, perspective is very difficult to bring to situations like this. Let me say that I believe both sides have some truth. I am not a great enthusiast for this rule, but I would urge serious consideration to its passage. I will vote for it.

Frankly, the main two amendments that I asked to be placed in order were the Largent amendment, which would have protected community banks somewhat stronger, and the Lee amendment. By background, let me stress, the Lee amendment comes from the Committee on Banking and Financial Services. It passed by a one-vote margin in committee. I voted for the Lee amendment. I would have supported it on the House floor.

But I would also say to my colleagues that if they look at the big picture, two aspects have to be understood.

One, the principal committee of jurisdiction over the act that it modifies is the Committee on the Judiciary, and the Committee on the Judiciary objected to its consideration in this bill before it had a chance to look at it. That is something that in my view the Committee on Rules gave disproportionate attention to, but it was a valid consideration.

Second, let me just say on redlining, it is an important issue. But the most important aspect on this bill relates to the Community Reinvestment Act, which this bill broadens in two profound ways. One, it makes CRA a condition of affiliation for banks if they want to affiliate with insurance companies and securities firms, and second, it applies the CRA to a newly created institution called wholesale financial institutions. These are strong steps towards protecting against redlining.

Finally, I would caution people on the rhetoric of privacy. There has never been a bill in the modern generation that in its underlying text has brought more privacy protection to financial services than this one. The amendment that is being worked on brings even more. It may not go quite as far as some might want, but it nonetheless is the strongest privacy protection bill ever brought before this body in any modern Congress.

Mr. MOAKLEY. I yield myself such time as I may consume, Mr. Speaker.

I am sure if the gentleman's two amendments had been adopted in the Committee on Rules, we would not have had this fight on the floor. It probably would have been passed already.

Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I rise to speak against the rule. First, I cannot believe that the Committee on Rules blocked several of our important consumer protection amendments. It is shocking that the Committee on Rules blocked the anti-redlining amendment adopted by the Committee on Banking and Financial Services in markup.

Somehow this amendment was just deleted with no vote, no debate, by the stroke of a pen or a computer error. When I asked my colleagues how this could happen this morning, I was reminded of the many anti-democratic maneuvers that we face each and every day in this House. How tragic.

This anti-redlining amendment is to prevent insurance affiliates from redlining. It fits squarely into our country's history to not tolerate discrimination in its many forms, but particularly not to allow discrimination in housing.

It was adopted in open session on a rollcall bipartisan vote. Whether it was by one vote or by 20 votes, it was democratically adopted. The amendment is an important tool in fighting redlining and racial discrimination. It is inconceivable to me that members of the Committee on Rules would go on record as opposing fair housing and in support of redlining.

I urge rejection of this horrendous, outrageous rule.

Mr. Speaker, we have not allowed banks to discriminate—why should we allow insurance Companies to discriminate?

It is vital to remember, to know that the Supreme Court, in recent years, upheld the Fair Housing Act as covering the sale of homeowner's insurance. The NAACP, and the Justice Department sued the American Family Mutual Insurance company on discrimination in selling their homeowner insurance. The Supreme Court ruled in their favor and the company settled. Thus, there is no question of federal interest in the sale of homeowners' insurance.

I have been informed that this amendment displeases the insurance industry. I hope that I am wrong. We are almost forty years from the blood, sweat and deaths of the civil rights movement. The cause for that struggle remains in 1999. This modest amendment asks the minimum: that insurance companies, just like banks, should not discriminate.

H.R. 10 is heavily biased toward the interests of the financial services industry with little concern for consumers and communities. Deletion of the Fair Housing Act protections exacerbates this imbalance—and reinforces the image of H.R. 10 as an industry legislative product.

The record of companies on fair lending, redlining, and discrimination should be a consideration in establishing eligibility for the formation of a financial holding company. Elimination of this provision rewards the lawbreakers and allows the guilty companies to have the same rights, the same privileges, the same benefits as the majority of companies which are law abiding.

I am shocked. I do not want to believe that insurance companies, in the lushness of our booming economy, would resist the idea behind the legislation. As I said earlier, the goal of the legislation is modest. It only asks insurance companies to not be in violation of the Fair Housing Act. That they be fair in selling their policies. That the sale of an insurance policy should be a business Transaction, not a transaction that gives vent to prejudices, stereotypes as to who is and who is not worthy of being a customer by virtue of their residence.

The Rules Committee has effectively blocked a formal, and democratically arrived-at decision to eliminate redlining. This blatant violation of our legislation process is outrageous and should be illegal.

I ask my colleagues to vote against the rule and to support a motion to recommit.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, in urging adoption of this rule, I want to just touch on two issues that may be troubling some of our colleagues.

First, we are blessed in America with a greatly diversified financial services industry. Oftentimes, however, these financial institutions, their regulators, and Members of Congress find themselves at odds on important policy, business, and competitive issues.

While some banks are a part of a very large, diversified holding company and can take advantage of sophisticated delivery systems, others are independent and must fend for themselves.

Regulations are written chiefly to keep the large, complex organizations operating within the law, but then they are similarly applied to the same small, independent bank. This situation is made worse for the small community bank when we consider that their primary competitors escape the consequences of heavy regulatory and tax burden.

This is wrong. Federal policies should not be implemented to create an unfair competitive advantage that benefits one industry over another, where they compete for the same customer base.

We often overlook the fact that small banks are small businesses themselves. They serve as economic engines that drive the local rural economies, benefiting millions of consumers, small businesses, family farms, and local merchants.

Having said that, however, and as a free market proponent, I must also add that I am sensitive to the community banks' concerns. Although I am sensitive to those concerns, I cannot agree with their position that we should act to isolate them from competition.

No, I say to my colleagues, that is not a satisfactory answer to their concerns. Instead, let us work together in passing this rule and H.R. 10 today, and then work to pursue regulatory and tax relief for small community banks. It is crucial that we act to preserve the open market competition, rather than attempting to burden their potential competitors, and rather than attempting to turn back the clock.

Congress should work to help unburden the community banks in this country.

Mr. Speaker, my second point concerns the unitary thrift issue. H.R. 10 is designed to help increase competition and to benefit consumers, communities, and businesses. With those goals in mind, how can we justify reining in the unitary thrift holding companies?

Mr. Speaker, for the record, I would like to clarify that the unitary thrift holding company is not a loophole. More than 30 years of experience and volumes of legislative history underlay the foundation of its structure. Congress acted specifically to bring both capital and management expertise into the thrift industry and to promote housing.

Simply put, restricting firms from transfering ownership in an attempt to thwart competition disadvantages investors. In fact, some thrifts were created at the urging of the Federal government. I am strongly opposed to a legislative taking that might lead to significant costs to the U.S. Treasury. I feel strongly that investors should not have value taken from them through some arbitrary action of Congress.

No evidence based on safety and soundness has been presented that would justify prohibiting unitary thrifts from being sold to other companies. Likewise, no evidence suggests that financial companies that buy unitary thrifts should not continue operating their commercial activities.

Mr. Speaker, today we are focused on promoting economic efficiency and growth. Congress should do something positive for our independent community banks, rather than trying to do something negative to a group of potential competitors.

I urge my colleagues to pass this rule and adopt H.R. 10, and let us send it to conference.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I rise in strong opposition to the rule.

Frankly, banking modernization, financial modernization, is one of the important issues before the Congress. I want to commend especially the gentleman from Iowa (Chairman LEACH) and my fellow members on the Committee on Banking and Financial Services for working together. We brought together a good bill, with a lot of effort in terms of the private sector concerns, banks, securities, insurance firms, to deal with issues and the administration.

The other side of financial modernization is how it affects consumers. We protected CRA, we provided choice for corporations with regards corporate structure and regulator. Frankly, I think we put together a pretty good privacy solution that is embodied in this rule.

But beyond that, there is an important issue here of principle, one that I cannot violate. That is that communities cannot be redlined by insurance companies or anyone else. I know many stand for those same civil rights, those same rights to poor people, to minorities and others.

Frankly, the Committee on Rules last night extinguished that bright light of bipartisanship on the basis of something to me that is fundamental principle. We should correct that. We had before us a nice, bipartisan meal, three courses, and this Committee on Rules turned that meal to gruel. We should address that particular concern.

We cannot go back on the progress that we have made eliminating discrimination moving forward in terms of home ownership in this country, and the many other economic opportunities; that this financial modernization should not just extend to the profit side the financial institutions bottom line, but to the service of our constituents, to the minority populations blacks, Asians and Hispanics, to all the poor in our society who have a right to benefit from financial modernization. We have a responsibility to make certain that this law works for all.

That is what the promise of this bill is, and Members cannot stand up for three or four insurance companies that want to get in the way of extending that particular benefit to those who would be redlined. That is what this rule does.

There is probably enough blame to go around on both sides regarding the misunderstanding. There is much good in this bill. We could march forward and change this rule and provide for the opportunity to in fact challenge the redlining that occurs or may arise, and to fulfill really what is the promise of this Nation to all people, the opportunity to fully and fairly participate in the Nations economy and financial market place without discriminatory barriers such as redlining!

Mr. Speaker, as late as yesterday afternoon, I fully expected to be speaking in strong support of the Rule. That expectation was based on the fact that the House would be considering a solid, bipartisan legislative product. With Chairman LEACH's leadership, the Financial Services Modernization Act, as approved by the Banking Committee, laid a solid base which Democrats and Republicans alike could support. It had the support of the Administration and virtually most of the affected financial entities. There were congressional jurisdictional differences, to be sure, and pride of authorship disagreements but we worked together and achieved a good bill prior to the rules action. The reason for this broad support was simple—most Democrats and Republicans had put aside most partisan differences and worked on the issues. In the Banking Committee, very few votes were along party lines and the debate was on the substance—not to score political points. That is why our Committee reported H.R. 10 by a vote of 51 to 8.

My hope for this legislation was raised by the solid bipartisan agreement that was achieved for a strong privacy policy within the Rules Committee. I was proud to initially cosponsor that amendment with my Democratic and Republican colleagues. It was an amendment which would bring an effective, workable privacy protections for all consumers and an amendment which Democrats and Republicans could support.

Unfortunately, late in the night, the bright light of bipartisan cooperation was extinguished. With a good meal of bipartisanship set before us, the Majority Party leadership got a case of indigestion and served the House a rule of thin gruel. Instead of using Rolaids, the Leadership resorted to the old home remedy—muscle through a rule without any Democratic support.

It is an unfortunate decision. What could prompt the Speaker and the Republican leadership to walk away from the brink of bipartisanship? Was it some new Democratic plot to gain control? Or a liberal demand for more bureaucracy? No, it was a simple request for fairness. It was a request that in order for insurance companies to affiliate under this law of financial modernization, they had to comply with the Fair Housing Act. Simple stated insurance companies that discriminate cannot reap the rewards of this Act. Is that such an onerous demand? Should this legislation protect and reward those who practice racial redlining? That is what the House would be left with in this Rule. It's a matter of fundamental fairness.

The Republican majority and leadership run this House and while mistakes have occurred on both sides of the aisle, this issue of redlining can still be fixed. Unfortunately stubborn partisanship and special interests have won out. As a result, I cannot support this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, unfortunately, on the way to passing what would have been a very good bill, would have worked out the privacy issue in my regard, and I have worked with both sides to try and do this and was trying to get the rule passed, but the leadership, the Republican leadership, through apparently arrogant ineptitude, has messed this thing up.

We told them not to take the Lee amendment out, that that would raise the bar and make it impossible to get the rule done, but they did it anyway. They say they do not want to stop redlining, they want to stop commerce and banking, but then they made the Burr-Myrick amendment in order. Do Members know who that helps? It helps one insurance company in North Carolina. This is like a State legislative bill. This is like a special interest tax bill.

We worked in a bipartisan way to get this bill done. I take a more free market approach on these issues than probably most of the Republicans do. We had a good bill going. They messed it up. Are they going to do that to every piece of legislation that comes to the floor? This is just ridiculous. This is an important issue that we should get done and they failed, and they failed miserably.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN).

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, this bill was supposed to be about financial services, but it actually contains the most severe invasion of Americans' right to medical privacy ever considered by the Congress.

As the L.A. Times wrote in an editorial today, ''not a shred of protections are left. Health insurers can peddle patients' privacy with little or no restraint.'' Under this bill, health insurers can sell genetic records to credit

bureaus, life insurance companies, without the consent or even the knowledge of the patient.

I have a high regard for the gentleman from Iowa (Mr. GANSKE). I do not think he realizes what he has opened the door to in terms of the invasion of medical privacy. That is a different issue than privacy of financial records. But this medical privacy provision allows information to be made available and to be sold without us ever knowing about it, about our most intimate medical problems.

I would rather have nothing on medical privacy than a provision which takes us a big step backwards.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, here is another reason to oppose this rule. In the Committee on Commerce, the gentleman from Ohio (Mr. OXLEY), chairman of the subcommittee on Finance and Hazardous Materials and I offered an amendment to prohibit entities that sell insurance from discriminating against victims of domestic violence by selling, underwriting, or paying insurance policies by using domestic violence as an underwriting criteria.

This was an amendment unanimously supported in the committee, passed the House last year. It is very important. We should have voted on it by itself. Unfortunately, the amendment was not made in order by itself and was included as part of a very controversial amendment offered by the gentleman from Virginia (Mr. BLILEY).

What we are talking about here is trying to help businesses and trying to help consumers. Instead, we are just getting too cute by half. I think what we need to do is send this rule back to the Committee on Rules so they can get all of these amendments straight, and they can benefit consumers as well as businesses.

□ 1245

Then we can all vote for the bill. We can send it on to conference, and we can adopt it.

Mr. SESSIONS. Mr. Speaker, I yield 15 seconds to the gentleman from Iowa (Mr. GANSKE) for the purposes of rebuttal.

Mr. GANSKE. Mr. Speaker, I point out that the language on medical privacy says the insurance company shall maintain a practice of protecting the confidentiality of individually identifiable consumer health and medical and genetic information and may disclose such information only with the consent or at the direction of the customer.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MENENDEZ), the chief deputy whip.

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, I rise in opposition to the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, this rule is defective. This rule does not protect Americans' privacy. It protects piracy. It protects the continued piracy of banks who are selling our credit card numbers, selling our checking account information, selling even the account numbers in our savings accounts to telemarketers who call us at night and try to sell us products we do not want and we did not ask for.

Americans deserve the right to say no, to tell banks do not sell my credit card number. Do not sell my account information. Do not sell my checking account information.

If we kill this rule, we are going to give Americans that right. This rule is a cruel hoax. It has a loophole big enough to drive an armored car through. Because while it says they cannot give our information to third party telemarketers, it allows banks to simply buy the telemarketers and continue to commit the same crime, the same sin. All they have got to do is change the name on the door, and they will continue to violate our privacy rights.

Listen to the American people. Do not have industry dictate this rule. This is the people's House. Kill this rule.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I must say that I do not believe quite this partisanship here. After all, this was the product of years of careful negotiation. If it had been easy, we would have passed this years ago.

But having said that, I want to get back to this question of privacy because obviously this does not deal with all the issues of privacy. But what is in this bill that has been stated is excellent.

Now, weeks ago, I, as the chairman of the Subcommittee on Financial Institutions and Consumer Credit, announced that, given the complexities of the privacy questions, we were going to have hearings. Those hearings are being held in July.

This is not the vehicle to write comprehensive privacy reform. I know that not only I, but certainly the gentleman from Iowa (Mr. GANSKE) and the gentleman from Virginia (Mr. BLILEY) and the Committee on Commerce will be working with us to get a more comprehensive look at the privacy issues.

This is not the vehicle for comprehensive privacy reform. This is being used as an excuse to let us not do our job and hand over to the regulators and the courts the continued rewriting of financial institutions. That is abrogation of our constitutional responsibility.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in opposition to this rule. We had a chance to protect the privacy of American consumers. The Republican leadership blocked it. Instead, we have a bill that enables the insurance and the banking industry to disclose an individual's personal health and financial information without their consent.

What will failure to include these basic privacy provisions in the bill mean for Americans? One could be denied medical coverage based on incorrect information in one's medical record, records that consumers would have no opportunity to correct. Medical research would be stifled because no one would trust that their participation in a medical study would be private.

As a cancer survivor, I can tell my colleagues that the thought of my personal records being zipped around the Internet is frightening. This is the Big Brother bill. Big Brother is watching, watching one's medical records, watching one's financial records. He knows when one has been sick. He knows how much one has in one's bank account.

Enough is enough Congress. This bill violates the constitutional rights of American citizens. We can do better.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I rise in strong support of this rule. I am known to be very concerned about the privacy of all Americans and am tenacious in protecting the privacy of everyone.

I believe I am a well-known civil libertarian. But I do believe this bill adequately protects privacy, except in one area. It has not eliminated the potential Know Your Customer regulations. My amendment permits this. It is the regulations such as Know Your Customer that is the motivation for banks to collect so much information.

So I rise in support of the rule, but also mention that the Paul-Campbell–Barr amendment will allow us to bring to the floor an amendment that will eliminate once and for all the availability of Know Your Customer regulations by the various regulators.

I am in strong support of this rule, believing very sincerely this bill does protect privacy. But we can make it better by passing my amendment.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. MEEK).

(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

Mr. Speaker, I stand to ask the Congress to vote against this rule. I want to tell my colleagues why. Whenever there are this many kinds of constraints and hesitancies on the part of the body concerning a bill so important as this one, the main thing to do is just to kill it. Get rid of it. Vote against it because there are too many ifs in this particular rule. The if in terms of the

gentlewoman from California (Ms. LEE) who tried to make it better by putting in something against redlining. All of the attempts at trying to help in terms of privacy were ignored by the Committee on Rules.

Well, that means only one bottom line. Vote against the rule so that they will have to go back and change this and consider some of the many things which my colleagues have heard here.

Holding companies who seek to be qualifying financial holding companies under H.R. 10 would be prohibited from violating the Fair Housing Act if one were to take the amendment of the gentlewoman from California (Ms. LEE). But, no, they did not. They did not see the right to take it. So now they take away the ability to pass a bill. Vote against this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the very distinguished ranking member of the Committee on Rules for yielding me this time.

Mr. Speaker, I rise this afternoon in opposition to the rule. So many of my colleagues on this side of the aisle have expressed very eloquently their problems with the rule and why they oppose it.

My main reason and what brings me to the floor today in opposition is for the reason of privacy, privacy, privacy, privacy. If there is anything that runs through the veins of the American people, it does not matter what party they belong to, it does not matter where they live, it does not matter how much money they have, it does not matter what color they are, they want their privacy protected.

There is something wrong when the Congress considers a bill where the bankers know more than our doctors or have the same information. We need to stand with our constituents in this battle, and we need to stand next to what every red-blooded American understands, that what they have in their checking account, what they have in their money market account is no one else's business. It should not be sold. It should not be marketed. It should be kept private.

I urge a ''no'' vote on the rule and the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CONDIT).

(Mr. CONDIT asked and was given permission to revise and extend his remarks.)

Mr. CONDIT. Mr. Speaker, I rise in opposition to the rule today. We ought to do financial services reform. We ought to be doing that. But we ought not to be doing it at the expense of the consumer, at the expense of the patient and the citizen when it comes to protecting their privacy. That is what we are doing today.

We have made a choice to do this bill, to pass this bill in the House today at the expense of protecting the privacy of patients and consumers, and that is wrong. That is flat dead wrong. We ought to oppose this rule today.

I want to speak just for a moment to the reason why I think we ought to oppose it beyond not protecting our citizens' privacy. But we ought to oppose it on the medical privacy part of this bill. We offered two amendments to the Committee on Rules yesterday, both were rejected, that simply said let us set aside the medical privacy part of this bill.

It has been suggested by the gentlewoman from New Jersey (Mrs. Roukema) that this is not the place or the time. She is right. We ought to debate it in a more comprehensive bill coming in July.

I would ask my colleagues please vote against this rule. Protect the privacy of the American people. Let us have a privacy debate at the appropriate time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are now at the very end of this debate on the rule. We have heard and had a vigorous debate today about. We have had a vigorous debate about the various aspects of this rule and of the bill that is before us.

I am pleased to say that, until last night, we had been working for weeks to craft a compromise, not only on privacy, but other issues. I can tell my colleagues that the compromise that was crafted up until last night is the one that is in the rule. It was bipartisan until then, and I am very proud of it.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER) the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I would like to thank the gentleman from Texas (Mr. SESSIONS) for yielding to me, and I congratulate him on the superb management of this rule.

The framers of our Constitution wanted the process of lawmaking to be difficult, and they wanted this place to actually be inefficient because they did not want one person to get too much power.

When I think about where I was 13 years ago, I was a Member of the House Committee on Banking, and I joined with the gentleman from New York (Mr. LAFALCE) and several of our former colleagues who are no longer here, Doug Bernard, Steve Barlett, Jack Hiler and others. At that time, we began crafting legislation that allowed for the establishment of financial services holding companies with what is known as a three-way street for affiliation among securities, banks, and insurance. It obviously was the wave of the future, and it is something that we are finally dealing with today.

Those efforts are finally coming to fruition after nearly a decade and a half. It is happening because of the work of the gentleman from Virginia (Mr. BLILEY) sitting back there in the back of the Chamber, the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking, and the gentleman from Ohio (Mr. BOEHNER), who is back in the cloakroom who last year brought us very close to a victory.

I think that we unfortunately have gotten to the point where we are allowing what has been said earlier, very, very petty partisanship, to undermine what is a very, very important issue that needs to be resolved.

Before we get to the issue of H.R. 10, as we all know, we have to pass this rule. This is a good rule which should have Democrats and Republicans supporting it. It makes in order as the underlying bill an amendment in the nature of a substitute which represents the extraordinary work of those people I have mentioned. I think that it helps us deal with these very, very competing interests that have been out there.

This amendment, the bill that we are going to be considering once we pass this bill is, as the gentleman from Iowa (Chairman LEACH) said when he stood up, the strongest pro consumer effort we could possibly have, the strongest privacy language that we could possibly have.

□ 1300

Now, there has been a lot of criticism leveled at my friend, the gentleman from Iowa (Mr. GANSKE). He and I were mentioned in my hometown newspaper today. The fact of the matter is, I encourage those critics on the medical privacy issue to read the bill, and I am just going to share a couple of lines.

It says: An insurance company shall maintain a practice of protecting the confidentiality of individually identifiable customer health and medical and genetic information, and may disclose such information only, only, with the consent or at the direction of the customer or as otherwise required, as specifically permitted, by Federal or State law; and compliance with Federal, State and local law, compliance with a properly authorized civil, criminal or regulatory investigation by Federal, State or local authorities is governed by the requirements of this section; or in broad protection risk control.

The fact of the matter is there are tremendous consumer protections in here to maintain the privacy.

Mr. Speaker, I am trying to complete my closing statement. I encourage my colleague to actually read the bill.

Now, let me make a couple of comments here about the rule.

If I can close my statement, because I am talking about this issue. We are trying to pass this rule. I have read the bill, and I encourage my friend to read exactly what I have read.

Let me say that as we look at efforts by my friend, the gentleman from Massachusetts, and by my colleague, the gentlewoman from California (Ms. LEE), these issues were put forward with one thing in mind, to try to delay this process even more than it already

has been delayed. The goal is, in fact, to put this off for weeks. They would very much like to do that.

So I think that we have, in fact, put together a very, very important measure that finally moves us beyond 1933 and depression-era legislation. I do not think it moves us far enough, but this is a small and first step.

We know there is bipartisan support for most of the provisions in this bill. We know that there is bipartisan support for these packages. I hope very much that my colleagues on the other side of the aisle will join in supporting what is a very, very important measure.

Mr. SANDLIN. Mr. Speaker, I rise today in opposition to this rule.

I support financial services modernization, Mr. Speaker, and voted for H.R. 10 during committee consideration of the bill in the House Banking Committee. In order to deliver financial services to consumers effectively in today's economy, and in order to compete with financial conglomerates from overseas, American financial institutions need a modernized legal and regulatory environment. American consumers deserve the opportunity to take advantage of technological advances that have made one-stop shopping for financial services possible.

However, the Republican leadership and the Rules Committee have denied this House the opportunity to vote on several significant amendments on both sides of the aisle. Amendments preventing ''redlining'' and discrimination by insurance companies, promoting community banks in rural areas and protecting consumers' medical privacy information, just to mention a few. If we want a good bill, one that we can be proud of, we must vote against this rule.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 227, nays 203, not voting 5, as follows:

[Roll No. 264]

YEAS—227

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—203

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—5

Brown (CA)
Fossella
Graham
Green (TX)
Serrano

☐ 1323

Mr. SKEEN changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 775, YEAR 2000 READINESS AND RESPONSIBILITY ACT

Mr. GOODLATTE. Mr. Speaker, pursuant to House Resolution 235, I call up the conference report on the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 234, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 29, 1999 at page H5066.)

Mr. LAHOOD. The gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today is day 182 of 1999, half way through the year.

□ 1330

Over the past 6 months, Congress has climbed the mountain of Y2K liability reform legislation, and as we stand at the legislative summit, ready to pass legislation that Republicans, Democrats and the White House can support, we can only hope that our work will help those who are climbing an ever-larger mountain, those who are trying to fix their Y2K bugs before they hit.

Our job is now done. For the next 6 months, we can only hope that this legislation, which will greatly reduce the threat of frivolous Y2K lawsuits, will allow our Nation's businesses to pour their energies into avoiding Y2K failures instead of planning their Y2K legal defenses.

Frankly, I did not think that this moment would actually arrive. Just last week, we stood here facing the wide gulf of a weaker Senate-passed bill. We faced an even wider gulf with the White House which, up until last week, was nowhere to be seen in the negotiations and was backing badly defeated Senate proposals that provided nothing but smoke and mirrors for addressing the Y2K problem. Fortunately, all parties eventually realized that compromise is an essential part of successful legislating. Both the House and the White House moved significantly from their original positions to reach an agreement closely resembling the Senate-passed legislation.

The final conference report is a model of compromise. Not only did the White House get many of the concessions it sought, but the core pieces of the House-passed legislation remain firmly in place. Caps on punitive damages, reform of class action lawsuits, proportionate liability, a 90-day waiting period, and contract preservation all remain in this legislation.

Mr. Speaker, I want to congratulate all those who have worked hard over the past week and over the past 6 months to make this bill happen. I want to commend my colleagues who worked on this, including the sponsor of the bill, the gentleman from Virginia (Mr. DAVIS), the gentleman from California (Mr. DREIER), the gentleman from California (Mr. COX), the gentleman from Wisconsin (Mr. SENSENBRENNER) and the Democratic sponsors, the gentleman from Virginia (Mr. MORAN), the gentleman from California (Mr. DOOLEY) and the gentleman from Alabama (Mr. CRAMER). I also want to thank Senators MCCAIN, HATCH and the other Senate conferees for working so hard to get a good piece of legislation that the White House would sign.

Finally, I want to commend the House and Senate personal and committee staffs on both sides of the aisle who worked so hard to make this legislation happen. They are to be commended for a job well done.

Mr. Speaker, this conference report is a victory for small businesses and a victory for consumers. One hundred eighty-two days down and 183 to go, now Americans can begin the homestretch in their efforts to keep the Y2K problem from becoming a reality.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

I want to stand here today to congratulate the gentleman from Virginia (Mr. GOODLATTE) on the committee; the gentleman from Virginia (Mr. DAVIS), who has put this bill before us and brought it to our attention; and all of those in this House and in the other body who have helped make this a day that a conference report can be brought to the floor for support. It represents a marked improvement over the House-passed version of the bill of which I was not able to support in the House form. The bill was improved first in the Senate at the insistence of many Democrats and again in conference at the insistence of the administration.

As has been suggested, a lot of work went into this, including members of the staff, and I think we now have a bill, though far from perfect and despite some last-minute drafting glitches, I believe it will achieve the purpose of allowing high-tech companies to focus on the fixing of the Y2K problem without trampling on consumer rights.

I am glad the administration met with the conferees over the past weekend to achieve this compromise. Had we taken up the Senate-passed bill as some in this body were proposing, we would be facing a drastically worse bill which would surely have faced a presidential veto. More importantly, I can support this legislation because it represents a one-time Federal response to a unique nationwide problem relating to possible year 2000 computer failures and does not serve in any way as precedent for broader-ranging changes in our tort laws. In addition, the bill will have no force or effect with respect to actions stemming from any harm occurring after January 1, 2003.

In my judgment, the final conference report is far closer in text and in spirit to the Democratic substitute offered by the gentlewoman from California (Ms. LOFGREN), the gentleman from Virginia (Mr. BOUCHER) and myself, which received 190 votes here in the House, than it is to the more extreme bill that was originally passed by the House.

The conference report improves upon the House-passed bill in a number of respects. First, it deletes the so-called reasonable defense effort. Under this defense, of course, a defendant who was grossly negligent could completely avoid liability as long as he took minimal steps to fix the problem, even if these efforts did not result in a cure and caused substantial damages.

It also deletes the ''loser pays'' defense requiring a litigant to pay the other side's attorneys fees if they rejected a pretrial settlement and ultimately obtained a less favorable verdict. The provision would operate as a tremendous disincentive to small businesses and poor and middle-class victims of Y2K failures because they have far less financial resources and cannot afford the risk of paying a large corporation's legal fees based on the outcome of a trial.

The conference report also significantly narrows the doctrine of joint and several liability limitation. The House bill, my colleagues will recall, would have wiped out the doctrine of joint and several liability. Fortunately, the conference report excludes individual consumers from this limitation and incorporates several changes designed to protect innocent plaintiffs and help ensure that ''bad actors'' are not rewarded.

Finally, the conference report significantly narrows the bill's punitive damages limitations. The Committee on the Judiciary reported a bill that would have prevented any plaintiff from ever receiving punitive damages in a Y2K action. The conference report is far fairer and caps punitive damages at the lesser of three times the compensatory damages or $250,000 and only applies caps to small business defendants.

So although the legislation is not perfect, on balance I believe it will help protect the Nation's high-tech community against frivolous lawsuits and encourage businesses to remedy their Y2K problems without unduly infringing on the rights of small business and individual plaintiffs.

Mr. Speaker, I include for the RECORD a letter from John Podesta to myself dated June 30, 1999, as well as a section-by-section description of the Y2K conference report, as follows:

THE WHITE HOUSE,
Washington, June 30, 1999.

Re H.R. 775—the Year 2000 Readiness and Responsibility Act.

Hon. JOHN CONYERS, JR.,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CONYERS: The nation faces the possibility that widespread frivolous litigation will distract high technology companies and firms throughout the economy from the important work of preventing—and if necessary—repairing damage caused by the inability of systems to process dates in the new millennium. Special, time-limited legislation to deter unwarranted Y2K lawsuits is important to our economy.

Over the last few months, the Administration sought to ensure that, while we deterred frivolous claims, we also preserved important protections for litigants who suffer bona fide harm. We believed that the Senate-passed bill failed this test. The Conference Committee agreed to make a list of changes that were important to provide necessary protections.

The agreed-upon changes were translated into legislative language extremely narrowly, threatening the effectiveness of the negotiated protections. Nonetheless, we have concluded that, with these changes, the legislation is significantly improved. Specifically, as modified, the Conference Report:

ensures that individual consumers can be made whole for harm suffered, even if a partially responsible party is judgment-proof; excludes actions brought by investors from most provisions of the bill and preserves the ability of the SEC to bring actions to protect investors and the integrity of the national securities markets; ensures that public health, safety and the environment are fully protected, even if some firms are temporarily unable to fully comply with all regulatory requirements due to Y2K failures; encourages companies to act responsibly and remediate because those defendants who act recklessly are liable for a greater share of a plaintiff's uncollectible damages; and ensures that unconscionable contracts cannot be enforced against unwary consumers or small businesses.

As a result, I will recommend to the President that he sign the bill when it comes to his desk.

In the normal course of business, the Administration would oppose many of the extraordinary steps taken in this legislation to alter liability and procedural rules. The Y2K problem is unique and unprecedented. The Administration's support for this legislation in no way reflects support for its provisions in any other context.

Sincerely,

JOHN PODESTA.

SECTION BY SECTION DESCRIPTION OF Y2K CONFERENCE REPORT

Section 1. Short Title; Table of Sections.—Sets forth the title and table of contents.

Section 2. Findings and Purposes.—Sets forth a variety of findings designed to establish a constitutional nexus for the legislation.

Section 3. Definitions.—Among other definitions, this section defines a ''Y2K action'' as any civil action in which the alleged harm arises from or is related to an actual or potential Y2K failure.

This reflects a change suggested by the White House which deletes language which would have permitted the bill to apply to lawsuits which only indirectly involved Y2K actions.

Section 4. Application of Act.—This includes nine separate subsections. The most important provisions are as follows:

(a) General Rule.—Act only applies to Y2K failures which occur before January 1, 2003.

This means that the bill represents a one time change in tort and contract related actions limited to harm caused during a narrow three year window. This represents a critical improvement over the House passed bill which had no termination date.

(c) Claims for Personal Injury or Wrongful Death Excluded.—Specifies that the bill does not apply to claims for personal injury or wrongful death.

This reflects an improvement over the House passed bill which only excluded personal injury claims. The existence of this important carve out in the bill illustrates that the Y2K problem presents a unique one time issue, and the legislative response should not apply to ordinary consumers suffering personal injuries. In this respect, it cannot be seen as a precedent for broader tort reforms.

(d) Warranty and Contract Preservation.—Specifies that contract terms shall be strictly enforced, unless such enforcement is inconsistent with state statutory law, or the state common law doctrine of unconscionability, including adhesion, in effect on January 1, 1999.

This is a variation of a provision originally included in the House Democratic substitute (offered by Reps. Lofgren, Boucher, and Conyers). Preserving state laws concerning unconscionability and adhesion reflects an important change suggested by the White House.

(g) Application to Actions Brought by a Government Entity.—This provision provides limited relief from penalties for Y2K related reporting or monitoring violations. Because the provision is limited to a defense to penalties, the government would be allowed to seek injunctive relief to require compliance and to correct violations. In addition, the defendant would have to show, among other things, that the noncompliance was both unavoidable in the face of an emergency directly related to a Y2K failure and necessary to prevent the disruption of critical functions or services that could result in harm to life or property. Other safeguards further limit the applicability of the defense. For example, the defendant would not obtain the benefit of the defense if the reporting or monitoring violations constitute or would create an imminent threat to public health, safety, or the environment. The defendant would also be required to demonstrate that it previously made a reasonable good faith effort to anticipate, prevent and effectively correct a potential Y2K failure; that it has notified the agency within 72 hours of the violation; and that it has fixed it within 15 days. The defense does not apply to any reporting or monitoring violations occurring after June 30, 2000.

Many of the safeguards against misuse of this defense were added at the insistence of the White House. Absent these changes, the Senate bill could have provided corporate polluters and others responsible for health and safety requirements with complete defenses to these reporting or monitoring violations.

(h) Consumer Protection From Y2K failures.—Ensures that homeowners cannot be foreclosed on due to a Y2K failure.

This provision did not appear in the House passed bill or the House Democratic substitute. The Senate passed language was modified in conference to limit the provision's applicability to residential mortgages, to require consumers to provide notice of the Y2K failure and their inability to pay, and to limit the applicability to transactions occurring between December 16, 1999 and March 15, 2000.

(i) Applicability to Securities Litigation.—Specifies that, other than the bystander liability provisions (section 13(b)), the bill does not apply to securities actions.

Many of the bill's restrictions only make sense in the context of ordinary tort or contract suits, not securities actions which Congress has reformed twice in recent years. This improvement was suggested by the White House.

Section 4 also includes technical subsections specifying that the bill does not create a new cause of action; only preempts state law to the extent it establishes a rule that is inconsistent with state law; and does not supersede legislation concerning Y2K disclosure passed on a bipartisan basis last year.

Section 5. Punitive Damage Limitations.—Provides that defendants shall not be subject to punitive damages unless such damages are proved by ''clear and convincing evidence.'' Also caps punitive damages against ''small businesses'' at the lesser of 3 times compensatory damages or $250,000. ''Small business'' is defined as individuals having a net worth of less than $500,000 and businesses with fewer than 50 employees. The cap does not apply where the defendant acted with specific intent to injure.

This reflects a significant improvement over the House passed bill which would have capped punitive damages against all defendants, regardless of their size; and the House Judiciary Committee approved bill which would have completely eliminated the plaintiff's ability to recover any punitive damages.

Section 6. Proportionate Liability.—Sets forth a general rule that defendants are liable only for their proportionate share of liability (in lieu of the common law rule of joint and several liability applicable in some states). This general rule does not apply in cases where the defendant acted with specific intent to injure the plaintiff or knowingly committed fraud. In addition, if portions of the plaintiff's damage claim ultimately prove to be uncollectible, and the plaintiff is an individual with a net worth of less than $200,000 (a so called ''widow or orphan'') and damages are greater than 10% of a plaintiff's net worth, a solvent defendant is responsible for paying an additional 100% share of their liability, or an additional 150% of this amount if they acted with ''reckless disregard for the likelihood that its acts would cause injury.'' Also, the general proportionate liability rule does not apply to suits by consumers who sue individually rather than as part of a larger class (brought on behalf of ten or more individuals). Although the section is one-way preemptive of state law, it is not intended to allow a defendant to assert that it is subject to some but not other subsections.

This provision is somewhat similar in operation to a section included in the House Democratic substitute which gave the court discretion to avoid joint and several liability depending on the defendant's overall conduct and share of liability. The exceptions to the general rule of proportionate liability reflect changes suggested by the White House to make sure that ordinary consumers were protected and so-called ''bad actors'' were not rewarded. This represents an effort to encourage remediation which, of course, is unique to the Y2K problem. The final provisions represent an improvement over the House passed bill which would have eliminated joint and several liability in virtually all cases.

Section 7. Prelitigation Notice.—Y2K actions would not be permitted to proceed to trial until the defendant has had an opportunity to fix the Y2K failure within 90 days after receiving notice in writing with the problem described with particularity. The 90 day period includes an initial 30 day notice period, and a subsequent 60 day period in which to remedy the defect.

This provision is substantially identical to the House Democratic substitute.

Section 8. Pleading Requirements.—Requires greater specificity in the notice of damages sought in Y2K actions; the factual basis for the damages claim; a statement of specific information regarding the manifestations of the material defect and the facts supporting such material defect; and a statement of facts showing a strong inference that defendant acted with a required state of mind.

This provision is substantially identical to the House Democratic substitute.

Section 9. Duty to Mitigate.—Provides that damages awarded in Y2K actions exclude compensation for damages the plaintiff could reasonably have avoided in light of any disclosure or other information of which the plaintiff was or reasonably should have been aware. This limitation on damages does not apply where the defendant has engaged in fraud.

This provision is similar to a provision included in the House Democratic substitute. It includes a suggestion made by the White House that the protection not apply to so-called fraudulent ''bad actors.'' Again, this is an effort to encourage remediation by all parties, which is a unique issue to Y2K liability.

Section 10. Application of Existing Impossibility or Commercial Impracticability Doctrines.—Freeze state law on these doctrines as of January 1, 1999.

This provision represents an effort to insure that states do not alter their laws to take advantage of the Y2K problem to make it easier to bring suits against ''deep pocket'' Y2K defendants. This provision is substantially identical to a provision included in the House Democratic substitute.

Section 11. Damages Limitations by Contract.—Provides that, in Y2K contract actions, damages are limited to those provided in the contract, or, if the contract is silent, to those provided under state law.

This provision was not included in the House passed bill or the House Democratic substitute.

Section 12. Damages in Tort Claims.—Codifies the so-called ''economic damages'' rule, which prohibits tort plaintiffs from seeking economic or consequential damages (e.g., lost profits stemming from a Y2K failure) unless such damages are permitted by contract. This rule does not apply in cases of intentional torts arising independent of a contract.

This reflects a variation of a suggestion by the White House to protect persons who have claims for separately cognizable torts, such as some forms of fraud. This is similar to a provision included in the House Democratic substitute.

Section 13. State of Mind; Bystander Liability; Control.—Subsection (a) freezes state law concerning the standard of evidence needed to establish defendant's state of mind in a tort action (e.g., negligence) as of January 1, 1999. Subsection (b) provides that Y2K service providers are not liable to third parties who are not in privity with them unless the defendant actually knew, or recklessly disregarded a known and substantial risk, that a Y2K failure would occur. This would make it more difficult for a customer of business that was certified to be Y2K compliant to sue the consultant who so certified. Subsection (c) provides that the fact that a Y2K failure occurred in an environment within the control of the defendant shall not be permitted to constitute a sole basis for the recovery of damages.

Other than bystander liability, these provisions were not included in the House passed bill or the House Democratic substitute.

Section 14. Appointment of Special Masters or Magistrate Judges for Y2K Actions.—Includes a technical change which would merely authorize federal courts to appoint special masters to consider Y2K matters.

This provision was not included in either the House passed bill or the House Democratic substitute.

Section 15. Y2K Actions as Class Actions.—Subsection (a) only permits class actions involving material product defects. Subsection (b) requires class members to receive direct notices of class actions (which shall include information on the attorney's fee arrangements).

Subsection (a) is substantially identical to a provision included in the House Democratic Substitute.

Subsection (c) places all Y2K class actions in federal, rather than state court. The only exceptions are where (1) a substantial majority of members of the plaintiff class are citizens of a single state, the primary defendants are citizens of that state, and the claims asserted will be governed primarily by the laws of that state; (2) the primary defendants are states or state officials; (3) the plaintiff class does not seek an award of punitive damages and the amount in controversy is less than $10 million; or (4) there are less than 100 members of the class. The burden is on the plaintiff to establish that any of these four exceptions apply.

The idea behind this provision is that Y2K actions are inherently interstate and the problem is uniquely nationwide and federal in its source and impact. This provision incorporates some White House suggestions that safeguards be built into the rule to allow some class actions which have a state focus be permitted to be brought in state court.

Section 16. Applicability of State Law.—Specifies that the bill does not supercede any state law with stricter damage and liability limitations.

This provision was not included in either the House passed bill or the House Democratic substitute.

Section 17. Admissible Evidence Ultimate Issue in State Courts.—Applies Rule 704 of the Federal Rules of Civil Procedure (concerning the use of expert testimony) to State courts.

This provision was not included in either the House passed bill or the House Democratic substitute.

Section 18. Suspension of Penalties for Certain Y2K Failures by Small Business Concerns.—This section provides for civil penalty waivers for first-time violations by a small business (50 employees or fewer) of federally enforceable rules or requirements that are caused by a Y2K failure. In order to obtain a waiver, small business must meet certain strengthened standards, including, among other things, that it made a reasonable good faith effort to anticipate, prevent and effectively remediate a potential Y2K failure; that the first-time violation occurred as a result of a Y2K failure significantly affecting its ability to comply and was unavoidable in the face of a Y2K failure; that the small business initiated reasonable and prompt measures to correct the violation, notified the agency within 5 business days, and corrected the violation within a month of notification.

As was the case with section 4(g), the Administration insisted on developing common sense safeguards so that the provision would not create new health, and environmental problems. For example, the Administration obtained changes that clarified that it is the government that determines whether a small business meets the standards for a civil penalty waiver; that an agency may impose a civil penalty if the noncompliance resulted in actual harm (in addition to creating an imminent threat to public health, safety, or the environment); and that the civil penalty waiver does not apply to any violations occurring after December 31, 2000.

The following anti-consumer provisions were dropped entirely by the Conference from the Republican bill approved by the House.

A. REASONABLE EFFORTS DEFENSE FOR DEFENDANTS (SECTION 303 OF HOUSE PASSED BILL)

Under the so-called ''reasonable efforts'' defense in the original House passed bill, the fact that a defendant took reasonable measures to prevent the Y2K-related failure was a complete defense to liability. Thus, despite the defendant's level of fault, if it made reasonable efforts to fix the problem—even if those efforts did not result in a cure—it would have had no responsibility for damages suffered by the plaintiff. Even if a defendant takes only minimal steps to remedy a Y2K problem, it would have served as a complete defense against a tort action, thereby undercutting incentives to prepare for and prevent Y2K errors. The defense was so broad it would even cover intentional wrongdoing or fraud, so long as the misconduct was eventually papered over by some sort of post-hoc reasonable effort.

B. LIMITS THE LIABILITY OF CORPORATE OFFICERS AND DIRECTORS (SECTION 305 OF HOUSE PASSED BILL)

The original House passed bill also capped the personal liability of corporate directors and officers at the greater of $100,000 or their past 12-months' compensation. This provision was unnecessary because under current law the ''business judgment rule'' already insulates officers and directors from liability for their business decisions as long as they acted reasonably in governing the affairs of the corporation. The provision also would have protected irresponsible and reckless Y2K behavior.

C. LOSER PAYS AND FEE DISCLOSURE (TITLE V OF HOUSE PASSED BILL)

The House passed bill also included a ''loser pays'' (or ''English Rule'') provision requiring a litigant to be liable to pay the other side's attorneys fees if they rejected a pre-trial settlement offer and ultimately secured a less favorable verdict. Because small businesses and individuals have far less financial resources than large defendant corporations and cannot afford the risk of paying a large corporation's legal fees based on the outcome of a trial, the provision would have operated as a tremendous disincentive to small businesses and poor and middle class victims of Y2K failures. The provision was so onerous that it would even apply to a harmed party that prevails in a Y2K action so long as they obtained less than a pre-trial settlement—in this respect it could actually operate as a ''winner pays'' provision. The bill also included a number of procedural restrictions that would have governed the attorney-client relationship—such as the requirement that attorneys disclose to their clients the fee arrangement up-front, and the requirement that attorneys provide a monthly statement to clients regarding the hours and fees spent on the case. The original House Republican bill also would have regulated attorneys fees for plaintiffs (but not defendants) in Y2K actions.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, as the clocks move forward on December 31, there is a strong likelihood that some computers will fail to recognize the year 2000, instead rolling back to January 1, 1900. A Y2K-initiated computer crash could have disastrous impacts on many aspects of daily life, ranging from transportation and aviation, data processing, health care and financial services. Indeed, American society could be confronted by an extended period of technological and economic duress.

Instead of taking a proactive approach to solving the Y2K problem, many businesses, large and small, find themselves expending time and energy on liability issues. This bipartisan legislation, of which I am an original cosponsor, addresses this concern and creates incentives for businesses to address the impending Y2K problem by creating a legal framework by which Y2K-related results will be resolved.

We must not permit a climate to foster in which businesses, paralyzed by fear of unrestrained lawsuits, fail to take action that would adequately address this problem.

Mr. GOODLATTE. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), a member of the conference committee and a senior member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise today in support of the conference report to H.R. 775, the Y2K Act. This bill, while markedly different from when it was first introduced, has retained several key core principles: The establishment of uniform legal standards for all businesses and users of computer-related technologies; the encouragement of alternative dispute resolution to avoid costly and time-consuming lawsuits; the lessening of the burden on interstate commerce by discouraging frivolous lawsuits while preserving the ability of individuals and businesses who have suffered injury to obtain relief.

The year 2000 computer problem, commonly referred to as the Y2K bug, presents grave challenges to both the private and public sectors throughout the United States. H.R. 775 has had a difficult history in Congress. Substantial changes were made during every step of the process, in committees, on the House floor, in the other body, and finally in conference committee in an effort to deal with this pressing issue in a way that is fair and equitable to all parties involved, both potential plaintiffs and defendants in Y2K-related disputes.

The reason we are here today is because of the persistence of the House and the other body to enact legislation far enough in advance of the year 2000 to stem the potential litigation explosion over the Y2K bug, one that has been estimated as costing our economy a potential $1 trillion. Throughout this whole process, the administration has remained cool to the idea of passing any legislation dealing with Y2K liability. In addition, the administration was noticeably absent at every junction of this debate.

The White House was invited to testify before the House Committee on the Judiciary on this legislation but declined. Instead of active participation, the administration chose to issue veto threats to even the amended bipartisan Senate-passed version of the bill with only general descriptions on which provisions they found to be objectionable. In all, the administration sent five veto threats, with the fifth being issued on June 24 by the President's chief of staff just prior to the conferees meeting on that day.

At the first meeting of the House-Senate conference, the House conferees accepted the Senate amendments to H.R. 775 and added two additional amendments. It was at this conference after the train had already left the station that the White House finally got serious and requested additional time to work out a compromise. The chairman of the conference postponed further proceedings until the drop-dead date of June 28 in a good-faith effort to see this bill enacted without the potential of a White House veto. Finally, the administration gave specifics on what they found to be objectionable and suggestions on how to change these provisions in order for the President to support it.

Fortunately, the administration's differences with Congress were resolved, which allows the conference report to be brought to the floor today without the uncertainty of a veto. The conference report has the support of the broad-based Year 2000 Coalition and the Information Technology Industry Council.

The conference report includes the following key provisions which warrant its adoption by the House of Representatives:

It allows class action suits for Y2K claims to be brought into Federal courts if they involve $10 million in claims or at least 100 plaintiffs. It creates a proportionate liability formula for assessing blame so companies would be penalized for their share of any Y2K damage. This formula would make whole individual consumers even if one of the defendants went bankrupt. It caps punitive damages at $250,000, or three times the amount of compensatory damages, whichever is less, for individuals with a net worth of up to $500,000 and for companies with fewer than 50 employees. And it applies current State standards for establishing punitive damages instead of creating a new preemptive Federal standard.

In addition, the conference report requires plaintiffs to mitigate damages, defines the term ''economic loss,'' but does not place caps on directors and officers liability.

In summary, while H.R. 775 has been whittled down by the administration's efforts to accommodate trial lawyers, enough substantial provisions remain to warrant support by the House of Representatives.

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Ms. LOFGREN. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman from California.

Let me just as a manner and focus on the proceedings that we have had over these past couple of months.

As a Member of the House Committee on Science and the House Committee on the Judiciary, I have had the privilege of sitting through a number of hearings, I particularly want to thank the gentlewoman from Maryland (Mrs. MORELLA) for carrying on with such informative hearings on the Y2K matters, bringing forward so many different witnesses from the business community, the legal community and, of course, a consumer community.

Through those hearings I think I can articulate today that it has taken enormous amount of work to bring us to where we are at this juncture, and I would like to lend my thoughts and appreciation to the gentlewoman from California (Ms. LOFGREN), the gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. BOUCHER) who did craft legislation in which the White House was actively engaged and did support and had all the elements of being able to solve the problems that so many of us were concerned about.

I am disappointed that we did not prevail on that legislation, but I thank them for their leadership. I thank the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. GOODLATTE) for where we are today, and I hope that this House will pass this bill because I oppose the original version of the bill, and I oppose the bill on its final passage, but it does not mean that we cannot try and improve it. I was delighted to be able to get a technical amendment passed on the floor of the House, but it would have been good to have had other improvements, and I felt the bill could have been made acceptable.

We know there will be a Y2K situation, if my colleagues will, but I do not know if we can rely upon all the testimony that was presented to establish it as a precedent for changing all of the tort laws of this Nation, nor can we isolate Y2K and suggest that it has no limitations on the legislation that we are making.

In particular, I am very delighted that the legislation we are bringing forward now has a sunset provision acknowledging the fact that this is a limited issue and should be isolated to a certain period of time. It protects the consumers by having in homeowner protection, a provision that protects homeowners from being evicted because of a Y2K failure that is imperative.

It also responds to preventive lawsuits. A provision was added to allow suits before Y2K failures. We heard the testimony of a small grocer in Michigan who said, ''If I don't have an opportunity for relief before I collapse, then you've done nothing for me.''

I also want to make it clear that I tried to remain open on the bill in recognition of the unique problem that it attempts to address. I understand the plight of many of our software developers and Y2K solution providers who do not want to take on additional clients because they fear a costly lawsuit. That is understandable. But as a member of the Committee on Science who has sat through numerous hearings on this subject, I do not feel that we need to pass open-ended legislation that could be used too, used by corporate America to protect themselves from liability that they have rightfully incurred. I think it is important to strike a balance.

One of the amendments that I introduced and I truly hoped we would have a chance to debate on the floor was a sunset amendment, and I am delighted, as I indicated earlier, that a 3-year sunset provision was placed in the bill.

Although I feel that the sunset provision in the bill which is actually contained in the definition section of H.R. 775 is not as cleanly implemented as I would have liked, the provision does allay many of the concerns that I had about the original bill.

But let me not be misleading. There are some concerns, the caps on punitive damages, and it is interesting that this would be noted in the context of trial lawyers. I think it is important to note that trial lawyers do not decide punitive damages, it is courts that do so. I hope we will be able to find sufficient relief in this legislation that will allow plaintiffs to be able to secure the relief that they need and to make themselves whole.

The bill also contains modifications to the longstanding, well-accepted court doctrine of joint and several liability. The doctrine was established in order to keep plaintiffs who have been wronged by multiple parties from having to enter into lawsuit after lawsuit against different defendants in order to make them whole.

We should consider these issues as we monitor this legislation, but thankfully, however, the version that has come back to us from the conference committee contains a more narrow set of joint and several liability modifications. Included in the new version is a clause which protects consumers who are innocently victimized by Y2K solution providers who act in bad faith.

It is my hope that the definitional structure of what will constitute a Y2K action for the purpose of these lawsuits, along with the sunset provision, will help balance between the consumer and, of course, our providers.

I urge my colleagues to vote for this conference report. I want to thank all those who brought us to the table of resolution, and I want to acknowledge the White House was intimately and actively involved. They just wanted to come down, as we all did, on the side of a very good bill. I am watching and monitoring as well, as I indicate as we all are, for the Y2K event, but I hope that we will watch it together being reflective of the fact that we voted today for a solution that would help us move into the 21st century with the minimum amount of concern.

Mr. Speaker, I rise to speak in support of this Conference Report, but first I would like to thank the Conferees who worked very hard to find a compromise on certain key issues raised in this bill.

At the outset, let me say that I opposed the version of this bill that was introduced in the House. I opposed the version that came out of the Judiciary Committee. And I opposed the bill on final passage. But that does not mean that I did not try to improve the bill at every stage. I was able to pass a technical amendment on the floor of the House, but there were other improvements that I would have preferred to have made—that I felt would make the bill much more acceptable.

I also want to make clear that I tried to remain open this bill—in recognition of the unique problem that it attempts to address. I understand the plight of many of our software developers, and Y2K solution providers who do not want to take on additional clients because they fear a costly lawsuit. That is understandable. But as a Member of the Committee on Science who has sat through numerous hearings on this subject, I do not feel that we needed to pass open-ended legislation that could be used by corporate America to protect themselves from liability that they have rightfully incurred.

One of the amendments that I introduced, and that I truly hoped we would have a chance to debate on the floor, was a sunset amendment. I am happy to hear that a three-year sunset provision was placed in this bill in conference. Although I feel that the sunset provision in the bill, which is actually contained in the definitions section of H.R. 775, is not as cleanly implemented as I would like, the provision does allay many of the concerns I have about the original bill.

But let me not be misleading—the bill still contains dangerous measures. It still retains caps on punitive damages, but the caps only protect small business whose net worth is less than $500,000. Large Y2K solution providers do not need this sort of protection—they have the resources to responsibly remediate Y2K problems that manifest themselves. This bill allows plaintiffs to hold them fully responsible, should they choose to behave in a manner befitting of punitive damages.

The bill also contains modifications to the long-standing and well-accepted court doctrine of joint and several liability. The doctrine was established in order to keep plaintiffs, who have been wronged by multiple parties, from having to enter into lawsuit after lawsuit, against different defendants, in order to be made whole. In the original version of the bill, joint and several liability was basically eliminated. Thankfully, however, the version that has come back to us from the Conference Committee contains a narrowed set of joint and several liability modifications. Included in the new version is a clause which protects consumers who are innocently victimized by Y2K solution providers who act in bad faith.

It is my hope, that the definitional structure of what will constitute a Y2K action for the purposes of these lawsuits, along with the sunset provision, will contain the anti-consumer provisions contained in this bill. I also hope that the changes that have been made to the punitive damages and proportional liability sections in the bill keep this from becoming the bloated tort-reform bill we all feared when it was originally introduced.

With that, I urge my colleagues to vote for this Conference Report, and to continue to work together to protect our constituents from discomfort stemming from the Y2K bug.

Mr. GOODLATTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding this time to me. I rise in strong support of the conference support on the Y2K Act. I also want to take a moment to congratulate the gentleman from Virginia (Mr. GOODLATTE), the gentleman from Virginia (Mr. DAVIS), the gentleman from Wisconsin (Mr. SENSENBRENNER), the conferees and those who worked so hard on this piece of legislation. I am honored to be one of the cosponsors of the bill, and I am glad the conference committee has reached an accord with this issue.

As my colleagues know, it was over 3 years ago that we started with my Committee on Science's Subcommittee on Technology and the Committee on Government Reform and Oversight's Subcommittee on Government Management, Information and Technology chaired by the gentleman from California (Mr. HORN) to have a complete review of the Y2K problem, and in the course of these hearings it became undeniably clear that the prevalence of potential Y2K litigation could adversely impact our Nation's currently robust economy and tie up our legal system long after the problem has been fixed in the computers, and that is why I am very pleased that a compromise was able to be crafted that satisfies the concerns of both congressional chambers and the White House to address the millennium bug and its legal after effects.

The conference report reflects the changes of the High Technology Association's industry the Chamber of Commerce believe are necessary to close the floodgates of frivolous litigation and protect companies that have engaged in good faith remedial efforts, and it does so without taking away an aggrieved party's right to bring a legitimate lawsuit for negligent Y2K failures. This is a legislative solution that will ensure that the year 2000 problem does not extend well into the new millennium.

I urge all of my colleagues to support the conference report. This will greatly assist us to be Y2K okay.

Ms. LOFGREN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. ESHOO), my colleague from Silicon Valley.

Ms. ESHOO. Mr. Speaker, I thank my colleague and wonderful leader on this issue and so many others from the Committee on the Judiciary, the gentlewoman from California (Ms. LOFGREN). I rise in support of the conference report, and I first of all want to salute everyone that has worked on bringing this resolution forward. I think it is a much improved version of the House bill. I did not support the House bill, and I was reluctant in doing that, and I think many people were surprised that I rose in opposition to it, especially because I represent so much of the high technology industry. I thought it was an effort that could be improved upon, and we have that here today, because after all, with the year 2000 Y2K problem, which has now become part of our day-to-day language across America, we wanted legislation that would help American business spend its time and its resources repairing the problem and not moving over into their legal departments to continually litigate it.

This legislation provides limits on the lawsuits while providing redress for

real damages, which is what the American people want and need. It encourages remediation and alternative dispute resolution over litigation, which I think is really fairly enlightened in an area that we need to build upon and do more and more with. It provides protections to companies that have acted in good faith while ensuring that bad actors will be liable for the damage they have caused.

I want to take just a brief moment to salute my colleague in the other body, Senator DODD, who has been a real leader on this issue and has worked on a bipartisan basis in the other body coupled with the hard work done, of course, with those that I have mentioned here in the House and finally in the White House. I am very pleased that the President has signaled that he will sign this legislation into law. It would not be effective if it were passed in the year 2001.

So now is the moment, and I am proud to support the conference report.

Mr. GOODLATTE. Mr. Speaker, I yield 6 minutes to the gentleman from Virginia (Mr. DAVIS) the chief sponsor of the legislation.

Mr. DAVIS of Virginia. I thank my friend for yielding the time.

Mr. Speaker, obviously if we had a different President and Vice President, we would have a stronger bill here today, but I think it shows the willingness of our side of the aisle to try to get some kind of bill and some kind of protections for American industry, particularly the high technology industries that are so at risk with the Y2K bug that we are here today with the bill that the President can sign, and now that he has indicated he will sign it, he has given permission to Democrats who opposed this to vote for it.

I think, as I look at this, going back to what was originally offered on the House side, their original bill, this is a much stronger bill in final than was offered on the other side of the aisle in their substitute originally. I just want to highlight some of those.

The conference report, for example, grants benefits in consumer and business. They excluded consumer exceptions, cases from the protections of this bill. The original bill on the Democratic side, their substitute that they tendered, liability of defendants is joint and several subject to the court's discretion in that it should be proportional for a defendant of minimal responsibility.

This mandates proportional liability unless there are insolvent defendants, in which case the injured party is made whole. This is a far more complete protection to companies than was originally offered on the other side. Had we gone in with their entry, we would not be here where we are today with the strengths of this bill. The administration was willing to come further than their colleagues were on the other side of the aisle.

Or this bill has a limitation on punitive damages for small businesses and no punitive damage awards available against governmental entities. Their original provision offered no protections at all in this area, at all. So we have that as well. We were able to work with the administration.

We have Federal jurisdiction over class actions now Federalizing class actions with over 100 plaintiffs who are claiming more than $10 million with special notice requirements to class members. There was nothing offered on the other side when this was offered as their substitute.

And we also offer in this legislation regulatory relief for small businesses, protection for individuals who cannot make their mortgage payments because of a Y2K problem. Nothing was offered in the original tender from the other side on this issue, so I am grateful for the support that we have received from the 236 Members of this body, from both sides of the aisle, who were willing to start out and support this legislation and not support the fig leaf that was offered up on the other side in the original legislation.

I also want to thank the U.S. Chamber of Commerce, Tom Donohue and Lonnie Taylor, in particular, who worked very hard on this, National Association of Manufacturers and Jerry Jasinowski and their group, the Information Technology Industry Counsel and all of my companies out in northern Virginia, dozens of them, who supported this legislation and felt that this is an appropriate, common sense route even in its weakened state as we move forward.

And I want to thank the administration for coming and meeting us halfway on this and moving on a number of issues where they appeared intransigent just 2 or 3 months ago. It takes two to tango, and at the end of the day I am glad that we are all singing from the same sheet of music.

As the lead sponsor of H.R. 775, the year 2000 Readiness and Responsibility Act, I am pleased to voice my strong support for this conference report. I want to congratulate my colleagues who serve on the Committee on the Judiciary and their staffs for the long hours and late nights that they invested over the last few days and bringing the White House around to making real and significant compromises that will allow this critical legislation to become law in the very near future. And I want to thank Amy Heerink, Trey Hardin from my staff who worked very hard on this as well.

More than 6 weeks ago this body passed a strong and balanced bipartisan legislation that will encourage businesses across the Nation to pursue Y2K repair and remediation efforts without fear of frivolous litigation that would otherwise threaten the competitiveness of the fastest growing segments of the U.S. economy. The President said he would veto the House bill. Following passage on May 12, the weaker bipartisan compromise crafted in the Senate faced a veto after two failed cloture votes before garnering the votes of 12 courageous Democratic senators and passed 62–37.

During that time, the Senate debated and rejected an offer by Senator KERRY from Massachusetts that had the support of the President, but I liken it to the House substitute offered up on the other side. It failed to win a support of even the majority of the Senate by a fairly substantial margin. I would also note that the Kerry proposal, like the substitute offered here, was soundly rejected by the year 2000 Coalition who supported the original legislation including the vast remnants of the high technology industry.

□ 1400

Despite modifications made to the Y2K Act by the bipartisan cosponsors in the other body responding to nearly all of the President's objections, the White House still insisted the President would veto the Senate measure. The President's statement of administration policy is that he would accept the modified version of proportionate liability in the Senate bill. He opposed liability caps on directors and officers. Those were eliminated.

The punitive damage caps were severely modified to only apply to small businesses with fewer than 50 employees and individuals with a net worth of less than half a million dollars; and when the defendant is found to have intentionally injured a plaintiff, by the jury, the sky is the limit.

In recognizing the need to have a bill enacted into law as soon as possible, the House conferees accepted the Senate amendments to the House bill and adopted the Y2K Act with two technical amendments. But due to the White House's failure up to that point to come forward with any substantive suggestions for a compromise, we in the House urged them to come to our conferees in good faith and provide us with specific language that we would consider in order to get a bill passed and working to encourage businesses to spend their dollars on fixing the Y2K problem, not in frivolous litigation.

Understanding that, the House and Senate conferees were moving quickly to produce the conference report in this legislation. We wanted to get it passed and through before the July 4 recess; and I want to congratulate the White House on recognizing the necessity for this legislation, for a vast turnaround from their earlier testimony before one of our committees where they said no such problem exists.

I urge all of my colleagues to vote yes on the conference report for H.R. 775, the Y2K Act.

Finally, I want to thank my colleague, the gentleman from Virginia (Mr. GOODLATTE), who steered this through the Committee on the Judiciary and the House. Without the gentleman from Virginia (Mr. GOODLATTE), this would not be here; and I appreciate his good work.

Ms. LOFGREN. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, as one of the lead Democratic sponsors of the Year 2000 Readiness and Responsibility Act, I rise today in strong support of this legislation. Anybody that has followed this legislation knows that the debate surrounding it on both sides of the aisle has at times been driven more by political maneuvering than substantive policy concerns. That is why we are so pleased that this truly bipartisan compromise conference report has been worked out with both Chambers and the White House.

It was done because all involved decided it was more important to our Nation and our economy to pass Y2K litigation reform than to play politics as usual.

Currently, American businesses, governments and other organizations are tirelessly working to correct potential Y2K failures. It involves reviewing, testing and correcting billions of lines of computer code. American businesses will spend an estimated $50 billion to reprogram their computers, but despite these efforts many of the Y2K computer failures will occur because of the interdependency of the United States and world economies.

In contrast to other problems that affect some businesses or even entire industries engaged in damaging activity, the Y2K problem will affect all aspects of our economy, especially the most productive high-tech industries.

As the Progressive Policy Institute said, this is a unique, one-time event, best understood as an incomparable societal problem rooted in the early stages of our Nation's transformation to the digital economy. That is why it is so important that we do the right thing on this legislation.

Without this legislation, it has been estimated by legal experts that the litigation surrounding the Year 2000 could be in excess of $1 trillion. If this bill does not prevent economic damage recoveries, injured plaintiffs will still be able to recover all of their damages and defendant companies will still be held liable for the entire amount of economic damages that they cause.

Additionally, all personal injury claims are exempt from this legislation.

This is the time for Congress to act to protect American jobs and industry, and that is what this bill does.

The goal of Congress should be to encourage economic growth and innovation, not to foster predatory legal tactics that will only compound the damage of this one-time national crisis. Congress owes it to the American people to do everything we can to lessen the economic impact of the worldwide Y2K problem and not let it unnecessarily become a litigation bonanza.

In summary, in the State of the Union address, President Clinton urged Congress to find solutions that would make the Year 2000 computer problem the last headache of the 20th century rather than the first crisis of the 21st.

This legislation accomplishes that objective. It is good legislation. We should get a unanimous vote for it.

Mr. GOODLATTE. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. LEACH), the chairman of the House Committee on Banking and Financial Services.

(Mr. LEACH asked and was given permission to revise and extend his remarks.)

Mr. LEACH. Mr. Speaker, I thank my distinguished friend, the gentleman from Virginia (Mr. GOODLATTE), for yielding me this time.

Mr. Speaker, let me just stress that no one knows at this time either in America or worldwide if this is not the most exaggerated or the most understated issue in the history of the American or world economy.

On the other hand, what this bill does is move in the direction of trying to deal with some potential problems which may arise, and in this regard, I would like to express particular thanks to the extraordinary leadership of the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. GOODLATTE) and the constructive involvement of my good friend, the gentleman from Virginia (Mr. MORAN).

Mr. Speaker, I would like to submit additional comments on one very subtle aspect of this particular bill.

These comments relate to Section 4(h) of the Senate amendment.

A June 23, 1999, letter from four federal financial regulatory agencies—the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS)—warned that in their view, Section 4(h) was "drafted so broadly that it could lead to significant unintended consequences having the potential to adversely affect the safety and soundness of the banking system and the national economy." In fact, the letter went so far as to assert that, ". . . it is difficult to overstate the disruptions that a broad reading of this amendment could cause."

Given that assessment, we worked closely with House and Senate Judiciary committees and with the federal regulatory agencies to develop compromise language which the conferees have adopted. The new language focuses narrowly on consumer mortgages and prohibits any party from taking action to foreclose on residential property if an actual Y2K failure early next year interferes with timely and accurate mortgage payments. A consumer who becomes aware that a Y2K failure has occurred, and that his or her mortgage payment was lost or delayed as result of that failure, will have seven business days to notify the mortgage service company in writing. The parties to the transaction will then have four weeks to work out a solution. This amendment in no way excuses anyone from fulfilling their legal and financial obligations but will allow for extra time to resolve what may be a once-in-a-lifetime problem.

The bottom line is that this language accommodates potential homeowner concerns without having disruptive implications for how financial services are delivered or posing a litigative nightmare. I urge adoption of the conference report.

Before concluding, I might add that yesterday, June 30, 1999, was a bellwether day in the banking industry's Y2K readiness program. Bank regulators had told financial institutions across the country that they were expected to finish fixing their mission critical systems and testing them for Y2K bugs by that date. The Committee expects to have data by Monday, July 26, on the numbers of institutions which met the deadline. I am hopeful that the regulatory agencies and the banking and financial services industry will prove to be sufficiently prepared that no homeowner will find it necessary to avail themselves of the relief in this bill.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy that we are here today and about to approve this conference report with what I'm certain will be a very wide margin of votes in support. Just a week ago, I was not at all confident that we could achieve what we are about to achieve here today. People had dug in and compromise seemed unlikely.

I was actually a member of the conference committee, as the Speaker well knows. It was the first conference committee I had ever been a member of, and I could easily observe at our first and only meeting that there was a great deal of anger in the room. People were fed up with the process that brought them there, to that meeting. Without going into who did what to whom, and how it could have been improved, we got past that anger.

Many have been mentioned for their contributions to this process. I want to give special thanks to my colleague and my leader on the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), the ranking member, whom I think, showed great serenity and leadership as he tried to sort through the many complex issues that comprise Y2K.

I also want to mention someone who has not been praised by anyone else today, and that is Senator HATCH. His cool voice of reason and comity suggested that the White House should be invited to sort through these issues with the conference staff last Friday and through the weekend and all through Monday night. Senator HATCH was therefore enormously helpful in getting people together.

I also want to thank the staff. As I just said, the White House lawyers and staff were up all Monday night working on this settlement, and I think the Committee on the Judiciary staff put in similar hours, and this is true on both sides of the aisle. I appreciate the effort that they put into this.

I also want to mention my own special counsel, John Flannery, who put in extraordinary efforts trying to keep people working together on this.

This conference report, as I said earlier this morning when we were discussing the rule, could have been approached in a variety of ways. I am

happy to support this one. I think this bill is narrowly crafted to deal with this Y2K event, only months away. As the chairman of the Committee on Banking and Financial Services just said, we do not know what is going to happen when the Year 2000 arrives, or strikes, as the case maybe. There are many people in Silicon Valley, many CEOs, who do not believe anything much is going to happen when the Year 2000 strikes. Then there are others who believe a lot may happen. None of us will know—until the event occurs.

It is because of the latter possibility, what could go really wrong that makes it so very important we take this step to prepare for the possible litigation that may accompany this worst-case possible scenario.

I want to underscore, however, the fact that the parties have come together on this issue at this time does not mean there will be agreement on a wide diversion of seemingly related issues. Pending in the Committee on the Judiciary are a variety of measures that would change tort law, change civil law in America dramatically. Some of the people who are going to vote for this conference report will not, in fact, support a wholesale change of American civil law.

Let me explain why. When I was thinking about this conference report and the underlying bill, I was reminded of President Abraham Lincoln. In the Civil War, President Lincoln suspended habeas corpus because the threat to the Union was so severe that the President believed he had to resort to this extraordinary remedy. That does not mean that we held the habeas clause any less dear as a guarantor of our liberty, but we had a crisis that prompted this action.

If bubonic plague were to break out, the health officers would not need to get a search warrant when, in pursuit of the plague, they had to gain entry. That would not mean we had any less affinity or affection for the fourth amendment, which helps keep our country free.

In this sense, the Y2K event is similar. Although none of us will be around at the next millennium, after the Year 2000 this will hopefully not be an issue. If it is, we can say here and now, that at least once a millennium, we will make a special exception to deal with this kind of crisis.

I appreciate the fact that the White House has sorted through these same policy issues and said as much.

I think that what we have before us is a fair and reasoned response that will provide useful benefit to the high-tech community and to our economy, because the real underlying issue is, if we do experience the worst-case scenario, the hit on our economy would be so enormous, that it would require the remedy and relief provided for in this bill.

I am proud to say that this conference report has the support not only of myself but of the ranking member, the gentleman from Michigan (Mr. CONYERS), and many, many others, including our friends across the aisle and on this side of the aisle. I think it is something that we can be proud of and I sincerely hope and expect it shall in the near future serve as a model for additional legislative collaboration.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Speaker, let me just say when this came up, we sent the conferees last week, the gentlewoman from California (Ms. LOFGREN) and others had said, please work with us. I know there was skepticism, but at the end of the day I think we recognized that this legislation is far better than the current status quo in terms of the protection it gives to companies and people who have acted innocently and in good faith to try to fix the Y2K problem.

So we took their suggestions. They have come over and have met us halfway. I think we have the final product.

I would like to rehash this because I think it is important for American industry to know where the people come from as they try to decide these things, and I went through it in that manner. But we are here today because we recognize that there is a need and because they were ready to meet us halfway on that issue. So I am glad we have this final product.

I am proud to stand up here as the chief sponsor of the legislation and say we have a product that I think does, in large part, what we intended for it to do when we started out. It does not do everything we wanted, for the reasons I outlined before, but again I want to urge all of my colleagues to vote yes on this.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to commend the gentleman from Virginia (Mr. DAVIS) for his leadership on this issue from start to finish. Sometimes individuals introduce legislation and it goes to a committee that they are not a member of and it goes through the process and they are not involved too much. The gentleman from Virginia (Mr. DAVIS) has been involved in this process, he and his staff, from start to finish, and I want to commend him for shepherding this legislation. He has done an outstanding job in that regard, making sure that the needs of the high-tech community not only in his district in Northern Virginia but all across the country are met, along with the needs of the broader business community who buys this equipment and needs to make sure that it operates effectively and have good working systems on January 1 of next year, not a good lawsuit on January 1 of next year. That is what this legislation accomplishes.

In addition, this legislation is very, very sensitive to the needs of America's consumers, those folks who not only rely on businesses to provide them with the goods and services they need but who have consumer products in their homes. Whether they be microwave ovens or personal computers or automobiles, whatever the case might be, we want to make sure that they have the problems that are associated with Y2K solved; and if they are not solved, that they have still their good legal remedies.

Under this legislation, they do. If there is a personal injury involved, for example, this legislation does not affect their rights to bring a cause of action for injury in any way, shape or form.

□ 1415

There is a carve-out for consumers with regard to consumer goods that assures them that they can recover the full amount of their loss if they experience one.

But the main intent of this legislation is to not see those losses occur at all. That is why I am so proud of this legislation, and have had the opportunity to move it through the Committee on the Judiciary, through the House, and through the conference to a good, solid bill that adheres to the original principles contained in the original legislation of the gentleman from Virginia (Mr. DAVIS).

While we have compromised, while we have made a number of changes with regard to the details of the bill, the core of the bill in terms of putting caps on punitive damages, in this case for small businesses of fewer than 50 employees, to make sure that we do not have a strong discouragement of solving this problem, that is in the bill.

To move to the standard of proportional liability, so somebody who may be 1 percent responsible for a Y2K problem does not get stuck with 100 percent of the bill, that is in this legislation. They will only pay their respective percentage of the problem, except under certain details, in which case it can be a little bit higher. But nonetheless, they are not going to be, in most circumstances, faced with the entire tab if they only caused a small percentage of the problem.

Class action reform, something that I am vitally interested in because I have introduced legislation on this in a broader sense to apply to all class actions, we have that reform in this legislation.

It makes sense for our Federal courts to handle Y2K class actions when they go beyond the scope of a single State. When they have plaintiffs or defendents from a multitude of States, this legislation will allow us in most instances to remove that legislation to the Federal courts, where they can consolidate actions from different States and they can apply a more consistent standard, and they can avoid the kind of forum shopping that takes place sometimes now.

In addition, the legislation contains conditions that if the plaintiffs seek

punitive damages in their class action suit the case can be removed to Federal court, regardless of the amount in controversy. So these reforms are vital.

In addition, there are reforms that encourage folks to settle their differences outside of the courtroom: A 90-day cooling off period that is so important to allow a defendant who is made aware of a problem that somebody has in their computer system, in the machinery that is operating the manufacture of their products, whatever the case might be, they need to be given notice that the problem exists and then an ample amount of time to correct the problem. This bill does that.

The thing that pleases me the most is that because of the bipartisan compromise that we have reached with I think we are going to see soon an overwhelming majority of Members of both sides of the aisle voting for this, and with the support of the White House indicated in several letters that have now been received, because of this cooperation we are getting this bill done in very short order, and that means that we will have about 6 months for everybody who is facing this problem to go at solving the problem without fear of entangling themselves in a litigation morass, and that is going to do more than anything else to make sure that when that clock ticks to 12:01 on January 1 of the year 2000, computers across the country will know that indeed it is the new millenium and that we have not gone back to the horse and carriage era of 1900.

That, to me, will spell a continuation of the success we have had in this country with a booming economy as a result of the high-tech industry that is fueling our leadership around the world, our growth in our economy compared to other countries around the world, and the fantastic job creation that has taken place of good, high-paying jobs.

This industry needs to have this incentive to move forward, rather than the hindrance to be set back with a major problem in the year 2000. We are going to accomplish that here with passage of this legislation today, send it to the Senate, and then send it to the President, and get on with the business of getting ready for the new millennium.

Mr. COX. Mr. Speaker, I am pleased today to support the conference report on H.R. 775, the Y2K Act of 1999. This bill seeks to promote Y2K preparedness and prevent a crushing, $1 trillion lawsuit tax on American workers and families—the cost of litigation predicted to result from the Y2K bug.

The 1st Y2K lawsuits were filed in mid-1997, two and half years before the millennium. Some unethical lawyers are now holding workshops on how to start Y2K class actions. They are planning for abusive class actions on an unprecedented scale, which will—unless Congress acts—injure virtually every sector of the economy.

This bill will prevent extortion suits against deep-pockets defendants. It will protect consumers with meritorious claims by requiring lawyers to act for their clients' benefit rather than their own. It will guard against unethical lawyers raking off hundreds of millions, and even billions of dollars in fees that should go to redress real injuries.

Far too long, the fear of litigation has seriously impeded remediation of Y2K problems. Small and large businesses are too often limiting their own internal reviews, and their external disclosure and cooperation, so that they can avoid being accused of making inaccurate statements about their Y2K readiness, or of ''misconduct'' or ''negligence'' when they are actually trying to fix the problems that someone else created.

This bill will ensure that America does everything possible to fix Y2K problems before January 1, 2000. Inevitably, some Y2K failures will occur; and when they do, the innovative procedural reforms in this bill will encouraged alternatives to unnecessary litigation. And the bill's pro-consumer class-action reforms will ensure fair treatment of every individual, even in enormous, nationwide Y2K cases.

As an original cosponsor of this important, common-sense reform legislation, I am pleased to join in this effort to help consumers and preserve our country's high-tech edge in the global economy.

Mr. GOODLATTE. Mr. Speaker, I urge every Member of the House to vote for this conference report, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. LOFGREN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 404, nays 24, not voting 7, as follows:

[Roll No. 265]

YEAS—404

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
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Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
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Pomeroy
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Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Sensenbrenner
Serrano
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Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)

Thompson (MS)	Vento	Wexler
Thornberry	Visclosky	Whitfield
Thune	Vitter	Wicker
Thurman	Walden	Wilson
Tiahrt	Walsh	Wise
Toomey	Wamp	Wolf
Towns	Waters	Woolsey
Traficant	Watkins	Wu
Turner	Watt (NC)	Wynn
Udall (CO)	Watts (OK)	Young (AK)
Udall (NM)	Weldon (FL)	Young (FL)
Upton	Weldon (PA)	
Velazquez	Weller	

NAYS—24

Bonior	Kucinich	Sanders
Capuano	Lee	Schakowsky
Crowley	Lewis (GA)	Scott
Delahunt	McKinney	Stark
Duncan	Meeks (NY)	Tierney
Filner	Paul	Waxman
Hinchey	Rahall	Weiner
Kennedy	Rothman	Weygand

NOT VOTING—7

Brown (CA)	Goodling	Lipinski
Dingell	Green (TX)	
Fossella	Hall (OH)	

□ 1442

Messrs. TIERNEY, CAPUANO, KENNEDY of Rhode Island and MEEKS of New York changed their vote from ''yea'' to ''nay.''

Mr. BURTON of Indiana changed his vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1059, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Mr. SPENCE. Mr. Speaker, pursuant to clause 1 of rule XXII, and by direction of the Committee on Armed Services, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SPENCE moves that the House take from the Speaker's table the Senate bill (S. 1059) to authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with the House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate on the disagreeing votes of the two Houses thereon.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from South Carolina (Mr. SPENCE).

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. SKELTON moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 1059 be instructed to insist upon the provisions contained in section 1207 of the House amendment (relating to goals for the conflict with Yugoslavia), in order to recognize the achievement of goals stated therein by—

(1) the United States Armed Forces who participated in Operation Allied Force and served and succeeded in the highest traditions of the Armed Forces of the United States;

(2) the families of American service men and women participating in Operation Allied Force, who have bravely borne the burden of separation from their loved ones, and staunchly supported them during the conflict;

(3) President Clinton, Commander in Chief of United States Armed Forces, for his leadership during Operation Allied Force;

(4) Secretary of Defense William Cohen, Chairman of the Joint Chiefs of Staff General Henry Shelton and Supreme Allied Commander-Europe General Wesley Clark, for their planning and implementation of Operation Allied Force;

(5) Secretary of State Madeleine Albright, National Security Advisor Sandy Berger, and other Administration officials who engaged in diplomatic efforts to resolve the Kosovo conflict;

(6) all of the forces from our NATO allies, who served with distinction and success; and

(7) the front line states, Albania, Macedonia, Bulgaria, and Romania, which experienced firsthand the instability produced by the Federal Republic of Yugoslavia's policy of ethnic cleansing.

□ 1445

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the gentleman from Missouri (Mr. SKELTON) and the gentleman from South Carolina (Mr. SPENCE) each will control 30 minutes.

The Chair recognizes the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume, and I move that the motion to instruct be adopted by this House.

This is a motion to require or to urge the conferees to adopt section 1207 of the House amendment. The House will remember this is an amendment offered by the gentleman from Mississippi (Mr. TAYLOR) which dealt with the goals for the conflict in Yugoslavia. I might say that these goals were set forth by numerous people, including General Wesley Clark, including the President, including the Secretary General of NATO. They have been the polestars of this whole conflict.

We do this in a customary manner, Mr. Speaker. Customarily, at the end of a conflict, we compliment as a body those who participated in and helped achieve a victory. There is no question about it, this is a substantial victory for the allies, a substantial victory for NATO, and a substantial victory for the United States of America.

First, we speak of the United States Armed Forces. True, it was an air war primarily, but many of the Army and much of the Navy were deeply involved. But for that effort, it would not have been nearly as well done or as well planned nor as well executed.

To the families of American servicemen and women who bear the brunt of their spouses and their mothers and their fathers being gone, because of the separation from their home, from their loved ones, and we support them through this by giving them a congratulatory word.

To the President, for his steadfastness, for his perseverance toward the goal of victory.

To the Secretary of Defense, the Chairman of the Joint Chiefs, the Supreme Allied Commander, all of them for their hard work and planning and implementation of this Operation Allied Force.

To the Secretary of State, the National Security Adviser, and the other administration officials who engaged in diplomatic efforts which, in the end, resolved the Kosovo conflict.

And to all the forces of our NATO allies. This was not a mere United States effort. It was an effort on behalf of all the NATO nations led by the Secretary General and the Allied Commander in Europe, General Wesley Clark.

To all the front line states, those who bore the burden of refugees and of having foreign forces on their soil. Albania, Macedonia, Bulgaria, and Romania, they all experienced the instability produced by the Federal Republic of Yugoslavia in its policy of ethnic cleansing.

This is a mere token of appreciation by this House to each of these people, to each of these countries, to each of those who participated and bore the burden of victory in Yugoslavia.

Mr. Speaker, I reserve the balance of my time.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion by the gentleman from Missouri speaks to an uncontroversial provision offered by the gentleman from Mississippi (Mr. TAYLOR) and adopted by a voice vote on June 10 during House consideration of H.R. 1401.

Section 1207, the provision in question in the motion, has two parts. The first part restates the authorities of the Congress under the Constitution to declare war and provide for the common defense. The second part establishes eight policy goals for the NATO military operation against Yugoslavia which, at the time the provision was adopted, was winding down and, in fact, is now over.

The gentleman's motion does go beyond the text of the House-passed language and asserts that the House should support section 1207 in order to recognize the efforts of our troops, the military chain of commands and a long list of others. While I do not believe that section 1207 or its legislative history had, or has, anything to do with the assertions contained in this motion, I nonetheless support the motion of the gentleman from Missouri and specifically want to commend the United States military and our NATO allies who executed Operation Allied Force with skill and courage.

Our Armed Forces, together with the military forces of NATO allies, conducted a military campaign involving over 35,000 aircraft sorties without a single casualty. The United States was responsible for the bulk of this military effort, especially with regard to air strikes against the most heavily defended and difficult targets in Kosovo and Serbia.

In addition, the United States forces provided most of the essential military capabilities in the areas of intelligence surveillance, reconnaissance, aerial refueling, electronic warfare and combat search and rescue. While having to carry out what unexpectedly and unfortunately turned into the equivalent of a major theater war, the United States Armed Forces were also providing almost simultaneously significant contributions to the humanitarian assistance effort as part of our Operation Allied Harbor in Macedonia and Albania.

Mr. Speaker, irrespective of how one might feel about the policy assumptions and judgments that unfortunately got us into this conflict, assumptions and judgments which I strongly disagreed with at the time, these in no way are endorsed by the motion of the gentleman from Missouri. I believe we can join together in commending the dedication and courage of all those in the Armed Forces who carried out this difficult military campaign. I am prepared to support this motion.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I thank my colleague for yielding me this time, and I rise in strong support of the motion to instruct conferees on the Defense Authorization bill to insist on language in the House bill articulating the goals and objectives of the air campaign in Yugoslavia.

Our military forces with our NATO allies have done a tremendous job in Kosovo. They have ended Yugoslav aggression against its own people, forced the withdrawal of Yugoslav military forces from Kosovo, reached an agreement with Yugoslavia on an international military presence in Kosovo, and started the safe return of Kosovo refugees.

The success we have achieved in Kosovo could not have been achieved without strong leadership from President Clinton and his senior military advisers. In particular, General Wesley Clark distinguished himself by conducting an air campaign that suffered not a single combat casualty. I will be introducing legislation shortly, Mr. Speaker, to award General Clark the Congressional Gold Medal for his efforts.

Or Nation's goals and objectives have been achieved with unparalleled success. We owe our military personnel a debt of gratitude for their service. I urge my colleagues to vote for this motion to instruct conferees.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, while I agree with my friend, the gentleman from Missouri (Mr. SKELTON), on the service of our military men and women, because their efforts are laudatory, I disagree extremely with the laudatory comments about our diplomatic corps and the President in this effort. As a veteran, it is sickening to me, and I will tell my colleagues why.

The total number of people killed in Kosovo prior to our bombing was 2,012. We have killed more than five times that amount in our bombing, and yet we are supposed to be saving people. There has been a forced and increased evacuation of Albanians outside of the country. The United States flew 85 percent of all the sorties and provided 90 percent of all of the weapons, and we are only supposed to pay 15 percent of it. If my colleagues will remember, in Desert Storm, George Bush actually made $2 billion. We did not have to spend $100 billion in the war and rebuilding Kosovo.

Rambouillet was a joke to start with and, in my opinion, caused us to go there. Jesse Jackson said that we need to understand both sides of an issue. One, what were the fears of the Serbs? One, that the number of Serbs that were killed by the KLA was going to continue if Rambouillet existed. There are 300,000 Albanians that live in Yugoslavia that have not left, where the KLA is not. Secondly, that none of their police forces could stay and protect the Serbs. And we can see what is happening today there. Third, they were afraid that no one would protect them at all. And to me this is a travesty.

Our diplomatic corps did not make this happen. If my colleagues will take a look, it was Russia. From the day we started bombing, I said, we need Russia to negotiate, we need Scandinavian and we need Italian troops to resolve this, A, to protect both sides; and, B, to have some stability in there. And yet the United States and our diplomatic corps did not.

We are going to see increased interest rates. We will see us pay $100 billion before this is over. And my colleagues that want to save Social Security and Medicare, where do they think this comes out of? The surplus.

General Reimer told me that we used 1 year of life in our aircraft, which were already devastated with parts, and most of those are engines and so on. If we take a look, one-half of our tankers participated, but we used all the crew. We are only keeping 23 percent of our military personnel in here, and it has been devastating.

So, yes, our troops were exemplary, we did the job. But, in my opinion, the President of the United States and the whole diplomatic corps, through their failure, caused the war in the first place.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I respectfully disagree with my friend from California. Let us give credit where credit is due. It was because of the strength and perseverance and unity of all 19 democratic nations of NATO that finally got Milosevic to capitulate and end the atrocities in Kosovo. But, ultimately, the credit belongs to those young men and women in American and NATO uniform who were being asked yet again in the 20th century to restore some peace and humanity to the European continent.

A few weeks ago I had the opportunity to travel to the Balkans and to meet and see firsthand those troops who were carrying out this dangerous mission. I wish all Americans had the opportunity to experience what I did and to feel the patriotism and the pride that I felt in those troops over there.

□ 1500

They performed their mission with honor and with great success. Unfortunately, two young officers were not able to return home safely. These were Chief Warrant Officer David Gibbs of Ohio and Chief Warrant Officer Kevin Riechert from a small town in my congressional district in western Wisconsin, Chetek.

I am sure that all our thoughts and prayers go out to their families today. I just wanted to recognize and acknowledge their service and the sacrifice they and their families made on behalf of our country.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I want to speak about some concerns and reservations about what we are doing here. Because I certainly, unequivocally, join 435 Members of this House in support of our Armed Forces and the great work that they have done and their families who have supported them throughout this and I support the whole chain in that respect. But I must say, I am very concerned that this could be misconstrued as an endorsement of support for our policy in Kosovo.

Because I, as do so many Members of this House, oppose this war. This was the result of diplomatic ineptitude. It is bad foreign policy. The President and the leaders never have told the American people what our American peril was in Kosovo. We do know that one of the goals was to try to bring peace to that area, and yet we are going to have 50,000 ''peacekeepers'' acting as proactive police officers in that area for an unlimited amount of time. I hardly say that that is a fitting conclusion to a war and animosities that date back at least to the Field of Blackbirds in 1389.

So I want to say, unequivocally, that this House Member joins many, many other House Members in saying we did not support this war and do not want to have this vote being construed as supporting the war. I do not think that the President showed great leadership, nor did most of his cabinet members, when they cannot define what the peril is, why we are in a conflict, and when the result of that conflict or that action is the evacuation of 855,000 people from the country and then another 500,000 within the country who have lost their homes, and now, after already spending $12 billion in the Balkans and another $5 billion in Kosovo itself, we are going to be spending billions more to rebuild that society, which I will not say we should run from that responsibility at all.

But I do think now we are in it, and it just seems to me that this administration's whole policy in the Balkans has been a quagmire. It has been vague. It has been haphazard. I do not believe that this is an outstanding chapter in American diplomatic history whatsoever.

So I do understand that the gentleman from Missouri (Mr. SKELTON) has great respect for the armed services, which we all admire and we all join him in doing. I am going to support this portion because the armed services personnel are being commended. But I do want to emphasize strongly that a large number of Members of the House on the Democratic and Republican side oppose this policy in the Balkans, oppose this war, and we have great questions about the so-called peace agreement.

How long are we going to be there? When do we get out? What will be the result? Why is Russia in the process when they did not contribute to this yet they are going to have a major part in the rebuilding of Kosovo? Will this make Kosovo more western, or is it going to make them more pro-Russia?

So I just wanted to air those reservations, Mr. Speaker.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is a limitation on time, but I wish to point out to my friend from California that the wording herein is a reflection exactly of the matter that was passed in the United States Senate unanimously.

I might also say that, because of what we did, the horrors, the deaths, the starvings, the burned homes, the rapes, and all the tragedies have come to an end because of what we, our leadership, our Armed Forces, and our allies did. So this is an effort to commend all of them in urging the House to adopt section 1207.

Mr. Speaker, I yield 1 minute to the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ).

Mr. ROMERO-BARCELÓ. Mr. Speaker, I rise in strong support of the motion to instruct conferees and to commend our troops for the success in Kosovo.

We in Puerto Rico are pleased to have participated in the endeavor to secure democracy for Kosovo. A portion of our military's training was carried out in Vieques, Puerto Rico. During that training, a tragic accident occurred when a bomb went 1½ miles off target and killed one civilian and injured four others.

I urge the conferees to address the safety and security concerns of the 9,300 American citizens who reside in Vieques. The accident of April 19 underscored the hazards to which the residents of the island are exposed by the bombings during our military maneuvers at the Navy range.

We must consider other options for training which do not pose a danger to the U.S. citizens in Vieques, Puerto Rico.

Mr. SPENCE. Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Missouri (Mr. Skelton) for yielding me the time.

Mr. Speaker, I rise in strong support of this motion. I certainly commend our brave United States Armed Forces, their families. I believe that President Clinton ought to get all the praise possible for the conduct of this war. Secretary Cohen, Secretary Albright, all the NATO allies, the front-line states, Albania, Macedonia, Romania, and Bulgaria, this was truly a united effort.

I very much regret that we needed this vehicle to put forth this resolution commending our Armed Forces. The Senate, as the gentleman from Missouri (Mr. SKELTON) pointed out, unanimously adopted a resolution several weeks now. We have been trying to get the Republican leadership to allow us to have a similar resolution on the floor, but they have denied it. This is the only vehicle.

What, frankly, really bothers me is that the same critics in this House who were calling the war ''Clinton's war'' and were saying that bombing would never work and the war would never be won and this was a tragedy and this was a travesty now will not give credit where credit is due.

The fact is we won this war. We ought to be proud of winning this war. The President was right. The President did the right thing in Kosovo.

I co-chaired the Albanian Issues Caucus, and we have been yelling for years and years about the ethnic cleansing that is going on in Kosovo, the lack of human rights, the fact that the ethnic Albanians there were denied for years and years the basic rights.

I am proud of our country for stepping in and standing up for human rights. I am proud of our President for taking a stand. It would have been politically easier for him to just sit back and say, what can we do? This is not our war. Ethnic cleansing and genocide, as abhorrent as it is, there is nothing we can do about it.

But the President did not say that. The President took action, and thank God he took action and saved thousands upon thousands of lives.

The fallacy that ethnic cleansing somehow was not happening and that the bombing caused it is nonsense. It is what I have been calling for years ''quiet ethnic cleansing'' or ''slow ethnic cleansing.'' And we put a stop to it and we allowed ethnic Albanians, who constituted 90 percent of the population of Kosovo before the war, to be able to live normal lives.

So I think that our Armed Forces ought to be praised. The President of the United States deserves all the praise there can be. And my colleagues on the other side of the aisle that were calling this ''Clinton's war'' ought to be calling it ''Clinton's victory'' because the President deserves the credit. I am very, very proud of what we did.

I want to say, I hope that there will be autonomy and self-governing. But, as I have always said, I believe, long range, the solution for Kosovo is independence because those people have the same right of self-determination and independence that the other people of former Yugoslavia when the former Yugoslavia broke up and Croatia and Bosnia and Macedonia and Slovenia all had the right to self-determination. The ethnic Albanians in Kosovo, in my estimation, ought to have that same right.

So, again, I commend the gentleman from Missouri (Mr. SKELTON) for this. I think we all ought to go on record as praising the Armed Forces and commend President Clinton.

Mr. SKELTON. Mr. Speaker, may I inquire as to the amount of time that we have remaining on this side, please?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Missouri (Mr. SKELTON) has 19½ minutes remaining. The gentleman from South Carolina (Mr. SPENCE) has 21 minutes remaining.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. HOEFFEL).

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of his motion to recommit. Of course we should commend the troops. Of course we should commend the President. Of course we should commend the Secretaries of State and Defense and all of the NATO leaders and all the NATO countries and all the front-line States that stood up to this terrible situation in Kosovo.

What astonishes me is that it was bad enough that the effort here in this House was not bipartisan to support our effort in Kosovo and today we do not have bipartisan support to commend the effort in Kosovo. We have to resort to this parliamentary effort to get a vote to commend these terrific achievements. And I think it is a sad day.

My father and grandfather, lifelong Republicans, taught me that politics

ended at the water's edge. Well, I am afraid to tell the gentleman and the House that this Republican party is not my grandfather's or my father's Republican party. Something has gone wrong here. But we had strong leadership. NATO did the right thing.

I support the motion of the gentleman.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of this motion by my good friend from Missouri. This motion instructs conferees to retain the provisions of the defense authorization legislation relating to the goals for the conflict in Yugoslavia.

Maintaining this language will allow us to recognize the brave men and women in the U.S. Armed Forces who have served this Nation so well. Through their efforts and the efforts of our allies in NATO, we have stopped a brutal tyrant from continuing his attempts to destroy a region and its people. This motion not only praises our uniformed personnel, but it also recognizes the critical contributions of their families. Without the sacrifices of the husbands and wives and children back home, we could not have accomplished our military goals.

When we debated the defense authorization on the floor of this House, the military conflict was underway. Now, however, we are afforded an opportunity to show our thanks on the record for the victory that they have achieved. Now, as the peacekeeping work begins, we must continue to support the military's efforts and stand by our military men and women in the field and their military and civilian leaders.

I urge my colleagues to vote for this motion.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I thank my friend the gentleman from Missouri (Mr. SKELTON), our ranking member, for yielding me the time.

Mr. Speaker, the system that is over 200 years old in our country has been a very wise one indeed. It is a system in which we vigorously debate and often disagree about what direction our country's policies should go in before we engage in conflict. But it is also a tradition that says that, once we engage in conflict, we unify.

It is the wisdom of this motion to instruct that reflects that tradition, and it is because of that wisdom that I rise in strong support of the motion. This motion appropriately looks both backward and forward.

It looks backward to say thank you to a lot of people who made a tremendous effort to make the successful result in Kosovo possible, to our very brave and noble troops, to their families who supported them back home, to our allies who stood with us, to the front-line States who endured, and, yes, to the leaders of our country, the military leaders in uniform, the diplomatic leaders at the State Department, Secretary Cohen at the Defense Department, and certainly to the Commander in Chief, to President Clinton. These are words that are definitely worthy of being said by this Congress.

It is also important to support this motion because it looks forward. It recognizes that although the conflict is hopefully over in Kosovo, the job is not, that there still are objectives to be met to establish a framework under international law for a Democratic government to make sure that those, including President Milosevic, who commit crimes against humanity are brought to justice, to be sure that refugees are brought to a safe and humane home and resting place once again.

This resolution is in the finest bipartisan tradition of our country. It looks forward and says there is work still to be done in a bipartisan way, and it looks backward to the brave and noble work of our troops, their families, and their leaders and delivers a well-deserved thanks. I am proud to support it.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. MORAN).

□ 1515

Mr. MORAN of Virginia. I want to thank the very distinguished gentleman from Missouri for finding a way to bring this resolution to the floor. We ought to be proud of what we have done. Nineteen nations worked together cooperatively to stand up for the freedoms that we enjoy and to stand up against thuggery. The Kosovar Albanians had been denied virtually every freedom that we take for granted in this country since 1989, but that is not why we got involved. We got involved because we knew a war criminal had 40,000 troops massed on the border, was going to go into Kosovo and was going to burn homes, oftentimes with people in them, rape women, execute men, that is what he would have been able to do in order to clear their country of people based purely upon their ethnicity. That is wrong.

The free nations of the world stood up and were successful, and in the process they showed that we can prevail without the loss of one American soldier, sailor or airman. We were successful with an air war when people said it could not be done. We were successful in putting strength and resoluteness in NATO. This set a precedent. We should be proud of what we have accomplished. And we should tell the rest of the world that we are proud in a bipartisan manner.

That is what this resolution is all about. It should be passed unanimously.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

Mr. UNDERWOOD. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in very, very strong support of this motion to instruct conferees that has been presented by the ranking member of the Committee on Armed Services. One of the basic principles that we learn in trying to deal with fellow human beings in our lives is that we should give credit where credit is due. What this motion to instruct conferees does is basically to recognize success, the success of our armed services, the success of our joint efforts along with our NATO allies, and in particular also the contributions of front line states that surround the Federal Republic of Yugoslavia, the success of our diplomatic efforts, and the success of the leadership of our military as well as our civilian authorities and, of course, the success of our President.

But this is not just about a great victory. It is about a great success, with some fairly limited objectives. I am sure that many people will take the time to point out and there will be lots of discussion about the problems that this has created. It will be pointed out that there will be problems with the occupation of Kosovo, problems associated with civil administration, infrastructure, trying to bring people together who have experienced lots of division and have been subjected to all the kinds of things which have gone on under the leadership of Milosevic. But I would like to point out that the problems of peace are infinitely preferable to the problems of war.

What we have here is a resolution that highlights our gratitude to the men and women of our armed services and their families and President Clinton and Secretary of Defense William Cohen and Chairman of the Joint Chiefs of Staff General Shelton, Supreme Allied Commander Europe General Wesley Clark for their planning and implementation, Secretary of State Madeleine Albright and National Security Adviser Sandy Berger. We must send a message of gratitude to all of those who worked hard for this success.

Mr. SPENCE. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman from South Carolina for yielding me this time. I want this body to know and through this body the Nation to know that I support the troops. I think the job that they gave to us and did for us was outstanding. As always, our men and women in uniform have done an outstanding and admirable job. I would vote for this motion to instruct if that is what we were doing. But I have got to tell my colleagues, a declaration of success in Yugoslavia by the media and the White House does not mean that victory was actually at hand. This charade in the Balkans has gone on long enough.

How can you call it victory when Milosevic is still in power? The agreement that they signed to end the bombing is an agreement that Milosevic would have signed before the bombing. How can you call it a victory when the reasons that we went to war are exactly the reasons why it cannot be called a victory. The President said that if we did nothing, there would be Kosovar Albanians destroyed and killed and refugees would flood the borders, there would be instability in the region, and that NATO's credibility would be undermined if we did nothing.

Take a look at it. Thousands of Kosovars were killed, refugees had lost their homes, they are coming back to burned-out homes and areas that are absolutely devastated. Instability is still in the region. In fact, I contend there is even more instability in the region because we now have a partitioned Kosovo, including Russian troops reintroduced into Yugoslavia, something that we have been afraid of ever since World War II. And NATO's credibility has been undermined. NATO for the first time in the history of NATO changed its mission from being a defensive organization to being an organization that bombs and invades sovereign nations. I contend that their credibility is seriously undermined. On top of all that, our relationships with Russia and our relationships with China and many other countries in the region have been seriously undermined.

That is a victory? Was it worth it? Was it worth it to bomb? Was it worth it to devastate and suck the very strength out of our defenses so that the fact that we had to move an entire aircraft carrier task force out of the Pacific and leave our troops in Korea at risk and move it to the Adriatic Sea? Was it worth it to take our stockpile of cruise missiles and reduce them from 1,000 that we need for a two-theater war down to what some people say is less than 45 and we do not have a production line to build any more? Was it worth it to put the United States in one of the weakest positions that it has been in many, many a year in its ability to fight a two-theater war? I think not.

I do not think this House ought to be commending a President for his leadership, particularly someone like Sandy Berger, Mr. Speaker, whom many people on both sides of the aisle have questioned his leadership, in a motion to instruct. I think this is a terrible mistake to bring this kind of debate to the floor of the House. But it is here and we have to debate it.

I reiterate, once again, that this body unanimously supports our troops and the job that they have done when asked to go. We have no question that they did the best, the job that they were trained to do, under very difficult circumstances. But for us to call this a victory and to commend the President of the United States as the Commander in Chief showing great leadership in Operation Allied Force is a farce.

Therefore, I am going to vote against the motion to instruct and hopefully we can bring a resolution to this floor commending our troops.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume. Let me take this opportunity to point out a bit of history, that I supported the efforts of our country regarding the Contras, that I supported President Bush's efforts, successful efforts against Saddam Hussein, that I supported this country and NATO's efforts against Mr. Milosevic. Omar Bradley, the famous Missourian, Second World War General, once said that ''second place doesn't count on the battlefield.'' We were victorious, Mr. Speaker. Milosevic's troops, his presence is no longer in Kosovo. Was it worth it to take on Saddam Hussein? Certainly. It was well worth it to take on Milosevic. The killing has stopped. The NATO alliance has held together.

I might point out to this body that we are talking about section 1207, and in particular in response to the gentleman from Texas, I wish to read subsection 7 that says, ''President Slobodan Milosevic will be held accountable for his actions while President of the Federal Republic of Yugoslavia in initiating four armed conflicts,'' et cetera. Also section 8 says, ''Bringing to justice through the International Criminal Tribunal of Yugoslavia individuals in the Federal Republic of Yugoslavia.''

That is what we are commending, that is what we are instructing the conferees to adopt, among other items.

Mr. Speaker, it is with pleasure that I yield 3 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend for yielding me this time.

Three weeks ago, the Federal Republic of Yugoslavia agreed to comply with NATO's demands to withdraw its forces from Kosovo, ending more than 80 days of hostility.

In bringing this conflict to a close, the United States and NATO brought an end to a Yugoslavian campaign of ethnic cleansing, rape and murder. It ended the flood of refugees fleeing Kosovo and gave hope to hundreds of thousands of men, women and children that they would soon be able to return to their homes.

More than 2 weeks ago, the Senate passed a resolution commending all those involved in our Nation's successful efforts in Kosovo. We had hoped that the leadership in the House would bring forth a similar bipartisan resolution commending our troops and congratulating President Clinton and other administration officials for their leadership.

To date, they have refused to bring up such a resolution. For goodness sake, is the dislike so intense, the hatred so great of President Clinton that the Republican majority cannot bring themselves to commend our troops and congratulate the President for his leadership? Listening to some of my colleagues on the floor this afternoon, I can only conclude that this is the case. These troops under the leadership of the President of the United States and the NATO officials stopped a modern day Holocaust from taking place in eastern Europe.

Mr. Speaker, we should overlook partisanship today and vote for the motion to instruct.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. METCALF).

Mr. METCALF. Mr. Speaker, I rise in strong support and pride in our service personnel in this most difficult Kosovo situation. But I cannot vote for this motion. I can neither support nor condone this military bombing of Kosovo. Bombing is by definition an act of war which if I read the Constitution correctly must be supported by a vote of Congress. There was no such vote for a declaration of war. I am very reticent to allow any President to commit acts of war without such a declaration. The bombing probably killed 7,500 people and did an immense amount of damage. Now we will be asked to go in and repair it.

I think the Congress should notify the President that from now on, no money will be available for acts of war without a declaration of such by Congress. I believe the cost in billions of dollars now will be borrowed—we have not got the money to pay it—now will be borrowed from our children and grandchildren and they will pay interest on it the rest of their lives. I think this is atrocious.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Speaker, I am impressed by the agility of the majority party. They come to the floor with incredible arguments on why we can never recognize a Clinton accomplishment.

The whip was in the well saying that, well, Clinton went to Yugoslavia and Milosevic was there before and he is still there now. Let me tell my colleagues, when the Democrats were in control, George Bush went to Iraq. After the Bush administration told Saddam Hussein, ''Oh, you can take a little bit of Iraq, we don't get involved in Arab land disputes,'' and then President Bush, with a majority of Congress, went to Iraq and Democrats and Republicans alike commended the President for a job well done, those who voted for the war and those who did not.

□ 1530

This Congress, on the majority side, cannot find it in its nature to recognize even one act the President may achieve that is successful, stopping a slaughter similar to the ones that led to World War II. Every argument; we have hit buildings, we have caused damage, as if the thousands of people killed by Milosevic were irrelevant. The President deserves no credit.

How many speeches did we hear on the other side that bombing would never work? We have never been able to achieve a goal through bombing day after day on the floor. We achieved our goal. We have rid Kosovo of Mr. Milosevic and his murderers. We are in the process of trying to establish a peaceful society where people can live civilly together. It will not be easy.

But just as Mr. Milosevic is still in control, so is Saddam Hussein still in control. Our goals were never the removal simply of these presidents. God knows we all hope that Mr. Milosevic and Mr. Saddam Hussein are tried as war criminals. But to come to this floor under almost any excuse because God forbid they should ever say a good word about what President Clinton did; he had the courage to lead the West, to keep NATO united and to succeed in stopping murder on our watch.

First the argument was we could not succeed, second the argument was the danger was too great. The only loss of life was not in combat, as sad as that was. I believe two pilots died in a helicopter crash.

This President succeeded to lead a successful policy, and this Congress had a chance to vote, and there was one day here where somebody described it better than I can. Congress voted. They decided not to go back, not to go forward, and by an even vote, I think of 213 to 213, did not even vote to support what we were doing.

Now after the fact take your partisan hate aside for one moment. Recognize our troops and our Commander in Chief. They politicize the foreign policy of this country I believe more than it has ever been politicized. We always had the courage to come down here, and if we were wrong initially, we stood up and commended Reagan or Bush or whatever Republican President was here. Have the guts to do the same.

Mr. SPENCE. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. WELDON).

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank my good friend and chairman for yielding this time to me, and I rise with a great deal of disappointment. I have the highest respect for my good friend from Missouri. I think he is a great American. I have acknowledged that publicly on a regular and consistent basis.

I would join with him in a heartbeat if this were a resolution honoring our troops, and the gentleman knows if that were the case, that resolution would pass this body 435 to zip with no dissenters. But if we took the resolution and if we want to honor the President, which is evidently what some on the other side want to do, then let us have that vote. Take out the troops and just honor the President for his role. I would say this to my colleagues: That would not pass this body. That resolution would not pass this body.

So what do we have here? We have a resolution where we are using the patriotic troops as the cover, as the cover to allow a Commander in Chief with a policy that is being questioned by Members on both sides of the aisle in this body to be able to have him say that we praised him for his actions.

If my colleagues want to have the vote on supporting the President's actions, then have the guts to have that vote separately. Have their up or down vote. Let us see how and whether Congress comes out in terms of whether or not they agree that this President did a good job. Let us have that debate. Let us talk about the fact that our relations with Russia and China have never been worse in this decade. Let us talk about the fact that we are driving the Duma election this December into the hands of the ultra nationalists because of our deliberate policy of not involving the Russians for the first 3 weeks, and if a Member challenges me, I will show them a confidential internal State Department memorandum that outlines that because I have it.

This debate is not about honoring our troops, and it is unfortunate because those on the other side know they boxed the Members on this side, Members who want to display their patriotism and their thanks for America's sons and daughters for the job they did. But as the President did when he used the military and paraded them down the White House lawn for that photo op, as the President did when he stood on the deck of an aircraft carrier and talked about his commitment for our military while cutting the budget to an unprecedented level, we are again going to give this President cover.

We are going to let him hide behind the skirts of the women who served in the military in combat and did the service for this because we are going to let him hide behind the uniforms of our military personnel to get a victory based on the military so he can tell the fact that Congress is supportive of what he did.

I have never been more sick in the 13 years that I have been here that we would have to have a vote where we use our military to give cover to a policy that should be openly debated, and if Members want to debate support for the President's policy, I would say to my colleague make that the motion to instruct conferees, make it be on the administration and the policy, but do not use the troops as political pawns. All of us praise our troops, but Democrats and Republicans alike express grave concerns about what we have done here.

We caused the worst humanitarian crisis in the history of Europe in helping to push a million people out into the hinterlands, and now we are not going to have a chance to say that. All we are going to do is say because it has a paragraph that praises the President, all of us then must be behind what he did.

What a crock of my colleagues know what.

This is a very sad day in the history of this body.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, this is a very dysfunctional Chamber. Blind partisan hatred infuses, it seems like all issues, even something as we look back at a successful completion of a military conflict, an end of a series of atrocities against a people too horrible to fully contemplate.

The preceding speaker is 100 percent incorrect in suggesting that this conflict created the humanitarian catastrophe unleashed by Slobodan Milosevic. The American people know what happened. The military action under the leadership of the President ended this humanitarian crisis and stopped the slaughter of a people. We ought to be proud as Americans for the role played by our military, the role played by our troops, the role played by our leaders, including President Clinton, and it might be tough in light of this partisan period that we are in to say so, but nothing less is deserved.

The President provided leadership when leadership was needed, and the military conflict has been successfully concluded.

Mr. SPENCE. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, where do we have to go from here? First of all, NATO nations have got to upgrade their own military so that we do not have to fly 85 percent of all the sorties and drop 90 percent of the bombs in the future. We cannot afford it, to take the lead in all of these. Tudjman's ethnic cleansing is 750,000 out of Croatia, is a war criminal, should be attacked. Izetbegovic according to the Mujahedeem and Hamas should be a war criminal right along with Milosevic.

A supplemental check, our next supplemental, should be a check from NATO paying for our fair share. We are supposed to pay for 15 percent, not an 80 percent of a war that happened. When we talk about 300,000 Albanians and Yugoslavs that live peacefully, how about the 200,000 Serbs that are now evacuated. My colleagues do not think that those men, women, and children are innocent victims, that we have a great victory on our hands and we ought to take care and have as much compassion for them as well.

Efforts to repay and the relationship with Russia has got to be a priority. Now Russia, in my opinion, is our enemy, but we have made great gains with Russia, and unless we continue in that direction, then all is lost. I think we need to take a look at the Progressive Caucus in this House listed under the web page: Democrats Socialists for America, and their last of their 12 point agenda is to cut defense by 50 percent should remove that from their agenda because it does disservice to our men and women in military and

disservice to the national security of this country.

We need to take a look at how we are going to conduct ourselves in these wars, and when the gentlemen say this is partisan; no, there is a disagreement on what victory is and that we should not have been there in the first place. Not partisan, but a fact that we should not have been there in the first place and expend the resources of this country when there was only 2,000 people killed and we killed over 7,500.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. DAVIS).

(Mr. DAVIS of Florida asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Florida. Mr. Speaker, I rise in support of the motion to instruct conferees. This is not a vote of a popularity contest with respect to the President. This is a vote to recognize the achievement of goals.

We had several debates on the floor of this House. We had disagreement as to those goals. But ultimately we as a country, acted in furtherance of goals, and we achieved those. Why did we achieve those goals? Because we had our best men and women in the country here in the field giving their very best efforts, and by the grace of God we prevailed.

Were mistakes made? Of course there were. Were lessons learned? Absolutely. An important part of our job is to think about what lessons were learned. But we did achieve those goals, and I do not think anybody can stand here today and say that everybody did not give it their best effort.

So let us come together as a country through this Congress. Let us recognize that we achieved those goals. Let us be thankful we succeeded. Let us learn our lessons from Kosovo and let us put this behind us and recognize our troops and everybody who played a part in the mission.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I read the resolution. It starts out commending the troops, and of course that is the most important thing that we can do. I think we should all be involved in that. It then goes on to commend Secretary Albright and the President of the United States in this operation.

Mr. Speaker, I voted for the air war. I voted to support the operation even though it was a retroactive vote that was placed before us. But I am not going to vote to support the President's leadership, and I am not going to vote, make that vote, for partisan reasons. I am going to vote because of the President's leadership and because of his treatment of the military.

Now let us review the facts:

Today we have shorted our military people $13 billion worth of ammunition. That is all the way from cruise missiles to M16 bullets. That means, if we have to go to war tomorrow because this administration has pulled money out of the cash register that was meant for bullets and used it for peacekeeping operations, we are going to have people die because they run out of bullets.

Today we are 13½ percent below the civilian pay rate for our military. That means that we have 10,000 military families on food stamps. That is a direct result of the President's leadership or lack thereof. If my colleagues think the President has paid our men and women in the military adequately, then vote for this resolution. But I am not going to do that. Today our mission-capable rates have dropped like a rock for lack of spare parts, and that is because the President has not put enough money in the military budget for spares, for aircraft and the Army, the Navy, the Marine Corps and the Air Force. I am not going to commend the President for that.

So, Mr. Speaker, if the President wants to really do something that thanks our military families for their valiant effort in this war, I suggest that he pay them, increase their pay to the full 13 percent like President Reagan did when he came in and closed that 12.6 percent pay gap, and I recommend that he supply adequate ammunition so that they can fight wars without running out of ammunition, and I recommend that he comes forward with all the spares and the modernization that is required to keep 55 airplanes a year from falling out of the sky and crashing, resulting in 55 deaths in peacetime operations like we had last year.

□ 1545

This President has hollowed out the military. If he was a Republican, I would say exactly the same thing.

We have some fault, I think, Mr. Speaker, because we have allowed ourselves as a Congress to be finessed by this administration and not to come back with all the requirements our military really needs.

I recommended a $28 billion emergency supplemental because that is what the services said they needed, and yet when we even tried to get above $6 billion and finally got to $12 billion, the President resisted that mightily.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, when George Bush came to this Chamber after a successful campaign in destroying the designs which Saddam Hussein had on Kuwait, he came to this Chamber and we rose as one, not Democrat, not Republican, not liberal, not conservative. We stood to praise our Commander-in-chief.

We did not say, Mr. President, how could April Glasbie, your ambassador to Iraq, have told those people we would have no protest if you had designs on Kuwait? Which she did.

We could have said, Mr. President, how could you have not detected the gas centrifuge technology that he was using for nuclear weapons?

How could you have voted to condemn Israel in the U.N. for bombing the Osirak nuclear power plant?

How could you have not killed the Red Guard when you had a chance? How could you have not wiped out Saddam Hussein when you had a chance?

We did not do that. We praised George Bush, after a successful military campaign, as our Commander-in-Chief. The majority in this House should be ashamed. They continue this pathology of bitter hatred of the President at the expense of our country.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank my distinguished chairman, the gentleman from South Carolina (Mr. SPENCE), for yielding me this time.

Mr. Speaker, I say to my colleague and friend, I agree with him. Let us have the question on whether or not we support this President.

Mr. MARKEY. No.

Mr. WELDON of Pennsylvania. That is what you just said.

Mr. MARKEY. No.

Mr. WELDON of Pennsylvania. You just said in your statement, and I will take your words down if you want to repeat them, that we voted on whether or not to support the policies of President Bush.

What I am saying and what my colleagues are saying, let us have that debate. Let us have a real amendment, not a phony amendment, where we have the President's policies hidden behind the skirts and the uniforms of the men and women in this military.

Mr. MARKEY. Will the gentleman yield?

Mr. WELDON of Pennsylvania. No, I will not yield.

Mr. MARKEY. You are over the line.

Mr. WELDON of Pennsylvania. Regular order, Mr. Speaker.

The gentleman knows full well, as all of our colleagues on the other side know, if there is a freestanding amendment on supporting the troops, it will pass 435 to 0. If there is a freestanding motion to recommit or motion to instruct that only supports the President, they could not get the votes. You could not get the votes.

Let us have that vote. Let us have the vote you want. Let us have the policy decision that you have asked for, but you will not give it to us.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong support of the motion to instruct the conferees, yes, to commend the President of the United States, our Commander-in-Chief, and our troops, for the success of the air war over Yugoslavia.

I say shame on those who do not want to honor our troops or to honor our Commander-in-Chief. If we may recall in this body, some of these are the

same people, indeed, who refused to authorize the air strikes in Yugoslavia when our young men and women were, in fact, flying through enemy fire.

What is also interesting to note is over the last 2 weeks, the House Democratic leadership have urged a similar kind of an effort to have a bipartisan resolution in the same way that the other body did, and they have been turned down at every single turn, in order to do this in a bipartisan way.

If we are serious about what we are doing here today, we need in fact to say, thanks, and commend the Commander-in-Chief of this United States for his leadership and his efforts to honor the valor of the young men and women who fought so bravely so that in fact, yes, we can stand here today and talk to the people of the United States. That is what both of them did for us.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from South Carolina (Mr. SPENCE) has 3 minutes remaining, the gentleman from Missouri (Mr. SKELTON) has 1 minute remaining, and the gentleman from Missouri (Mr. SKELTON) has the right to close.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KUYKENDALL), a Marine veteran and the father of an F–14 female pilot.

Mr. KUYKENDALL. Mr. Speaker, we in this country did not recognize the service of those that fought the war that I was part of. We did a terrific job recognizing the young men and women we sent to the Persian Gulf.

I will stand foursquare in front of anybody to praise the young men and women in this military force we have in the field today. They are asked to do more with less, more frequently, than any force we have had in our recent history that I am aware of.

I live that from my past experience. I live it from my current experience with a daughter that is involved in those kinds of conflicts.

I find it distasteful, in order to stand up, and want to praise the civilian leadership, which is actually their praise comes by being elected to those jobs and being approved by us to hold those positions as secretaries of defense or other elected leadership that are civilian. And I am happy to sign on any motion to praise everyone from General Shelton and General Clark, whether I agreed or disagreed with how they managed that war on down, because they put themselves in the position of putting young people in harm's way. The civilian leadership is not the one where that praise needs to be. It needs to be to the people who were doing the job, the people who were there and had their lives at risk and had their families torn apart because of those deployments.

I very much want to praise them, and I do every time I see some of them, and I will continue to do that because the times that I and my counterparts lived through in the 1960s and 1970s should never come back to this country again, because they do so willingly when they step forward to carry that banner for us.

I would not be in favor of this. I guess I cannot get myself to the inflamed pitch of some of my opponents or some of my colleagues, but the feeling is just as heartfelt. These young men and women are the finest we have, and they deserve our praise, and that is who we should be praising specifically and no one else in this.

Mr. SPENCE. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. HUNTER).

The SPEAKER pro tempore. The gentleman from California (Mr. HUNTER) is recognized for 1 minute.

Mr. HUNTER. Mr. Speaker, I appreciate the gentleman from South Carolina (Mr. SPENCE) for yielding the balance of his time.

Mr. Speaker, let me just say to my colleagues, if this President will close the $13 billion ammunition shortage and supply adequate ammunition to our troops, I will personally join with the gentleman from Missouri (Mr. SKELTON) in offering any type of a resolution to thank the President for doing that and say that he is doing a good job.

If he will take the 10,000 service people off of food stamps and close that 13½ percent pay disparity between the civilian sector and the military sector, I will join with the gentleman from Missouri (Mr. SKELTON) in saying the President is doing a good job in leading the military.

The President right now is not doing a good job in leading the military. He is willing to do anything to thank them except pay them and arm them, and I am going to vote no on this resolution.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is an old saying that a rose by any other name is still a rose, and I say, Mr. Speaker, today that victory by any other name is still a victory.

We won this for a number of reasons; the troops. Representing the Fourth District of Missouri, I feel compelled to compliment the 509th Bomb Wing of the United States Air Force led by Brigadier General Leroy Barnidge, for the magnificent job that they did.

They, and many others, won by the air war; and also but for the Army and what they did, their presence, the Navy and what they did and its flying missions, all of them did a good job.

I think we are losing sight of what this instruction is. We all voted on this amendment. It passed the House unanimously. So I say let us vote on the instruction. The other arguments are side issues. A victory is a victory, Mr. Speaker.

Mr. BLAGOJEVICH. Mr. Speaker, I cannot vote against this resolution because I support our troops. Our Nation is forever indebted to our service men and women, and they deserve our praise for doing the job we sent them to do in Yugolsavia.

But there are other aspects to this resolution that I find troubling. I can't help but think that the agreement signed to end this conflict could have been signed before the conflict began, avoiding significant suffering and loss of life on all sides.

Having visited refugee camps in Albania and Macedonia, and having traveled to Yugoslavia during the N.A.T.O. bombing, I have seen first-hand the suffering of innocent people. Ethnic cleansing is evil, and we are right to oppose it. But I cannot in good conscience deny my belief that this conflict and the refugee crisis could have been avoided but for the failure of our diplomatic efforts and our lack of foresight in anticipting events.

Mr. Speaker, with all the suffering that has taken place, this is time for solemn reflection, not celebration.

Ms. DELAURO. Mr. Speaker, I rise in strong support of the motion to instruct conferees to commend the President and our troops for the success of the air war over Yugoslavia.

By passing this amendment, we reaffirm Congress' support for our men and women in the armed forces who carried out this vital mission, and for their efforts to bring justice to a devastated region and send an important message to Milosevic that his savage campaign of ethnic cleansing will not be tolerated.

27 Reservists from the 103rd Air Control Squadron in Orange—part of my District in Connecticut—volunteered to join our troops supporting the NATO effort in Kosovo. I am proud of the dedication and bravery of these men and women, and honored to have the opportunity to commend them for the sacrifice they made to protect our nation and the values it represents.

We must let our forces know of our prayers and our gratitude for their efforts to counter aggression, end the misery, and foster peace. Support the Motion to Instruct.

Mr. HAYES. Mr. Speaker, our airmen and soldiers deployed to Kosovo executed their mission, albeit unclear, with swiftness and precision. Thanks to them and the rigorous training they undertake daily, the crisis in Kosovo is over. For this I, my colleagues, the American people, and the ethnic Albanian of Kosovo are grateful, and as a member of the Armed Services Committee, I'm proud to take any opportunity to thank and honor them.

I cannot, however, support a motion that commends this Administration for its role in the Kosovo conflict. How can we praise the Administration for a mission that was never defined, an exit strategy that was never communicated, and a failure to consult the Congress of the United States? While I am glad that the violence in Kosovo has ceased, I remain critical of the means which brought about the end. And quite frankly, I believe the President should feel fortunate that we appear to have at least temporarily resolved the conflict.

Mr. Speaker, the Administration never presented the Congress and the American people with a clear outline of our goals in Kosovo. More importantly, never were we provided with the leadership that the people of our nation and of the entire free world have come to expect from the United States.

Fortunately, our fighting forces prevailed and proved, once again, that they are the finest in the world. But to suggest that they ended the conflict in Kosovo because they

were given a blueprint for victory is simply wrong.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Missouri (Mr. SKELTON).

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ENGEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Without objection, the Chair will reduce to 5 minutes the vote on closing the conference that will immediately follow the first vote on instructing conferees.

There was no objection.

The vote was taken by electronic device, and there were—yeas 261, nays 162, answered ''present'' 5, not voting 7, as follows:

[Roll No. 266]

YEAS—261

Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bilbray
Bishop
Bliley
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Callahan
Calvert
Camp
Capps
Capuano
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Greenwood
Gutierrez
Hall (OH)
Hastert
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inslee
Isakson
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kolbe
LaFalce
LaHood
Lampson
Lantos
Larson
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spence
Spratt
Stabenow
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weller
Wexler
Weygand
Wise
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—162

Abercrombie
Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Brady (TX)
Bryant
Burr
Burton
Buyer
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Crane
Cubin
Cunningham
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Duncan
Ehrlich
Everett
Ewing
Fletcher
Fowler
Gallegly
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hoekstra
Hostettler
Hunter
Istook
Jackson (IL)
Jenkins
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kucinich
Kuykendall
Largent
Lazio
Lee
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McInnis
McIntosh
McKeon
McKinney
Metcalf
Myrick
Nethercutt
Ney
Norwood
Ose
Oxley
Packard
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Radanovich
Reynolds
Riley
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stark
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thune
Tiahrt
Toomey
Vitter
Walden
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson
Young (AK)

ANSWERED ''PRESENT''—5

Bateman
Bereuter
Blagojevich
Rivers
Rogan

NOT VOTING—7

Brown (CA)
Cox
Fossella
Gibbons
Green (TX)
Lipinski
Smith (NJ)

□ 1616

Mr. MCINTOSH and Mr. WATTS of Oklahoma changed their vote from ''yea'' to ''nay.''

Mr. McCOLLUM changed his vote from ''nay'' to ''yea.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). The Chair will appoint conferees after the next motion.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETING ON S. 1059, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000, WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. SPENCE. Mr. Speaker, pursuant to clause 12(a)(2) of House rule XXII, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SPENCE of South Carolina moves that the conference committee meetings on the bill (S. 1059) be closed to the public at such times as classified national security information is under consideration, provided, however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. SPENCE).

Pursuant to clause 11 of rule XXII, this vote must be taken by the yeas and nays.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 413, nays 9, not voting 12, as follows:

[Roll No. 267]

YEAS—413

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah

Filner
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—9

Blumenauer	Lee	Owens
DeFazio	McKinney	Stark
Kucinich	Oberstar	Watt (NC)

NOT VOTING—12

Abercrombie	Franks (NJ)	Lipinski
Brown (CA)	Gibbons	Salmon
Emerson	Green (TX)	Smith (MI)
Fossella	Larson	Souder

□ 1626

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LARSON. Mr. Speaker, on rollcall No. 267, a motion to close portions of D.O.D. authorization conference, I was out of the Chamber on legislative business. Had I been present, I would have voted "Yea."

(Mr. ARMEY asked and was given permission to speak out of order for 1 minute.)

LEGISLATIVE PROGRAM

Mr. ARMEY. Mr. Speaker, I am pleased to announce to my colleagues that, pending completion of today's legislative business, we will be adjourning for the Independence Day District Work period. Members will be happy to know that the House will, therefore, not be in session tomorrow. Please be advised that we expect votes to run late into the evening. By completing our work tonight, Members will be able to return home a day sooner than expected.

Mr. Speaker, I would furthermore like to notify Members that we will be returning on Monday, July 12 at 12:30 p.m. for morning hour debates. We will begin legislative business at 2 p.m., with no votes expected until 6 p.m. There will be an official Whip notice distributed to Members' offices next week outlining the legislative agenda.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Armed Services, for consideration of the Senate bill and the House amendment, and modifications committed to conference: Messrs. SPENCE, STUMP, HUNTER, BATEMAN, HANSEN, WELDON of Pennsylvania, HEFLEY, SAXTON, BUYER, Mrs. FOWLER, Messrs. MCHUGH, TALENT, EVERETT, BARTLETT of Maryland, MCKEON, WATTS of Oklahoma, THORNBERRY, HOSTETTLER, CHAMBLISS, HILLEARY, SKELTON, SISISKY, SPRATT, ORTIZ, PICKETT, EVANS, TAYLOR of Mississippi, ABERCROMBIE, MEEHAN, UNDERWOOD, REYES, TURNER, Ms. SANCHEZ, Mrs. TAUSCHER, Mr. ANDREWS and Mr. LARSON;

From the Permanent Select Committee on Intelligence, for consideration of the matters within the jurisdiction of that committee under clause 11 of rule X: Messrs. GOSS, LEWIS of California, and DIXON;

From the Committee on Banking and Financial Services, for consideration of section 1059 of the Senate bill and section 1409 of the House bill, and modifications committed to conference: Messrs. MCCOLLUM, BACHUS, and LAFALCE;

From the Committee on Commerce, for consideration of sections 326, 601, 602, 1049, 1050, 3151–53, 3155–65, 3173, 3175, 3176–78 of the Senate bill, and sections 601, 602, 653, 3161, 3162, 3165, 3167, 3184, 3186, 3188, 3189, and 3191 of the House amendment, and modifications committed to conference: Messrs. BLILEY, BARTON of Texas, and DINGELL;

Provided that Mr. BILIRAKIS is appointed in lieu of Mr. BARTON of Texas for consideration of sections 326, 601, and 602 of the Senate bill, and sections 601, 602, and 653 of the House amendment, and modifications committed to conference.

Provided that Mr. TAUZIN appointed in lieu of Mr. BARTON of Texas for consideration of sections 1049 and 1050 of the Senate bill, and modifications committed to conference.

From the Committee on Education and the Workforce, for consideration of sections 579 and 698 of the Senate bill, and sections 341, 343, 549, 567, and 673 of the House amendment, and modifications committed to conference: Messrs. GOODLING, DEAL of Georgia, and Mrs. MINK of Hawaii.

□ 1630

From the Committee on Government Reform, for consideration of sections 538, 652, 654, 805–810, 1004, 1052–54, 1080, 1101–1107, 2831, 2862, 3160, 3161, 3163, and 3173 of the Senate bill, and sections 522, 524, 525, 661–64, 672, 802, 1101–05, 2802, and 3162 of the House amendment, and modifications committed to conference: Messrs. BURTON of Indiana, SCARBOROUGH and CUMMINGS;

Provided that Mr. HORN is appointed in lieu of Mr. SCARBOROUGH for consideration of sections 538, 805–810, 1052–1054, 1080, 2831, 2862, 3160, and 3161 of the Senate bill and sections 802 and 2802 of the House amendment.

From the Committee on International Relations, for consideration of sections 1013, 1043, 1044, 1046, 1066, 1071, 1072, and 1083 of the Senate bill, and sections 1202, 1206, 1301–1307, and 1404, 1407, 1408, 1411, and 1413 of the House amendment, and modifications committed to conference: Messrs. GILMAN, BEREUTER, and GEJDENSON.

From the Committee on the Judiciary, for consideration of sections 3156 and 3163 of the Senate bill and sections 3166 and 3194 of the House amendment, and modifications committed to conference: Messrs. HYDE, MCCOLLUM and CONYERS.

From the Committee on Resources, for consideration of sections 601, 602, 695, 2833, and 2861 of the Senate bill, and sections 365, 601, 602, 653, 654, and 2863 of the House amendment, and modifications committed to conference: Messrs. YOUNG of Alaska, TAUZIN and GEORGE MILLER of California.

From the Committee on Science, for consideration of sections 1049, 3151–53, and 3155–65 of the Senate bill, and sections 3167, 3170, 3184, 3188–90, and 3191 of the House amendment, and modifications committed to conference: Messrs.

SENSENBRENNER, CALVERT and COSTELLO.

From the Committee on Transportation and Infrastructure, for consideration of sections 601, 602, 1060, 1079, and 1080 of the Senate bill, and sections 361, 601, 602, and 3404 of the House amendment, and modifications committed to conference: Messrs. SHUSTER, GILCHREST and DEFAZIO.

From the Committee on Veterans' Affairs, for consideration of sections 671–75, 681, 682, 696, 697, 1062, and 1066 of the Senate bill, and modifications committed to conference: Messrs. BILIRAKIS, QUINN and FILNER.

There was no objection.

ANNOUNCEMENT BY CHAIRMAN OF COMMITTEE ON RULES REGARDING AMENDMENT PROCESS FOR H.R. 434, AFRICA GROWTH AND OPPORTUNITY ACT; AND H.R. 1211, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2000 AND 2001

Mr. DREIER. Mr. Speaker, the Committee on Rules is expected to meet the week of July 12 to grant a rule which may limit amendments for consideration of H.R. 434, the Africa Growth and Opportunity Act. The Committee on Rules is also expected to meet the week of July 12 to grant a rule which may limit amendments for consideration of H.R. 1211, the Foreign Relations Authorization Act, Fiscal Years 2000 and 2001.

Any Member contemplating an amendment to H.R. 434 should submit 55 copies of the amendment and a brief explanation of the amendment to the Committee on Rules no later than noon, Tuesday, July 13. Amendments should be drafted to the text of the bill as reported by the Committee on Ways and Means on June 17.

Any Member contemplating an amendment to H.R. 1211 should also submit 55 copies of the amendment and a brief explanation of the amendment to us up in the Committee on Rules no later than 4 p.m. on Tuesday, July 13.

For those who are not aware of it, the Committee on Rules is located in room H–312 in the Capitol. That is right upstairs.

Amendments should be drafted to the text of H.R. 2415, the American Embassy Security Act of 1999, as introduced by the gentleman from New Jersey (Mr. SMITH) and the gentlewoman from Georgia (Ms. MCKINNEY) on July 1, 1999.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL FRIDAY, JULY 9, 1999, TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR DEPARTMENT OF INTERIOR AND RELATED AGENCIES FOR FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until Friday, July 9, 1999, to file a privileged report on a bill making appropriations for the Department of Interior and related agencies for the fiscal year 2000, and for other purposes.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL FRIDAY, JULY 9, 1999, TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR MILITARY CONSTRUCTION, FAMILY HOUSING, AND BASE REALIGNMENT AND CLOSURE FOR THE DEPARTMENT OF DEFENSE FOR FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until Friday, July 9, 1999 to file a privileged report on a bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year 2000, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

APPOINTMENT OF CONFEREES ON H.R. 1905, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2000

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1905) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2000, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina? The Chair hears none and, without objection, appoints the following conferees: Messrs. TAYLOR of North Carolina, WAMP, LEWIS of California, Ms. GRANGER, and Messrs. PETERSON of Pennsylvania, YOUNG of Florida, PASTOR, MURTHA, HOYER and OBEY.

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

FINANCIAL SERVICES ACT OF 1999

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 235 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 10.

□ 1638

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes, with Mrs. EMERSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Iowa (Mr. LEACH), the gentleman from New York (Mr. LAFALCE), the gentleman from Virginia (Mr. BLILEY), and the gentleman from Michigan (Mr. DINGELL) each will control 22½ minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

(Mr. LEACH asked and was given permission to revise and extend his remarks.)

Madam Chairman, I realize that feelings are imperfect with relation to the rule debate. For all the frustration on the minority side, it is more than matched by this Member whose advice was disregarded by the Rules Committee on key amendments. Nonetheless the big picture is that this is a good bill, good for individual citizens and the economy at large. I ask all my colleagues to vote on the quality of the end product, not the process of consideration which I acknowledge has been imperfect.

In this regard, let me stress that the big picture is that financial modernization legislation will save the public approximately $15 billion a year. It will provide increased services to individuals and firms, particularly those in less comprehensively served parts of the country. It will also allow U.S. financial companies to compete more fully abroad.

The economy on a global basis is changing and we must be prepared to lead market developments, rather than lose market share. In this effort, the fundamental precept of the bill is to end the arbitrary constraints on commerce implicit in the 65-year-old Glass-Steagall law. Competition is the American way and enhanced competition is the underlying precept of this bill.

In this regard, I'd like to address the issues of bigness and of privacy. With regard to conglomeration which is proceeding at a pace with which I am

deeply uncomfortable, it should be understood that the big are getting bigger from the top down, utilizing regulatory fiat. What this bill does is provide a modern regulation framework for change. It empowers all equally. Smaller institutions will be provided the same competitive tools that currently are only available to a few. Indeed, in a David and Goliath world, H.R. 10 is the community bankers and independent insurance agents' slingshot.

Finally, with regard to privacy, let me stress no financial services bill in modern history has gone to this floor with stronger privacy provisions. Importantly, pretext calling—the idea that someone can call a financial institution and obtain your financial information—is now effectively outlawed; medical records are protected; and individuals are given powerful new rights to prevent financial institutions from transferring or selling information to third parties.

Here, let me stress, if Congress subsequently passes more comprehensive medical records provisions, they will be allowed to bolster or supercede these safeguards and if HHS promulgates regulations in this area they would augment the provisions of this bill. Nothing in this act is intended to shackle Executive Branch actions in this area.

In conclusion, I would like to thank my Democratic colleagues on the Banking Committee and, in particular, JOHN LAFALCE and BRUCE VENTO, and JOHN DINGELL of the Commerce Committee, whose support I have been appreciative in the past and whose dissent I respect today; also my friends TOM BLILEY, MIKE OXLEY, DAVID DREIER, JOHN BOEHNER and so many others, like MARGE ROUKEMA, SUE KELLY, PAT TOOMEY and RICK LAZIO, whose leadership has been so important to bringing this bill to the floor.

The legislation before the House is historic win-win-win legislation, updating America's financial services system for the 21st Century.

It's a win for consumers who will benefit from more convenient and less expensive financial services, from major consumer protection provisions and from the strongest financial and medical privacy protections ever considered by the Congress.

It's a win for the American economy by modernizing the financial services industry and savings an estimated $15 billion in unnecessary costs.

And, it's a win for America's international competition position by allowing U.S. companies to compete more effectively for business around the world and create more financial services jobs for Americans.

It would be an understatement to say that this has not been an easy, nor a quickly-produced piece of legislation to bring before the House.

For many of the 66 years since the Congress enacted the Glass-Steagall Act in 1933 to separate commercial banking from investment banking, there have been proposals to repeal the act. The Senate has thrice passed repeal legislation and last year the House approved the 105th Congress version of H.R. 10.

But, this year it appears that we may be closer than ever before to final passage. The bill before us today is the result of months and months of tough negotiation and compromise; among different congressional committees, different political parties, different industrial groupings and different regulators. No single individual or group got all—or even most—of what it wanted. Equity and the public interest have prevailed.

It should be remembered that while the work of Congress inevitably involves adjudicating regulatory turf battles or refereeing industrial groups fighting for their piece of the pie, the principal work of Congress is the work of the people—to ensure that citizens have access to the widest range of products at the lowest possible price; that taxpayers are not put at risk; that large institutions are able to compete against their larger international rivals; and that small institutions can compete effectively against big ones.

We address this legislation in the shadow of major, ongoing changes in the financial services sector, largely the result of decisions by the courts and regulators, who have stepped forward in place of Congress. Many of us have concern about certain trends in finance. Whether one likes or dislikes what is happening in the marketplace, the key is to ensure that there is fair competition among industry groups and protection for consumers. In this regard, this bill provides for functional regulation with state and federal bank regulators overseeing banking activities, state and federal securities regulators governing securities activities and the state insurance commissioners looking over the operations of insurance companies and sales.

The benefits to consumers in this bill cannot be stressed more. First, they will gain in improved convenience. This bill allows for one-stop shopping for financial services with banking, insurance and securities activities being available under one roof.

Second, consumers will benefit from increased competition and the price advantages that competition produces.

Third, there are increased protections on insurance and securities sales, a required disclosure on ATM machines and screens of bank fees and a requirement that the Federal Reserve Board hold public hearings on large financial services merger proposals.

Fourth, the Federal Home Loan Bank reform provisions expand the availability of credit to farmers and small businesses and for rural and low-income community economic development projects.

Fifth, the bill also contains major consumer privacy protections making so-called pretext calling, in which a person uses fraudulent means to obtain private financial information of another person, a federal crime punishable by up to five years in jail and a fine of up to $250,000; would wall off the medical records held by insurance companies from transfer to any other party; and requires banks to disclose their privacy policies to customers.

A bipartisan amendment developed by members of the Banking, Commerce and Rules Committee will further enhance these protections and I urge its adoption.

In closing, I'd like to emphasize again the philosophic underpinnings of this legislation. Americans have long held concerns about bigness in the economy. As we have seen in other countries, concentration of economic power does not automatically lead to increased competition, innovation or customer service.

But the solution to the problem of concentration of economic power is to empower our smaller financial institutions to compete against large institutions, combining the new powers granted in this legislation with their personal service and local knowledge in order to maintain and increase their market share.

For many communities, retaining their local, independent bank depends upon granting that bank the power to compete against mega-giants which are being formed under the current regulatory and legal framework.

H.R. 10 provides community banks with the tools to compete, not only against large mega-banks but also against new technologies such as Internet banking. Banks which stick with offering the same old accounts and services in the same old ways will find their viability threatened. Those that innovate and adapt under the provisions of this bill will be extraordinarily well positioned to grow and serve their customer base.

Large financial institutions can already offer a variety of services. But community banks are usually not large enough to utilize legal loopholes like Section 20 affiliates or the creation of a unitary thrift holding company to which large financial institutions—commercial as well as financial—have turned.

By bolstering the viability of community-based institutions and providing greater flexibility to them, H.R. 10 increases the percentage of dollars retained in local communities. Community institutions are further protected by a small, but important provision that prohibits banks from setting up ''deposit production offices'' which gather up deposits in communities without lending out money to people in the community.

Additionally, the bill before us strengthens the Community Reinvestment Act by making compliance with the act a condition for a bank to affiliate with a securities firm or securities company. CRA is also expanded to a newly created entity called Wholesale Financial Institutions.

One of the most controversial provisions in H.R. 10 is the provision in Title IV which prohibits commercial entities from establishing thrifts in the future. Under current law, commercial entities are already prohibited from buying or owning commercial banks. This restriction between commercial banking and commerce is not only maintained in H.R. 10 but extended to restrict future commercial affiliations with savings associations.

The reason this restriction on commerce and banking is being expanded is several fold. First, savings associations that once were exclusively devoted to providing housing loans, have become more like banks, devoting more of their assets to consumer and commercial loans. Hence the appropriateness for comparability between the commercial bank and thrift charter is self-evident.

Second, this provision must be viewed with the history of past legislative efforts affecting the banking and thrift industries. The S&L industry has tapped the U.S. Treasury for $140 billion to clean up the 1980s S&L crisis. In 1996, savings associations received a multi-billion dollar tax break to facilitate their conversion to a bank charter. Also, in 1996, the S&Ls tapped the banking industry for $6 to $7 billion to help pay over the next 30 years for

their FICO obligations, that part of the S&L bailout costs that remained with the thrift industry.

During this time period, Congress has liberalized the qualified thrift lending test and the restrictions on the Federal savings association charter. These legislative changes are in addition to the numerous advantages that the industry has historically enjoyed, such as the broad preemption rights over state laws and more liberal branching laws.

H.R. 10 continues the Congressional grant of benefits to the thrift industry by repealing the SAIF special reserve, providing voluntary membership by Federal savings associations in the Federal Home Loan Bank System, allowing state thrifts to keep the term ''Federal'' in their names, and allowing mutual S&L holding companies to engage in the same activities as stock S&L holding companies.

Opponents of this provision correctly argue that commercial companies that have acquired thrifts (so-called unitary thrift holding companies) before and after the S&L debacles of the 1980s have not, for the most part, caused taxpayer losses. However, the Federal deposit insurance fund that was bailed out by the taxpayers applied to the entire thrift industry including the unitary thrift holding companies. Three years ago some $6 billion to $7 billion in thrift industry liabilities left over from cleaning up the S&Ls were transferred to the commercial banking industry with the understanding that sharing liabilities would be matched by ending special provisions. This is another reason to provide comparable regulation.

It is with this history and the assumption that decisions in this bill are made in the context of a legislative continuum that the provision in the bill was added to not only restrict the establishment of new unitary thrift holding companies, but also to require that commercial entities may not buy a thrift from an existing grandfathered company without first getting Federal Reserve Board approval.

As we all know, there are complex issues involved in this legislation, and there will be differing judgments by Members. One thing we all may agree upon, however, is that Congress needs to reassert its Constitutional role in determining what should be the laws governing financial services, instead of allowing the regulators and courts to usurp this responsibility.

If Congress turns its back on financial services modernization, we should not fool ourselves that rapid evolution in the fields of banking, securities and insurance will cease. It will not. Financial services modernization will take place with or without Congressional approval. Without this legislation, however, changes in financial services will continue unabated, but they will take place in an ad hoc manner through the courts and through regulatory fiat, and will not be subject to the safeguards and prudential parameters established in this legislation.

Now is the time for Congress, to step up to the challenge of modernizing our nation's financial services sector for the 21st century, to ensure that it remains competitive internationally, that it is stable and poses the least possible threat to the taxpayer, and that it provides quality service to all our citizens and communities.

Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I yield myself 3 minutes.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Madam Chairman, first, I want to thank the Chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH), for working collegially with so many of us on the Democratic side of the aisle in order to produce a bipartisan bill out of the Committee on Banking and Financial Services that could be signed by the President and enacted into law. Each side had to give and take, each side had to make tremendous amount of concessions, but we did in order to advance the public interest and financial services modernization.

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We produced a bill with a 51–8 vote, 21–6 on the Democratic side of the aisle. The Democrats voted for it, however, in large part because we were able to retain the strongest community reinvestment provisions, because we were able to have strong consumer protection before and beyond that, most especially provisions regarding redlining in the insurance industry. Once that eroded, so too did a lot of the Democratic support. And that is unfortunate. It is unfortunate.

There are other provisions that we are concerned about, too, and that is the medical privacy language of the gentleman from Iowa (Mr. GANSKE). I am hopeful that if this bill passes those concerns that we have can be dealt with in conference, and I look forward to a colloquy with the gentleman from Iowa (Mr. GANSKE) regarding his disposition on that.

There are some amendments that have been offered that I do not think should have been allowed that would create severe difficulties for me, in particular, the amendment of the gentleman from Texas (Mr. PAUL) which would eviscerate the ability of law enforcement agencies to enforce our anti-money-laundering statutes. The FBI is adamantly opposed to that.

I also am adamantly opposed to the Bliley amendment that would be a rip-off for the officers of mutual insurance companies at the expense of policyholders. It would be a Federal intrusion on State law. It would say to insurance officers, disregard your policyholders if they want to convert. They are entitled to all the money, not their policyholders. We must defeat the Bliley amendment if this bill is to advance the way I would like it to advance.

I am hopeful that, at the conclusion of debate and at the conclusion of the amendment process, we could advance to conference and then deal with whatever problems are left in conference. But that remains to be seen.

Mr. LAFALCE. Madam Chairman, I reserve the balance of my time.

Mr. BLILEY. Madam Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. OXLEY), chairman of the Subcommittee on Finance and Hazardous Material, the coach of our successful baseball team.

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Madam Chairman, I rise in support of H.R. 10, the Financial Services Act of 1999.

This is indeed an historic occasion, something that many of us have worked on for a number of years. As a matter of fact, this is by my count the 10th time in the last 20 years that we have sought to bring our financial laws into the modern world as we enter the 21st century. So here is hoping that number 11 is the charm.

Building on the progress we made last year through the help of many people that I see here on the floor, including our good friend, the gentleman from Ohio (Mr. BOEHNER), the gentleman from Virginia (Chairman BLILEY), the gentleman from Iowa (Chairman LEACH), the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. TOWNS) and others, that we passed this bill by one vote in the House.

I suspect this year it will be far different and it will be a large vote, because the time has come for financial services modernization in this Congress and indeed in this country.

We have arrived at a point where just about everybody, including those on the opposite side of specific issues on the op-sub issue, for example, agree that the country's financial regulations crafted during the Depression years of the 1930s need to be brought up to date.

The Glass-Steagall Act has outlived its useful purpose. It now serves only as the cause of inefficiency in the markets as our markets change dramatically.

Madam Chairman, we have had a series of hearings, for example, in my committee about what is going on with the securities industry and how on-line brokerage has now become the most growing part of the securities industry. That shows how things have changed in technology and in markets and in consumer preference. And yet we continue to rely on a 1930 statute known as Glass-Steagall that simply has outlived its usefulness.

That means legislation that will provide for fair competition among all players. And it also means not only modernizing the marketplace and treating the consumer as the one who makes those kinds of decisions in the marketplace to provide that consumer with a new array of services and products, some products we probably have not even thought of or that financial service institutions have not even thought of yet today will be offered more and more to the consuming public and they are going to be able to one-stop shop as they go into this financial institution.

And ultimately it will not make any difference what it says on the door because they are going to be able to buy

a wide variety of products in that area. And, yes, those functions will be regulated by the regulators who know what that is all about. It is called functional regulation. Or as chairman of the SEC Arthur Levitt says, commonsense regulation in our marketplace is to protect the consumer but not to constrict the marketplace so that people do not have the ability to make decisions based on what is in their long-term economic interest. It means legislation that will promote, not jeopardize, the long-term stability of U.S. financial markets and the interests of American taxpayers.

Americans are becoming increasingly active participants in our booming securities markets and going on-line and investing, sometimes around the clock, for their families' future, investing for their education, for their children's education, investing for the future that we have tried to encourage.

One of the frustrations, I guess, in our country over the years has been that our savings rate has been far too low compared to some of our other competing nations. This will give people the ability to make long-term plans, to work with a financial institution that has the ability for them to buy their banking products, to get their securities, their 401(k), their savings, their insurance needs, all of those, under one roof dealing with professionals that they trust and that they know can provide them with the kind of economic security that they have come to expect.

The change already taking place in the marketplace may make it impossible for us to try Glass-Steagall reform a 12th time, and I would implore the Members to understand that this may be our last really good shot at bringing our laws up-to-date with what is happening in the marketplace and what is happening with technology, and all of those forces are now moving us so inextricably in that direction.

Because of the leadership of the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services, because of the leadership of the gentleman from Virginia (Mr. BLILEY) chairman of the Committee on Commerce, because of participation on the other side of the aisle, it brings us here today.

Let us move forward. Let us support H.R. 10. Let us provide the kind of modern financial institutions that all of us have come to expect.

Mr. DINGELL. Madam Chairman, I yield myself 4 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, this is a bad bill. We consider it under a bad rule.

George Santayana said something which I thought was very interesting. He said, ''He who does not learn from history is doomed to repeat it.''

It looks like this Congress is setting out to create exactly the same situation which caused the 1929 crash. It looks like this Congress is setting out to create the situation that caused the collapse of the banks in Japan and Thailand by setting up op-subs and by setting up monstrous conglomerates which will expose the American taxpayers and American investors to all manner of mischief and to the most assured economic calamity.

The bill is considered under a rule which does not afford either an opportunity to offer all the amendments or to have adequate debate thereof. But what does the bill do, among other things?

First all, it allows megamergers to create monstrous institutions which could engage in almost any sort of financial action. It sets up essentially, devices like the banks in Japan, which are in a state of collapse at this time, banks in Korea and Thailand, which are in a state of collapse, or banks in the United States, which could do anything and which did anything and contributed in a massive way to the economic collapse of this country in 1929 which was only cleared and cured by World War II.

Some of the special abuses of this particular legislation need to be noted. The Committee on Rules has stripped out an anti-redlining provision which had been in the law and which is valuable, and it is brazen and outrageous discrimination against women and minorities and it sanctifies such actions by insurance companies and others within the banks' financial holding companies which will be set up hereunder.

It attacks the privacy of American citizens. It allows unauthorized dissemination of their personal financial information and records. It guts the current protections for medical information now under State law. And it hampers the ability of the Secretary of Health and Human Services to adopt meaningful protections.

Every single health group in the United States and the AFL-CIO oppose this provision because it guts the rights of Americans to know that what they tell their doctor and what their doctor tells them is secure.

If we want to protect the security of our own financial records, we should tremble at this bill. It contains laughable financial privacy protections that tell a bank that it only has to disclose its privacy policy if it happens to have one. In other words, if they are going to give them the shaft, they should tell them. But they can do anything they want in terms of the financial information which they give them and which can be used to hurt them in their personal affairs.

The bill wipes out more than 1,700 essential State insurance laws across the country. It creates no Federal regulator to fill the void. So, as a result, their protections when they buy insurance are stripped away.

Alan Greenspan, the chairman of the Federal Reserve, is properly worried, and that should count for a lot. Let me read to my colleagues what he said to the Committee on Commerce this year.

''I and my colleagues are firmly of the view that the long-term stability of U.S. financial markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted by the bank.'' And he goes on to state that he and his colleagues ''believe strongly that the operating subsidiary approach would damage competition in and the vitality of our financial services industry and poses serious risks for the American taxpayer.''

He noted that it creates a situation where banks and other financial activities will be made too big to fail and that the taxpayers then will be compelled to come in and bail them out.

So if my colleagues enjoyed the outrage of what the Committee on Banking and Financial Services did to us on the savings and loan reform, this, they should know, is a perfection of that. That cost us about $500 billion. This, my colleagues can be assured, will cost us a lot more.

I urge my colleagues to vote against this abominable legislation.

In case my colleagues have any questions about my views, I want to clearly state for the record that I rise to condemn this bill. It is a terrible piece of legislation and should cause Americans to quake at the prospect of its passing.

If you value your civil rights, you should worry about this bill. The Rules Committee stripped out an anti-redlining provision, offered by our colleague Ms. LEE and agreed to by the Banking Committee. This brazen act allows discrimination against women and minorities by insurance companies within the bill's financial holding companies.

If you have had cancer or diabetes or depression or any other medical condition that could affect your employment or lead to discrimination against you, you should fear this bill. It contains a medical privacy provision that actually sanctifies the unauthorized dissemination of your personal medical information records. It guts many current protections for medical information and hampers the ability of the Secretary of Health and Human Services to adopt meaningful protections. Legions of groups oppose this provision from the American Medical Association to the AFL–CIO.

If you want to protect the privacy of your own personal financial records, you should tremble at the prospect of this bill. The bill contains laughable financial privacy protections that tell a bank to disclose its privacy policy—if it has one. This bill deprives you of the right to say no.

If you own insurance, you should worry if you bought it from a bank. This bill wipes out more than 1,700 essential state insurance laws across the country, with no federal regulator to fill the void.

If you are a taxpayer, you should recoil in horror at this bill. No less an august person than Alan Greenspan is worried, and usually that counts for a lot. Let me read to you what he said before the Commerce Committee in April of this year:

I and my colleagues are firmly of the view that the long-term stability of U.S. financial

markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted by the bank.

He reiterated these views to me on June 28 in a letter which I intend to put into the RECORD, but I want to read just one part:

I and my colleagues on the Board believe strongly that the operating subsidiary approach would damage competition in and the vitality of our financial services industry and poses serious risks for the American taxpayer. We have no doubt that the holding company approach, adopted by the house last year, passed by the Senate this year, and supported by each previous Treasury and Administration for nearly 20 years, is the prudent and safest way to modernize our financial affiliation laws and does not sacrifice any of the benefits of financial reform.

This bill greatly expands the authority of political appointees and bureaucrats over banking and monetary policy. That worries Alan Greenspan. It should worry all Americans.

In the earlier debate on the rule, several of my Republican colleagues labeled our concerns as ''partisan.'' So be it! If the Republicans want to accuse Democrats of caring about equal rights and protection from discrimination under the Constitution, I'll proudly stand with my Democratic colleagues. If the Republicans want to accuse Democrats of standing for full and fair protection of Americans' privacy rights, I'll proudly stand under that banner as well.

What I won't stand for is this abominable legislation. I support responsible financial modernization. I do not support this bill. It is a terrible piece of legislation and I urge the House to defeat it so we can go back to the drawing board and write a good bill.

In closing, I would like to address an important technical matter and explain the purpose of the Section 303 ''Functional Regulation of Insurance'' reference to Section 13 of the Federal Reserve Act. That reference is included to ensure that everyone that engages in the business of insurance—including national banks selling insurance as agents under the small-town sales provision commonly known as ''Section 92''—are subject to state regulation of those activities.

Some have argued that this reference is not meant to overrule the Supreme Court's ruling in the Barnett Bank case. I want to make clear that that statement is correct to the extent that the Commerce Committee intended that all state functional regulation of the insurance activities of financial institutions would be subject to the preemption rules set forth in Section 104. Indeed, that is why there is a specific reference to Section 104 at the end of Section 303. And Section 104 incorporates the preemption standard articulated by the Supreme Court in the Barnett Bank case and even specifically cites that case.

The statement, however, is incorrect to the extent that it implies that the Comptroller of the Currency remains free to issue his own set of rules and regulations to govern small-town national bank insurance sales activities. Although—as the Barnett Bank opinion recognizes—Section 92 specifically authorizes the Comptroller to issue such regulations, Section 303 makes clear that States are now the paramount authority in the regulation of small-town national bank insurance sales activities. Under Section 303, all state regulations of insurance sales activities apply to small-town national bank insurance sales activities under Section 92 unless those regulations are prohibited under the Section 104 preemption standard.

ORGANIZATIONS OPPOSED TO THE MEDICAL RECORDS PROVISIONS IN H.R. 10

Physician Organizations

American Medical Association
American Psychiatric Association
American College of Surgeons
American College of Physicians/American Society of Internal Medicine
American Academy of Family Physicians
American Psychological Association

Nurses Organizations

American Nurses Association
American Association of Occupational Health Nurses

Patient Organizations

National Breast Cancer Coalition
Consortium for Citizens with Disabilities/Privacy Working Group
National Association of People with AIDS
AIDS Action
National Organization for Rare Disorders
National Mental Health Association
Myositis Association
Infectious Disease Society

Privacy/Civil Rights Organizations

Consumer Coalition for Health Privacy
American Civil Liberties Union
Center for Democracy and Technology
Bazwlon Center for Mental Health Law

Labor Organizations

AFL–CIO
American Federation of State, County and Municipal Employees
Service Employees International Union

Senior and Family Organizations

American Association of Retired Persons
National Senior Citizens Law Center
Planned Parenthood Federation of America, Inc.
National Partnership for Women and Families
American Family Foundation

Other Organizations

American Association for Psychosocial Rehabilitation
American Counseling Association
American Lung Association
American Occupational Therapy Association
American Osteopathic Association
American Psychoanalytic Association
American Society of Cataract and Refractive Surgery
American Society of Clinical Psychopharmacology
American Society for Gastrointestinal Endoscopy
American Society of Plastic and Reconstructive Surgeons
American Thoracic Society
Anxiety Disorders Association of America
Association for the Advancement of Psychology
Association for Ambulatory Behavioral Health
Center for Women Policy Studies
Children & Adults with Attention-Deficit/Hyperactivity Disorder
Corporation for the Advancement of Psychiatry
Federation of Behavioral, Psychological and Cognitive Sciences
Intenational Association of Psychosocial Rehabilitation Services
Legal Action Center
National Association of Alcoholism And Drug Abuse Counselors
National Association of Developmental Disabilities Councils
National Association of Psychiatric Treatment Centers for Children
National Association of Social Workers
National Council for Community Behavioral Healthcare
National Depressive and Manic Depressive Association
National Foundation for Depressive Illness
Renal Physicians Association

ADDITIONAL VIEWS

During the consideration of H.R. 10, an amendment was offered to add a new section 351, entitled ''Confidentiality of Health and Medical Information.'' While we support increased protection for medical information, we opposed this provision, because, unfortunately, the provision weakens existing protections for medical confidentiality, and establishes a number of poor precedents for private medical information disclosure.

While the provision at first blush appears to place limits on the disclosure of medical information, the lengthy list of exceptions to these limits leaves the consumer with little, if any protection. In fact, the provisions ends up authorizing disclosure of information rather than limiting it.

In medicine, the first principle is ''Do no harm.'' In crafting a Federal medical privacy law, this principle requires that state laws providing a greater level of protection be left in place. Yet section 351 could preempt the laws of 21 states that have enacted medical privacy laws. While we agree that genetic information should also be protected—in fact, should deserve a higher level of protection—this provision could also preempt 36 state laws which protect the confidentiality of genetic information.

The provision also lacks any right for the individual to inspect and correct one's medical records. As a result, an individual has greater rights to inspect and correct credit information than medical records.

There is no requirement that the customer even be told that his medical information is being provided to a third party. Thus there is no way that the customer could prevent the records from being disseminated if the customer believed that statutory rights were being violated.

An individual has no right to seek redress if the rights under this provision are violated. In fact, the customer is unlikely to even know that the rights were violated. The only enforcement authority is given to the states. If the individual is unlikely to have knowledge of the transfer of confidential medical records, it is hard to understand how the state Attorney General would know to bring an action as provided in subsection (b) of the provision. Even if the state brings an action, it can only enjoin further disclosures. The customer has no right to seek damages.

The provision places absolutely no restrictions on the subsequent disclosure of medical records by anyone receiving the records. Once the records are out the door for any of the myriad exceptions in this provision, they are fair game for anyone.

We agree that information should be disclosed only with the consent of the customer, as provided in (a)(1), but this right is rendered meaningless with the extensive laundry list of exceptions that swallows this simple rule. We shall only discuss a few of these exceptions.

The provision allows financial institutions to provide medical records, including genetic information, for purposes of underwriting. As a result, customers could find themselves being uninsurable, or facing whopping rate increases for health insurance, based upon their genetic information, or health records. In addition, the information may be inaccurate, but the customer cannot correct it.

The provision allows financial institutions to provide medical records for ''research

projects.'' This term is undefined, and could include marketing research, or nearly anything else. For example, a customer's prescription drug information could be provided to a drug company doing marketing research on candidates for a new related drug.

Moreover, the provision establishes no research protections for individually identifiable records. The majority of human subject research studies conducted in this country are subject to the Common Rule, a set of requirements for federally-funded research. Analogous requirements apply to clinical trials conducted pursuant to the FDA's product approval procedures. The Common Rule dictates that a study must be approved by an entity that specifically examines whether the potential benefits of the study outweigh the potential intrusion into an individual's private records and whether the study includes strong safeguards to protect the confidentiality of those records. Two weeks ago at a hearing before the Health and Environment Subcommittee, witnesses from the National Breast Cancer Coalition and the National Organization for Rare Disorders testified that these Federal standards should be extended to all research using individually-identifiable medical records. Extending these protections would strengthen confidence in the integrity of the research community and encourage more individuals to participate in studies. Because this provision establishes no protections for individually-identifiable records, it could actually stifle research.

The provision allows the disclosure of confidential medical records ''in connection with'' a laundry list of transactions, most of which have nothing to do with medical records. The provision does not define who can receive the records, but instead allows disclosure to anyone, so long as it is ''in connection with'' a transaction. There was no explanation at the markup why medical records should be disclosed in connection with ''the transfer of receivables, accounts, or interest therein.'' There is no definition of ''fraud protection'' or ''risk control'' for which the provision also authorizes disclosure. The provision gives carte blanche to financial institutions to disclose confidential medical records for ''account administration'' or for ''reporting, investigating, or preventing fraud.'' Reporting to whom? An investigation by whom?

While most laws protecting medical records provide for disclosure in compliance with criminal investigations, those laws provide safeguards to permit the individual the opportunity to raise legal issues. This provision does not. In fact, as is the case with all other disclosures in this provision, the consumer would not even be informed that the information has been disclosed. Thus, a customer's medical records could be disclosed to an opponent in a civil action without the customer even knowing it.

Within hours of passage of this provision, we began learning from patient groups and others who have fought to improve the privacy rights of individuals that this provision is seriously flawed. These concerns demonstrate why Congress needs to deal comprehensively with the issue of medical confidentiality, not in a slapdash amendment that has received no scrutiny. The Health and Environment Subcommittee of the Commerce Committee has already held a hearing on medical privacy, and a Senate committee has held multiple hearings on the subject. We look forward to enacting real medical information privacy provisions that will truly protect individuals. Unfortunately, this premature move by the Committee will actually set back the health and medical information privacy rights of all Americans.

John D. Dingell, Henry A. Waxman, Edward J. Markey, Rick Boucher, Edolphus Towns, Frank Pallone, Jr., Sherrod Brown, Bart Gordon, Peter Deutsch, Bobby L. Rush, Ron Klink, Bart Stupak, Tom Sawyer, Albert R. Wynn, Gene Green, Ted Strickland, Diana DeGette, Thomas M. Barrett, and Lois Capps.

THE VERSION OF HR 10 RELEASED BY THE HOUSE RULES COMMITTEE SWEEPS AWAY 1,781 ESSENTIAL STATE INSURANCE LAWS ACROSS THE COUNTRY

State governments are solely responsible for regulating the business of insurance in the United States.

The States regulate insurance in order to protect consumers and supervise the solvency and stability of insurers and agents.

The version of HR 10 released by the House Rules Committee on June 24, 1999 will likely preempt many State consumer protection and solvency laws needed to regulate the insurance activities of banks and their affiliates.

State	Number of State laws likely preempted by the House Rules Committee version of H.R. 10
Alabama	33
Alaska	30
Arizona	35
Arkansas	41
California	43
Colorado	35
Connecticut	36
Delaware	32
Florida	40
Georgia	38
Hawaii	28
Idaho	31
Illinois	41
Indiana	33
Iowa	39
Kansas	41
Kentucky	36
Louisiana	37
Maine	37
Maryland	36
Massachusetts	32
Michigan	33
Minnesota	36
Mississippi	32
Missouri	37
Montana	36
Nebraska	36
Nevada	36
New Hampshire	28
New Jersey	41
New Mexico	31
New York	37
North Carolina	46
North Dakota	34
Ohio	38
Oklahoma	31
Oregon	39
Pennsylvania	35
Rhode Island	35
South Carolina	34
South Dakota	37
Tennessee	37
Texas	42
Utah	34
Vermont	32
Virginia	36
Washington	36
West Virginia	34
Wisconsin	33
Wyoming	31
Total	1,781

Source: National Association of Insurance Commissioners

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
Washington, DC, June 28, 1999.

Hon. JOHN D. DINGELL,
Ranking Minority Member, Committee on Commerce, House of Representatives, Washington, DC.

DEAR MR. DINGELL: This is in response to your request for the Board's views on the operating subsidiary approach to financial modernization contained in H.R. 10. As I have testified, I, and my colleagues on the Board believe strongly that the operating subsidiary approach would damage competition in and the vitality of our financial services industry and poses serious risks for the American taxpayer. We have no doubt that the holding company approach, adopted by the House last year, passed by the Senate this year, and supported by each previous Treasury and Administration for nearly 20 years, is the prudent and safest way to modernize our financial affiliation laws and does not sacrifice any of the benefits of financial reform.

The structure adopted by Congress for financial modernization will prove decisive to the shape of our financial system, the long term health of our economy, and the level of protection afforded the American taxpayer long into the next century. Thus, this decision on banking structure is a policy matter of national importance. Allowing national banks to engage through operating subsidiaries in merchant banking, securities underwriting, and other newly authorized financial activities is likely to have as profound an impact on our entire financial sector as the 1982 legislation regarding the thrift industry.

The problem with the operating subsidiary approach is that insured banks are supported by the U.S. Government and, consequently, are able to raise funds at a materially lower cost, which is equivalent to approximately half of the interest spread on an investment grade loan. This subsidized ability to raise lower cost funds provides banks and their operating subsidiaries a decisive advantage over independent securities, insurance and financial services firms. This advantage will inevitably reduce competition and innovation in and between these industries as it has in other countries that have adopted the universal banking approach. In addition, the experiences in Asia demonstrate that linking financial markets more tightly to the health of the banking system—as is inevitable under the operating subsidiary approach—makes the economy more vulnerable to crises that affect banks and makes the broader financial markets more dependent on the protection and advantages of the federal safety net.

The operating subsidiary approach also poses substantial risks to the safety and soundness of our banking system and to the American taxpayer. This derives from the fact that an operating subsidiary of a bank is consolidated with, and controlled by, the bank and the fate of the bank and its subsidiary are inextricably interdependent. The measures contained in H.R. 10 to address these risks are not adequate. These measures are based on creating a regulatory accounting system that is different from market accounting and on the hope that operating subsidiaries can be quickly divested before problems spread to the parent bank. We have learned from the thrift crisis of the 1980s that regulatory accounting can give a dangerously false sense of security that only masks real problems. In addition, experience with other subsidiaries of national banks illustrates that banks can lose far more than they invest in an operating subsidiary, that those losses can occur quickly and before regulators have an opportunity to act, and that banks feel forced to support their subsidiaries through capital injections and liberal interpretations of the law. Troubled operating subsidiaries are also very difficult to sell and can result in prolonged exposure and expense to the parent bank. In the heat of a crisis, the taxpayer cannot be confident that regulatory constraints will prove entirely effective.

In a world where mega-mergers are increasing the size of banks on a stand-alone basis, the operating subsidiary structure allows banks to increase their balance sheets in even more dramatic fashion. This, on its own, may not be a problem. However, the operating subsidiary structure focuses all

losses from new activities—as well as the risks from the bank's direct activities—on the bank itself. Thus, the operating subsidiary structure leads to precisely the type of organization that inspires too-big-to-fail concerns.

Some argue that H.R. 10 does nothing more than preserve freedom of choice of management. However, this is not a matter of choice for private enterprise. Rational management will inevitably choose the operating subsidiary because it allows the maximum exploitation of the cheaper funding ability of the bank. Because this so-called ''choice'' involves the use of the sovereign credit of the United States, it is a decision that should rest exclusively with Congress.

It is also noteworthy that the holding company approach does not in any way diminish the powers or attractiveness of the national bank charter. The national bank charter has flourished in recent years even though national banks are not authorized today to conduct through operating subsidiaries the broad new powers permitted in H.R. 10. Nor does the holding company approach diminish the influence of the Treasury over bank policy. Treasury continues to play a significant and appropriate role through its oversight of all national banks and thrifts.

On the other hand, the operating subsidiary approach would damage the Federal Reserve's ability to address systemic concerns in our financial system. This will occur as the holding company structure atrophies because of the funding advantage the operating subsidiary derives from the federal safety net.

I and my colleagues are especially concerned because there is no reason to take the risks associated with the operating subsidiary approach. The holding company framework achieves all the public and consumer benefits contemplated by H.R. 10 without the dangers of the operating subsidiary approach.

The Board has been a strong supporter of financial modernization legislation for nearly 20 years. We are seriously concerned, however, about the destructive effects of the operating subsidiary approach for the long-term health of the national economy and the taxpayer.

Sincerely,

ALAN GREENSPAN.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA) the distinguished chairperson of the Subcommittee on Financial Institutions, whose work on this bill is the most important of any Member of this body, and I very very much appreciate her friendship and leadership.

Mrs. ROUKEMA. Madam Chairman, I thank the chairman for yielding me the time.

I certainly rise in support, strong support, of H.R. 10 and associate myself with the commentary of the chairman at the beginning of this discussion and completely disagree with the gentleman we just heard.

I have worked on this issue for a long time, and really it is very clear. We are going beyond the 1930 laws, Glass-Steagall, far out-of-date. Technology and market forces have broken down the barriers here, and over the years we have just been letting the regulators and the courts and creative industries deal with this.

It is now the time for us to catch up with the modern financial world both domestically and globally and do what the Constitution requires us to do and not abrogate our responsibility to the courts and other Federal regulators.

I am most intent on saying that, is it a perfect bill? No. Can it be after all these years of negotiation? Maybe not. Maybe. But, on the other hand, only not perfect because we cannot get all these industries to agree on every single thing. But we have compromises represented here that strongly protect the fundamental principles that we should have, and that is preserving the safety and soundness of the financial system.

They are protected here. The Federal deposit system and the rest of the Federal safety net. If we abandon this now, we are just saying it is just going to evolve as the regulators or the courts would like them to, without any statutory responsibility.

Do we provide for fair and equal competition? I believe we do in the real world of financial institutions.

□ 1700

I believe strongly that we have protected the consumers and enhanced their choices in this bill. The new holding company structure that is in this bill will be overseen by the Federal Reserve Board. H.R. 10 includes new consumer privacy. There will be an amendment on the floor that will increase the consumer privacy that is in this bill and close any of the loopholes that we can see.

I urge strong support for this bill.

Madam Chairman, I rise in strong support of H.R. 10, the Financial Services Act and associate myself with the commentary of our Chairman, Representative LEACH, and urge my Colleagues to support this landmark legislation.

As many of my colleagues know, I have long been and advocate for passing financial modernization legislation. Markets are changing every day. Technology and market forces have broken down the barriers between insurance, securities and banking. Mega-merger deals like Citicorp/Travelers, NationsBank/Bank of America, Bankers Trust/Deutsche Bank—are being contemplated or announced daily.

We need to replace the outdated Glass-Steagall Act of the 1930s. Glass-Steagall did its part in its day, but the financial world has changed and we must have a financial system that is able to compete in the modern world. Our current statutory framework has remained stuck in the '30s because of Congress's reluctance to act, hampering the ability of our financial institutions to compete. In the absence of congressional action, federal agencies, the courts and the industry have been forced to find loopholes and novel interpretations of the law to allow financial institutions to adapt to an ever-changing marketplace. Unfortunately, this has resulted in piecemeal regulatory reform that may not be in the best interest of the U.S. financial services industry as a whole.

As elected representatives of Congress, it is our constitutional duty to make the important policy decisions that determine the structure and legal authority under which our financial institutions will operate. For Congress to not act today would be a serious abdication of our responsibility.

Throughout this process, I have based my support for this bill on some very fundamental principles:

It must:

(1) Preserve the safety and soundness of the financial system—including the federal deposit system and the rest of the federal safety net.

(2) Provide for fair and equal competition; and

(3) Protect consumers and enhance their choices.

H.R. 10 maintains these fundamental principles.

Much like the bill we passed last year, H.R. 10 creates a new holding company structure under which entities that are financial in nature can directly affiliate.

This new holding company will be overseen by the Federal Reserve Board, but each affiliate will be regulated by its own ''functional'' regulator.

H.R. 10 includes important new consumer privacy provisions requiring banking institutions to tell customers their policies for sharing customer's financial information with bird parties for marketing purposes. It would also makes ''pre-text calling'' illegal.

In addition, the bill prohibits all insurance companies (including companies not affiliated under a Financial Holding Company) from disclosing medical information to third parties—without prior consent. In addition to these important privacy provisions, my colleagues and I will later be offering an amendment that further enhances privacy protection.

Finally, we have included legislation that I introduced which provides important consumer ATM disclosures. These provisions mandate clear ATM fee disclosures and guarantees the consumers rights to opt out of a transaction before a fee is charged.

This legislation also includes language I proposed to allow new Financial Holding Companies to retain or acquire commercial entities that are ''complimentary'' to their current or future financial activities. While I do not support full mixing of banking and commerce, this amendment accepts the reality that the lines between financial and commerce are blurring. At a time when we are allowing various financial to affiliate and create new financial holding companies, it is prudent to provide flexibility for companies to engaged in activities which may not meet the definition of financial but are complimentary to the financial activities. This provision stipulates that the investment in the complimentary activity must remain small, and will be subject to Federal Reserve review.

For those of us that serve on the Banking Committee, we are painfully aware of how controversial the issues surrounding the financial services industry can be. To say the least, various sectors of the financial services industry have had different and often conflicting views on how best to go about modernization, but H.R. 10 includes many compromises between all of the interested parties, and it deserves our support.

Did everyone get everything they wanted? No they did not. In fact, I strongly oppose the operating subsidiary provisions included in this bill. We must work to improve this regulatory structure in conference. In addition, while I support the provisions in the bill that would

close the unitary thrift loophole, I do not support permitting the transferability of unitary thrift holding companies to commercial entities. The unitary thrift provisions included in this bill today do not prohibit transfers to commercial entities.

In short, allowing the transferability of unitary thrifts to commercial entities in the same as allowing full banking and commerce. I do not support full banking and commerce and believe it could pose serious safety and soundness risks to the deposit insurance fund.

We respect to the operating subsidiary, I am concerned that losses in an operating subsidiary could ultimately affect the parent bank.

A case in point is the First Options/Continental Illinois problems in the late 1980s—Continental Illinois lost considerable more than its investment in First Options. While there are firewalls in place that limit the amount of bank investment, in times of stress, firewalls melt. Such was the case with First Options/Continental Illinois where Continental Illinois injected millions of dollars to prevent the failure of First Options.

Furthermore, the likely result of allowing bank operating subsidiaries is that an independent securities industry will become a thing of the past. The advantage that the U.S. economy has enjoyed is that the credit and capital markets have grown up separately and are strong with each having a great deal of depth.

Not having an independent securities industry will seriously undermine these vitally important markets. Innovation will be stifled and these markets will become less competitive. And importantly, it will make it much harder on the U.S. economy to address economic downturns because the securities system will become directly tie to the health of the banking system. Any stresses on the banking system will affect all of the capital markets. I, for one, do not want to see that result, particularly because the simple answer is to allow banks and securities firms to become sister companies through a holding company which means the securities industry will not be tied directly to the banking industry.

For these reasons I will continue to work to change the operating subsidiary and unitary thrift provisions included in H.R. 10 as this bill moves through conference. However, despite the problems I have with these specific provisions, I believe that we must act today to pass this landmark legislation. There is far too much in this bill that warrants our support. We have come too far to turn back now.

If we fail to act today, we will lose the opportunity to reform our financial system in a meaningful, rational way. It's now or never.

Years of good faith negotiation and compromise have gone into this bill.

Support the passage of H.R. 10.

Mr. LAFALCE. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. VENTO) the ranking Democrat on the Subcommittee on Financial Institutions and Consumer Credit.

Mr. VENTO. Madam Chairman, I rise in strong support of H.R. 10. This is a good work product. This is a legislative product that finally brings our statutory provisions of law in line with the current developed financial entities and the future policy path that is necessary to in fact fully engage our economy and our financial institutions in serving our enterprise and serving the consumers of this Nation.

The fact is that I think it is due to a lot of hard work on the part of the gentleman from Iowa (Mr. LEACH) and the gentleman from Virginia (Mr. BLILEY) and the gentleman from New York (Mr. LAFALCE), so too the work of the gentleman from Michigan (Mr. DINGELL) who is in dissent today.

Nevertheless, I think it follows a tradition and path that will, in fact, put us in charge. I think, though, that we probably will not work ourselves out of a job with this measure. There is much to do in many, many aspects of it, but it does for the first time through the work with the various enterprises, the industry, the banks, the securities firms and the insurance firms that are already affiliating today under court and under regulatory practices, it finally puts a statutory policy path that Congress stipulates in place and one that is effective. Of course there is a claim that there is $15 billion worth of saving that inures to the benefit of our economy in terms of some of the streamlining that takes place with this policy and law.

Do we like big banks and big financial institutions? Probably not. But the fact is that the global marketplace that we compete in and that we participate in today is actually bringing these together and about. This is happening in the absence of this law. But what we are trying to do is to try to put in place a legal framework to put back some consumer voice, some public policy voice in that process that affects consumers.

This bill has strengthened Community Reinvestment Act provisions. This bill when the amendment on privacy is adopted, I think the banks will have about the strongest privacy policy of any of the financial entities commercial or otherwise that we have responsibility at the national government for or, for that matter, even at the State level. We know how important that issue is. The privacy provisions that will finally be written into this bill are stronger than those that were in the Commerce bill, stronger than those that were in the Banking provision of H.R. 10.

Beyond that, I think that the bill provides many opportunities to deal with antitrust issues, other issues such as supernotice requirements for mergers, mandatory ATM fee disclosure. It provides the opportunity for posted privacy policies. Some medical privacy. I think we are going to have some debate about that today. Some would have us believe that no policy is better than the policy that we have in this bill, but we are trying to, in fact, do the right thing. As I said, it deals with antitrust concentration.

As far as the operating subsidiary goes, I think we ought to look very closely at Chairman Greenspan's comments because he pointed out in 1997 that operating subsidiaries pose no safety soundness problem in terms of their operation. As a matter of fact, the Chairman of the Federal Reserve Board regulates just such operating subsidiaries in the States and in the foreign bank operation. These are safe, they are sound, and I think this bill is a good bill and deserves our support.

H.R. 10 represents the changes in law that we need to catch up with reality by mapping a path of true modernization for financial institutions in the financial services marketplace for today and tomorrow. We need to enhance the competitiveness of our financial services sector and to move forward with predictable, certain, logical, and uniform regulation.

As my colleagues are by now painfully aware, there are many Democrats, some of whom supported the bill in the Banking Committee, who can now no longer feel comfortable supporting this legislation. Despite the partisan gamesmanship of the past 24 hours, I remain committed to achieving comprehensive financial modernization through the enactment of H.R. 10 into law, and thus hope that we can pass this bill at the end of the day.

I have put a great deal of time, effort and energy working with my Democratic Colleague and my Colleagues from across the aisle. We have been laboring together for many years—three Congresses on this particular version—crafting and perfecting a compromise on financial modernization that will put the Congressional imprint on modernization. Our Chairman, Mr. LEACH, and the Ranking Member, Mr. LAFALCE were able to work together with Members such as myself and Mrs. ROUKEMA to put together a bill. The Administration, which was opposed to the bill passed last year, was supportive of our Banking Committee product.

We have accomplished much of which we should be proud.

Back in March, the House Banking and Financial Services Committee approved H.R. 10 on a strong bi-partisan basis, 51–8 with 21 Democratic votes cast in support of the bill. Much of this Banking Committee product has been carried forward in the product before us today.

Some important provisions are lacking or inadequate. We do not have complete parity, for example, for affiliation between banks and insurance and securities firms with regard to commercial activities. I would preferred to have gone a little further on limiting Unitary Thrift Holding Companies—indeed, we could have merged the bank and thrift charters. I would have also hoped that we could have included fair housing compliance on affiliates, low-cost banking accounts and application of Community Reinvestment Act-like requirements on products that are similar to bank products, such as mortgages product sold and issued through affiliates.

On the main, however, we have a product that will remove the rusted chains of Glass-Steagall, providing in its place a new financial services infrastructure to keep U.S. companies competitive in the global marketplace, while ensuring consumers the quality services and protections they deserve. We remove the barriers preventing affiliation. We provide financial services firms the choice of conducting certain financial activities in bank holding company affiliates or in subsidiaries of banks on a safe and sound basis.

Some today may say that the operating subsidiary is too risky. That is just not the case.

Outgoing Treasury Secretary Robert Rubin, the Federal Deposit Insurance Corporation, and four past Chairs of the FDIC have all explained how the subsidiary structure protects the public interest as well as the affiliate structure—and provides greater protection for the FDIC and bank safety and soundness. Even Chairman Greenspan—the foremost opponent of subsidiaries—acknowledged in 1997 testimony that the subsidiary approach posed no safety and soundness problems.

By requiring bank to be well-capitalized even after investing capital in a subsidiary, we are providing a proper cushion that is not the S&L crisis all over again. Our national banks have been and should remain a source of economic strength and a solid foundation to construct an economic framework of growth. This bill will keep them vigorous and viable, with or without a holding company structure and does not change the balance between the national bank and state bank dual banking charters, and regulation structure.

As I said earlier today, the focus of the lengthy and seemingly endless public debate over this legislation has been the opening of the financial services marketplace to new competition and the reduction of barriers between financial services providers. It is equally important that this bill is a positive step for our constituents and the communities in which they live, as well.

In general, there are inherent benefits of being able to provide streamlined, one-stop shopping with comprehensive services choices for consumers. According to the Treasury Department, financial services modernization could mean as much as $15 billion annually in savings to consumers.

There are additional, specific and key positive consumer and community provisions in the base text.

We have modernized the Community Reinvestment Act (CRA) in a positive manner. And I am pleased that this bill will not contain provisions that move us back in time for CRA. The CRA was enacted by Congress in 1977 to combat discrimination. The CRA encourages federally-insured financial institutions to help meet the credit needs of their entire communities by providing credit and deposit services in the communities they serve on a safe and sound basis. According to the National Community Reinvestment Coalition, the law has helped bring more than $1 trillion in commitments to these communities since its enactment. Groups like LISC, Enterprise, Neighborhood Housing Services, and others too plentiful to mention them all, use CRA to work with their local financial institutions to make their communities better places to live.

CRA's success results from the effective partnership of municipal leaders, local development advocacy organizations, and community-minded financial institutions. By creating such partnerships, the CRA has proven that local investment is not only good for business, but critical to improving the quality of life for low- and moderate-income constituents in the communities financial institutions serve.

Importantly, H.R. 10 ensures CRA will remain of central relevance in a changing financial marketplace. It furthers the goals of the Community Reinvestment Act by requiring that all of a holding company's subsidiary depository institutions have at least a ''satisfactory'' CRA rating in order to affiliate as a Financial Holding Company and in order to maintain that affiliation, including appropriate enforcement. In addition, H.R. 10 extends the CRA to the newly created Wholesale Financial Institutions (''Woofies''). These provisions represent substantial progress and a critical contribution to the overall balance reflected in this bill.

Other positive provisions include the requirement that institutions ensure that consumers are not confused about new financial products along with strong anti-typing the anti-coercion provisions governing the marketing of financial products; super notices to customers that state that when banks sell non-deposit products they are not insured by the Federal Deposit Insurance Corporation (FDIC) like traditional bank accounts are insured; the requirement to maintain market-related data and to produce an annual report on concentration of financial resources to assure that community credit needs are being met; and the disclosure to consumers of ATM fees, not only on the computer screen, but, also on the ATM machine itself. Additionally, when issuing ATM cards, banks must issue a warning that surcharges may be imposed by other parties.

I would also like to highlight an amendment of I advanced that has been included with a minor change from Commerce committee, requiring public meetings in the case of mega-mergers between banks which both have more than $1 billion in assets where there may be a substantial public impact because of the larger merger, providing our constituents with the important opportunity to express their views regarding mega mergers in their communities.

Importantly, the base text also includes required posted privacy policies by depository institutions of financial holding companies to clearly and conspicuously disclose to their customers their privacy policies, specifying what their policies are with regard to a customer's information. While an amendment later today will make vast improvements for consumer privacy, with this provision, customers can learn what a financial institution's policies are and could be clearly informed of their rights under the Fair Credit Reporting Act to choose not to have their information shared among affiliates.

Frankly, in this way, customers would be able to choose whether they want to do business with institutions that have privacy policies with which they disagree. If they don't like affiliate sharing or other parts of the privacy policy that an institution has, they have the benefit of living in a country with thousands of small community banks and with other institutions even offering banking on the Internet.

I do want to note something on the medical privacy provisions in Title III of the bill. Mindful of the deep concerns raised by our colleagues on the Commerce Committee and many other outside the Congress, I want to state that we do not want to preempt any comprehensive medical privacy provision. We do not want to create loopholes or set up consumers to be forced to disclosed private data just to get insurance coverage. Neither, however, do we want to leave wide open the possibility that within the confines of this new affiliated structure this bill creates allowing insurance, banking and securities firms to join, that they can learn private medical or genetic information to base credit decisions upon.

I would hope that we will have an opportunity in time to appropriately fix this provision and if that means limiting it to situations where insurance and banks affiliate—so that within these confines insurance companies which affiliate with a bank will keep confidential customer's health and medical information. This represents an initial effort to assure that health information cannot be used to determine eligibility for credit or other financial services. It was not our intent to undercut, circumvent of weaken—but rather to enhance and protect, so let us work together in Conference to improve this if the amendment sought by Mr. WAXMAN and Mr. CONDIT cannot be a part of this process here today.

As I noted earlier in my statement, I had hoped that we could have included a Banking committee reported provision to condition affiliation of insurance companies with banks based on compliance with an existing law—the Fair Housing Act. It is a productive provision that more than suggests that companies who seek to expand their opportunities are meeting the needs of communities and following the law by not discriminating.

There have been settlement agreements and consent decrees between the Department of Housing and Urban Development, the Department of Justice and insurance entities that resulted from alleged violations of the Fair Housing Act. What has resulted is changes in underwriting guidelines (such as changes eliminating ''year the dwelling the built'' or ''minimum dollar amounts of coverage'' OR not denying coverage SOLELY on the basis of information contained in credit reports) that will better ensure the homeowners are not denied insurance—and quite possibly the opportunity to become homeowners—because of discrimination.

It is indeed unfortunate that neither the base text has not did the rule allow as an amendment a provision to strengthen fair housing and to eliminate discrimination. This provision could have been step forward for consumers as much as requiring low-cost banking accounts could have been. These provisions would have ensured that the benefits of modernization would be more available to consumers of all economic means. Low cost accounts could have taken a form similar to the ETA accounts created by Treasury with little or no burden, and certainly no credit risk borne by depository institutions.

Mr. Chairman, in closing, following more than 20 years of debate on financial modernization, I think that we are close to achieving our goal. And if not on the rule, on much of the substance of the bill before us today, we have done so on a bipartisan basis. We have much to do so we can get this bill through a Conference with Members of the other body. Their bill has many provisions that are extremely problematic for the Administration and for House Democrats, from debilitating limitation on the national bank operating subsidiary to outright gutting of the Community Reinvestment Act.

I ask my colleagues to join me in supporting H.R. 10. I want to thank Chairman LEACH, Ranking Member LAFALCE, and Chairwoman ROUKEMA and their respective staff for all of their work and cooperation on this important legislation.

Mr. BLILEY. Madam Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. GILLMOR), the vice chairman of the committee.

(Mr. GILLMOR asked and was given permission to revise and extend his remarks.)

Mr. GILLMOR. Madam Chairman, I thank the gentleman for yielding me this time and I thank him for his leadership on this issue. I rise in support of the bill.

Madam Chairman, this bill makes the most fundamental change in the laws covering financial institutions in 60 years. It deals with a broad scope of services, banking, insurance, securities. It also recognizes the changes that have taken place in the economy over that period of time and also the dramatic change in technology which has made possible the offering of services now which would not have been possible before.

The financial combinations authorized by this bill can result in significant savings in the delivery of financial services. But as institutions are combined and as they become larger, it is essential that there be safeguards for safety and soundness to protect both consumers and taxpayers. This bill for the most part contains those safeguards.

I am also happy that the bill before us contains several provisions I sponsored in the Committee on Commerce. Among those was the requirement that the Federal Reserve consider before approving mergers whether the merged institution would be ''too big to fail.'' Mergers that are if they fail so big that the taxpayers or the government will have to bail them out simply should not be permitted.

The bill also contains a provision I introduced to prevent discrimination against certain banks in the sale of title insurance, and those regulatory restrictions I sponsored in last year's bill have stayed in here called ''Fed Lite.''

Regrettably, it does not include some of the provisions I introduced in the Committee on Commerce, which the committee approved, to protect the privacy of customers of merged institutions. But I am happy that those privacy provisions were made in order in the amendment to be offered by the gentleman from Ohio (Mr. OXLEY) later in this bill.

I urge the support of that amendment and I urge the support of the bill.

Madam Chairman, I rise in support of the bill.

This bill makes the most fundamental change in the laws covering financial institutions in over 60 years. It deals with the broad scope of services—including banking, insurance and securities. It recognizes the changes which have taken place in the economy in that time, and also the dramatic change in technology which has made possible the offering of services now which would not have been possible before.

This bill has the potential of expanding financial services to consumers and creating more competition. The financial combinations authorized by this bill can result in substantial savings in the delivery of financial services. However, as institutions are combined, and as they become larger, it is essential that there be safeguards for safety and soundness to protect both consumers and taxpayers. The bill for the most part contains those safeguards.

Two years ago as H.R. 10 was being considered in the previous Congress, I was concerned with the broad expansion of certain regulatory powers. My amendment in the Commerce Committee two years ago, which was included in the current bill, created the functional regulation framework for financial holding companies. The purpose of this ''Fed Lite'' regulatory framework is to parallel the financial services affiliate structure envisioned under this legislation. This parallel regulatory structure eliminates the duplicative and burdensome regulations on businesses not engaged in banking activities, and importantly, preserves the role of the Federal Reserve as the prudential supervisor over businesses that have access to taxpayer guarantees and the federal safety net.

Besides numerous consumer protections, H.R. 10 also includes important taxpayer protections. I am happy that the bill before us contains certain provisions that I sponsored before the Commerce Committee. Among those was the requirement that the Federal Reserve consider before approving mergers whether the merged company will be ''too big to fail.'' Mergers that are so big that failure would result in the government or taxpayers bailing them out should not be permitted.

We are in the age of megamergers, and the creation of increasingly large financial institutions. To give you an idea of how big, consider that the recent merger of Citicorp and Travelers created a company with $690 billion in assets. The merger of Bank of America and Nations Bank left an institution with $614 billion. To put those figures in prospective, the budget for the entire federal government is $1.8 trillion, or one thousand eight hundred billion.

There are clearly economic benefits to be gained from consolidation. But the larger the potential for economic benefits, the larger the potential costs become to the financial system, and the American taxpayers, should the combined entity fail. Any substantial disruption in the institution's operations would likely have a serious effect on the financial markets.

There is currently no statutory requirement that the Fed explicitly examine whether a combined entity would be too big to fail. The too big to fail provision does not focus on limiting megamergers, but instead maximizes the credibility of prudently managed large financial institutions, which will benefit financial consumers and the American taxpayers.

The bill before us also contains the provision I introduced to prevent discrimination against certain banks in the sale of title insurance. This amendment brings the special carve out for one kind of insurance activity back in line with the purpose of financial modernization—the consistent application of authority and restrictions on title insurance activity for all banks.

The operating structure of the new financial entities created by this bill is a crucial issue for the safety and soundness of our financial system. The question is not how the financial institutions can best offer and market their financial services and products. The fact is, whether under an affiliate structure or an operating-subsidiary structure, business will make it work either way. Instead, the question is how to regulate the structure under which financial services and products are offered and sold.

Under the holding company affiliate structure, if one business goes broke, that failure will not affect the safety and soundness of the bank in the holding company. But under the operating-subsidiary structure, if a subsidiary of a bank goes broke, that can pose material risk to the safety and soundness of the bank.

Banking regulators have indicated that they do not like deferring to functional regulators for activities of bank subsidiaries. Do we want a politicized federal banking regulator to regulate a structure that is supposed to achieve competitive equality across the board for all financial services? The bank holding company affiliate structure is the best institutional vehicle that permits participation in financial modernization with the least risk of transferring the safety net subsidy.

Regrettably, this bill does not include all the provisions I introduced in the Commerce Committee, and which the committee approved, to protect the privacy of customers of these merged institutions. However, I am pleased that most of my privacy protections were made in order to be offered in an amendment later in the bill.

This amendment which I offered in committee was an important step forward in protecting individual privacy. It protected consumer privacy by regulating the disclosure and sharing of customer information by financial institutions to third parties.

My amendment, which the committee adopted, required that a financial institution not only disclose to a customer its policy about transfer of non-public personal information about the customer to a third party, it also requires that the customer have the opportunity to opt-out of having personal information disclosed to a third party.

Privacy is more of a concern than it was in the past. George Washington didn't have the privacy threats that face even the average individual today. To obtain George Washington's private information you would probably have had to break into Mount Vernon, and then have been lucky enough to find the right papers in his desk or strong box. It is now much easier to get anyone's personal information.

The simple reason for the much greater threat to privacy today is the astounding growth of technology and information gathering. The tremendous human benefits that have come from these advances also carry with them unprecedented new threats to personal privacy. Personal privacy needs reasonable protections, because personal privacy is an important part of individual freedom.

Personal information is much more accessible now, even without the person whose privacy is being invaded ever knowing. The sale and transfer of personal information, without the individual's knowledge or consent, is both widespread and growing.

Individual privacy is in danger from government, from business, and even from individuals sitting at home with a computer. My amendment recognizes those changes by providing in the area of financial institutions reasonable and realistic privacy protections, without unduly interfering with the normal and reasonable conduct of business.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Madam Chairman, I thank the gentleman for yielding me this time.

The banking modernization bill could be a good bill, but I oppose the selling out of your and my personal privacy. I oppose compromising my privacy. Democrats oppose the selling of the privacy of all Americans. All Democratic amendments on privacy have been rejected. And why?

Let us take a look at the Los Angeles Times editorial dated today, ''No Prescription for Privacy,'' and I quote:

''The House must defeat legislation that would allow health insurers to sell medical records to other insurers without the consent or even knowledge of the patients.

''Legislators usually become angry and defensive when ulterior motives are ascribed to legislation. But if voters are to believe that this measure is unrelated to the fact that the insurance industry was the single largest soft-money donor to Republicans in 1997–98, then let them explain how this anti-consumer amendment benefits those voters.''

Folks, they are selling you out. They are selling your privacy, not just your financial privacy but now your medical privacy. When I go to the bank, when I buy insurance, I provide information which is personal, private. But this bill allows personal, private medical, financial information. Every check I ever wrote, every medical decision I ever made, they are going to sell it, and they are going to sell it to the telemarketers, without my knowledge and without my consent.

I know the Republicans have said they will fix it later with comprehensive privacy legislation. Later, later. But once they sell the information, once it is out in the world, once it is out in this electronic world we live in, they are going to pass a law then and say you cannot have it. Are they going to recall it? Are they going to tell every person, every business to recall the information? Plus once it is paid for, you think businesses are not going to make copies and continue to hold it?

Your privacy has been violated. Oh, they will stop all right. Will they? Will they? Will they let their largest single soft-money contributor to the GOP, the insurance industry, call it back? They will not.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Alabama (Mr. BACHUS), the distinguished subcommittee chairman.

Mr. BACHUS. Madam Chairman, in 1933, most of our U.S. highways were gravel-topped, we had no controlled interstates like we do today, controlled access four-lane highways; our railroads were operating steam engines, diesels were still several years off; our airlines were flying biplanes with three engines; and we had Glass-Steagall.

Today we have interstate highways, they have replaced our gravel U.S. highways; we do not have any more steam engines, you have to go to China to see one; but we still have Glass-Steagall.

Thank goodness that today we have a modern financial bill that is before us to vote that will save the American people $15 billion a year, that will increase privacy protections. You can tell your bank, ''No, I would rather not have that information released.'' Finally, these two things:

It will increase our competitive ability against the world and the global market, our financial firms, it will increase convenience for Americans, and it will increase competition, lowering the cost of insurance, mortgages and all financial services.

I urge the Members to vote ''yes'' on final passage and get us out of the biplane, steam engine age.

1933. There were no interstate highways. In fact, there were no four-lane limited-access highways in America. Most of our U.S. highways were gravel; a few were dirt.

In 1933 steam engines pulled trains along America's railroads. Diesels were still a decade away. Today's college graduates have never seen a steam engine in revenue service on America's railroads. Want to see a working steam engine. You had better take a quick trip to the third world or remote areas of China, for instance, because the last few in service are rapidly disappearing.

1933. Take a trip on a jet airplane. Hardly. They were decades away. To get from city to city, if there was air service (and that was a big if), you might climb aboard a tri-engine wood-framed biplane. Today you can see that very aircraft of 1933 in the Smithsonian. Not even my generation saw them in service.

However, such is not the case for our financial services laws. The law which regulates and applies to the entire financial services industry (banking, insurance and securities) today applied in 1933. In fact, it was in 1933—not the year Albert Einstein became famous, but the year he immigrated to America—that the law in effect today was enacted by Congress. You may not recall that Congress or even the events in Washington that year. The big political happening in 1933 was Calvin Coolidge's funeral. You don't recall that event? The ''Three Little Pigs'' was making its debut as one of Walt Disney's first productions. It has been several years since Walt Disney died. But our 1933 financial services laws of that day live on today. Yes, like the memory of Calvin Cooledge's funeral they are dog-eared and worn. And every bit as inefficient as a steam engine would be on today's railroad tracks or a tri-engine wood-frame biplane in service by today's airlines. Imagine wanting to travel across country and finding not only no controlled access highways, but only gravel-topped or dirt-topped highways. What an inefficiency. What an inconvenience. What a cost to the economy. How outmoded. That's exactly what America's financial services community has to contend with today. The law is no more intended for today's market than a Model T Ford. This is true of today's outdated financial services laws. It is time to bring financial modernization laws not only into the late 20th Century but revise them for the fast-approaching 21st Century. H.R. 10 is such a law.

But H.R. 10 is more than just an updated or modern approach to banking. It's an improvement over existing laws. All Americans today would benefit from H.R. 10 in the following ways:

Greaer efficiency in competition will drive down prices of financial services (loan rates, insurance premiums, etc.). Savings are estimated at $15 billion a year. Seeing what competition can do in sports and other businesses, it is time to find out in financial services.

Imagine our American financial firms having to compete effectively in international markets restrained by laws of yesteryear. In a global economy the ability of American financial firms to compete effectively internationally is mandatory. They can only do so under modern laws such as H.R. 10. Let's increase their effectiveness to compete internationally. It is past due.

Americans not only love competition and low prices, but also convenience. H.R. 10 promises better convenience and access to financial products, more choices in both urban and rural America. Time is money and convenience is paramount in today's fast-moving society. After years of trying and failing, isn't it time this Congress finally offered the convenience of modern banking to American consumers? Convenience and more choices.

Not only does H.R. 10 offer improved ability for our companies to compete in the world market, more competition and choice for the American public, but it also promises increased privacy protections. Under an amendment to be offered today, which I support, the American banking customer can tell his local bank, ''I'd rather you did not show that information outside the bank.'' Americans love their privacy and what it protected.

For all of these reasons, it's time, no it's past time, to modernize our financial services laws. Accomplish this and preserve American financial leadership for the 21st Century by voting yes on final passage of the Financial Services Act of 1999.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Chairman, I rise in opposition to H.R. 10, the Financial Services Act of 1999. I must oppose this legislation because it distorts the intent of the members of the House Committee on Banking and Financial Services who worked hard to develop a credible piece of legislation that would cover the mergers of banks and commercial interests.

Instead of respecting the bipartisan work of the House Committees on Banking and Financial Services and Commerce, the House Committee on Rules hijacked this bill. They stripped out the Lee anti-redlining amendment that had been adopted in Banking and the Markey amendment was stripped out on privacy that had been adopted in Commerce. I have never seen this before. You vote, you get an amendment passed, and then the Committee on Rules literally takes it out without a vote? The Committee on Rules then denied a rule to have a debate on privacy. And, of course, they denied my amendment on lifeline banking for low-income consumers who do not have bank accounts with traditional banking institutions.

The House Committee on Rules further added a dangerous amendment by the gentleman from Iowa (Mr. GANSKE) that allows private medical record information to be given to subsidiaries

and sold to others. Then, to add insult to injury, the Committee on Rules made in order an amendment by the gentleman from Texas (Mr. PAUL), the gentleman from Georgia (Mr. BARR) and the gentleman from California (Mr. CAMPBELL) that can only be identified as the Dope Dealers and Money Launderers Act of 1999. The Paul amendment adjusts the currency transaction reporting requirement from $10,000 to $25,000, making it easier for drug dealers to spend and launder drug proceeds.

Let us go a little bit further. The gentleman from Virginia (Mr. BLILEY) will have Members believe that he is doing something about domestic violence and protecting the victims. It is a trick. He is allowing these mutual insurance companies to move out of their States that do not allow them to take their proceeds away from the policyholders and put them in the hands of the officers. He is trying to make Members believe that he is doing something for women. Members do not want their fingerprints on this bill. This is a bad one. Vote ''no.''

Mr. BLILEY. Madam Chairman, I yield 3 minutes to the gentleman from New York (Mr. LAZIO), a member of the Committee on Commerce and a member of the Committee on Banking and Financial Services.

Mr. LAZIO. Madam Chairman, let me begin by congratulating and thanking the gentleman from Virginia (Mr. BLILEY) and the gentleman from Iowa (Mr. LEACH) for the stewardship of this fundamentally important piece of legislation for the American economy, having persevered through a number of different discussions and bringing this to the verge of passing as an historic piece of legislation.

Let us go back for a moment to the early 1930s. The stock market collapsed, the SEC did not exist, and there were few Federal securities laws. In 3 years between 1930 and 1933, 8,000 banks went bankrupt and American families lost $5 billion in deposits, an enormous sum at the time.

To restore American confidence in our banks, Glass-Steagall erected a wall between commercial banks and securities firms. Deposit insurance was created so American families knew their financial nest egg was safe. Glass-Steagall made sense, 60 years ago. But 60 years ago, families kept the bulk of their savings in banks, earning low rates of interest. Today, families invest in the stock market and 43 percent of adults own a piece of the market because Americans in the 1990s seek higher returns on their investments.

Consumer behavior changed because stocks and mutual funds achieved superior long-term results, people began managing their own retirement funds through individual retirement accounts, 401(k) plans and Keogh plans. In short, Americans are no longer hiding their savings in their mattresses.

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Today we stand at the center of an electronic revolution. On line brokerage businesses are growing. Three securities legends teamed up to create a rival to the New York Stock Exchange. Money moves from Tokyo and back in an instant. A consumer can see and speak to a live teller via the Internet. We simply no longer live in a depression era that gave birth to Glass-Steagall.

With this bill, working families will have more choices. Do my colleagues want an account with no commissions and pricing based on household assets? Do my colleagues want to carry a credit card that has no ATM fees for transactions worldwide? Do my colleagues want a e-commerce link that has a rewards point program?

With this bill, small businesses will have a greater array of products and services from which to choose. Do my colleagues want convenient Internet access to their checking, savings and investment activities? Do my colleagues want a discount for goods purchased through e-commerce? Do my colleagues want global market intelligence and unified accounting reporting?

This bill breaks the chains of Glass-Steagall that no longer serve the interests of American families without sweeping us away in a tide of economic euphoria. This bill intends to keep us as the caretakers of a senior citizen's nest egg and to ensure that the life savings of working families are not lost in economic downturns.

Congress should break down these barriers and encourage competition, creating an environment for more innovative products and better prices. I urge my colleagues, Democrats and Republicans, to let American banking step into the 21st century. Support the Financial Services Act.

Mr. DINGELL. Madam Chairman, I yield 1½ minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Madam Chairman, I commend the ranking member, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Florida (Mr. BLILEY) for their leadership on this bill. H.R. 10 would be a much more efficient financial service bill, bringing greater choices and lower prices for consumers, and that is a good thing. But this bill has serious flaws that must be corrected. Most important, the language regarding privacy of medical information has to be strengthened.

The American Nurses Association says this about H.R. 10:

The proposed language would, in fact, facilitate the broad sharing of sensitive health and medical information without the consent of the consumer.

H.R. 10, as it is now written, will allow an insurance company to sell consumers personal health information. That is wrong. Patients should be encouraged to share with their doctors, nurses, and therapists all their health information. No diagnosis or treatment is complete without it. But if patients cannot be sure that this sensitive and personal information will be kept confidential, they will not be so forthcoming, and that will hurt patient care and stifle research projects.

Let us be clear. Privacy must never take a back seat to profits. We must first fix these provisions and then pass an outstanding financial services bill.

Mr. LEACH. Madam Chairman, I yield 1 minute to my great friend, the gentleman from Nebraska (Mr. BEREUTER).

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Madam Chairman, today marks a positive and long sought milestone along the long journey to financial modernization. I commend the chairman and the ranking member, the gentleman from New York (Mr. LAFALCE) and the Committee on Commerce leadership also for their involvement and cooperation.

This bill is necessary to keep the United States in its preeminent position in the world's financial marketplace. There are a number of reasons to support. I am going to list just a few:

H.R. 10 illustrates that a Federal statutory change in financial law is imperative.

Second, this measure will allow financial companies to offer a diverse number of financial products to their consumers.

Third, this bill will have a distinct positive effect on consumers.

Fourth, the bill allows for no mixing of banking commerce through a commercial basket.

Fifth, this measure will necessarily restrict unitary thrifts.

Sixth, the bill will avoid the threat of presidential veto by placing the integrated financial activities in the operating subsidiary structure.

Seventh, it balances the interests of a State in regulating insurance with that ability of a national bank to sell insurance.

And Number 8, it strikes an equilibrium on the issue of securities.

My colleagues, I urge strong support for this legislation. It is a long time coming. It is worth the effort.

First, a Federal statutory change in financial law is imperative because Congress must call a halt to the recent trend of ad hoc financial modernization through regulatory fiat and judicial consent. Instead we need to modernize the nation's banking laws through statute.

As a matter of fact, on the first day of Banking Committee consideration of financial modernization legislation in 1998, during the 105th Congress, this Member stated: ''Once more, we start an effort to modernize our financial institutions structure. It is an effort we have tried before and must begin someplace. It should begin in the House, and so I commend you, Chairman Leach, for launching this effort. We need to do this. We need to face up to our responsibilities as a legislative body. There is no doubt about that.''

Second, this Member supports H.R. 10 as it will allow financial companies to offer a diverse number of financial services to the consumer. This bill removes the legislative barriers within the Glass-Stegall Act of 1933 and

the 1956 Bank Holding Company Act. As a result, H.R. 10 will allow financial companies to offer a broad spectrum of financial services to their customers, including banking, insurance, securities, and other financial products through either a financial holding company or through an operating subsidiary.

Banks, securities firms, and insurance companies will be able to affiliate one another through this financial holding company model. These entities will be able to engage in those activities which are defined to be ''financial in nature'' which include: lending, other traditional bank activities, insurance underwriting, financial and investment services, securities underwriting and dealing, merchant banking, and other activities.

In order for banks to be able to engage in the new financial activities, the banks affiliated under the holding company or through an operating subsidiary have to be well-capitalized, well-managed, and have at least a satisfactory Community Reinvestment Act rating.

Third, this Member supports H.R. 10 because it is very pro-consumer. It will increase choices for the consumer in the financial services marketplace by creating an environment of greater competition. As a result, financial modernization will allow consumers to be able to choose from a variety of services from the same, convenient, financial institution. Financial modernization will give consumers more options.

Whether it be in rural Nebraska, or in New York City, consumers of financial products all across the United States deserve additional competitive options. Moreover, under the current setting, many rural communities are under-served in regards to their access to a broad array of financial services. Financial modernization will help ensure that the financial sector keeps pace with the ever-changing needs and desires of the all-important consumer.

In addition, H.R. 10 will also allow financial institutions to provide more affordable services to the consumer. Financial modernization will result in additional competition and in efficiency which in turn should result in lower prices for financial services to the customer.

Fourth, this Member has been a fervent advocate of keeping banking and commerce separate. In fact, this Member is quite pleased that H.R. 10 does not contain a ''commercial market basket'' which would have allowed the very dangerous mix of commerce and banking—equity positions by commercial banks. We must avoid the problems that the Japanese have lately experienced because of such a dangerously volatile mixture of commerce and banking in their banking institutions.

An amendment was initially filed, but not offered, in the House Banking Committee in the 106th Congress which would have allowed for the mixing of banking and commerce in a five percent market basket. However, this Member believes in large part because of expressed strong opposition, including vocal and effective opposition of this Member, this amendment was withdrawn for consideration in the Committee.

Fifth, the issues of the unitary thrift charter is of significant importance to Nebraska commercial banks. One of the reasons this Member is unequivocally opposed to the existence of this unitary thrift charter is because of its mixing of thrift activities with commercial ventures. However, this is not the sole reason—it also results in an extremely powerful variety of financial institutions that has an uncompetitive advantage over other types of financial institutions. At the H.R. 10, Banking Committee markup in the 106th Congress, I expressed my desire to completely closing the unitary thrift loophole.

Financial modernization, H.R. 10, allows for no new unitary thrifts; indeed it restricts commercial entities from purchasing grandfathered, existing thrifts. There was a compromise in the legislation before us which establishes an application process whereby the Federal Reserve Board and the Office of Thrift Supervision will determine whether an existing unitary thrift holding company may be sold to a commercial firm. This Member wants that grandfather loophole closed altogether.

This Member also believes that the provisions on unitary thrifts in H.R. 10 are better than the status quo which allows both new unitary thrifts as well the unfettered transferability of existing thrifts to commercial entities. A very recent example is Walmart's recent application with the Office of Thrift Supervision to acquire a unitary thrift in Oklahoma. Again, this Member wishes that H.R. 10 would go one step further and prohibit the transferability of existing unitary thrifts to commercial entities. If H.R. 10 passes, this Member is hopeful that such a prohibition could be considered and adopted during the probably House-Senate conference on H.R. 10. This Member would reiterate that his concerns about unitary thrifts transferability remains as a major concern regarding H.R. 10.

Sixth, this Member believes that, in order to avoid the President's veto of H.R. 10, the operating subsidiary structure for these integrated financial activities is the preferred financial structure to adopt. As is well known among the Members of this body, the Treasury Department desires the operating subsidiary structure. However, the Federal Reserve Board desires the affiliate structure. Both sides of this issue make compelling arguments for their positions on this matter. However, among other important reasons, because of the threat of a veto, this Member believes that the operating subsidiary is the best structure for these integrated financial activities.

Seventh, this Member supports H.R. 10 because, it balances the interest of a state in regulating insurance with that of the interests of a national bank to sell insurance. At the outset, this Member notes that he has a strong record of supporting states rights, especially in the area of insurance regulation.

In that respect it is important to note that H.R. 10 preserves state rights by providing that the state insurance regulator is the appropriate functional regulator of insurance sales. Whether insurance is sold by an independent agent or through a national bank, the state, and only the state, is the functional regulator of insurance in both instances. Moreover, H.R. 10 also does not unduly burden the ability of national banks to be able to sell insurance.

Eighth, this Member supports H.R. 10 as it strikes an equilibrium between the interests of securities firms with those banks that will be allowed to sell securities under H.R. 10. This measure amends the 1934 Securities Exchange Act to provide functional regulation of bank securities activities. As a general rule, securities activities under H.R. 10 will continue to be regulated by the Securities and Exchange Commission.

Financial modernization, H.R. 10, repeals the ''broker'' and ''dealer'' exemptions that banks have under Federal law, which subject banks to the same regulation as all securities firms. In addition, H.R. 10 replaces the ''broker'' and ''dealer'' exemptions with other exemptions which allow banks to be able to engage in their current activities involving securities.

Lastly, this Member supports H.R. 10 as its passage is necessary to keep the United States in its preeminent position in the world, financial marketplace. U.S. financial institutions are among the most competitive providers of financial products in the world. However, the financial marketplace is currently undergoing three changes which are altering the financial landscape of the world.

The first of those changes involves a technological revolution including the internet through electronic banking. Technology is blurring the distinction between financial products. The other two changes include innovations in capital markets, and the globalization of the financial services industry.

Financial modernization is the proper, appropriate step in this ever-changing financial marketplace. Consequently, in order to maintain American's financial institutions' competitive and innovative position abroad, H.R. 10 needs to be enacted into law. In the absence of this bill, the American banking system could suffer irreparable harm in the world market as we will allow our foreign competitors to overtake U.S. financial institutions in terms of innovative products and services. We must simply not allow this to happen.

Therefore, for all these reasons, and many more than have been addressed today by this Member's colleagues, we must, and will pass H.R. 10. This Member urges his colleagues to support H.R. 10, the Financial Modernization bill.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Madam Chairman, I rise in strong opposition to this bill. I support financial modernization if modernization means more choices for consumers, more competition, greater safety and soundness, stopping unfair bank fees and protecting consumers and underserved communities. But Madam Chairman, I believe this legislation in its current form will do more harm than good. It will lead to fewer banks and financial service providers, increased charges in fees for individual consumers and small businesses, diminish credit for rural America and taxpayer exposure to potential loses should a financial conglomerate fail. It will lead to more megamergers, a small number of corporations dominating the financial service industry and further concentration of economic power in this country.

It is no secret, Madam Chairman, that far bigger financial institutions lead to bigger fees which total more than $18 billion last year. The U.S. Public Interest Research Group and the Federal Reserve Bank have conducted studies and confirm that bigger banks charge larger fees, and there is no question in my mind that if this bill is

passed, that process will be accelerated.

This bill is in fact, however, good for big banks, but the big banks are doing just fine without this bill. Government-insured banks earned a record $18 billion in just the first 3 months of this year, 2.1 billion more than they earned in the same period last year. At a time of increasing bank fees, increasing ATM surcharges, increasing credit card fees, increasing minimum balance requirements, it is time for the Congress to stand up for the consumers. The big banks are doing fine. Let us protect the consumers. Let us vote no on this legislation.

Madam Chairman, I rise in opposition to the bill.

I support financial modernization—if modernization means more choices for consumers; more competition; greater safety and soundness; stopping unfair bank fees; and protecting consumers and under-served communities.

But Madam Chairman, I believe this legislation, in its current form, will do more harm than good. It will lead to fewer banks and financial service providers; increased charges and fees for individual consumers and small businesses; diminished credit for rural America; and taxpayer exposure to potential losses should a financial conglomerate fail. It will lead to more mega-mergers; and small number of corporations dominating the financial service industry; and further concentration of economic power in our country.

The banking industry is currently involved in some of the largest mergers in history. Four of the top ten mergers last year involved bank deals totaling almost $200 billion. Today, three-quarters of all domestic bank assets are held by 100 large banks. And this bill, if passed in its current form, will further accelerate the consolidation of banking and financial assets that we have seen in recent years.

It is no secret, Madam Chairman, that bigger financial institutions lead to bigger fees—which totaled more than $18 billion last year. The U.S. Public Interest Research Group and the Federal Reserve Bank have conducted studies and confirmed that bigger banks charge higher fees than smaller banks and credit unions. The Public Interest Research Group's 1997 study of deposit account fees at over 400 banks found that big banks charge fees that are 15 percent higher than fees at small banks. Credit union fees, by comparison, were half those of big banks. And the Public Interest Research Group's 1998 ATM surcharging report found that more big banks surcharge non-customers, and big-bank surcharges are higher.

This bill is certainly good for the big banks of America, but the big banks are doing fine even without this bill. Government-insured banks earned a record $18 billion in just the first three months of this year—$2.1 billion more than they earned in the same period last year. Bank profits were also up $1.9 billion in the first three months of this year—beating the previous record set in 1998. And, according to the Federal Deposit Insurance Corporation, the increase in earnings was led by the largest banks, while smaller banks saw their earnings decline.

This bill has everything the big banks want, but it has little or nothing for consumers. It does not modernize the Community Reinvestment Act (CRA) by applying CRA requirements to new financial conglomerates. It does not stop ATM surcharges. It does not safeguard stronger consumer protection laws passed by the various States. It does not provide the strong privacy provisions that will be needed with the creation of large financial service conglomerates, It does not require that banks serve low- and moderate-income consumers by offering basic, lifeline accounts. And it does not even include provisions to protect women and minorities from discrimination in homeowner's insurance and mortgage services. These anti-discrimination provisions were included in the version of the bill that was reported out the Banking Committee, but they mysteriously disappeared from the bill when it came out of the Rules Committee.

At a time of increasing bank fees, ATM surcharges, credit card fees, increasing minimum balance requirements, discrimination against women and minorities, and the loss of many locally-owned banks to large, multi-billion dollar corporate institutions, Congress should consider pro-consumer legislation to directly address those problems. But this bill is not good for consumers, or small businesses, or taxpayers, or under-served communities. I urge my colleagues to reject this bill.

Mr. BLILEY. Madam Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE), my friend and colleague.

Mr. GANSKE. Madam Chairman, I yield to the gentleman from New York (Mr. LAFALCE), my friend and colleague.

Mr. LAFALCE. Madam Chairman, I and many, many others have tremendous concerns about the gentleman's amendment, two in particular.

Number one, we want to make sure that it does not in any way preclude the authority of the Secretary of HHS to promulgate medical privacy regulations subsequent to August 21, and it is imperative that that be made explicit in conference.

Secondly, there are so many health provider organizations, the AMA, the Nurses Association that have concerns primarily because of the exceptions in the gentleman's amendment, and I want my colleague's assurance that he will work for specific statutory language in conference that will deal with both those problems.

Mr. GANSKE. Madam Chairman, I want to assure my friend that it was not the intent of the language in this bill to preclude the Secretary from being able to issue her regulations in August, and I will work with the gentleman in conference to make that explicitly clear in language, that nothing in this would preclude her from doing that.

Madam Chairman, I yield to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Madam Chairman, as a clinical psychologist myself and in the gentleman's role as a physician I know that we are both concerned about protecting the confidentiality of individual medical information. I also know of the gentleman's hard work to craft language that would limit the sharing of information between financial industry entities and their subsidy areas.

However, it is my concern and the concern of other Members about the confidentiality of sensitive health and medical information under the listed exemptions of the current bill. To address those concerns I would like to ask my colleague and good friend if he would agree to support at conference inclusion of language to allow the exchange of general economic and clinical information but prohibit the exchange of personally identifying information such as the names, addresses, or social securities of specific patients.

Mr. GANSKE. Madam Chairman, I appreciate the comments of my colleague the gentleman from Washington (Mr. BAIRD). We both want privacy for our patients. We also both want to see insurance function. I pledge to work with my colleague and also the gentleman from Massachusetts (Mr. MARKEY), the gentleman from California (Mr. CONDIT), the gentleman from California (Mr. WAXMAN) to improve the provisions in this bill in conference so that we can do both.

Mr. DINGELL. Madam Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, the gentleman from Michigan (Mr. DINGELL), myself, many Members of this body over the last 14 years for me have worked to produce this financial modernization bill. Many times I have brought it out here on the floor. I can remember our final meeting with President Bush and Secretary Baker back in 1990 where it just came down to one final detail. We have been here many times before. It is an important bill. But it is only half a bill because as the financial revolution speeded up by the global technology telecommunications revolution, hits our country, we need to provide protections for ordinary people as well.

Yes, this bill gives ordinary Americans a window on Wall Street, but simultaneously it gives Wall Street a window on each one of our living rooms. The problem with the Republican bill is that it says that if their checks, and let us just say for the sake of this discussion, they you have had their checks in the same bank for the last 25 years, every check my colleagues have written for your family. Now, after this bill passes, that bank can now buy a brokerage or an insurance affiliate. This legislation says that they can hand over all of my colleagues checks for the last 25 years to the 300 or 400 brokers in their new affiliate even though they have got a broker down the street who has been their broker for the last 25 years. So every one of the checks that my colleagues have written are now in the hands of 300 brokers in town who my colleagues do not want to go through everything that they have done financially for the last 25 years.

Now should people have the right to say, no, I do not want that? The Republicans refuse to give that right. What they say is we are going to give people notification that we are going to compromise their privacy. That is like a burglar leaving behind a note saying what they have stolen, giving notice, but my colleagues have no right to stop it.

Now, my colleagues, here is how the American people feel about this issue. Question, AARP: ''Would you mind if a company did business with sold information about you to another company?'' Ninety-two percent of Americans would mind. I do not know who the other 7 percent are, but 92 percent would mind.

Now let us go to the next poll. The next poll is just as bad. Here is the question: ''In the future banks, insurance companies, and investment firms may be able to merge into a single company. If they do, would you support or oppose these narrowly merged companies from internally sharing information about your accounts or your insurance policy?'' Eighty percent would oppose sharing. Eleven percent would support it.

Eighty percent oppose. They want the right. This is the AARP.

And the final chart: Here is what a typical bank's policy says quite simply: ''Even if you request to be excluded from affiliate sharing of information, we will share this other information about you and your products and services with each other to the extent permitted by law.'' We determine what the law is. If we do not pass a law, they are sharing that information.

Madam Chairman, the world breaks into three categories, the information peepers, and they are out there; now, with the new technology, the information mining reapers who use these electronic technologies to gather all parts of our life, medical, financial, checking; and third, information keepers. They used to be our local doctor, our local banker, but they have been purchased by multinational banks, by multinational or by national HMOs.

The information keepers of the modern era are the United States Congress. If we do not pass these laws today, the American people are unprotected.

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Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from California (Mr. ROYCE), my colleague and great friend.

Mr. ROYCE. Madam Chairman, we can create a financial structure that provides lower costs, increased access, better services, and greater convenience to consumers.

Every consumer in this country is connected in some way to the financial services industry. Nearly every economic transaction involves the exchange of money or the promise of a future exchange of money, meaning that every day every consumer feels the weight of an outdated and overburdened system of regulation in the form of higher costs.

The legislation we are voting on today provides consumers with significant relief from these costs. Indeed, with the efficiencies that could be realized from increased competition among banking, securities and insurance providers under this legislation, the Treasury Department tells us that consumers will ultimately save as much as 5 percent, or $15 billion per year in the aggregate.

As a member of the House Committee on Banking and Financial Services, I urge my colleagues to support this legislation.

Madam Chairman, we have the opportunity here today to accomplish what no other Congress of the last 20 years has been able to, and that is to modernize the depression era laws governing our financial services sector. In doing so, we will create a structure that provides lower costs, increased access, better services, and greater convenience to consumers.

Every consumer is connected in some way to the financial services industry. Nearly every economic transaction involves the exchange of money or the promise of a future exchange of money—meaning that every day, every consumer in this country feels the weight of an outdated and overburdened system of regulation, in the form of higher costs.

The legislation we are voting on today provides consumers with significant relief from these costs. Indeed, with the efficiencies that could be realized from increased competition among banking, securities, and insurance providers under this legislation, the Treasury Department has estimated that consumers may ultimately save as much as 5 percent—or $15 billion per year in the aggregate.

This monumental legislation is good for consumers and it is good for America.

At this time, I would like to commend Rules Committee Chairman DAVID DREIER for his work on the compromise language for Title IV, and take a few moments to clarify this language.

The Title IV of the Dreier substitute amendment to H.R. 10 requires that certain companies with nonfinancial activities that propose to acquire control of a savings association must notify the Board of Governors of the Federal Reserve in the same manner as a notice of nonbanking activities is filed with the Board under section 4(j) of the Bank Holding Company Act of 1956. This notice would be in addition to the application that is already filed with the Office of Thrift Supervision. The Federal Reserve would have the opportunity to review and take action on the notice prior to the applicable time periods under section 4(j).

The Federal Deposit Insurance Corporation and the Office of Thrift Supervision have testified that affiliations between commercial companies and thrift institutions have not been a cause for regulatory concern.

Thus, we do not intend or anticipate that the Federal Reserve Board will treat the affiliation of commercial companies and savings associations as giving rise, per se, to undue concentration of resources, anti-competitive effects, conflicts of interest or unsound banking practices.

Rather, it is intended that the Federal Reserve Board will examine proposed transactions for unusual or extraordinary circumstances that would have an adverse effect on a subsidiary savings association that outweighs the public benefits of the transaction.

Again, as a member of the House Banking Committee, I urge my colleagues to support this legislation.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. BENTSEN), a distinguished member of the committee.

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Chairman, this is, overall, a pretty good bill. It starts to bring statutory law up to pace with where the marketplace is. The markets, the financial markets in the United States, are the strongest in the world, but the laws governing them are greatly outdated.

As a result of financial disintermediation in the markets, we now see different industries, banking and securities, securities and insurance, banking and insurance. It is time to catch up with that.

This bill goes a long way in getting there. It does not create the perfect holding company model, the perfect financial holding company model, but it goes a long way to get there. I am very much appreciative that we have included the operating subsidiary language, allowing banks to decide what model they want to have, whether a national bank or a holding company. I think this is very safe and sound.

In fact, one of my previous colleagues mentioned that the chairman of the Federal Reserve even said that there was no safety and soundness issue; at least 2 years ago he said that. Then he entered into a turf battle and changed his position, but he has been known to change his position before.

I think this is overall a good bill. There are a couple of problems with it. Unfortunately, I think we are going backwards in putting restrictions on unitary thrifts. We are bringing the Federal Reserve into regulation of unitary thrifts where they have never been before. I offered amendments in committee that would have addressed that in a proper way, either with the FDIC, which has regulatory authority, or bringing the OTS in. Unfortunately, the committee did not accept it.

It is ironic again that we made in order the Burr amendment which goes the other direction for certain entities but we take it away from thrifts.

Madam Chairman, thank you for giving me this opportunity to discuss H.R. 10, financial modernization legislation. As a member of the House Banking Committee, I strongly support this legislation and urge my colleagues to support it. I believe that this comprehensive banking reform legislation will bring new benefits to consumers by encouraging competition between banking, securities, and insurance firms to create a ''one-stop'' shopping for consumers.

Our markets today in the United States are the strongest financial markets in the world and provide a robust market system for consumers. Yet, our system has been restrained

by the Glass-Steagall law that requires financial companies to separate their banking, securities, and insurance companies into different companies. By repealing Glass-Steagall, Congress will bring new competition to financial services so that consumers can purchase more products. The net effect of this legislation will be to promote more competition, create more products at lower prices, and better protect American consumers. It allows federal law to catch-up to the fast paced structural changes occurring in the financial marketplace.

While H.R. 10 does not necessarily produce the ''ideal'' financial holding company model or charter, it does repeal portions of existing regulatory constraints dating back to the Great Depression commensurate with a market that has matured greatly through disintermediation brought on by increased consumer wealth, sophistication, and access to information. This proposal should not be viewed as a repudiation of past regulatory regimes, but rather a maturing of such regimes.

While this bill is not perfect, it strikes a balance in this new marketplace. First, H.R. 10 includes multiple structures for banking entities through either a holding company-affiliate model or operating subsidiary, which I have long supported and believe is adequately safe and sound. In fact, the majority of bank regulators believe this model is in some cases more safe than an affiliated holding company structure. Second, the bill addresses in a prudent way the issue of commerce and banking through a new ''complimentary to banking'' approach that I hope will meet my previous concerns that an outright ban on commerce would limit future abilities to meet market demands and product development. Finally, it continues the efforts of the Community Reinvestment Act so that all sectors of our society can benefit equally from capital formation and economic development. It is important that these areas of H.R. 10 are not changed or watered down.

It is regrettable that the Rules Committee chose to strip the bill of the Lee amendment addressing ''redlining'' by insurance companies.

Additionally, this bill inadequately addresses an issue that I have long advocated related to the transferability of unitary thrift holding companies. In the House Banking Committee, I successfully offered an amendment that would ensure that grandfathered unitary thrift holding companies can be sold and transferred. I strongly believe that we must ensure this transferability in order to protect those unitary thrift holding companies which have existed for more than 30 years on a sound and safe manner.

Regrettably, the bill we are considering today includes a provision that would make it more difficult for these transfers to be approved. This bill would impose a new requirement that the Federal Reserve Board should review any of these mergers. I believe that this Federal Reserve Board review is unnecessary and unprecedented. As you may know, the unitary thrift holding companies are regulated on the federal level by the Office of Thrift Supervision. This new language, would for the first time, subject unitary thrifts to federal regulatory oversight by the Federal Reserve Board. I believe that this review process will prevent transfers and would lower the value of unitary thrifts holding companies. I am also concerned that the Federal Reserve will not be required to provide a written record for their reasoning related to reviews.

I filed three amendments in the House Rules Committee that would have corrected this inequity.

Unfortunately, the House Rules Committee did not allow any of these amendments to be considered today. My first amendment, which is also jointly supported by Representatives ROYCE, INSLEE, and WELLER would strike the Federal Reserve Board review process and restore the language to the amendment that was adopted by the Housing Banking Committee by a roll-call vote. I believe that this is the best option and would ensure that transfers are reviewed by the Office of Thrift Supervision.

The second amendment which is also sponsored by Representatives ROYCE and INSLEE would substitute the Federal Deposit Insurance Corporation as the secondary reviewer in cases of unitary thrift holding companies mergers. I believe that the FDIC is better equipped to review these mergers, because they already have enforcement authority over federally-chartered thrifts and have worked well with thrifts. This amendment would also require that the review process should consider reasonable criteria related to these reviews and that the final decisions should be written so that parties would understand the reasoning behind decisions.

The third amendment which was also sponsored by Representatives ROYCE and INSLEE would add the Office of Thrift Supervision to the current Federal Reserve review process. This joint review would help to ensure that grandfathered unitary thrift holding companies mergers have a fair hearing of their cases and that all final decisions would be written. I believe that the OTS, as the principal regulatory for unitary thrifts, should be part of the final decision to approve such mergers. In a case where OTS and the Federal Reserve do not agree, this amendment would ensure that all final decisions would be written and would permit owners to apply for judicial review of any decisions made.

I believe that all of my amendments would improve the current Federal Reserve review included in this bill.

Unitary thrift holding companies have existed for more than 30 years. During the thrift crisis of the 1980's, Congress acted to encourage commercial companies to purchase insolvent thrifts. As a result, for instance, Ford Motor Company infused more than $3 billion in one thrift to prevent their failure.

Second, unitary thrift holding companies are safe and sound institutions subject to strict regulatory standards as are all federally insured thrifts. In fact, unitary thrift holding companies must meet strict standards to stay in business. Unitary thrift holding companies must meet the ''Qualified Thrift Lender (QTL)'' test in which they purchase and provide mortgages. As opposed to banks, unitary thrift holding companies are greatly limited in underwriting commercial loans. And, Congress has prohibited loans from unitary thrift holding companies to their non-banking affiliates. I believe that all of these safety and soundness protections ensure that taxpayers are protected.

Third, the thrift business is specialized. As of the end of 1998, there are only 547 thrift holding companies. Of these 547 thrift holding companies, only 24, less than 5% are engaged in commercial activities. If the unitary thrift holding company charter was so valuable, you would expect that many companies would be applying for this specialized charter. Yet, the evidence does not bear this out. A powerful reason that limits the number of applicants is the qualified thrift lending test and the commercial lending limits have done their job; a thrift charter is only attractive to those companies prepared to commit to residential real estate and credit card lending, and a few other forms of consumer banking. For most companies, these restrictions are sufficient to deter interest.

Fourth, nearly three-quarters of the recent holding company applicants are acceptable to critics. A total of 75 companies with non-banking interests has applied for the thrift charter since the beginning of 1997. Of those, a total of 55 firms or 73 percent is currently in the insurance and securities businesses and therefore could not obtain a bank charter under current law. However, under H.R. 10, these firms would be eligible to convert a bank charter. Indeed, the Travelers-Citigroup merger suggests that the bank charter would be preferable and they would transfer their charter once this broader bank charter is available. Travelers actually gave up its unitary thrift holding company status in favor of becoming a bank holding company and in the expectation of financial services reform legislation.

Finally, it is a question of equity. Congress allowed for the creation and growth of the unitary thrift charter in the 1960s. To retroactively close the market for those who have ''played by the rules'' and pose no threat to safety and soundness of the Nation's federally insured lending does not seem fair. And while H.R. 10 may provide a new financial model we should at least hold harmless those already in the program and not legislatively depreciate their value. Congress has been down that road before with limited success. Such a course deviates from the concepts of increased competition, economic vibrancy and consumer choice that inspired the pending bills.

Finally, with respect to the issue of privacy, I believe that we have structured strong, bipartisan financial privacy language which goes far beyond existing law. For the first time transfer of specific account information to third parties would be prohibited. Consumers could ''opt-out'' of other third party transfers and financial institutions would be required to establish a financial privacy standard for its customers. And while some questions remain with respect to the language on medical privacy, this bill still goes far beyond current law. Passing this does far more than doing nothing.

While this bill is not perfect, I strongly believe that we must act to promote more competition and provide new products for consumers. I strongly urge my colleagues to vote for H.R. 10.

Mr. BLILEY. Madam Chairman, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS), a member of the Committee on Commerce.

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Madam Chairman, H.R. 10 would modernize America's financial service industry. Now, the big debate seems to be on the privacy protection. I think this bill contains very

important, very start-of-the-debate important, issues for protecting the customers of the insurance industry, the banking industry and the securities industries.

One of the most important provisions of this bill is this privacy information.

Now, during consideration of this measure in the House Committee on Commerce, many of us know the gentleman from Iowa (Mr. GANSKE) offered an amendment on health information confidentiality, a lot of debate on it. We had a lot of debate on it. We talked about it, but all of us felt that this was just the start. If we did nothing, if we could not even get this debate started and we defeat this bill today, then we are going to have no privacy.

So I think we should not let this small debate that we are having on privacy stall the entire bill, because in the end we can amend and we can work through HCFA and other places to create more privacy and perhaps more to everyone's liking.

Think about it. If we allow a bank, an insurance company, to work together and the insurance company does a check on a person's health records, how does one know that those health records could not end up in a bank? Or perhaps the bank, when applying for a loan, would use some of the information from a person's health records? So that is why I think what we offered in the full committee was important.

I was also able to have an amendment that offered the word genetic information to include in that privacy information. So I say to the Members on that side of the aisle, I think genetic information is something that also should be protected.

Now, there are a lot of people that say we are going to stop the Secretary of Health and Human Services from issuing regulations on this issue as required under the Health Insurance Portability and Accountability Act that we passed in 1996.

This language in this bill says nothing to stop the Secretary of HHS from issuing regulations on this matter. In fact, Madam Chairman, the cite reference in the bill, which is 264(c)(1), if we go to look at it, is the very language, the very language that gives authority to Health and Human Services to issue the regulations.

So, Madam Chairman, I think we should all come together. We have looked at H.R. 10 until we are blue in the face. We have talked about this. We should not let this be defeated today, trying to talk about just the privacy. I think it is a first step, so I look forward to our continuing discussion on this, and we can go back after we have passed H.R. 10 to talk about medical records and confidentiality with a separate piece of legislation.

So, in the meantime, I support the language we have in the bill today protecting all Americans, consumers, so that their information is not inappropriately shared.

Mr. DINGELL. Madam Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Madam Chairman, I thank the ranking member, the very distinguished ranking member of the House Committee on Commerce, the gentleman from Michigan (Mr. DINGELL), for yielding me this time.

Madam Chairman, I think I am going to leave my printed copy just on the stand here because really I think everyone in the Chamber has their minds made up about what kind of a vote they are going to cast on this bill.

We are here as representatives for the American people. So my message to the American people, whomever is tuned in, is what is it that we are debating? What is it that we are fighting and arguing about which is so important in this bill?

First of all, this is a bill to reshape financial services and how they are delivered in our great Nation. It is an overhaul of laws that need to be overhauled because they have not been touched really since the Great Depression. So we know that there is a timeliness to this effort and an importance attached to it.

I want to raise something to the American people, and the reason why I come to the floor in my disappointment is because when I cast my votes in the House Committee on Commerce I had every intention of supporting this financial services bill.

This is not an excuse on my part, American people. I feel very strongly about this.

What brings me to the floor is the issue of privacy, financial privacy.

Now, if someone asks Mrs. Smith how much is in her money market account, her first reaction is, why should I say? It is not anyone's business.

Financial dealings and how we conduct our finances is very, very private. Who we write our checks to, where they go, whether it is to a doctor, should the bank manager know more or as much as our personal physicians? I think not. I think it is the responsibility of the House of Representatives, the House of the people, the people that are out there, to protect their personal financial privacy.

That is what I am raising in this. Regardless of what anyone else says, and whomever rises, when one reads the print, it says, we will protect their financial privacy, dot, dot, dot, with all of these following exceptions. I do not think this is good enough. I know we can do better.

I think the American consumer deserves this kind of protection. In fact, I think there is going to be like a prairie fire of objection that moves across the country on this issue, because no one would believe that their elected representative would not stand between them, the constituent, and whatever financial institutions are out there. We need them to do business with. But that our personal, private financial information be sold and dealt away and possibly used against us? Come on. We can do better than this. I would say thanks to Mr. and Mrs. America. This is what brought me to the floor.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. BOEHNER), who has worked on this legislation more than any noncommittee member in the history of the Congress. To him I am grateful.

(Mr. BOEHNER asked and was given permission to revise and extend his remarks.)

Mr. BOEHNER. Madam Chairman, I rise today in support of this landmark piece of legislation. In one great cascade, it washes over decades of obsolete law, congressional inattention and regulatory creep to give us a modern and prudent legislative framework for one of our most important and dynamic industries. I believe it is the most important bill that we will debate in this Congress this year, and I strongly urge its passage.

In a bill this complex, it is easy to miss the forest for the trees, but the broad direction I think is what is most important. Our Nation's financial services sector is the irrigation system for our economy. If we remove outdated obstacles to innovation and greater efficiency in the financial services industry, we are helping our entire economy become more competitive, more vibrant and healthier.

It is important to recognize additional benefits of this legislation. By putting in place a regulatory system that actually makes sense for today's financial services industry, not the industry of 1933, we are both making the industry more internationally competitive and reducing the kinds of risks that led to bank and savings and loan failures of the late 1980s.

By giving consumers the chance to do one-stop shopping for all of their financial needs, we are giving them more control, better information and better choices for their financial needs.

Madam Chairman, this really is a superb piece of legislation, crafted with great care, with fairness and with patience. Let me say about patience, of the four gentlemen, the two chairmen and the two ranking members who I have had the pleasure to work with over the last 3 years on this legislation, this is a great example of how the Congress can work, when we agree on what the goals are and we work together and work through all types of objections. The gentlemen that I have just pointed out deserve a great deal of credit for a job well done.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to a distinguished member of the committee, the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Madam Chairman, I would like to thank my distinguished ranking member, the gentleman from New York (Mr. LAFALCE), and the committee chair, the gentleman from Iowa (Mr. LEACH), for all of their hard work that they have done on this bill.

I rise today in support of H.R. 10, which, in fact, is good for the ordinary citizen and, in fact, does provide more privacy protection than they have ever had before. This bill uses the House banking bill as its text base, which passed the Committee on Banking and Financial Services 50 to 8. It had support of Democrats, Republicans and the administration, who took painstaking work on this particular piece of legislation to strike a compromise that is also supported by a diverse sector of the financial services industry.

After 15 years of moving the ball down the field, it is time we put it over the goal line. This bill preserves the Community Reinvestment Act, which has brought billions of dollars of investment into our underserved urban and rural communities and encompasses important consumer protections.

While we may hear otherwise today, this bill has good privacy measures in it. Today we have the opportunity to support an amendment that would make those privacy sections even better. With the passage of a strong privacy measure, I urge my colleagues to vote yes on H.R. 10.

Madam Chairman, this bill strengthens the safety and soundness of our financial institutions. This bill gives consumers one-stop shopping. This bill gives consumers better privacy protection. This bill saves consumers money. This bill is good for the economy. Let us pass stronger privacy amendments. Let us put the ball over the goal and pass H.R. 10 today.

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Mr. BLILEY. Madam Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. LEACH) for purposes of control.

Mr. DINGELL. Madam Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. WAXMAN).

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, the proponents of this bill say they have increased privacy protection for health records, but in fact, every independent expert that has reviewed the legislation has reached exactly the opposite conclusion.

The medical record provisions in H.R. 10 are opposed by physician organizations like the American Medical Association and the American Psychiatric Association. They are opposed by nurses' organizations, like the American Nurses' Association. They are opposed by patients groups, like the National Association of People with AIDS and the Consortium for Citizens With Disabilities, and they are opposed by privacy experts, like the Consumer Coalition for Health Privacy and the ACLU.

Why have they reached that conclusion, when the other side on this issue say they have put something in the bill to protect medical privacy? They have a provision saying an organization cannot give out information without the consent or the direction of the customer, but then they have this huge exception.

They can, however, give it without ever asking the customer to insurance companies, who then can keep a whole database on a lot of people's medical records. They can give it to people participating in research projects. It does not say it is a scientific research project. Anybody could say they have a research project and therefore they get the medical data, and these groups can then turn around and sell it. There is no restriction on them whatsoever from further disseminating our personal medical records.

This idea that we have to give our consent is not very convincing when an insurance company can say to us that in order to get insurance, we have to sign a waiver that will allow them to do whatever they want with our medical records, or we go without insurance.

I feel that this provision is a step backwards. The proponents say they are following a democratic process. In fact, they snuck the medical records provision into the legislation like a midnight prowler, to use the words of the Los Angeles Times. There have been no hearings on the implications of what we are doing.

In fact, we are not even allowed to offer amendments to this provision. Under the rule, the gentleman from California (Mr. CONDIT), who has been working on health privacy issues for 10 years, was even denied a motion to strike.

It would be better to strike all the medical provisions, privacy provisions that are in this bill out because they do such a disservice to the idea that we are protecting people's privacy.

In 1949 George Orwell wrote a chilling novel called 1984 about a society that denied its citizens privacy. It is 15 years later than Mr. Orwell predicted, but today 1984 is becoming a reality. Doublespeak reigns in this House, and Big Brother in the form of all-knowing financial conglomerates is being brought to life.

I urge my colleagues to vote against the bill because of this provision alone.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Madam Chairman, we have heard that we should should not make the perfect the enemy of the good. We have some people, I believe, who would like to make the perfect the enemy of the very, very, very good.

We are about to set history here. This body has attempted to pass and enact into law reform of our financial services industry for I understand a decade and a half, and we have a product that the vast majority of stakeholders agree on.

The medical privacy provisions happen to be something that I am very interested in as a physician, and I believe the language in this bill is pretty good. Can it be made better? Yes. As a matter of fact, we put provisions in the language that say if the administration passes regulations that are stronger, these provisions expire. We have language in there that says if this body enacts legislation signed by the President that is stronger, these provisions expire.

So to oppose this bill now, at this point, when we have an extremely good product here, a very, very good product on this to me is a tremendous disservice. I believe that all of our colleagues on both sides of the aisle should support this, because this is extremely good for America.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN).

(Mr. SANDLIN asked and was given permission to revise and extend his remarks.)

Mr. SANDLIN. Madam Chairman, financial modernization is already occurring in this country, and is here to stay. However, burdensome regulatory barriers are hindering the efforts of our financial institutions to compete globally through the development and delivery of new financial products. This only exacerbates or makes worse the problems within the financial services industry.

The bottom line is simple: Financial modernization is necessary and will continue in this country as a result of market forces, even in the absence of any sort of legislation. However, the success of American firms and ultimately the strength of our economy is going to depend upon passing a good bill, one that will ensure that financial modernization occurs in an efficient manner, and protects the interests of consumers as well as the safety and soundness of our financial industries.

But as we debate these important issues, we must remember community banks. People trust community banks. They know their community bankers. We have recognized these institutions as an integral part of rural America. We must not overlook them or jeopardize their future in any way as we undertake this monumental legislation.

I believe this bill addresses the needs of Main Street as much as Wall Street, and I urge Members to cast their vote in support of this important legislation.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY), who has worked so diligently on this bill.

Mrs. KELLY. Madam Chairman, I thank my good friend, the gentleman from Iowa (Mr. LEACH) for yielding time to me.

Madam Chairman, I rise in strong support of H.R. 10. I would like to take

just a minute to talk about the provision in H.R. 10 regarding NARAB, the National Association of Registered Agents and Brokers.

Under NARAB, States would be encouraged to streamline insurance agent and broker licensing laws, creating reciprocity, uniformity, and eliminating protectionist residency barriers. The NARAB provisions have been designed to bring true modernization to insurance licensing, and it is something that I believe that we really do need to have in the United States of America today.

It is for the commonsense provisions in H.R. 10 like NARAB that we all need to join together in support of H.R. 10.

Madam Chairman, I rise in strong support of H.R. 10. We have been hearing the debates so far mostly focus on the more controversial sections of the bill. Many of the benefits of H.R. 10 have been heralded here today because they represent breakthroughs on issues that have been contentious and seemingly irreconcilable for many years. Yet there are other modernization provisions which are extremely valuable, but have not been highly publicized because they have been essentially non-controversial. I'd like to specifically point to the provisions regarding NARAB—the National Association of Registered Agents and Brokers.

Under the NARAB subtitle of Title III, states would be encouraged to streamline insurance agent and broker licensing laws—creating reciprocity, uniformity, and eliminating projectionist residency barriers. If a majority of states fail to enact reciprocal licensing laws within three years of enactment of this legislation, NARAB would be created as a uniform, agent/broker licensing clearinghouse governed by state insurance regulators.

I'd like to thank the bipartisan leadership of both the Banking and Commerce Committees for including this provision in H.R. 10. Since I raised this issue in the Banking Committee in 1997, the National Association of Insurance Commissioners and individual states have significantly ratcheted up their efforts to achieve licensing reform. For many years prior, there were attempts to ease the burden and unnecessary costs associated with multi-state licensing. But those attempts failed to keep pace with consolidations in the insurance industry, along with increasing financial services consolidation and globalization of insurance markets. The NARAB provisions have been designed to bring true modernization to insurance licensing laws, in keeping with functional state insurance regulations.

Perhaps the most gratifying development on the licensing front in recent months has been the increasing acceptance of NARAB by the NAIC as a good incentive for licensing reform. NAIC President George Reider, Kentucky Commissioner George Nichols, North Dakota Commissioner Glenn Pomeroy and others have been doing a superb job in elevating uniform and reciprocal licensing on the agendas of individual state legislatures. They understand that barriers to competition from out-of-state insurance agents and brokers is incompatible with today's integrated financial institutions marketplace. Their commitment to reform is real, and NARAB will be the assurance their efforts will ultimately succeed.

Currently, there is no counterpart NARAB provision in the financial services bill approved by the other body, and I look forward to working with congressional conferees to assure that these important licensing reforms can be achieved in the context of broad modernization legislation.

It is for these common sense provisions that we all must join together in support of H.R. 10.

I want to take a moment to thank Chairman Leach for his superior leadership in steering H.R. 10 through committee. It was because of his patience, thoughtfulness and considerable knowledge of the financial service industry that this legislation has come to the floor with a strong bipartisan support it now has. The gentleman from Iowa has also had the assistance of an excellent staff at his side to assist his considerable efforts. Just to name a few, Tony Cole, Gary Parker, Laurie Schaffer and Alison Watson. There are so many more but I haven't the time to name them all. Chairman Leach really does have the highest standards for his staff and they have all lived up to those standards set by the Chairman.

Secretary Rubin estimates that passage of this legislation will save consumers $15 billion a year. The efficiencies created by this legislation will allow financial institutions to stop wasting time and money complying with out of date laws written in the 1930's and enable them to better serve their customers in the 21st century.

H.R. 10 comes before us with the strong support of both parties and the administration. Let's join together in ensuring that we preserve this agreement by passing this rule with a strong bipartisan vote. I thank the gentleman from California and his colleagues on the Rules Committee for their good work on the rule and ask all of my colleagues from both sides of the aisle to join me in voting for legislation years in the making that will improve the lives of all Americans, H.R. 10.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Madam Chairman, I would like to thank the ranking member for yielding me the time to engage the chairman of the committee, the gentleman from Iowa (Mr. LEACH) in a colloquy.

Madam Chairman, I would like the chairman's clarification with respect to section 351 relating to the medical information confidentiality provisions.

The rule report on page 371, line 7, subparagraphs 1, 2, and 3, I read each as several separate clauses, and that following clause 1 and before clause 2 there is an implied ''or'' that indicates that each of these is to be read as separate clauses.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Ms. CARSON. I yield to the gentleman from Iowa.

Mr. LEACH. The gentlewoman has raised a very important point. I fully concur in her interpretation. That is exactly correct. I think it is an important clarification for the RECORD.

Ms. CARSON. Madam Chairman, I appreciate the gentleman's comment.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. SWEENEY).

(Mr. SWEENEY asked and was given permission to revise and extend his remarks.)

Mr. SWEENEY. Madam Chairman, I thank the chairman for yielding time to me.

Madam Chairman, I joined the Committee on Banking and Financial Services, and my desire is to help spur economic growth in my congressional district in upstate New York. In my mind, today is a historic step in that direction. I am very proud to fully support H.R. 10, because financial services provide the basis for private investment in new business that creates jobs.

We here in Congress have the responsibility to ensure that our financial services law reflects and therefore does not stifle the level of innovation and service in the financial services marketplace.

We have a responsibility to ensure that all participants in the marketplace, from security brokers to community banks to independent insurance agents, are given the opportunity to compete and thereby provide the best service to our constituents.

So I urge support for this bill, H.R. 10, and confirm this House's commitment to that responsibility.

Madam Chairman, I rise in strong support of H.R. 10 and commend the hard work of its sponsors.

I joined the Banking Committee based on my desire to spur economic growth in my Congressional district in Upstate, NY—by providing businesses and entrepreneurs with the access to capital to create new jobs. Therefore, I am pleased to speak in support of this important legislation.

Financial services provide the basis for private investment in new business that create jobs, for the protection of people's hard-earned assets from catastrophic loss, and for the ability of Americans to save and effectively plan for their retirements.

Given the importance of financial services as the base for our economy, Congress has many responsibilities to ensure that our laws are responsive to the everyday function of these essential markets.

We have a responsibility to ensure that our laws reflect, and therefore do not stifle, the level of innovation and service in the financial services marketplace.

We, as a Congress, have a responsibility to oversee those laws to ensure that consumers are treated fairly in the marketplace, protected from fraud and other potential abuses.

We have a responsibility to ensure that all participants in the marketplace—from securities brokers, to the community banks, to independent insurance agents—are given the opportunity to compete and thereby provide the best possible service in the world.

H.R. 10 confirms this House's commitment to these responsibilities.

I commend the work of the Chairmen and the Ranking Members.

I urge your support of the bill.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. PRICE).

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Madam Chairman, I would like to engage the managers from both sides, if I might, in a colloquy.

Mr. Chairman and Mr. ranking member, I first want to express my appreciation to you for the hard work that you and your colleagues have put into the drafting of this complex and necessary piece of legislation.

I am a former member of the Committee on Banking and Financial Services, and I am well acquainted with the difficulties that have to be overcome just to bring a financial services modernization bill to this floor. I do have a concern, however, that I hope the gentlemen will spend some time addressing before bringing a conference report back to the House.

The National Association of Insurance Commissioners and North Carolina's Insurance Commissioner, Jim Long, have expressed to me a concern with section 104 of this bill. This is a section that describes under what circumstances State insurance law should be preempted in order to ensure that financial institutions are not discriminated against.

I know there are differing interpretations of this section as to what sorts of State laws might be preempted. For example, North Carolina just passed a Patients' Bill of Rights. This is legislation that is very important to our citizens. I hope the gentlemen can assure me that it is not the Committee's intention in this bill to allow financial institutions that provide insurance products to be exempted from this law or other important consumer protection statutes.

If there are remaining problems or ambiguities that need to be cleared up, I hope the gentlemen will work during the conference to clarify in what situations State insurance law should and should not be preempted by this bill, and to make sure that functional regulation and vital consumer protections are not compromised.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. PRICE of North Carolina. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, let me say to the gentleman that the major intent of the law is to maintain functional regulation, and the major intent of the law is to have State regulation and law apply without discrimination.

Mr. LAFALCE. Madam Chairman, will the gentleman yield?

Mr. PRICE of North Carolina. I yield to the gentleman from New York.

Mr. LAFALCE. Madam Chairman, I share the judgment of the chairman on this particular question. That certainly is our intent, to prohibit discriminatory action and to preserve the maximum amount of consumer protection.

With respect to a State's Patients' Bill of Rights, I strongly support a Federal Patients' Bill of Rights, and to the extent that the State has acted similarly or more strongly, we would want to give deference to such a bill of rights.

Certainly to the extent that it might need clarification, I am not sure that it does, we would attempt to clarify that.

Mr. PRICE of North Carolina. I appreciate the gentlemen's assurances, both the chairman and the ranking member, that it is not the intent of this bill as drafted to compromise these essential consumer protections, many of them administered by State insurance commissioners, and that if there is any remaining ambiguity, that that will be attended to in conference.

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Mr. BLILEY. Madam Chairman, I continue to reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I continue to reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. PAUL), one of the most thoughtful philosophers of the United States Congress.

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Madam Chairman, I will take my one minute to address the subject of privacy, because I do have an amendment that I think would improve the protection of privacy.

We have had a lot of talk and indication on this side of the aisle about protecting privacy. But I believe the understanding of what our role is in protecting privacy, if it applied across the board, would mean that politicians and political action committees could never rent a list from the Sierra club or the American Civil Liberties Union.

But I am addressing the subject of Know Your Customer. At the same time we hear these declarations for protection of privacy, we hear from the same people that we cannot get rid of Know Your Customer.

Now, if one wants to really find something where one invades the privacy of the individual citizen, it is this notion that the Federal Government would dictate a profiling of every bank customer in this country; and then, if that customer varied its financial activities at any time, it could be reported to the various agencies of the Federal Government. Now, that is privacy. That is what we have to stop. I ask for support for my amendment.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the very distinguished Member of the committee, the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Madam Chairman, I thank the gentleman from New York for yielding me this time. It is long past due that we have a bill that brings our financial services into the 21st Century.

We should be able to compete with other industrialized nations where financial institutions have been allowed to merge and bring a wide variety of products and services to their customers. The bill allows the law to catch up with the reality of the international merger movement.

Some of these mergers have taken place on the probability that Congress will finally act so that financial services will no longer be hamstrung by outdated restrictions of the 1930s. The bill allows financial institutions to merge, but prevents banks from merging with commercial businesses, and it requires functional regulation.

The Committee on Rules has changed what came out of our Committee on Banking and Financial Services with tremendous bipartisan support. I thank the gentleman from Iowa (Chairman LEACH) and the gentleman from New York (Mr. LAFALCE), the ranking member, for their leadership.

Many of these changes are inappropriate and wrong, such as the medical privacy provision, and they should be changed in conference. While I will vote for this bill so that it can go to conference, my final vote will be contingent on a bill that has strong privacy provisions.

Also, we should be cognizant that the President will veto any bill that does not contain strong CRA provisions, which I also fully support, and are in the House bill.

Mr. BLILEY. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, I want to take a moment first to recognize the hours and hours of hard work contributed by my finance staff team, Linda Rich, David Cavicke, Robert Gordon, Brian McCullough, and the trustee clerks, Robert Simison and Mike Flood.

They were joined by diligent efforts of the minority staff, Consuela Washington and Bruce Gwynn. These professionals performed above and beyond the call of duty, and the committee is in their debt.

Glass-Steagall, Madam Chairman, was passed in 1933 in reaction to the financial markets crash in the Great Depression. Those were extreme times, and the American people demanded extreme measures to rescue them from continuing economic crisis.

Just two years after Glass-Steagall was enacted, the law's primary architect, the gentleman from Virginia named Carter Glass, realized that Congress had gone too far, and he began an effort to undue the damage that had been done.

Carter Glass may have been the first Congressman who tried to reform Glass-Steagall, but he was not the last. In just the last 20 years, there have been 11 efforts to modernize these archaic laws.

Last term, the Committee on Commerce Republicans and Democrats worked with the Republican leadership of the Committee on Banking and Financial Services to pass Glass-Steagall on the House floor for the first time ever. I strongly supported that bill and was disappointed that it faltered in the waning days of the Senate.

Today is a historic day. We join together here in the House to approve legislation that is long overdue, and we are in a stronger position than ever before to achieve our goal of modernizing financial regulation in America.

Every step of the way we were opposed by lobbyists and special interest groups who said it could not be done. But we heard the concerns of the American people about all of these megamergers. We heard the concerns of the local businessmen who want to compete, but have one hand tied behind their backs by the archaic Glass-Steagall restrictions. We heard from the Federal and State financial regulators who emphasized the need to protect consumers and preserve the safety and soundness of our financial system.

It is a testament to the will of the American people that we have heard their concerns and are here today to pass legislation to protect the future.

The legislation protects American investors by ensuring that the rules for securities sales will be the same for everybody, no matter where the securities activities take place. That means that investors will be assured of the protections of the Federal securities laws, even when they purchase securities in a bank, a protection investors do not enjoy today.

The bill also treats the thrift industry fairly, by preventing future expansion of the unitary thrift system, while protecting the ability of existing thrifts to raise capital from the commercial markets. This is an important win for American homebuyers who have relied on the thrift industry to realize their American dream of homeownership.

This bill provides a better structure for regulating the financial marketplace in the 21st Century. I look forward to further strengthening that structure as we go to conference, by eliminating the operating subsidiary and improving insurance consumer protections.

Our financial system has not been modernized since the Great Depression. Federal regulators have been forced to invent highly questionable and unauthorized make-shift regulations to try and shoehorn an archaic legal system into the modern world. It must be fixed. It must be fixed by Congress, not some unelected special interest regulators.

H.R. 10 is the solution, and I am proud we are at the bridge of achieving another historic accomplishment for the American people.

Beginning with the seminal efforts from the gentleman from Virginia in 1935 to repeal the Glass-Steagall barriers to competition, Congress has had neither the will nor the vision to open our financial markets to full competition.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Madam Chairman, I would like to begin by applauding the leadership on both sides of the aisle in terms of the gentleman from Virginia (Mr. BLILEY), the chairman of the committee, and, of course, the gentleman from Ohio (Mr. OXLEY), the chairman of the Subcommittee on Finance and Hazardous Materials, and, of course, the gentleman from Michigan (Mr. DINGELL), the ranking member on the Democratic side for all their hard work. A lot of work and time and effort has gone into this, a lot of hearings and all of that.

But I come today to say that I am concerned. First, I am concerned about the privacy issue. I am very concerned about that. I am also concerned about the behavior of the Committee on Rules. I think that we want to be open and want to have the democratic process, but when the Committee on Rules just makes decisions to drop out things just because they have the ability to drop them out, without having a discussion on them, I think that it does not serve this body well. It does not serve the American people well. I am hoping that the Committee on Rules will take another look at that and not continue to behave in that fashion.

This is not a perfect bill, but it is a step in the right direction. I think that it will make us internationally competitive, which we need to do. The time has come when we need to stop vacillating and to begin to do the right thing, as my constituent Spike Lee says in Brooklyn.

I am very happy that at least the CRA provision, in terms of the fact Community Reinvestment Act is very important, that they had the common sense and good sense to leave that in there. They did not eliminate that. I want to applaud the Committee on Rules for that because, I will be honest with my colleagues, any bill that does not have the Community Reinvestment Act in a strong way in it, I could not vote for it in any way. So I am happy that at least that part is there.

But to conclude, let me say that I am hoping that some of the problems that still exists with this legislation that we will correct it in conference.

Mr. LEACH. Madam Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. BARTON), a distinguished member of the Committee on Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Chairman, I thank the distinguished gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services.

Madam Chairman, I am standing on the Republican side to express some of the same concerns that have been expressed on the Democratic side about the inadequacy about the privacy protections in the bill that is pending before us.

I want to commend the gentlewoman from Ohio (Ms. PRYCE) and the gentleman from Ohio (Mr. GILLMOR) and others on the Republican side for beginning to address the issue.

Sadly, we have not gone as far as we should go. We are about to enter a brave new world where financial institutions offer large ranges of services, not just checking account balances and savings account balances. That is good. That is going to provide additional choice and additional products for the American consuming public.

In the bill before us, if the Oxley amendment is adopted, we are going to protect privacy in most cases for third-party transfers outside the affiliate structure with some exceptions. We are going to allow, within the affiliate structure, transfers with disclosure.

My opinion is, if it is a necessity to provide privacy for third-party transactions outside of the affiliate structure, it is just as much a necessity to provide that same opt-out provision within the affiliate structure, given the fact that the very reason the bill is before us is because we want to have these financial service conglomerates.

I had offered, with the gentleman from Massachusetts (Mr. MARKEY), a modified version of his amendment that was adopted on a voice vote by the full Subcommittee on Energy and Power and Committee on Commerce. That was not made in order by the Committee on Rules. I think that is unfortunate.

I voted for the rule even knowing that my amendment had not been made in order. I have spoken with the Speaker and the majority leader, and I have their assurances that these privacy issues will continue to be addressed.

I am sure that the gentleman from Iowa (Chairman LEACH) and the gentleman from Virginia (Chairman BLILEY) share these same assurances.

But I want to let the body know that this concern about privacy is not specifically a Democrat concern or Republican concern, it is concern for all Americans. It is not going to go away, and we will have to address it as this bill moves forward in the conference if it passes the House.

Madam Chairman, I yield to the gentleman from Iowa (Mr. LEACH) if he wants to make a comment.

Mr. LEACH. Madam Chairman, I would just like to stress there is no intent in this bill to jeopardize any confidences associated with doctor-patient relationships nor the privacy protections currently afforded any medical records. Indeed, the intent is to strengthen those protections. To the degree that more precision in this area is required, this gentleman is prepared to work in conference to ensure that that occurs.

Mr. BARTON of Texas. Madam Chairman, I appreciate that pledge, and I will work with the gentleman.

Mr. LAFALCE. Madam Chairman, I yield 30 seconds to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Madam Speaker, I am just flattered to continue to be yielded time.

I yield to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Madam Chairman, it is my expectation that the bipartisan

amendment that was drafted with the gentlewoman from Ohio (Ms. PRYCE), the gentleman from Texas (Mr. FROST), myself, the gentleman from Iowa (Mr. LEACH) and others, and that a motion to recommit that will be offered that will take whatever this body works its will on and then simply takes the Markey-Barton amendment and a provision striking the medical privacy provisions that my colleague is concerned about, and that will be in the motion to recommit. So the gentleman will have an opportunity to vote on exactly what he expressed concern about.

Mr. BARTON of Texas. Madam Chairman, I look forward to that opportunity.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, Securities, and Government Sponsored Enterprises.

(Mr. KANJORSKI asked and was given permission to revise and extend his remarks.)

Mr. KANJORSKI. Madam Chairman, I thank the ranking member for yielding me this time.

Madam Chairman, I will take just one second to congratulate the gentleman from Iowa (Chairman LEACH) and the gentleman from New York (Mr. LAFALCE), the ranking member, on a job well done, a number of years that everybody slaved over this. It is not a perfect bill, but I think we should support the bill and move it on to conference.

Now, I would like to engage in a colloquy with the gentleman from Louisiana (Mr. BAKER). Madam Chairman, I rise to engage in a colloquy with him about the Federal Home Loan Bank provisions contained in H.R. 10. As he will note, and as we have worked over the years, will there be an understanding that he and I will work in conference together to address issues to appropriately revise the REFCorp payments, put a cap on the class B stock that can be counted toward meeting the risk-based capital requirement, and that we should determine who should issue debt for the system, and finally to work on the issue advanced base stock purchase requirements for non-QTL members?

Madam Chairman, I yield to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Chairman, I certainly appreciate the gentleman's interest and wish to express my full cooperation on these matters and others that will be before us on the Federal Home Loan Bank. I congratulate the gentleman from Pennsylvania and thank him for all his courtesies and cooperation over the year in making this a reality.

Mr. KANJORKSI. Madam chairman, I want to thank the gentleman from Louisiana (Mr. BAKER) for his commitment to address these issues in conference.

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Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Madam Chairman, I thank the gentleman for yielding me this time, and in this colloquy with the chairman I would just say that it is this Member's understanding that H.R. 10 would not alter the definition of a diversified savings and loan holding company. Is this correct?

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Iowa.

Mr. LEACH. The answer to the gentleman's question is, yes, that is correct.

Mr. BEREUTER. I thank the chairman. In particular, it is this Member's understanding that under H.R. 10 insurance revenues will still not be deemed to be banking related for the purposes of determining whether a savings and loan holding company qualifies as diversified. Is this correct?

Mr. LEACH. If the gentleman will continue to yield, the answer to that question is also yes, that is correct, sir.

Mr. BEREUTER. Madam Chairman, I thank the gentleman for his comments.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. CROWLEY).

(Mr. CROWLEY asked and was given permission to revise and extend his remarks.)

Mr. CROWLEY. Madam Chairman, as a freshman congressman representing the financial capital of the U.S., I rise today in support of H.R. 10.

Madam Chairman, currently our financial services industry is governed by outdated laws and regulations which are costly and inconvenient to consumers and which have put the industry at a competitive disadvantage in the global marketplace.

Modernizing these outdated laws is needed to bring about the real benefits available to the millions of Americans who use financial services and to allow U.S. financial firms to remain the predominant force in global markets.

Madam Chairman, this legislation strikes a critical, unprecedented balance by providing a new financial services infrastructure aimed at keeping the United States competitive in the global marketplace while ensuring quality services and protections for consumers and communities.

Madam Chairman, I know many of my colleagues are disappointed that stronger privacy language was not included to protect the confidential medical and financial information of consumers. I understand and agree with their disappointment that the Committee on Rules did not rule in order many Democratic-sponsored amendments to protect consumers.

The underlying Banking Committee version is a good bill. Let us not lose sight of what we are trying to do.

Madam Chairman, we simply cannot afford to wait any longer to create a modern framework for U.S. financial corporations and our Nation's capital markets.

Failure to act now on financial services reform would send a terrible message to global financial markets, and constitute a clear danger to U.S. economic leadership in the world and so I strongly urge my colleagues to support passage of H.R. 10.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE), the former chairman of the Subcommittee on Domestic and International Monetary Policy.

Mr. CASTLE. Madam Chairman, let me just congratulate the gentleman from Iowa and the gentleman from New York for the wonderful and extraordinary work they have done on this. I rise in strong support of H.R. 10, the Financial Services Modernization Act of 1999, and I urge my colleagues to seize the opportunity to pass this historic legislation.

This legislation is not just years overdue, it is decades overdue. H.R. 10 will allow the marketplace to give American consumers more products and better choices to build a better financial future for them and their families. H.R. 10 will give American banks, insurance companies and insurance firms the opportunity to compete fairly in the international marketplace.

We are finally close to achieving the overdue goal of financial modernization. The President is ready to work with us to enact a law. We cannot falter now. This legislation will benefit American families and American business and maintain sound regulation. Seize this great opportunity. Pass H.R. 10. Let us move our financial laws out of the 1930s and into the next century. Vote ''yes'' on H.R. 10. It means a better future for our Nation.

To say that this legislation is long-overdue is a tremendous understatement. It is not just years overdue. It is decades overdue. Past attempts to pass financial services reform often failed because one industry group or another felt that past bills put them at a disadvantage.

While this legislative struggle has been going on, our constituents have been looking for new, efficient and affordable products to give their families financial security. We are long past the days when people were satisfied with a simple savings account or life insurance policy. Most Americans want to maximize their earnings and to find products that will give them the best return.

The financial services marketplace has been struggling to meet consumers needs within a regulatory structure that was created in the 1930s and 1950s.

Our Nation's banking, securities and insurance laws must be updated to face the challenges of the next century.

Over the past three years, Congress has moved ever closer to the goal of legislation that will benefit consumers and fairly balance the divergent interests of banks, insurance companies, insurance agents, and securities firms, as well as the federal and state regulators that oversee these industries.

As a member of the House Banking Committee, I have been directly involved in the work to modernize our financial services laws

since I came to Congress in 1993. I have to tell you it has been a difficult struggle to balance the competing interests of the banking, securities and insurance industries.

The legislation before us today, while not perfect, has finally won the endorsement of all major industry groups.

Now is the time to act. We must do this to benefit consumers who need a variety of financial products to help them plan for their economic futures. In addition, we must update these laws to allow our financial services providers to compete effectively in the next century.

The most important reason for supporting this legislation is that it will benefit every American seeking to improve their family's financial security by saving and investing more. This legislation will help them achieve that goal by making more savings and investment products available in one-stop shopping at competitive prices. In addition, the bill contains important disclosure and sales standards to protect consumers as they shop for these products.

This legislation will help consumers, but it will also benefit the businesses seeking to provide these financial products. It will enable banks, insurance companies and securities firms to affiliate and operate more competitively on a level playing field. It will expand the products that these financial services firms can offer to their customers, while maintaining adequate regulation to preserve the safety and soundness of the system.

Madam Chairman, as part of the long deliberations seeking to treat all financial services providers fairly, I have been particularly interested in assuring that national banks are permitted to compete fairly in selling and underwriting insurance products. Bank sales and underwriting of insurance will be good for competition and good for American consumers.

To be candid, the provisions in this legislation regarding banking and insurance are not perfect. I am sure representatives of the banking and insurance industries can tell you how they believe the provisions can be improved, but the fact of the matter is we have a workable compromise that will protect consumers and allow for improved and fair competition in how insurance is sold and underwritten by banks and their new affiliates.

Madam Chairman, on this floor last year, I said to my colleagues that this is historic legislation that has been a longtime in coming. That statement is more true than ever.

Overall, H.R. 10 is a well-crafted effort to make our financial services system ready for the 21st century and to meet the needs of American consumers and business.

This is our best opportunity in years to bring our financial laws out of the past and into the next century. The Senate has finally passed its own legislation and the President is ready to join us in enacting this legislation.

Every American who has a bank account, a mutual fund, or an insurance policy will have new opportunities and choices to help build financial security for their families. I urge my colleagues to take this historic step and pass H.R. 10 today.

Mr. LAFALCE. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) has 1¼ minutes remaining.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

(Mrs. BIGGERT asked and was given permission to revise and extend her remarks.)

Mrs. BIGGERT. Madam Chairman, I rise in support of H.R. 10 and thank the gentleman from Iowa for the opportunity to speak.

As a freshman member of the Committee on Banking and Financial Services, I was privileged to help produce in committee a bipartisan bill that will modernize our Nation's banking, insurance and securities industries. Over the past months I have heard from hundreds of my constituents in support of this monumental legislation.

H.R. 10 allows broad new affiliations among banks, securities and insurance companies. As our Nation and the world have progressed technologically, the distinctions between financial fields have eased. H.R. 10 reforms the outdated laws and regulations that add cost and inconvenience to consumers and restrict their choices for financial services.

Madam Chairman, H.R. 10 will allow our Nation's financial institutions, security companies and insurance industries to compete in the global marketplace. I am pleased that the Committee on Banking and Financial Services and the Committee on Commerce overwhelmingly approved this legislation. I hope that any snafus can be worked out in the near future, and I urge the support of the whole House.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Chairman, I thank the gentleman for yielding me this time; and I wish to extend my appreciation and congratulations on the job the chairman has done over the decade. He has committed himself to the goal of financial modernization. I do not think without his persistence this evening would have been possible.

I wish to speak tonight directly to the issue of what is in this bill for the small town bank. With all the discussions about op-subs, opting out, and privacy issues, there are a great deal of concerns that affect many people, but when it comes to the 9,000 small institutions across this Nation, I think it is important to point out that they are struggling like any other small business to survive. Often their product, money, is hard to come by. As banks merge and acquire one another, small town banks do not often have the partner down the street that can take part of that loan and help them extend credit in the local community.

The Federal Home Loan Bank provisions in this legislation provide an extraordinary new opportunity for small town banks. For banks in asset size under $500 million, which is about 85 percent of the banks in America, they can now go to the Federal Home Loan Bank and get credit. And get this: Fixed interest rates for up to 15 years; and now for small business and agricultural lending purposes.

With the passage of H.R. 10, we are opening up small town America banks to the Federal Home Loan Bank credit window and giving them the opportunity to meet the needs of working people, small businesses and farmers across this country.

I think it is high time we do something in this Congress for those small banks which have been too long ignored and neglected. And in this process tonight, due to the leadership of the gentleman from Iowa (Mr. LEACH), we are going to meet this important community need. I congratulate him and the ranking member on what I think will be an important, successful night when we pass H.R. 10.

Mr. DINGELL. Madam Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Madam Chairman, I regretfully say that I must oppose this bill. This bill is an abject total failure to deal with the issue of telemarketing by affiliated telemarketing firms.

Imagine this: Aunt Emma inherits $10,000. She puts her $10,000 into her trusted bank. Should that banker be able to call their affiliated telemarketing company, tell them that Aunt Emma is a ripe target to sell some hot stock or annuity, and allow them to call her at 6 o'clock at night and interrupt her watching Jeopardy to sell her that? And the answer is, ''no,'' they should not be allowed to do that if Aunt Emma does not want it.

Now, why is this important now? Some people have said we have moved ahead a little on third parties, but we are creating an entirely new species of telemarketer here. We are creating an entirely new species with H.R. 10 of affiliated firms. And if we are going to create the Tyrannosaurus rex of telemarketing, we ought to tame that before we create the species.

Today is the time to tame that. Today is the time to reject this, go back, and protect the rights of privacy of our constituents.

Mr. DINGELL. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. LUTHER).

Mr. LUTHER. Madam Chairman, I thank the gentleman from Michigan for yielding me this time, and I rise in opposition to this bill.

Let me tell my colleagues a little bit about my home State of Minnesota's unique experience with financial privacy rights. Less than a month ago, Minnesota Attorney General Mike Hatch filed a civil suit against a large financial institution for allegedly selling its customers confidential information to a telemarketer. Of course, the bank's customers had no idea their financial data was being handled like this, and they never would have dreamed of it. The public reacted very strongly upon learning the information.

This week that case was settled, only after a few weeks, on terms very favorable to Minnesota consumers and very

similar to the Markey-Dingell-Stupak amendment.

I would simply ask my colleagues this: Should the consumers of America be entitled to anything less than what the Minnesota Attorney General obtained for Minnesota consumers after only a few weeks?

I urge my colleagues to oppose this bill. All Americans deserve real privacy protections, and they deserve them now.

The CHAIRMAN. The Chair would propose to recognize Members for final speeches in reverse order of their original allocations of time under the rule, to wit: The gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. LAFALCE), and the gentleman from Iowa (Mr. LEACH).

Mr. DINGELL. Madam Chairman, I yield myself the balance of my time.

Let us talk about medical privacy. The Secretary's recommendations on this matter would explicitly preserve existing State laws that provide for essential privacy protection. H.R. 10 implicitly overrides them. With few exceptions, the Secretary's recommendations would require consent before medical records could be disclosed. H.R. 10 permits extensive disclosure without consent. Indeed, there are two pages of exceptions in the rule and in the bill.

The recommendations of the Secretary would prohibit unauthorized disclosure of medical records to insurance companies for underwriting purposes, to credit agencies and to banks. H.R. 10 expressly allows such disclosure. The Secretary's recommendations would require that any authorization to disclose medical records be truly voluntary. H.R. 10 permits the insurers to coerce consent by saying they will refuse the right to insurance unless that disclosure takes place.

H.R. 10 provides no safeguards ensuring only genuine medical research projects attain access to medical records. The Secretary's recommendations would include express protection in that regard.

The Secretary's recommendations would hold third parties responsible for medical information that they receive. H.R. 10 allows third parties to disclose medical information to anybody.

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Mr. LAFALCE. Madam Chairman, I yield myself the balance of my time.

First of all, I would like to thank the staff of the Committee on Banking and Financial Services, the majority and minority staff. The majority acted in a very bipartisan way. Our minority staff, Jeanne Roslanovick, Rick Maurano, Dean Sagar, Tricia Haisten, Kirsten Johnson, Patty Lord, and so many others were just terrific. We would not be here without them.

Secondly, I would like to point out that there is a Statement of Administration Policy. The administration supports the bill that is on the floor today, but it has some very serious reservations, reservations that are very similar to those I expressed.

They strongly favor the bipartisan privacy amendment that the gentleman from Texas (Mr. FROST), the gentlewoman from Ohio (Ms. PRYCE), myself, the gentleman from Minnesota (Mr. VENTO), the gentleman from Iowa (Mr. LEACH) and others have worked out so strongly. They are terrific privacy.

They strongly oppose the medical privacy language of Ganske and want that deleted. They strongly oppose the Paul-Barr-Campbell amendment, et cetera. They strongly object to the fact that the Committee on Rules did not permit the Lee anti-redlining amendment.

So, in sum, the position of the administration and the position that I have expressed have been virtually identical. They would like us to go forward but only if certain amendments are defeated and only if certain provisions within the bill are cured in conference.

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me just first thank all associated with this process. My colleagues have had varied perspectives, and this is a very controversial bill. The staff has been extraordinarily professional. I personally believe that the committee staff that the gentleman from New York (Mr. LAFALCE) and I have is as good a staff as any in the history of the Congress.

We have also enjoyed working with the committee staff of the Committee on Commerce, which does not quite meet that standard, because we have the highest standard, but we appreciate working with the committee staff of the Committee on Commerce.

Let me also say that there are some perspectives that have been presented in a contrasting way that on many of the underlying philosophical aspects there is total consensus in this body. The intent of this legislation is dramatic in the area of privacy. It will be inconceivable to bring forth a law that will do anything except bolster privacy. There is no intent in this law of any nature to undercut executive discretion, which may arise later this summer if certain follow-on legislation does not arise in a timely fashion from another committee of jurisdiction.

In any regard, I am personally convinced that, in any historical landscape of consideration, this is the right bill at the right time. There will be nuances that we will all disagree about. But the framework is to present a financial community that will be second to none in the world, a financial community that will serve the American consumer and be so competitive and broad that it will help bring American financial practices and models to the rest of the world. So this bill is designed to look to the next century in such a way that finance will serve rather than be the servant of the people of the world.

I urge support of this bill. I personally believe that we can go forth. To the degree there are nuances that need to be corrected, I assure my colleagues they will be.

Ms. STABENOW. Madam Chairman, I rise today to explain my vote on the Bliley amendment to H.R. 10, the Financial Services Act of 1999. While I support the efforts of my colleague, Mr. BLILEY, to add new protections for victims of domestic violence, I object to the second provision in his amendment regarding mutual insurance companies.

One of my top priorities as a legislator here in the House and when I served in both the Michigan House and Senate, has been to help the victims of domestic violence. Last year I introduced two bills to help victims of domestic abuse, H.R. 3901, Arrest Policies for Domestic Violence and H.R. 3902, Court Appointed Special Advocates for Victims of Child Abuse.

I strongly support the first provision in the Bliley amendment that would prohibit banks from discriminating against victims of domestic violence in providing insurance. This provision expressed the Sense of Congress that all states should enact laws prohibiting such discrimination. This kind of discrimination must be stopped so that victims of domestic violence take the necessary steps toward financial and personal freedom. Had I been given the opportunity to vote on this provision of the amendment separately, I would have voted in favor.

Unfortunately, I was compelled to vote against the Bliley amendment due to the language in the second provision regarding mutual insurance companies. This language would permit mutual insurance companies to relocate from one state to another and to reorganize into a mutual holding company or stock company. This would permit some companies to operate outside the important safety net of state regulation. Therefore, in an effort to protect consumers, I voted against the Bliley amendment.

Mr. POMEROY. Madam Chairman, I am reluctantly voting yes on H.R. 10. It needs work—a lot of work—in conference committee to fully establish functional regulation of insurance in state insurance departments.

In light of assurances I have received from the Banking Committee Chairman and Ranking Member to revisit the concerns I have advanced in this regard I will vote for the bill to keep the process moving forward.

We desperately need financial services modernization, but it is vitally important the legislation establishing these reforms get it done right.

Mrs. CAPPS. Madam Chairman, tonight I will vote against H.R. 10.

I do this with great disappointment because I truly believe that we must modernize our woefully out-of-date financial service laws.

Modernizing these laws would create a more efficient financial service industry and bring greater choice and lower prices for consumers.

But I cannot in good conscience support this legislation. The so-called medical privacy provision endangers consumer privacy protection by allowing their sensitive health information to be sold.

I hope to work with my colleagues to tighten these provisions during conference so I can support a financial services bill that does not endanger patient privacy.

Mr. GONZALEZ. Madam Chairman, I am disappointed that the Rules Committee did not allow me the opportunity to offer on the floor the amendment on title insurance. I hoped to be able to explain the treatment of title insurance in the bill and ensure the protection of Texas state law.

The title insurance section of H.R. 10—Section 305—generally prohibits national banks from underwriting or selling title insurance, either directly or through a subsidiary. There is a grandfather clause (Section 305(c)) that enables any national bank or national bank subsidiary currently engaged in title insurance sales activities to continue to engage in those activities. National banks would remain free, however, to underwrite and sell title insurance products through affiliates. The core prohibition on national bank and national bank subsidiary title insurance sales activities is based on the idea that there are problems associated with bank sales of title insurance. These are real problems, and I thought that the best way to address them was to limit bank-related title insurance activities to their affiliates. This was why I originally offered the amendment that was adopted by the House Banking Committee to require that title insurance sales be done only through affiliates.

Section 305(b) of this bill has a ''parity'' exception that grants national banks parity with state-chartered banks in the sale of title insurance. The intent is to grant national banks in a State the power to sell title insurance products in the same manner and to the same extent as state-chartered banks that we actually and lawfully engaged in title insurance sales activities in that State. My amendment would simply have made it clear that Section 305(b) was a true parity provision. It would have made clear that national banks could sell title insurance products in a State only if state-chartered banks are actively and lawfully engaged in title insurance activity on the date of enactment. Alternatively, national banks could sell title insurance if a state expressly authorizes bank title insurance sales for national banks. Therefore, if the State legislature has not expressly authorized title insurance sales as a lawful power for its State banks, but has some other general statutory provision that might be interpreted as an authorization (but does not explicitly do so), that other general provision would not trigger parity rights for national banks. I thought this clarification was necessary because it is only in states where state legislatures had actually considered these problems that the unique problems associated with bank title insurance sales activities have been addressed.

Texas State insurance law is very important to me, and I hope this clarification can still be made at some point during the consideration of the bill.

Mr. PAYNE. Madam Chairman, I rise to express my strong support for the Community Reinvestment Act which has helped ensure fair and equal access to capital and credit. We all strive for the American dream of home ownership and many of us aspire to start our own businesses. But that dream is out of reach for some in our society because there are financial institutions which discriminate against minorities living in working class neighborhoods.

Fortunately, blatant discrimination in lending is declining, and homeownership and small business opportunities are on the rise. Much of this progress against so-called ''relining'' can be attributed to the Community Reinvestment Act. Under CRA, federal banking agencies grade lending institutions on how well they meet the credit and capital needs of all the communities in which they are chartered and from which they take deposits.

In my own state of New Jersey, CRA has helped provide more than $8 billion in discounted mortgages, discounted home improvement loans, loans to small businesses owned by women and minorities and loans and investments for community and economic development. Many people who never thought it would be possible to own their own home have succeeded through programs made possible by the Community Reinvestment Act.

Madam Chairman, let's help make the American Dream a reality for millions of Americans by continuing to support a strong CRA.

Ms. ROYBAL-ALLARD. Madam Chairman, I rise in opposition to H.R. 1. Rather than updating our antiquated banking laws and bringing the United States financial system into the 21st century, H.R. 10 will leave consumers and our communities more vulnerable than ever before.

Why should we allow for the unprecedented conglomeration of banks, securities firms, and insurance companies while at the same time we ignore the most modest provisions to protect our consumers?

I am opposed to H.R. 10 for a number of reasons:

H.R. 10 is missing important community reinvestment provisions. Specifically, the bill fails to extend the Community Reinvestment Act—the CRA—to the banking activities of nonbank financial institutions that seek to affiliate with banks. In other words, if credit card companies, securities firms or insurers would like to offer traditional banking products such as checking accounts or loans, they should be subject to the CRA. Why should we make it easier for banks, brokers and insurance companies to merge without simultaneously modernizing and expanding the CRA?

The CRA has averaged billions of dollars of investment into communities such as mine, where unemployment and poverty levels are still well above the national average. Low-income families, small businesses and small farmers have all benefited from the CRA through increased opportunities to purchase a home, and obtain start-up and business expansion loans. Let's strengthen it, not weaken it.

H.R. 10 fails to crack down on insurance redlining. Missing from this bill is a modest, consumer-friendly provision, authored by my colleague BARBARA LEE, which would combat redlining of neighborhoods by insurance companies. Excluding this provision will once again leave vast segments of our urban and rural communities vulnerable to discriminatory lending practices by some unscrupulous insurance companies.

H.R. 10 isn't friendly to our thrifts and severely limits their viability. The bill grants the Federal Reserve significant and perhaps unwarranted new regulatory authority over unitary thrift holding companies. Thrifts have been critically important in serving the financial needs of low income and minority communities, particularly in the area of mortgage financing. Threats to the thrift charter would, therefore, disproportionately impact low income and minority communities.

H.R. 10 permits the unprecedented preemption of stronger consumer-friendly state laws thereby undermining state authority and harming consumers. Under H.R. 10, progressive State banking laws such as those requiring low-cost checking accounts or prohibiting ATM surcharges would be weakened.

H.R. 10 fails to provide strong financial and medical privacy protections. If we're going to allow H.R. 10 to accelerate mergers, create mega one-stop centers with access to information about millions of customers, we need to stop information from being disclosed to third parties and affiliates. Anything less is unacceptable.

Certainly, we need to preserve America's financial leadership as we approach the 21st century.

Certainly, we need to update our archaic laws so that U.S. companies are not at a competitive disadvantage in the global marketplace.

Certainly, we should promote convenient and affordable one-stop shopping for consumers in order to meet all of their financial needs.

But not at the expense of consumer privacy. Nor at the expense of the Community Reinvestment Act.

I am not willing to trade the so-called perks of financial modernization—efficiency, choice, convenience, one-stop-shopping—for the decimation of privacy rights and community reinvestment. It's that simple.

Our nations consumers should be our number one priority as we contemplate the merits of H.R. 10. Unfortunately, H.R. 10 doesn't meet this threshold. I urge my colleagues to oppose this bill.

Ms. MCCARTHY of Missouri. Madam Chairman, I rise today in opposition to this measure, H.R. 10, as put forth by the Rules Committee. I support financial modernization, but the current bill fails to achieve the goals set out by both the Banking and Commerce Committees. We can do better than the measure that we are considering this evening. The committee efforts were solid and established a procedure for consensus. The Rules Committee refused to allow the consideration of key amendments vital to financial modernization so that opportunities for investment and savings continue fairly, and fair pricing practices and misuse of private information essential to consumers are assured.

In the Commerce Committee on which I serve, agreement was achieved on issues such as consumer privacy, state regulatory authority, and the Community Reinvestment Act (CRA). The bipartisan resolution was altered by the Rules Committee to preempt important language to protect consumers against unfair lending, ATM surcharges, and check cashing charges. Further, the measure now preempts essential state insurance laws across the country, including requirements that insurance companies pay legitimate claims in a timely manner, invest premiums paid by insurance consumers in a prudent and safe manner, and contribute to state funds established to guarantee the solvency of insurers.

The measure before us no longer includes full disclosure requirements allowing consumers to control how their financial information will be used, transferred, and shared. Consumers should have confidence that personal information shared with their insurer will be kept confidential. To achieve this goal, the

need to safeguard consumers' personal and medical information must be balanced with the need to allow financial institutions, including insurance companies, to efficiently provide services to consumers.

The measure under consideration does not proactively address the issue of insurance redlining. Allowing banks and insurance companies to discriminate against consumers for any reason is unacceptable. Violating fair housing practices should be addressed—this is a glaring omission in the bill.

Finally, as written, this measure will sanctify the ability of the Comptroller of the Currency (OCC) to override state consumer laws and allow national banks to ignore essential consumer protections, such as unnecessarily high prices on checking accounts and prepayment penalties when consumers sell their homes and pay off their mortgages. Further, we must address the issue of operating subsidiaries. Consumers are easily confused and unfairly targeted when subsidiaries are allowed to coexist with traditional banking services. Further, the Securities Exchange Commission (SEC) and not the Comptroller should regulate these entitles, to ensure that consumers are properly protected. The OCC's focus is on the safety and soundness of investments, while the SEC focuses on consumer protection.

Each of our lives are impacted daily by financial transactions—when we write a check, have our paychecks directly deposited, pay our bills, buy something over the Internet, purchase a house, or invest for our retirement. We must successfully address and modernize the procedures to safeguard consumer rights and prevent the inappropriate use of personal information.

I will continue my advocacy for the proper balance between consumer privacy and economic growth and hope the measure improves so that I can support passage following Conference Committee efforts.

Mr. WEYGAND. Madam Chairman, I rise in support of H.R. 10, the Financial Services Act of 1999.

I believe the House Banking Committee, of which I am a member, has done an admirable job at balancing the many differing views and opinions on how to structure financial services reform. I commend Chairman LEACH, Ranking Member LAFALCE, and their staffs for all their hard work in bringing what I believe is a balanced approach to financial services reform to the floor.

Mr. Speaker, I have previously stated that there are two fundamental questions to ask when considering the type of financial services overhaul we are debating. First, what effect will this legislation have on consumers? Second, what effect will the same legislation have on U.S. financial institutions' ability to compete in an ever increasing global market place?

In my view, this bill that makes significant progress on a number of consumer issues. First, the bill we have before us preserves the integrity of the Community Reinvestment Act (CRA). In fact, as a requirement of affiliation, a financial holding company must have and maintain at least a satisfactory CRA rating. Additionally, this bill extends CRA requirements to any newly created Wholesale Financial Institution. This language will ensure that financial institutions continue to invest in those communities from which they take deposits. This investment is crucial in order to meet the credit and lending needs of traditionally underserved communities. The fact is, CRA has provided thousands of families and entrepreneurs with the credit they needed to buy a home or start a business. CRA works. I urge my colleagues to support the CRA provisions in this bill and oppose any potentially weakening amendments.

Second, the bill addresses the important matter of financial privacy. During the Banking Committee's consideration of H.R. 10, I cosponsored an amendment with Mr. INSLEE, of Washington, addressing financial privacy. That amendment would have provided consumers with the ability to 'opt out' of information sharing by their financial institution. Ultimately, our amendment was defeated. However, due to the hard work of Mr. INSLEE, his staff, and the Banking Committee we are taking positive steps toward protecting consumers personal financial information.

This bill also requires greater disclosure of policies, procedures, risks, and costs of certain transactions, including ATM fees. It requires disclosure of existing privacy policies, contains strong anti-tying and anti-coercion provisions, and includes the requirement to disclose what products are federally insured and which ones are not. All of these are proconsumer and make good business sense.

However, I am concerned about one glaring omission from this bill. The House Banking Committee approved an amendment that would have prevented the practice of insurance redlining in low-income communities. Redlining is a practice that strikes at the very heart of what we should be opposing—discrimination based on your neighborhood or income level.

The second concern I have with this bill, as it is before us today, is with the potential disclosure of medical or health information. I believe that there should be strong firewalls established between affiliates or operating subsidiaries as it pertains to the exchange of medical or health information. When a person shares private medical information with an insurance company they should have every assurance that whatever information is shared is not then given to the bank or securities company that happens to own or is affiliated with that insurance company.

It is my sincere hope that as this bill moves to conference with the Senate we will continue to make progress on protecting individuals' private medical information. I also hope that we can reinstate the Banking Committee provision that would prohibit insurance redlining.

H.R. 10 will indeed make U.S. financial institutions more competitive and assist them in remaining leaders in the world financial marketplace. It will remove antiquated barriers to expansion and competition. It will also allow financial institutions to take advantage of new technologies, economies of scale and scope that will result in efficiencies providing consumers with greater choice at lower costs.

Developing this financial services modernization bill has been a long and difficult process. What we have before us today is a carefully constructed, balanced bill that will make our financial services industry more competitive, provide consumers with more choice, and takes several positive steps regarding consumer protections. This bill deserves our support.

Mr. BLUMENAUER. Madam Chairman, I support the modernization principles in this long overdue financial legislation. It has been years in the making and this legislation is about as good as it is going to get. On balance, it will improve the competitiveness of our financial system and provide more choices for consumers.

There has emerged a growing concern about protecting the privacy rights of Americans. These concerns are independent, but related to financial services. Privacy is a major issue in business practices generally and in the health care system in particular. I am disappointed that the Republican Leadership did not allow several provisions to be discussed that would have strengthened the protections and I believe they would have made H.R. 10 a better bill. Nonetheless, these concerns are not going to go away. They will be a part of the Patients' Bill of Rights legislation and may be the subject of a comprehensive stand alone bill that will spell out what protections Americans can expect from their government regarding sensitive and personal data.

Even though we were denied an opportunity to deal with these issues in connection with H.R. 10, I hope the attention and the controversy will spur this Congress to action and that we will not adjourn until we provide a vehicle for understanding the rights and responsibility surrounding individual privacy.

Mr. EWING. Madam Chairman, I rise today in support of H.R. 10. While many of us have reservations about some sections of H.R. 10, I believe that the House needs to pass this legislation to begin the process of modernizing outdated, Depression-era laws that separate the financial services industry. These changes are long overdue.

However, I would hope that the conference takes a hard look at the so-called parity provision that was added to Section 305 by the Commerce Committee. This parity provision would grant title insurance sales authority to any national bank or its subsidiary located in a state in which state-chartered banks have such authority. I believe that the adoption of any such parity provision is unwarranted.

For instance, individual consumers purchasing homes and refinancing their mortgages will have to pay for title insurance, and under the current language in this bill, will pay a bank-owned agency to insure the bank and basically your home. A national bank should be prohibited from engaging in title insurance sales activities in a State unless the state-chartered banks in that State are explicitly authorized to engage in title insurance sales activities. H.R. 10 should require that subsequent to enactment of the bill, states must explicitly authorize state banks to sell title insurance.

Congress has always set the parameters for the exercise of national bank powers and there is no reason to depart from that traditional approach in this context. Moreover, adopting such an approach would ignore the unique issues related to bank sales of title insurance that mandate the confinement of such activities to bank affiliates. Simply stated, I think we should leave it up to the individual States to decide what best suits their banking and title insurance agents and not Washington, D.C. There is a very unique relationship that currently exists and this provision would significantly endanger the title insurance agents across the nation.

I am also concerned that the unique needs of independent bankers are not fully accounted for by H.R. 10. This issue should be

resolved in conference, so that independent bankers will be able to continue to provide their crucial services to their communities.

In conclusion, I would like to express my support of H.R. 10 and urge my colleagues on both sides of the aisle to support the passage of this legislation.

Mr. DAVIS of Illinois. Madam Chairman, I take this opportunity to express my support for H.R. 10, although reluctantly. In spite of and notwithstanding the good premises of this bill, I am concerned that it does not go far enough in its protection and/or expansion of Community Reinvestment. I represent one of the most diverse districts in the nation, the 7th District of Illinois. It contains many of the very wealthy and many of the very poor. Moderately stable, upscale and low-income communities, sixty-eight percent of all public housing in Chicago. Community Reinvestment requirements have been a pipeline and a lifesaver for the inner-city south and westside of my District. It has saved communities and revitalized neighborhoods. It is amazing to me that, as we debate such a revolutionizing, and modernizing bill, that this House has failed to use this opportunity to elevate the Community Reinvestment Act to its appropriate level.

Since its enactment in 1977, the CRA has made sure that our banks would reach our country's poor communities. At the time of CRA's enactment, banks and thrifts held ⅔ of all financial industry assets, today that number has fallen to ¼ of financial assets. This steady erosion of CRA's financial base has the possibility to threaten the future of the Act's effectiveness. Today, the specter of reduced CRA effectiveness looms over H.R. 10. This bill could allow banks to move their money into their securities and insurance affiliates where the CRA cannot reach.

In my district, where nearly 175,000 individuals live at or below the poverty level, CRA has been the most effective means by which they have been able to purchase their home, or start their own business. But now, as a result of H.R. 10's failure on the CRA, banks' ties to the local community will be diminished, and the needs of the poor may not be met. For those living in places like the West Side of Chicago, maintaining a strong CRA will make all the difference in world.

Though I agree that the time has arrived to tear down the walls that divide the banking, securities, and insurance industries, there is no reason that the new conglomerates that this bill will spawn should not also be subject to CRA. Though H.R. 10 does not include any changes that will specifically alter CRA, without being amended, H.R. 10 can deteriorate the financial base of CRA coverage. That a basic banking service, whether offered through a parent bank or through a subsidiary bank or a bank holding company, should affect its coverage under the CRA does not make sense. Even if we pass H.R. 10 in its current form, we must recognize a need to expand the current CRA laws to include all institutions that are engaged in banking practices so that CRA's effectiveness in revitalizing low income communities will never be diminished. As long as I am a member in Congress, I will stand guard over the CRA and make sure financial service companies respect the intent and purpose of the CRA.

Mr. COYNE. Madam Chairman, as we consider the legislation before us today, I want to express my strong support for the Community Reinvestment Act.

Thanks to the CRA, many families and small businesses across the country have gained meaningful access to credit for the first time. Nationwide, more than one trillion dollars has been invested in traditionally underserved neighborhoods as a result of the CRA.

I strongly support efforts to apply the CRA's requirements to the banking activities of non-bank financial institutions which seek to affiliate with banks. I deeply regret that the Rules Committee has not made such an amendment in order.

I urge my colleagues to work with me as Congressional action on financial services legislation proceeds to ensure that the CRA will continue to promote equal access to credit.

Mr. BOEHNER. Madam Chairman, I rise in support of this landmark legislation. In one great cascade, it washes over decades of obsolete law, Congressional inattention, and regulatory creep to give us a modern and prudent legislative framework for one of our most important and dynamic industries. I believe it's the most important bill we'll debate this year, and I strongly urge its passage.

In a bill this complex, it's easy to miss the forest for the trees. But the broad direction is what's most important. Our nation's financial services sector is the irrigation system for our economy. By allowing for the quick and efficient flow of cash and of capital, it provides the fuel that the rest of our economy needs to grow. By calculating and allocating risk effectively, it minimizes the harm that sudden distortions can do. And by providing a variety of savings, investment, and insurance vehicles for our citizens, it allows us all to plan and work for a secure retirement. Much is made of the dynamism of the so-called high-tech sector, and its growth has been truly phenomenal. But without a vibrant, stable, and innovative financial services marketplace, many of these high-tech firms would still be languishing on someone's chalkboard.

We have the most dynamic and competitive financial service sector in the world. And that's why we have to pass this bill. Because the industry has so outgrown our Depression-era regulatory framework that soon, the framework will be irrelevant. And because our competitors are catching up by passing modernized financial service laws of their own. Unless we act here today, we may find ourselves ceding our dominance in this critical market to our foreign competitors.

How does the bill accomplish this? Again, the broad strokes are the important ones. First, functional regulation. Conduct should be overseen by regulators who understand it. That means that securities activities should be supervised by securities regulators, even if they're performed by a bank. It means banking activities should be regulated by banking authorities, and insurance activities by insurance authorities. Functional regulations means that proper regulators can see the warning signs of instability early enough to head it off. Writing a functional regulatory structure is far more difficult, however, than simply describing one, and the chairmen of the Banking and Commerce committees have done a superb job.

Second, the bill reflects the marketplace fact that banking, securities, and insurance underwriting all have far more in common than not. All essentially reflect the same functions—calculating and allocating risk, accumulating and investing capital. Keeping them apart makes little sense economically, and so for the first time in 66 years, the bill lets them affiliate. In good times, this means more innovation, greater efficiency, and better products. In bad times, it means that their risks will be diversified, protecting our economy and our taxpayers from the failure of financial firms.

Third, it mixes this new flexibility with prudence. We've learned from Japan that we need to go slow on mixing banking and commerce. Let's see how we do with affiliation first, then return to the question of commerce and banking.

And fourth, it's politically viable. We all know the controversy that has always surrounded this bill. With industry groups historically fighting each other for every advantage, it's no surprise that over the last 22 years this bill has failed 11 times. But this bill, building on the work of last year's, has the support of the broadest financial services coalition yet.

Madam Chairman, in closing I want to congratulate my friends the gentlemen from Iowa and Virginia, the chairmen of the Banking and Commerce Committees. This is a huge accomplishment for this Congress and for them personally. It's a testament to their leadership and, given the history of this issue, it's a testament to their character that we're here today to debate and pass this bill. I admire them both.

Madam Chairman, I strongly support H.R. 10, the Financial Services Act of 1999. It is the right bill at the right time for our financial services industry, for its consumers, and for our entire economy.

Mr. STARK. Madam Chairman, lawmakers casting a ''yea'' vote today on the Financial Services Act, H.R. 10, are making a fundamental error. They are effectively voting to strip millions of Americans of a basic right: the ability to exercise meaningful control over who sees their most sensitive information. Title III, Subtitle D, Section 351 of the bill gives insurers extensive ability to disclose medical information without a consumer's consent.

If this provision is enacted into law, it will create legal chaos. As written, it appears to overlay myriad state medical privacy laws that regulate disclosure and access.

Does it make you feel ill to know that under H.R. 10, a travel insurance agent could peruse your medical records? Does it make your blood pressure rise to know that under H.R. 10, auto insurance companies could use medical data to raise your family's rate? And that any insurer, as well as its affiliates and subsidiaries, would be legally authorized to share sensitive, personal information with credit reporting companies?

Unless lawmakers appointed as conferees for H.R. 10 take action to strike the bill's medical privacy provisions, American consumers will wake up to find that the insurance industry—which makes most of its money through underwriting to reduce financial risk—can disclose their medical data without authorization in many, many circumstances. And that's plainly wrong.

It's also disturbing that the majority leadership has done next to nothing to advance comprehensive medical privacy legislation in the House of Representatives. Title V of the 1998 GOP managed care bill, H.R. 4250, featured sorry medical privacy provisions that were roundly condemned by consumer groups and privacy advocates through the country.

Now the August deadline for action set three years ago by the Health Insurance Portability and Accountability Act is fast approaching. It is my hope that a coalition of members to work together to produce medical confidentiality legislation that is at least as strong as the 1997 recommendations developed by the HHS Secretary—with one notable exception. The Secretary's recommendations proposed no additional restraints on access to medical data by law enforcement officials in the form of a subpoena or court order requirement. That is a position with which I strongly disagree.

It is not too late to enact sound medical privacy legislation that puts federal protections in place for consumers across the country, while leaving stronger state laws in place and allowing states the flexibility to add additional protections for those customers of the future who find themselves afflicted with as-yet-unknown disorders, and who, as a result, also suffer discrimination.

Enactment of H.R. 10's medical privacy provisions would not only eradicate many existing medical privacy protections, but also hinder the HHS Secretary's ability to promulgate regulations under HIPAA if Congress does not act by next month.

Madam Chairman, we must not do this. The consequences for consumers are far too grave.

Mr. FALEOMAVAEGA. Madam Chairman, H.R. 10 is about as complex a bill as we address in this house. The bill has been in the making for years, and at times it seemed impossible to get a majority of the Banking Committee, let alone the full House, to agree on its contents.

Mr. Speaker, I know H.R. 10 remains a controversial bill, with supporters on both sides of many issues. Without getting into the more controversial issues, I do wish to comment on Section 162 contained in the subtitle entitled ''Federal Home Loan Bank System Modernization''. Among other technical amendments, this section adds American Samoa and the Commonwealth of the Northern Mariana Islands to the provisions of the Federal Home Loan Bank Act.

The condition of much of the private housing in American Samoa is deplorable. Too many people are forced to live without electricity and running water, and many structures could not withstand gale-force winds, let alone the hurricane-force winds which blow through Samoa on a regular basis. With an annual per capita income barely over $3,000, and interest rates on commercial home loans in the 13%–14% range, there is very little new construction or refurbishment of housing in American Samoa.

To partially address this problem, Public Law 102–547 created a pilot program through which Native American Samoan veterans, and other Native American veterans, could obtain home loans at moderate rates, and the response in American Samoa has been overwhelming. Unfortunately, this pilot program is available only to a small segment of the population residing in American Samoa.

During the first five-year authorization of the VA pilot program, to the best of my knowledge, no loan went into default and needed to be assumed by the Department of Veterans Affairs. I believe there is now a sufficient track record for private lenders to feel comfortable in making residential loans in American Samoa.

There is interest within the banking industry in American Samoa to be included in the Federal Home Loan Bank program, The Amerika Samoa Bank, a local bank, is on record in support of including American Samoa in this federal housing program and is looking forward to obtaining access to a source of long-term, low-interest funding to make home loans.

The number of complaints I receive from constituents in American Samoa concerning the cost of home loans will further attest to the need for loans at affordable interest rates in this remote, rural area.

Last year, the Federal Housing Finance Board issued a final rule including American Samoa within its regulations. I am appreciative of the willingness and efforts of the Federal Housing Finance Board to include American Samoa and the Commonwealth of the Northern Mariana Islands within its regulations, and that administrative action has been working well; however, this statutory amendment will ensure a more permanent solution.

In the 105th Congress I introduced H.R. 904, a bill which would clarify that American Samoa is included in the Federal Home Loan Bank Act. That provision is a part of Section 162 of H.R. 10, and I strongly support that provision.

Mr. SANDLIN. Madam Chairman, I rise today in support of this bill.

Financial modernization is already occurring. Innovation and technological advances are allowing financial services firms to offer customers a wide range of new products and thus increasing competition and benefitting consumers. These changes are occurring globally and dramatically changing how financial services providers operate and deliver their products. In the United States, however, burdensome regulatory barriers are hindering the efforts of our financial institutions to compete globally through the development and delivery of new financial products.

The buttom line is simple, financial modernization is necessary and will continue as a result of market forces, even in the absence of legislation. However, the success of American firms, and ultimately, the strength of the American economy, depend on a good bill—one that will ensure that financial modernization occurs in an efficient manner and protects the interests of customers as well as the safety and soundness of our financial system.

But as we debate these important issues and work to modernize the way our financial services firms do business, we must remember our community banks. In East Texas, people trust their community banks and know their local bankers. We have recognized that these institutions are an integral part of rural America and that we must not overlook them or jeopardize their future in any way as we undertake this monumental legislation. I believe that this bill addresses these needs—the needs of Main Street as much as Wall Street—and I urge you to cast your vote in support.

Mr. NEY. Madam Chairman, I rise today in support of H.R. 10, The Financial Services Modernization Bill of 1999. As a supporter of this bill, I want to send a message to the Office of the Comptroller of the Currency, on behalf of the Members who worked so hard to obtain passage of this much-needed legislation.

This bill for the first time allows the true marriage of insurance, banking and securities. The principle behind the bill is functional regulation, the activities of any entity should be regulated by function. So when a bank engages in insurance activities, those activities should be regulated by insurance regulators, not banking regulators. The same holds true for securities activities.

The bill seeks to craft a balance between Congress' authority to grant banks certain powers and the States' authority to regulate certain activities. This balance is particularly delicate in the context of state regulation of the insurance sales activities of banks and their affiliates. Section 104 of the bill sets up a fairly complex scheme, designed to allow states to regulate insurance activities without substantially interfering with banks' ability to sell insurance. While the bill affords states a certain amount of certainty regarding what is permissible regulation, through a creation of safe harbor, it leaves much to potential challenge. As the bill makes clear, our creation of a safe harbor is not intended to establish any kind of inference regarding the permissibility of state insurance laws that fall outside the safe harbor.

As a result of this legislation, federal banking regulators and state insurance regulators will work together cooperatively in the best interests of the public. This positive relationship should be given an opportunity to develop. What we do not want to see is aggressive moves on the part of the OCC, or other federal banking regulators, to displace state insurance laws and regulations applied to banks. This legislation is designed to foreclose the OCC's opportunity to do that.

Mr. PACKARD. Madam Chairman, I would like to issue my support for H.R. 10, the Financial Services Act of 1999. This legislation will allow citizens more control of their own money, not Washington bureaucrats.

H.R. 10 enhances competition in the banking and financial service markets. As the law stands today, the financial sector has to comply with regulations set up after the Great Depression. This has to change. The Financial Services Act will allow American companies to enter the new millennium on an equal standing with financial businesses around the world.

The Financial Services Act will benefit each individual who uses a financial institute. Increasing free trade inside the financial sector ensures higher quality services and lower prices. The government is already far too involved in the lives of private citizens. This legislation will increase choices and services for the American people.

Mr. Speaker, the Financial Services Act will ensure that American companies continue to lead the world in the financial sector. I urge my colleagues to support its passage.

Mr. BONILLA. Madam Chairman, I rise today in support of our community leaders, America's bankers. Everyday, America's bankers serve their communities whether it's through lending to home buyers, supporting small businesses or even softball sponsorships. Still, if their actions don't fit into the arbitrary mandates of the Community Reinvestment Act, banks are strapped with large fines and their good deeds go unnoticed.

Banks are the primary engines for small business lending everywhere. Banks, especially small banks, invest in their communities and reflect their communities. If they don't, they simply do not survive.

The rising tide of CRA threatens to put these community leaders out of business. The

CRA has gone far, far beyond its original intent of ensuring fair lending. Banks are now forced to have employees whose entire job is devoted to CRA compliance.

Instead of working for their communities, these folks are working for CRA federal bureaucrats. Instead of helping families buy their first home, bankers are living in fear of their next CRA review.

Our colleagues in the Senate have already approved much-needed changes in CRA. Let's end the bureaucratic nightmare of CRA and give bankers a chance to truly serve their communities.

Mr. HYDE. Madam Chairman, I rise in support of H.R. 10, the ''Financial Services Act of 1999.'' For many years, we have been trying to repeal the outdated restrictions that keep banks, securities firms, and insurance companies from getting into one another's businesses. After all the debate, I think we have finally come up with something in this bill that will open up a whole new world of competition.

Financial services are becoming increasingly globalized, increasingly computerized, and increasingly seamless. Banking laws passed during the Depression simply will not do in the 21st century. I wish that we could maintain a world where everyone knew their banker on a first name basis and loans were made on a handshake, and I think in the new world some banks will provide that kind of service to those who demand it. But we need not have laws that limit us to that kind of service, as desirable as it may seem. Everyone is better off if the market decides what kinds of services financial firms will offer.

Just think about the progress we have made in the past ten years. When I was a child, only the wealthy owned stocks. Now, with the growth of the mutual fund industry and self-directed retirement funds, millions and millions of average Americans not only own stocks, but make their own investment decisions. These developments create wealth, increase people's incentive to produce, and relieve some of the entitlement burden of government. I believe that this bill will bring more such positive developments.

I want to say a word about my friends JIM LEACH, chairman of the Banking Committee, and TOM BLILEY, chairman of the Commerce Committee. They have done an excellent job of putting this package together. I commend them for their work in bringing this bill to the floor in a very difficult and contentious environment.

I especially want to commend them for working with me on the bank merger provisions of the bill and the bankruptcy provisions relating to wholesale financial institutions. Under current law, bank mergers are reviewed under special bank merger statutes, and they do not go through the Hart-Scott-Rodino merger review process that covers most other mergers. Now banks will be able to get into other businesses which they have not been able to do before.

The principle that we have tried to follow is that when mergers occur, the bank part of that merger will be judged under the current bank merger statutes, and we do not intend any change in that process or in any of the agencies' respective jurisdictions. The non-bank part of that merger, which will fall under the new Section 6 of the Bank Holding Company Act, will be subject to the normal Hart-Scott-Rodino merger review by either the Justice Department or the Federal Trade Commission. The amendment in the nature of a substitute has language that embodies that principle. This language is essentially the same as that in last year's bill, but certain technical and clarifying changes have been made.

In short, no bank is treated differently than it otherwise would be because it has some other business within its corporate family. Likewise, no other business is treated differently than it otherwise would be because it has a bank within its corporate family.

We have embodied that same principle with respect to the Federal Trade Commission's authority to enforce the Federal Trade Commission Act and other laws. Section 5 of the Federal Trade Commission Act specifically prohibits the FTC from enforcing the Act against banks because they are heavily regulated. The language in the amendment in the nature of a substitute does not change that, but it does clarify that the bank prohibition does not extend to any other non-bank parts of a bank's corporate family. I would also note that similar language was not necessary for the Justice Department because there are no specific statutory prohibitions on its ability to enforce laws against banks, other than the Hart-Scott-Rodino exemption that I have already discussed.

With respect to the bankruptcy language on wholesale financial institutions, I think that we all agree on the substance involved, but the specific language may require some further refinement in conference.

I will be requesting Judiciary Committee conferees on a few narrow parts of the bill, and I look forward to continuing to work with my Banking Committee and Commerce Committee colleagues.

I will insert four jurisdictional letters relating to the Judiciary Committee's participation in this matter for printing in the RECORD.

Let me again commend my friends JIM LEACH and TOM BLILEY and everyone else who has worked on this legislation, and I ask my colleagues to support it.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 15, 1999.

Hon. DENNIS HASTERT,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing to let you know of the Committee on the Judiciary's jurisdictional interest in H.R. 10, the ''Financial Services Act of 1999.'' As you know, the Committee on Banking and Financial Services has filed its report on H.R. 10, and the Committee on Commerce will do so shortly.

The Committee on the Judiciary has jurisdiction over several provisions of the bill as introduced: §104(a)(3) (dealing with the preservation of state antitrust laws); §104(b)(3)(A) & (b)(4)(B) (dealing with the non-preemption of the McCarran-Ferguson Act); §122 (amending Title 18 to create a crime for misrepresentations regarding financial institution liability for obligations of affiliates); §136(b) (to the extent that it deals with the treatment of wholesale financial institutions under the Bank Merger Act and the Bankruptcy Code in the new §9B(b)(5) & (e)(3) of the Federal Reserve Act); §13(d) (dealing with amendments to the Bankruptcy Code for wholesale financial institutions); §136(e) (to the extent that it deals with the treatment under the Bankruptcy Code of corporations organized under §25A of the Federal Reserve Act); §§141–44 (dealing with the antitrust review of mergers in the financial services industry); §206(b) & (d) (dealing with administrative procedures for the Securities and Exchange Commission outside the Administrative Procedure Act); §214 (to the extent that it creates a new crime under the Investment Company Act); §301 (dealing with the continued viability of the McCarran-Ferguson Act); §306 (dealing with expedited dispute resolution for disputes between state and federal regulators); §314(a) (dealing with court jurisdiction over litigation concerning redomesticated insurer); §321(d) (dealing with court jurisdiction over litigation concerning reciprocity or uniformity determinations); §335 (dealing with court jurisdiction over litigation concerning the National Association of Registered Agents and Brokers). In addition, there are at least two provisions of the bill as reported by the Banking Committee over which this committee has jurisdiction: §179 (creating new criminal and civil liability for violations of new privacy requirements) and §193 (to the extent that it limits the claims of bankruptcy trustees).

The foregoing list is intended to be as comprehensive as possible, but any inadvertent omission of a provision in either the introduced or reported versions of the bill that the Committee would otherwise have jurisdiction over does not waive that jurisdiction. The Committee has not yet been able to obtain a copy of the bill as ordered reported by the Commerce Committee, and it reserves its rights with respect to any additional provisions that may be included therein.

I have several relatively minor concerns with the language of these provisions, and my staff has been working with the staffs of the Banking and Commerce Committees to resolve those concerns. I am confident that we will resolve them in the near future. For that reason, I have written to Chairman Leach and Chairman Bliley to inform them that I am willing to waive the Committee's right to a sequential referral of H.R. 10 subject to the good faith commitment of all concerned that these minor concerns will be addressed to our satisfaction either in the base text made in order under the rule or a manager's amendment when H.R. 10 goes to the floor.

My doing so does not constitute any waiver of the Committee's jurisdiction over these provisions and does not prejudice its rights in any future legislation relating to these provisions or other similar provisions that may be included in the Act. I request that you appoint Members of this Committee as conferees on these provisions or any other similar provisions in the bill should it go to conference.

I appreciate your consideration of my views on this issue. Please let me know if you need any further information.

Sincerely,

HENRY J. HYDE,
Chairman.

Hon. JIM LEACH,
Chairman, Committee on Banking and Financial Services, Washington, DC.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, Washington, DC.

DEAR JIM AND TOM. I am writing to let you know of the Committee on the Judiciary's jurisdictional interest in H.R. 10, the ''Financial Services Act of 1999.'' As you know, the Committee on Banking and Financial Services has filed its report on H.R. 10, and the Committee on Commerce will do so shortly.

The Committee on the Judiciary has jurisdiction over several provisions of the bill as introduced: §104(a)(3) (dealing with the preservation of state antitrust laws); §104(b)(3)(A) & (b)(4)(B) (dealing with the

non-preemption of the McCarran-Ferguson Act); §122 (amending Title 18 to create crime for mispresentations regarding financial institution liability for obligations of affiliates); §136(b) (to the extent that it deals with the treatment of wholesale financial institutions under the Bank Merger Act and the Bankruptcy Code in the new §9B(b)(5) & (e)(3) of the Federal Reserve Act); §136(d) (dealing with amendments to the Bankruptcy Code for wholesale financial institutions); §136(e) (to the extent that it deals with the treatment under the Bankruptcy Code of corporations organized under §25A of the Federal Reserve Act); §§141–44 (dealing with the antitrust review mergers in the financial services industry); §206(b) & (d) (dealing with administrative procedures for the Securities and Exchange Commission outside the Administrative Procedure Act); §214 (to the extent that it creates a new crime under the Investment Company Act); §301 (dealing with the continued viability of the McCarran-Ferguson Act); §306 (dealing with expedited dispute resolution for disputes between state and federal regulators); §314(a) (dealing with court jurisdiction over litigation concerning redomesticated insurer); §321(d) (dealing with court jurisdiction over litigation concerning reciprocity or uniformity determinations); §335 (dealing with court jurisdiction over litigation concerning the National Association of Registered Agents and Brokers). In addition, there are at least two provisions of the bill as reported by the Banking Committee over which this committee has jurisdiction: §179 (creating new criminal and civil liability for violations of new privacy requirements) and §193 (to the extent that it limits the claims of bankruptcy trustees).

The foregoing list is intended to be as comprehensive as possible, but any inadvertent omission of a provision in either the introduced or reported versions of the bill that the Committee would otherwise have jurisdiction over does not waive that jurisdiction. The Committee has not yet been able to obtain a copy of the bill as ordered reported by the Commerce Committee, and it reserves its rights with respect to any additional provisions that may be included therein.

As you know, I have several relatively minor concerns with the language of these provisions, and my staff has been working with yours to resolve them. I am confident that we will resolve them in the near future. For that reason, I am willing to waive the Committee's right to a sequential referral of H.R. 10 subject to the good faith commitment of all concerned that these minor concerns will be addressed to our satisfaction either in the base text made in order under the rule or a manager's amendment which H.R. 10 goes to the floor.

However, my doing so does not constitute any waiver of the Committee's jurisdiction over these provisions and does not prejudice its rights in any future legislation relating to these provisions or any other similar provisions that may be included in the Act. I will, of course, insist that Members of this Committee be named as conferees on these provisions or any other similar provisions in the bill should it go to conference. By separate letter, a copy of which is attached, I am making that request Speaker Hastert today.

I appreciate your consideration of my views on this issue. Please let me know if you need any further information.

Sincerely,

HENRY J. HYDE,
Chaiman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, June 18, 1999.

Hon. HENRY HYDE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR HENRY: Thank you for your letter regarding the Committee on the Judiciary's jurisdictional interest in H.R. 10, the ''Financial Services Act of 1999.''

I acknowledge the Judiciary Committee jurisdictional interest in a number of provisions in H.R. 10. The Committee on Commerce has included your proposed revision to the antitrust subtitle in its consideration of the legislation. I will work with you to address any other concerns you have either in base text or as part of a manager's amendment on the House floor.

I would not oppose Members of the Judiciary Committee being named as conferees for provisions within your Committee's jurisdiction.

Thank you for foregoing a request for a sequential referral of this important legislation. I appreciate your willingness to work with me.

Sincerely,

TOM BLILEY,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, June 15, 1999.

Hon. HENRY HYDE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR HENRY: Thank you for your letter regarding the Judiciary Committee's jurisdictional interest in H.R. 10, the ''Financial Services Act of 1999.''

I recognize that the Committee on the Judiciary has jurisdictional claims to those provisions in H.R. 10 which affect the Bankruptcy Code, criminal sanctions, antitrust laws, the McCarran-Ferguson Act, administrative procedures and the court system. Your willingness to waive the Committee's right to a sequential referral of this legislation so that we may move it to the floor expeditiously is appreciated. As outlined in your letter, I will continue to work with you in good faith to see that the thrust of the Judiciary Committee's concerns will be addressed as H.R. 10 goes to the floor. In addition, I agree with you that on the provisions within the Judiciary Committee's jurisdiction the Judiciary Committee should be represented when the bill goes to conference.

Thanks again for your cooperation. I appreciate your willingness to work with the Committee on Banking and Financial Services.

Sincerely,

JAMES A. LEACH,
Chairman.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the Committee on Rules print dated June 24, 1999, is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the amendment in the nature of a substitute is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Services Act of 1999''.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.

(2) To ensure the continued safety and soundness of depository institutions.

(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.

(4) To avoid duplicative, potentially conflicting, and overly burdensome regulatory requirements through the creation of a regulatory framework for financial holding companies that respects the divergent requirements of each of the component businesses of the holding company, and that is based upon principles of strong functional regulation and enhanced regulatory coordination.

(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.

(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.

(7) To enhance the competitiveness of United States financial service providers internationally.

(8) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens and communities, including underserved communities and populations.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; purposes; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.
Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.
Sec. 103. Financial holding companies.
Sec. 104. Operation of State law.
Sec. 105. Mutual bank holding companies authorized.
Sec. 105A. Public meetings for large bank acquisitions and mergers.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.
Sec. 108. Amendments relating to limited purpose banks.
Sec. 109. GAO study of economic impact on community banks, other small financial institutions, insurance agents, and consumers.
Sec. 110. Responsiveness to community needs for financial services.

Subtitle B—Streamlining Supervision of Financial Holding Companies

Sec. 111. Streamlining financial holding company supervision.
Sec. 112. Elimination of application requirement for financial holding companies.
Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

Sec. 117. Equivalent regulation and supervision.
Sec. 118. Prohibition on FDIC assistance to affiliates and subsidiaries.
Sec. 119. Repeal of savings bank provisions in the Bank Holding Company Act of 1956.
Sec. 120. Technical amendment.
Subtitle C—Subsidiaries of National Banks
Sec. 121. Permissible activities for subsidiaries of national banks.
Sec. 122. Safety and soundness firewalls between banks and their financial subsidiaries.
Sec. 123. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 124. Repeal of stock loan limit in Federal Reserve Act.
Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions
CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES
Sec. 131. Wholesale financial holding companies established.
Sec. 132. Authorization to release reports.
Sec. 133. Conforming amendments.
CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS
Sec. 136. Wholesale financial institutions.
Subtitle E—Preservation of FTC Authority
Sec. 141. Amendment to the Bank Holding Company Act of 1956 to modify notification and post-approval waiting period for section 3 transactions.
Sec. 142. Interagency data sharing.
Sec. 143. Clarification of status of subsidiaries and affiliates.
Sec. 144. Annual GAO report.
Subtitle F—National Treatment
Sec. 151. Foreign banks that are financial holding companies.
Sec. 152. Foreign banks and foreign financial institutions that are wholesale financial institutions.
Sec. 153. Representative offices.
Sec. 154. Reciprocity.
Subtitle G—Federal Home Loan Bank System Modernization
Sec. 161. Short title.
Sec. 162. Definitions.
Sec. 163. Savings association membership.
Sec. 164. Advances to members; collateral.
Sec. 165. Eligibility criteria.
Sec. 166. Management of banks.
Sec. 167. Resolution Funding Corporation.
Sec. 168. Capital structure of Federal home loan banks.
Subtitle H—ATM Fee Reform
Sec. 171. Short title.
Sec. 172. Electronic fund transfer fee disclosures at any host ATM.
Sec. 173. Disclosure of possible fees to consumers when ATM card is issued.
Sec. 174. Feasibility study.
Sec. 175. No liability if posted notices are damaged.
Subtitle I—Direct Activities of Banks
Sec. 181. Authority of national banks to underwrite certain municipal bonds.
Subtitle J—Deposit Insurance Funds
Sec. 186. Study of safety and soundness of funds.
Sec. 187. Elimination of SAIF and DIF special reserves.
Subtitle K—Miscellaneous Provisions
Sec. 191. Termination of ''know your customer'' regulations.
Sec. 192. Study and report on Federal electronic fund transfers.
Sec. 193. General Accounting Office study of conflicts of interest.
Sec. 194. Study of cost of all Federal banking regulations.
Sec. 195. Study and report on adapting existing legislative requirements to online banking and lending.
Sec. 196. Regulation of uninsured State member banks.
Sec. 197. Clarification of source of strength doctrine.
Sec. 198. Interest rates and other charges at interstate branches.
Subtitle L-Effective Date of Title
Sec. 199. Effective date.
TITLE II—FUNCTIONAL REGULATION
Subtitle A—Brokers and Dealers
Sec. 201. Definition of broker.
Sec. 202. Definition of dealer.
Sec. 203. Registration for sales of private securities offerings.
Sec. 204. Information sharing.
Sec. 205. Treatment of new hybrid products.
Sec. 206. Definition of excepted banking product.
Sec. 207. Additional definitions.
Sec. 208. Government securities defined.
Sec. 209. Effective date.
Sec. 210. Rule of construction.
Subtitle B—Bank Investment Company Activities
Sec. 211. Custody of investment company assets by affiliated bank.
Sec. 212. Lending to an affiliated investment company.
Sec. 213. Independent directors.
Sec. 214. Additional SEC disclosure authority.
Sec. 215. Definition of broker under the Investment Company Act of 1940.
Sec. 216. Definition of dealer under the Investment Company Act of 1940.
Sec. 217. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 218. Definition of broker under the Investment Advisers Act of 1940.
Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.
Sec. 220. Interagency consultation.
Sec. 221. Treatment of bank common trust funds.
Sec. 222. Investment advisers prohibited from having controlling interest in registered investment company.
Sec. 223. Statutory disqualification for bank wrongdoing.
Sec. 224. Conforming change in definition.
Sec. 225. Conforming amendment.
Sec. 226. Church plan exclusion.
Sec. 227. Effective date.
Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies
Sec. 231. Supervision of investment bank holding companies by the Securities and Exchange Commission.
Subtitle D—Disclosure of Customer Costs of Acquiring Financial Products
Sec. 241. Improved and consistent disclosure.
TITLE III—INSURANCE
Subtitle A—State Regulation of Insurance
Sec. 301. State regulation of the business of insurance.
Sec. 302. Mandatory insurance licensing requirements.
Sec. 303. Functional regulation of insurance.
Sec. 304. Insurance underwriting in national banks.
Sec. 305. Title insurance activities of national banks and their affiliates.
Sec. 306. Expedited and equalized dispute resolution for Federal regulators.
Sec. 307. Consumer protection regulations.
Sec. 308. Certain State affiliation laws preempted for insurance companies and affiliates.
Sec. 309. Interagency consultation.
Sec. 310. Definition of State.
Subtitle B—National Association of Registered Agents and Brokers
Sec. 321. State flexibility in multistate licensing reforms.
Sec. 322. National Association of Registered Agents and Brokers.
Sec. 323. Purpose.
Sec. 324. Relationship to the Federal Government.
Sec. 325. Membership.
Sec. 326. Board of directors.
Sec. 327. Officers.
Sec. 328. Bylaws, rules, and disciplinary action.
Sec. 329. Assessments.
Sec. 330. Functions of the NAIC.
Sec. 331. Liability of the Association and the directors, officers, and employees of the Association.
Sec. 332. Elimination of NAIC oversight.
Sec. 333. Relationship to State law.
Sec. 334. Coordination with other regulators.
Sec. 335. Judicial review.
Sec. 336. Definitions.
Subtitle C—Rental Car Agency Insurance Activities
Sec. 341. Standard of regulation for motor vehicle rentals.
Subtitle D—Confidentiality
Sec. 351. Confidentiality of health and medical information.
TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES
Sec. 401. Prohibition on new unitary savings and loan holding companies.
Sec. 402. Retention of ''Federal'' in name of converted Federal savings association.
TITLE V—PRIVACY
Subtitle A—Privacy Policy
Sec. 501. Depository institution privacy policies.
Sec. 502. Study of current financial privacy laws.
Subtitle B—Fraudulent Access to Financial Information
Sec. 521. Privacy protection for customer information of financial institutions.
Sec. 522. Administrative enforcement.
Sec. 523. Criminal penalty.
Sec. 524. Relation to State laws.
Sec. 525. Agency guidance.
Sec. 526. Reports.
Sec. 527. Definitions.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

SEC. 101. GLASS-STEAGALL ACT REFORMED.

(a) SECTION 20 REPEALED.—Section 20 of the Banking Act of 1933 (12 U.S.C. 377) (commonly referred to as the ''Glass-Steagall Act'') is repealed.

(b) SECTION 32 REPEALED.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is repealed.

SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK HOLDING COMPANIES WHICH ARE NOT FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

''(8) shares of any company the activities of which had been determined by the Board by regulation or order under this paragraph as of the day before the date of the enactment of the Financial Services Act of 1999, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation or order, unless modified by the Board);''.

(b) CONFORMING CHANGES TO OTHER STATUTES.—

(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking '', to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,''.

(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by striking the period and adding at the end the following: ''as of the day before the date of enactment of the Financial Services Act of 1999.''.

SEC. 103. FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—The Bank Holding Company Act of 1956 is amended by inserting after section 5 (12 U.S.C. 1844) the following new section:

''SEC. 6. FINANCIAL HOLDING COMPANIES.

''(a) FINANCIAL HOLDING COMPANY DEFINED.—For purposes of this section, the term 'financial holding company' means a bank holding company which meets the requirements of subsection (b).

''(b) ELIGIBILITY REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES.—

''(1) IN GENERAL.—No bank holding company may engage in any activity or directly or indirectly acquire or retain shares of any company under this section unless the bank holding company meets the following requirements:

''(A) All of the subsidiary depository institutions of the bank holding company are well capitalized.

''(B) All of the subsidiary depository institutions of the bank holding company are well managed.

''(C) All of the subsidiary depository institutions of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution;

''(D) The company has filed with the Board a declaration that the company elects to be a financial holding company and certifying that the company meets the requirements of subparagraphs (A), (B), and (C).

''(2) FOREIGN BANKS AND COMPANIES.—For purposes of paragraph (1), the Board shall establish and apply comparable capital and other operating standards to a foreign bank that operates a branch or agency or owns or controls a bank or commercial lending company in the United States, and any company that owns or controls such foreign bank, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(3) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution acquired by a bank holding company during the 12-month period preceding the submission of a notice under paragraph (1)(D) and any depository institution acquired after the submission of such notice may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

''(A) the bank holding company has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution; and

''(B) the plan has been accepted by such agency.

''(c) ENGAGING IN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) FINANCIAL ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, that the Board has determined (by regulation or order and in accordance with subparagraph (B)) to be—

''(i) financial in nature or incidental to such financial activities; or

''(ii) complementary to activities authorized under this subsection to the extent that the amount of such complementary activities remains small.

''(B) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

''(i) PROPOSALS RAISED BEFORE THE BOARD.—

''(I) CONSULTATION.—The Board shall notify the Secretary of the Treasury of, and consult with the Secretary of the Treasury concerning, any request, proposal, or application under this subsection, including a regulation or order proposed under paragraph (4), for a determination of whether an activity is financial in nature or incidental to such a financial activity.

''(II) TREASURY VIEW.—The Board shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Secretary of the Treasury notifies the Board in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Board determines to be appropriate in light of the circumstances) that the Secretary of the Treasury believes that the activity is not financial in nature or incidental to a financial activity.

''(ii) PROPOSALS RAISED BY THE TREASURY.—

''(I) TREASURY RECOMMENDATION.—The Secretary of the Treasury may, at any time, recommend in writing that the Board find an activity to be financial in nature or incidental to a financial activity.

''(II) TIME PERIOD FOR BOARD ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Secretary of the Treasury under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate in light of the circumstances), the Board shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Secretary of the Treasury in writing of the determination of the Board and, in the event that the Board determines not to seek public comment on the proposal, the reasons for that determination.

''(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

''(A) the purposes of this Act and the Financial Services Act of 1999;

''(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a bank holding company and the affiliates of a bank holding company to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

''(iii) offer customers any available or emerging technological means for using financial services.

''(3) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

''(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing.

''(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

''(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

''(E) Underwriting, dealing in, or making a market in securities.

''(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of enactment of the Financial Services Act of 1999, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

''(G) Engaging, in the United States, in any activity that—

''(i) a bank holding company may engage in outside the United States; and

''(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Act of 1999) to be usual in connection with the transaction of banking or other financial operations abroad.

''(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by an affiliate of the bank holding company that is a registered broker or dealer that is engaged in securities underwriting activities, or an affiliate of such broker or dealer, as part of a bona fide underwriting or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

''(iii) such shares, assets, or ownership interests are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

''(iv) during the period such shares, assets, or ownership interests are held, the bank

holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

''(I) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance) or providing and issuing annuities;

''(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

''(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except insofar as necessary to achieve the objectives of clauses (ii) and (iii).

''(4) AUTHORIZATION OF NEW FINANCIAL ACTIVITIES.—The Board shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(B) Providing any device or other instrumentality for transferring money or other financial assets.

''(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(5) POST-CONSUMMATION NOTIFICATION.—

''(A) IN GENERAL.—A financial holding company that acquires any company, or commences any activity, pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired no later than 30 calendar days after commencing the activity or consummating the acquisition.

''(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in section 4(j) with regard to the acquisition of a savings association or in paragraph (6) of this subsection, a financial holding company may commence any activity, or acquire any company, pursuant to paragraph (3) or any regulation prescribed or order issued under paragraph (4), without prior approval of the Board.

''(6) NOTICE REQUIRED FOR LARGE COMBINATIONS.—

''(A) IN GENERAL.—No financial holding company shall directly or indirectly acquire, and no company that becomes a financial holding company shall directly or indirectly acquire control of, any company in the United States, including through merger, consolidation, or other type of business combination, that—

''(i) is engaged in activities permitted under this subsection or subsection (g); and

''(ii) has consolidated total assets in excess of $40,000,000,000,

unless such holding company has provided notice to the Board, not later than 60 days prior to such proposed acquisition or prior to becoming a financial holding company, and during that time period, or such longer time period not exceeding an additional 60 days, as established by the Board, the Board has not issued a notice disapproving the proposed acquisition or retention.

''(B) FACTORS FOR CONSIDERATION.—In reviewing any prior notice filed under this paragraph, the Board shall take into consideration—

''(i) whether the company is in compliance with all applicable criteria set forth in subsection (b) and the provisions of subsection (d);

''(ii) whether the proposed combination represents an undue aggregation of resources;

''(iii) whether the proposed combination poses a risk to the deposit insurance system;

''(iv) whether the proposed combination poses a risk to State insurance guaranty funds;

''(v) whether the proposed combination can reasonably be expected to be in the best interests of depositors or policyholders of the respective entities;

''(vi) whether the proposed transaction can reasonably be expected to further the purposes of this Act and produce benefits to the public; and

''(vii) whether, and the extent to which, the proposed combination poses an undue risk to the stability of the financial system in the United States.

''(C) REQUIRED INFORMATION.—The Board may disapprove any prior notice filed under this paragraph if the company submitting such notice neglects, fails, or refuses to furnish to the Board all relevant information required by the Board.

''(D) SOLICITATION OF VIEWS OF OTHER SUPERVISORY AGENCIES.—

''(i) IN GENERAL.—Upon receiving a prior notice under this paragraph, in order to provide for the submission of their views and recommendations, the Board shall give notice of the proposal to—

''(I) the appropriate Federal banking agency of any bank involved;

''(II) the appropriate functional regulator of any functionally regulated nondepository institution (as defined in section 5(c)(1)(C)) involved; and

''(III) the Secretary of the Treasury, the Attorney General, and the Federal Trade Commission.

''(ii) TIMING.—The views and recommendations of any agency provided notice under this paragraph shall be submitted to the Board not later than 30 calendar days after the date on which notice to the agency was given, unless the Board determines that another shorter time period is appropriate.

''(d) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If the Board finds, after notice from or consultation with the appropriate Federal banking agency, that a financial holding company is not in compliance with the requirements of subparagraph (A), (B), or (C) of subsection (b)(1), the Board shall give notice of such finding to the company.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Within 45 days of receipt by a financial holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the company shall execute an agreement acceptable to the Board to comply with the requirements applicable to a financial holding company.

''(3) AUTHORITY TO IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected—

''(A) the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances; and

''(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of an affiliated depository institution or subsidiary of a depository institution as the appropriate Federal banking agency determines to be appropriate under the circumstances.

''(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a financial holding company does not—

''(A) execute and implement an agreement in accordance with paragraph (2);

''(B) comply with any limitations imposed under paragraph (3);

''(C) in the case of a notice of failure to comply with subsection (b)(1)(A), restore each depository institution subsidiary to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the company (or such other period permitted by the Board); or

''(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (b)(1), restore compliance with any such subparagraph by the date the next examination of the depository institution subsidiary is completed or by the end of such other period as the Board determines to be appropriate,

the Board may require such company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, to divest control of any depository institution subsidiary or, at the election of the financial holding company, instead to cease to engage in any activity conducted by such company or its subsidiaries pursuant to this section.

''(5) CONSULTATION.—In taking any action under this subsection, the Board shall consult with all relevant Federal and State regulatory agencies.

''(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—A financial holding company shall assure that—

''(1) the procedures of the holding company for identifying and managing financial and operational risks within the company, and the subsidiaries of such company, adequately protect the subsidiaries of such company which are insured depository institutions or wholesale financial institution from such risks;

''(2) the holding company has reasonable policies and procedures to preserve the separate corporate identity and limited liability of such company and the subsidiaries of such company, for the protection of the company's subsidiary insured depository institutions and wholesale financial institutions; and

''(3) the holding company complies with this section.

''(f) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

''(1) IN GENERAL.—Notwithstanding section 4(a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of the enactment of the Financial Services Act of 1999 may continue to engage in any activity and retain direct

or indirect ownership or control of shares of a company engaged in any activity if—

''(A) the holding company lawfully was engaged in the activity or held the shares of such company on September 30, 1997;

''(B) the holding company is predominantly engaged in financial activities as defined in paragraph (2); and

''(C) the company engaged in such activity continues to engage only in the same activities that such company conducted on September 30, 1997, and other activities permissible under this Act.

''(2) PREDOMINANTLY FINANCIAL.—For purposes of this subsection, a company is predominantly engaged in financial activities if the annual gross revenues derived by the holding company and all subsidiaries of the holding company (excluding revenues derived from subsidiary depository institutions), on a consolidated basis, from engaging in activities that are financial in nature or are incidental to activities that are financial in nature under subsection (c) represent at least 85 percent of the consolidated annual gross revenues of the company.

''(3) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A financial holding company that engages in activities or holds shares pursuant to this subsection, or a subsidiary of such financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under subsection (c).

''(4) CONTINUING REVENUE LIMITATION ON GRANDFATHERED COMMERCIAL ACTIVITIES.—Notwithstanding any other provision of this subsection, a financial holding company may continue to engage in activities or hold shares in companies pursuant to this subsection only to the extent that the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 15 percent of the consolidated annual gross revenues of the financial holding company (excluding revenues derived from subsidiary depository institutions).

''(5) CROSS MARKETING RESTRICTIONS APPLICABLE TO COMMERCIAL ACTIVITIES.—A depository institution controlled by a financial holding company shall not—

''(A) offer or market, directly or through any arrangement, any product or service of a company whose activities are conducted or whose shares are owned or controlled by the financial holding company pursuant to this subsection or subparagraph (H) or (I) of subsection (c)(3); or

''(B) permit any of its products or services to be offered or marketed, directly or through any arrangement, by or through any company described in subparagraph (A).

''(6) TRANSACTIONS WITH NONFINANCIAL AFFILIATES.—A depository institution controlled by a financial holding company may not engage in a covered transaction (as defined by section 23A(b)(7) of the Federal Reserve Act) with any affiliate controlled by the company pursuant to section 10(c), this subsection, or subparagraph (H) or (I) of subsection (c)(3).

''(7) SUNSET OF GRANDFATHER.—A financial holding company engaged in any activity, or retaining direct or indirect ownership or control of shares of a company, pursuant to this subsection, shall terminate such activity and divest ownership or control of the shares of such company before the end of the 10-year period beginning on the date of the enactment of the Financial Services Act of 1999. The Board may, upon application by a financial holding company, extend such 10-year period by a period not to exceed an additional 5 years if such extension would not be detrimental to the public interest.

''(g) DEVELOPING ACTIVITIES.—A financial holding company may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Board has not determined to be financial in nature or incidental to financial activities under subsection (c) if—

''(1) the holding company reasonably concludes that the activity is financial in nature or incidental to financial activities;

''(2) the gross revenues from all activities conducted under this subsection represent less than 5 percent of the consolidated gross revenues of the holding company;

''(3) the aggregate total assets of all companies the shares of which are held under this subsection do not exceed 5 percent of the holding company's consolidated total assets;

''(4) the total capital invested in activities conducted under this subsection represents less than 5 percent of the consolidated total capital of the holding company;

''(5) neither the Board nor the Secretary of the Treasury has determined that the activity is not financial in nature or incidental to financial activities under subsection (c);

''(6) the holding company is not required to provide prior written notice of the transaction to the Board under subsection (c)(6); and

''(7) the holding company provides written notification to the Board describing the activity commenced or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.''.

(b) FACTORS FOR CONSIDERATION IN REVIEWING APPLICATION BY FINANCIAL HOLDING COMPANY TO ACQUIRE BANK.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end the following new paragraph:

''(6) 'TOO BIG TO FAIL' FACTOR.—In considering an acquisition, merger, or consolidation under this section involving a financial holding company or a company that would be any such holding company upon the consummation of the transaction, the Board shall consider whether, and the extent to which, the proposed acquisition, merger, or consolidation poses an undue risk to the stability of the financial system of the United States.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsection:

''(p) INSURANCE COMPANY.—For purposes of sections 5, 6, and 10, the term 'insurance company' includes any person engaged in the business of insurance to the extent of such activities.''.

(2) Section 4(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)) is amended—

(1) in paragraph (1)(A), by inserting ''or in any complementary activity under section 6(c)(1)(B)'' after ''subsection (c)(8) or (a)(2)''; and

(2) in paragraph (3)—

(A) by inserting '', other than any complementary activity under section 6(c)(1)(B),'' after ''to engage in any activity''; and

(B) by inserting ''or a company engaged in any complementary activity under section 6(c)(1)(B)'' after ''insured depository institution''.

(d) REPORT.—

(1) IN GENERAL.—By the end of the 4-year period beginning on the date of the enactment of this Act and every 4 years thereafter, the Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall submit a joint report to the Congress containing a summary of new activities which are financial in nature, including grandfathered commercial activities, in which any financial holding company is engaged pursuant to subsection (c)(1) or (f) of section 6 of the Bank Holding Company Act of 1956 (as added by subsection (a)).

(2) OTHER CONTENTS.—Each report submitted to the Congress pursuant to paragraph (1) shall also contain the following:

(A) A discussion of actions by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, whether by regulation, order, interpretation, or guideline or by approval or disapproval of an application, with regard to activities of financial holding companies which are incidental to activities financial in nature or complementary to such financial activities.

(B) An analysis and discussion of the risks posed by commercial activities of financial holding companies to the safety and soundness of affiliate depository institutions.

(C) An analysis and discussion of the effect of mergers and acquisitions under section 6 of the Bank Holding Company Act of 1956 on market concentration in the financial services industry.

(D) An analysis and discussion, by the Board and the Secretary in consultation with the other Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act), of the impact of the implementation of this Act, and the amendments made by this Act, on the extent of meeting community credit needs and capital availability under the Community Reinvestment Act of 1977.

SEC. 104. OPERATION OF STATE LAW.

(a) AFFILIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, from being affiliated directly or indirectly or associated with any person or entity, as authorized or permitted by this Act or any other provision of Federal law.

(2) INSURANCE.—With respect to affiliations between insured depository institutions or wholesale financial institutions, or any subsidiary or affiliate thereof, and persons or entities engaged in the business of insurance, paragraph (1) does not prohibit—

(A) any State from requiring any person or entity that proposes to acquire control of an entity that is engaged in the business of insurance and domiciled in that State (hereafter in this subparagraph referred to as the ''insurer'') to furnish to the insurance regulatory authority of that State, not later than 60 days before the effective date of the proposed acquisition—

(i) the name and address of each person by whom, or on whose behalf, the affiliation referred to in this subparagraph is to be effected (hereafter in this subparagraph referred to as the ''acquiring party'');

(ii) if the acquiring party is an individual, his or her principal occupation and all offices and positions held during the 5 years preceding the date of notification, and any conviction of crimes other than minor traffic violations during the 10 years preceding the date of notification;

(iii) if the acquiring party is not an individual—

(I) a report of the nature of its business operations during the 5 years preceding the date of notification, or for such shorter period as such person and any predecessors thereof shall have been in existence;

(II) an informative description of the business intended to be done by the acquiring party and any subsidiary thereof; and

(III) a list of all individuals who are, or who have been selected to become, directors or executive officers of the acquiring party or who perform, or will perform, functions appropriate to such positions, including, for each such individual, the information required by clause (ii);

(iv) the source, nature, and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were, or are to be, obtained for any such purpose, and the identity of persons furnishing such consideration, except that, if a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests;

(v) fully audited financial information as to the earnings and financial condition of each acquiring party for the 5 fiscal years preceding the date of notification of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than 90 days before the date of notification, except that, in the case of an acquiring party that is an insurer actively engaged in the business of insurance, the financial statements of such insurer need not be audited, but such audit may be required if the need therefor is determined by the insurance regulatory authority of the State;

(vi) any plans or proposals that each acquiring party may have to liquidate such insurer, to sell its assets, or to merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

(vii) the number of shares of any security of the insurer that each acquiring party proposes to acquire, the terms of any offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at;

(viii) the amount of each class of any security of the insurer that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(ix) a full description of any contracts, arrangements, or understandings with respect to any security of the insurer in which any acquiring party is involved, including transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, and identification of the persons with whom such contracts, arrangements, or understandings have been entered into;

(x) a description of the purchase of any security of the insurer during the 12-month period preceding the date of notification by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid, or agreed to be paid, therefor;

(xi) a description of any recommendations to purchase any security of the insurer made during the 12-month period preceding the date of notification by any acquiring party or by any person based upon interviews or at the suggestion of such acquiring party;

(xii) copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities of the insurer and, if distributed, of additional soliciting material relating thereto; and

(xiii) the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto;

(B) in the case of a person engaged in the business of insurance which is the subject of an acquisition or change or continuation in control, the State of domicile of such person from reviewing or taking action (including approval or disapproval) with regard to the acquisition or change or continuation in control, as long as the State reviews and actions—

(i) are completed by the end of the 60-day period beginning on the later of the date the State received notice of the proposed action or the date the State received the information required under State law regarding such acquisition or change or continuation in control;

(ii) do not have the effect of discriminating, intentionally or unintentionally, against an insured depository institution or affiliate thereof or against any other person based upon affiliation with an insured depository institution; and

(iii) are based on standards or requirements relating to solvency or managerial fitness;

(C) any State from requiring an entity that is acquiring control of an entity that is engaged in the business of insurance and domiciled in that State to maintain or restore the capital requirements of that insurance entity to the level required under the capital regulations of general applicability in that State to avoid the requirement of preparing and filing with the insurance regulatory authority of that State a plan to increase the capital of the entity, except that any determination by the State insurance regulatory authority with respect to such requirement shall be made not later than 60 days after the date of notification under subparagraph (A);

(D) any State from taking actions with respect to the receivership or conservatorship of any insurance company;

(E) any State from restricting a change in the ownership of stock in an insurance company, or a company formed for the purpose of controlling such insurance company, for a period of not more than 3 years beginning on the date of the conversion of such company from mutual to stock form; or

(F) any State from requiring an organization which has been eligible at any time since January 1, 1987, to claim the special deduction provided by section 833 of the Internal Revenue Code of 1986 to meet certain conditions in order to undergo, as determined by the State, a reorganization, recapitalization, conversion, merger, consolidation, sale or other disposition of substantial operating assets, demutualization, dissolution, or to undertake other similar actions and which is governed under a State statute enacted on May 22, 1998, relating to hospital, medical, and dental service corporation conversions.

(3) PRESERVATION OF STATE ANTITRUST AND GENERAL CORPORATE LAWS.—

(A) IN GENERAL.—Subject to subsection (c) and the nondiscrimination provisions contained in such subsection, no provision in paragraph (1) shall be construed as affecting State laws, regulations, orders, interpretations, or other actions of general applicability relating to the governance of corporations, partnerships, limited liability companies or other business associations incorporated or formed under the laws of that State or domiciled in that State, or the applicability of the antitrust laws of any State or any State law that is similar to the antitrust laws.

(B) DEFINITION.—The term ''antitrust laws'' has the same meaning as in subsection (a) of the first section of the Clayton Act, and includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition.

(b) ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (3), and except with respect to insurance sales, solicitation, and cross marketing activities, which shall be governed by paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution, wholesale financial institution, or subsidiary or affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other entity or person, in any activity authorized or permitted under this Act.

(2) INSURANCE SALES.—

(A) IN GENERAL.—In accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in Barnett Bank of Marion County N.A. v. Nelson, 517 U.S. 25 (1996), no State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other party, in any insurance sales, solicitation, or cross-marketing activity.

(B) CERTAIN STATE LAWS PRESERVED.—Notwithstanding subparagraph (A), a State may impose any of the following restrictions, or restrictions which are substantially the same as but no more burdensome or restrictive than those in each of the following clauses:

(i) Restrictions prohibiting the rejection of an insurance policy by an insured depository institution, wholesale financial institution, or any subsidiary or affiliate thereof, solely because the policy has been issued or underwritten by any person who is not associated with such insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, when such insurance is required in connection with a loan or extension of credit.

(ii) Restrictions prohibiting a requirement for any debtor, insurer, or insurance agent or broker to pay a separate charge in connection with the handling of insurance that is required in connection with a loan or other extension of credit or the provision of another traditional banking product by an insured depository institution, wholesale financial institution, or any subsidiary or affiliate thereof, unless such charge would be required when the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, is the licensed insurance agent or broker providing the insurance.

(iii) Restrictions prohibiting the use of any advertisement or other insurance promotional material by an insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, that would cause a reasonable person to believe mistakenly that—

(I) a State or the Federal Government is responsible for the insurance sales activities of, or stands behind the credit of, the institution, affiliate, or subsidiary; or

(II) a State, or the Federal Government guarantees any returns on insurance products, or is a source of payment on any insurance obligation of or sold by the institution, affiliate, or subsidiary;

(iv) Restrictions prohibiting the payment or receipt of any commission or brokerage fee or other valuable consideration for services as an insurance agent or broker to or by any person, unless such person holds a valid State license regarding the applicable class

of insurance at the time at which the services are performed, except that, in this clause, the term ''services as an insurance agent or broker'' does not include a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.

(v) Restrictions prohibiting any compensation paid to or received by any individual who is not licensed to sell insurance, for the referral of a customer that seeks to purchase, or seeks an opinion or advice on, any insurance product to a person that sells or provides opinions or advice on such product, based on the purchase of insurance by the customer.

(vi) Restrictions prohibiting the release of the insurance information of a customer (defined as information concerning the premiums, terms, and conditions of insurance coverage, including expiration dates and rates, and insurance claims of a customer contained in the records of the insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof) to any person or entity other than an officer, director, employee, agent, subsidiary, or affiliate of an insured depository institution or a wholesale financial institution, for the purpose of soliciting or selling insurance, without the express consent of the customer, other than a provision that prohibits—

(I) a transfer of insurance information to an unaffiliated insurance company, agent, or broker in connection with transferring insurance in force on existing insureds of the insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, or in connection with a merger with or acquisition of an unaffiliated insurance company, agent, or broker; or

(II) the release of information as otherwise authorized by State or Federal law.

(vii) Restrictions prohibiting the use of health information obtained from the insurance records of a customer for any purpose, other than for its activities as a licensed agent or broker, without the express consent of the customer.

(viii) Restrictions prohibiting the extension of credit or any product or service that is equivalent to an extension of credit, lease or sale of property of any kind, or furnishing of any services or fixing or varying the consideration for any of the foregoing, on the condition or requirement that the customer obtain insurance from an insured depository institution, wholesale financial institution, a subsidiary or affiliate thereof, or a particular insurer, agent, or broker, other than a prohibition that would prevent any insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof—

(I) from engaging in any activity described in this clause that would not violate section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System; or

(II) from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof.

(ix) Restrictions requiring, when an application by a consumer for a loan or other extension of credit from an insured depository institution or wholesale financial institution is pending, and insurance is offered or sold to the consumer or is required in connection with the loan or extension of credit by the insured depository institution or wholesale financial institution or any affiliate or subsidiary thereof, that a written disclosure be provided to the consumer or prospective customer indicating that his or her choice of an insurance provider will not affect the credit decision or credit terms in any way, except that the insured depository institution or wholesale financial institution may impose reasonable requirements concerning the creditworthiness of the insurance provider and scope of coverage chosen.

(x) Restrictions requiring clear and conspicuous disclosure, in writing, where practicable, to the customer prior to the sale of any insurance policy that such policy—

(I) is not a deposit;

(II) is not insured by the Federal Deposit Insurance Corporation;

(III) is not guaranteed by the insured depository institution or wholesale financial institution or, if appropriate, its subsidiaries or affiliates or any person soliciting the purchase of or selling insurance on the premises thereof; and

(IV) where appropriate, involves investment risk, including potential loss of principal.

(xi) Restrictions requiring that, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution, or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, the credit and insurance transactions be completed through separate documents.

(xii) Restrictions prohibiting, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, inclusion of the expense of insurance premiums in the primary credit transaction without the express written consent of the customer.

(xiii) Restrictions requiring maintenance of separate and distinct books and records relating to insurance transactions, including all files relating to and reflecting consumer complaints, and requiring that such insurance books and records be made available to the appropriate State insurance regulator for inspection upon reasonable notice.

(C) LIMITATIONS.—

(i) OCC DEFERENCE.—Section 306(e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(ii) NONDISCRIMINATION.—Subsection (c) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the applicability of the decision of the Supreme Court in Barnett Bank of Marion County N.A. v. Nelson, 116 S. Ct. 1103 (1996) with respect to a State statute, regulation, order, interpretation, or other action that is not described in subparagraph (B).

(iv) LIMITATION ON INFERENCES.—Nothing in this paragraph shall be construed to create any inference with respect to any State statute, regulation, order, interpretation, or other action that is not referred to or described in this paragraph.

(3) INSURANCE ACTIVITIES OTHER THAN SALES.—State statutes, regulations, interpretations, orders, and other actions shall not be preempted under subsection (b)(1) to the extent that they—

(A) relate to, or are issued, adopted, or enacted for the purpose of regulating the business of insurance in accordance with the Act of March 9, 1945 (commonly known as the ''McCarran-Ferguson Act'');

(B) apply only to persons or entities that are not insured depository institutions or wholesale financial institutions, but that are directly engaged in the business of insurance (except that they may apply to depository institutions engaged in providing savings bank life insurance as principal to the extent of regulating such insurance);

(C) do not relate to or directly or indirectly regulate insurance sales, solicitations, or cross-marketing activities; and

(D) are not prohibited under subsection (c).

(4) FINANCIAL ACTIVITIES OTHER THAN INSURANCE.—No State statute, regulation, interpretation, order, or other action shall be preempted under subsection (b)(1) to the extent that—

(A) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, insurance sales, solicitations, or cross marketing activities covered under paragraph (2);

(B) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, the business of insurance activities other than sales, solicitations, or cross marketing activities, covered under paragraph (3);

(C) it does not relate to securities investigations or enforcement actions referred to in subsection (d); and

(D) it—

(i) does not distinguish by its terms between insured depository institutions, wholesale financial institutions, and subsidiaries and affiliates thereof engaged in the activity at issue and other persons or entities engaged in the same activity in a manner that is in any way adverse with respect to the conduct of the activity by any such insured depository institution, wholesale financial institution, or subsidiary or affiliate thereof engaged in the activity at issue;

(ii) as interpreted or applied, does not have, and will not have, an impact on depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof engaged in the activity at issue, or any person or entity affiliated therewith, that is substantially more adverse than its impact on other persons or entities engaged in the same activity that are not insured depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(iii) does not effectively prevent a depository institution, wholesale financial institution, or subsidiary or affiliate thereof from engaging in activities authorized or permitted by this Act or any other provision of Federal law; and

(iv) does not conflict with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law.

(c) NONDISCRIMINATION.—Except as provided in any restrictions described in subsection (b)(2)(B), no State may, by statute, regulation, order, interpretation, or other action, regulate the insurance activities authorized or permitted under this Act or any other provision of Federal law of an insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, to the extent that such statute, regulation, order, interpretation, or other action—

(1) distinguishes by its terms between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and other persons or entities engaged in such activities, in a manner that is in any way adverse to any such insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof;

(2) as interpreted or applied, has or will have an impact on depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, that is substantially more adverse than its impact on other persons or entities providing the same products or services or engaged in the same activities that are not insured depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(3) effectively prevents a depository institution or wholesale financial institution, or subsidiary or affiliate thereof, from engaging in insurance activities authorized or permitted by this Act or any other provision of Federal law; or

(4) conflicts with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and persons and entities engaged in the business of insurance.

(d) LIMITATION.—Subsections (a) and (b) shall not be construed to affect the jurisdiction of the securities commission (or any agency or office performing like functions) of any State, under the laws of such State—

(1) to investigate and bring enforcement actions, consistent with section 18(c) of the Securities Act of 1933, with respect to fraud or deceit or unlawful conduct by any person, in connection with securities or securities transactions; or

(2) to require the registration of securities or the licensure or registration of brokers, dealers, or investment advisers (consistent with section 203A of the Investment Advisers Act of 1940), or the associated persons of a broker, dealer, or investment adviser (consistent with such section 203A).

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' includes any foreign bank that maintains a branch, agency, or commercial lending company in the United States.

(2) STATE.—The term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

Section 3(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)(2)) is amended to read as follows:

''(2) REGULATIONS.—A bank holding company organized as a mutual holding company shall be regulated on terms, and shall be subject to limitations, comparable to those applicable to any other bank holding company.''.

SEC. 105A. PUBLIC MEETINGS FOR LARGE BANK ACQUISITIONS AND MERGERS.

(a) BANK HOLDING COMPANY ACT OF 1956.—Section 3(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)(2)) is amended—

(1) by striking ''FACTORS.—In every case'' and inserting ''FACTORS.—

''(A) IN GENERAL.—In every case''; and

(2) by adding at the end the following new subparagraph:

''(B) PUBLIC MEETINGS.—In each case involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Board shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Board believes, in the sole discretion of the Board, there will be a substantial public impact.''.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

''(12) PUBLIC MEETINGS.—In each merger transaction involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the responsible agency shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the agency, there will be a substantial public impact.''.

(c) NATIONAL BANK CONSOLIDATION AND MERGER ACT.—The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended by adding at the end the following new section:

''SEC. 6. PUBLIC MEETINGS FOR LARGE BANK CONSOLIDATIONS AND MERGERS.

''In each case of a consolidation or merger under this Act involving 1 or more banks each of which has total assets of $1,000,000,000 or more, the Comptroller shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Comptroller believes, in the sole discretion of the Comptroller, there will be a substantial public impact.''.

(d) HOME OWNERS' LOAN ACT.—Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1463) is amended by adding at the end the following new paragraph:

''(7) PUBLIC MEETINGS FOR LARGE DEPOSITORY INSTITUTION ACQUISITIONS AND MERGERS.—In each case involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Director shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Director believes, in the sole discretion of the Director, there will be a substantial public impact.''.

SEC. 106. PROHIBITION ON DEPOSIT PRODUCTION OFFICES.

(a) IN GENERAL.—Section 109(d) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(d)) is amended—

(1) by inserting '', the Financial Services Act of 1999,'' after ''pursuant to this title''; and

(2) by inserting ''or such Act'' after ''made by this title''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 109(e)(4) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended by inserting ''and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 107. CLARIFICATION OF BRANCH CLOSURE REQUIREMENTS.

Section 42(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1(d)(4)(A)) is amended by inserting ''and any bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 108. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking ''and'' at the end of subclause (IX);

(B) by inserting ''and'' after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

''(XI) assets that are derived from, or are incidental to, consumer lending activities in which institutions described in subparagraph (F) or (H) of section 2(c)(2) are permitted to engage,'';

(2) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

''(C) any bank subsidiary of such company both—

''(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

''(ii) engages in the business of making commercial loans (and, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

''(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).''; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

''(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

''(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate;

''(B) such overdraft—

''(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

''(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system; or

''(C) such overdraft—

''(i) is incurred on behalf of an affiliate solely in connection with an activity that is so closely related to banking, or managing or controlling banks, as to be a proper incident thereto, to the extent the bank incurring the overdraft and the affiliate on whose behalf the overdraft is incurred each document that the overdraft is incurred for such purpose; and

''(ii) does not cause the bank to violate any provision of section 23A or 23B of the Federal Reserve Act, either directly, in the case of a member bank, or by virtue of section 18(j) of the Federal Deposit Insurance Act, in the case of a nonmember bank.

''(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

''(A) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; and

''(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.

The issuance of any notice under this paragraph that relates to the activities of a bank shall not be construed as affecting the authority of the bank to continue to engage in such activities until the expiration of such 180-day period.''.

(b) INDUSTRIAL LOAN COMPANIES AFFILIATE OVERDRAFTS.—Section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)) is amended by inserting before the period at the end '', or that is otherwise permissible for a bank controlled by a company described in section 4(f)(1)''.

SEC. 109. GAO STUDY OF ECONOMIC IMPACT ON COMMUNITY BANKS, OTHER SMALL FINANCIAL INSTITUTIONS, INSURANCE AGENTS, AND CONSUMERS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the projected economic impact and the actual economic impact that the enactment of this Act will have on financial institutions, including community banks, registered brokers and dealers and insurance companies, which have total assets of $100,000,000 or less, insurance agents, and consumers.

(b) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit reports to the Congress, at the times required under paragraph (2), containing the findings and conclusions of the Comptroller General with regard to the study required under subsection (a) and such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(2) TIMING OF REPORTS.—The Comptroller General shall submit—

(A) an interim report before the end of the 6-month period beginning after the date of the enactment of this Act;

(B) another interim report before the end of the next 6-month period; and

(C) a final report before the end of the 1-year period after such second 6-month period,''

SEC. 110. RESPONSIVENESS TO COMMUNITY NEEDS FOR FINANCIAL SERVICES.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act), shall conduct a study of the extent to which adequate services are being provided as intended by the Community Reinvestment Act of 1977, including services in low- and moderate-income neighborhoods and for persons of modest means, as a result of the enactment of this Act.

(b) REPORT.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Federal banking agencies, shall submit a report to the Congress on the study conducted pursuant to subsection (a) and shall include such recommendations as the Secretary determines to be appropriate for administrative and legislative action with respect to institutions covered under the Community Reinvestment Act of 1977.

Subtitle B—Streamlining Supervision of Financial Holding Companies

SEC. 111. STREAMLINING FINANCIAL HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

''(c) REPORTS AND EXAMINATIONS.—

''(1) REPORTS.—

''(A) IN GENERAL.—The Board from time to time may require any bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the holding company; and

''(ii) compliance by the company or subsidiary with applicable provisions of this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

''(ii) AVAILABILITY.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(iii) REQUIRED USE OF PUBLICLY REPORTED INFORMATION.—The Board shall, to the fullest extent possible, accept in fulfillment of any reporting or recordkeeping requirements under this Act information that is otherwise required to be reported publicly and externally audited financial statements.

''(iv) REPORTS FILED WITH OTHER AGENCIES.—In the event the Board requires a report from a functionally regulated nondepository institution subsidiary of a bank holding company of a kind that is not required by another Federal or State regulator or appropriate self-regulatory organization, the Board shall request that the appropriate regulator or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or any of its subsidiary depository institutions or compliance with this Act, the Board may require such subsidiary to provide such a report to the Board.

''(C) DEFINITION.—For purposes of this subsection, the term 'functionally regulated nondepository institution' means—

''(i) a broker or dealer registered under the Securities Exchange Act of 1934;

''(ii) an investment adviser registered under the Investment Advisers Act of 1940, or with any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(iii) an insurance company subject to supervision by a State insurance commission, agency, or similar authority; and

''(iv) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

''(2) EXAMINATIONS.—

''(A) EXAMINATION AUTHORITY.—

''(i) IN GENERAL.—The Board may make examinations of each bank holding company and each subsidiary of a bank holding company.

''(ii) FUNCTIONALLY REGULATED NONDEPOSITORY INSTITUTION SUBSIDIARIES.—Notwithstanding clause (i), the Board may make examinations of a functionally regulated nondepository institution subsidiary of a bank holding company only if—

''(I) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution, or

''(II) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution and the Board cannot make such determination through examination of the affiliated depository institution or bank holding company.

''(B) LIMITATIONS ON EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (A)(ii), the Board may make examinations under subparagraph (A)(i) of each bank holding company and each subsidiary of such holding company in order to—

''(i) inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

''(ii) inform the Board of—

''(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any subsidiary depository institution of such holding company; and

''(II) the systems for monitoring and controlling such risks; and

''(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any subsidiary depository institution and its affiliates.

''(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

''(i) the bank holding company; and

''(ii) any subsidiary of the holding company that, because of—

''(I) the size, condition, or activities of the subsidiary; or

''(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company,

could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

''(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use, for the purposes of this paragraph, the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

''(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and instead reviewing the reports of examination made of—

''(i) any registered broker or dealer by or on behalf of the Securities and Exchange Commission;

''(ii) any investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State, whichever is required by law;

''(iii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

''(iv) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

''(3) CAPITAL.—

''(A) IN GENERAL.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a financial holding company that is not a depository institution and—

''(i) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority;

''(ii) is registered as an investment adviser under the Investment Advisers Act of 1940, or with any State, whichever is required by law; or

''(iii) is licensed as an insurance agent with the appropriate State insurance authority.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to—

''(i) activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities; or

''(ii) activities of a licensed insurance agent other than insurance agency activities or activities incidental to insurance agency activities.

''(C) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, unless the investment company is—

''(i) a bank holding company; or

''(ii) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(4) TRANSFER OF BOARD AUTHORITY TO APPROPRIATE FEDERAL BANKING AGENCY.—

''(A) IN GENERAL.—In the case of any bank holding company which is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

''(B) AUTHORITY TRANSFERRED.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

''(i) examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under section 5;

''(ii) approve or disapprove applications or transactions under section 3;

''(iii) take actions and impose penalties under subsections (e) and (f) of section 5 and section 8; and

''(iv) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

''(C) AGENCY ORDERS.—Section 9 of this Act and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

''(5) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—The Board shall defer to—

''(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies;

''(B) the relevant State securities authorities with regard to all interpretations of, and the enforcement of, applicable State securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of brokers, dealers, and investment advisers required to be registered under State law; and

''(C) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of insurance companies and insurance agents.''.

SEC. 112. ELIMINATION OF APPLICATION REQUIREMENT FOR FINANCIAL HOLDING COMPANIES.

(a) PREVENTION OF DUPLICATIVE FILINGS.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding the following new sentence at the end: ''A declaration filed in accordance with section 6(b)(1)(D) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3.''.

(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking ''Financial Institutions Supervisory Act of 1966, order'' and inserting ''Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

''(A) order''; and

(2) by striking ''shareholders of the bank holding company. Such distribution'' and inserting ''shareholders of the bank holding company; or

''(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the primary supervisor for the bank, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company.

The distribution referred to in subparagraph (A)''.

SEC. 113. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

(a) BANK HOLDING COMPANIES.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective nor enforceable with respect to an entity described in subparagraph (A) if—

''(A) such funds or assets are to be provided by—

''(i) a bank holding company that is an insurance company, a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; or

''(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State ; and

''(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker, dealer, investment adviser (solely with respect to investment advisory activities or activities incidental thereto), or investment company, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker, dealer, investment company, or investment adviser, as the case may be.

''(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, which is an insurance company or a broker, dealer, investment company, or investment adviser described in paragraph (1)(A) to provide funds or assets to an insured depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company, the Securities and Exchange Commission, or State securities regulator, as the case may be, of such requirement.

''(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in that paragraph, the Board may order the bank holding company to divest the insured depository institution not later than 180 days after receiving the notice, or such longer period as the Board determines consistent with the safe and sound operation of the insured depository institution.

''(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.''.

(b) SUBSIDIARIES OF DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

''SEC. 45. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the appropriate Federal banking agency which requires a subsidiary to provide funds or other assets to an insured depository institution shall not be effective nor enforceable with respect to an entity described in paragraph (1) if—

''(1) such funds or assets are to be provided by a subsidiary which is an insurance company, a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; and

''(2) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, the investment company, or the investment adviser, as the case may be, determines in writing sent to the insured depository institution and the appropriate Federal banking agency that the subsidiary

shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker, dealer, investment company, or investment adviser, as the case may be.

''(b) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the appropriate Federal banking agency requires a subsidiary, which is an insurance company, a broker or dealer, an investment company, or an investment adviser (solely with respect to investment advisory activities or activities incidental thereto) described in subsection (a)(1) to provide funds or assets to an insured depository institution pursuant to any regulation, order, or other action of the appropriate Federal banking agency referred to in subsection (a), the appropriate Federal banking agency shall promptly notify the State insurance authority for the insurance company, the Securities and Exchange Commission, or State securities regulator, as the case may be, of such requirement.

''(c) DIVESTITURE IN LIEU OF OTHER ACTION.—If the appropriate Federal banking agency receives a notice described in subsection (a)(2) from a State insurance authority or the Securities and Exchange Commission with regard to a subsidiary referred to in that subsection, the appropriate Federal banking agency may order the insured depository institution to divest the subsidiary not later than 180 days after receiving the notice, or such longer period as the appropriate Federal banking agency determines consistent with the safe and sound operation of the insured depository institution.

''(d) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the appropriate Federal banking agency under subsection (c) to an insured depository institution and ending on the date the divestiture is complete, the appropriate Federal banking agency may impose any conditions or restrictions on the insured depository institution's ownership of the subsidiary including restricting or prohibiting transactions between the insured depository institution and the subsidiary, as are appropriate under the circumstances.''.

SEC. 114. PRUDENTIAL SAFEGUARDS.

(a) COMPTROLLER OF THE CURRENCY.—

(1) IN GENERAL.—The Comptroller of the Currency may, by regulation or order, impose restrictions or requirements on relationships or transactions between a national bank and a subsidiary of the national bank which the Comptroller finds are consistent with the public interest, the purposes of this Act, title LXII of the Revised Statutes of the United States, and other Federal law applicable to national banks, and the standards in paragraph (2).

(2) STANDARDS.—The Comptroller of the Currency may exercise authority under paragraph (1) if the Comptroller finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of banks.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the national bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between subsidiaries owned or controlled by domestic banks and subsidiaries owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Comptroller of the Currency shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Comptroller finds is no longer required for such purposes.

(b) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System may, by regulation or order, impose restrictions or requirements on relationships or transactions—

(A) between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution); or

(B) between a State member bank and a subsidiary of such bank,

which the Board finds are consistent with the public interest, the purposes of this Act, the Bank Holding Company Act of 1956, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies or State banks (as the case may be), and the standards in paragraph (2).

(2) STANDARDS.—The Board of Governors of the Federal Reserve System may exercise authority under paragraph (1) if the Board finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of bank holding companies.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the State member bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between nonbank affiliates owned or controlled by domestic bank holding companies and nonbank affiliates owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Board of Governors of the Federal Reserve System shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.

(4) FOREIGN BANKS.—

(A) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a branch, agency, or commercial lending company of a foreign bank in the United States and any affiliate in the United States of such foreign bank that the Board finds are consistent with the public interest, the purposes of this Act, the Bank Holding Company Act of 1956, the Federal Reserve Act, and other Federal law applicable to foreign banks and their affiliates in the United States, and the standards in paragraphs (2) and (3).

(B) EVASION.—In the event that the Board determines that there may be circumstances that would result in an evasion of this paragraph, the Board may also impose restrictions or requirements on relationships or transactions between operations of a foreign bank outside the United States and any affiliate in the United States of such foreign bank that are consistent with national treatment and equality of competitive opportunity.

(c) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation may, by regulation or order, impose restrictions or requirements on relationships or transactions between a State nonmember bank (as defined in section 3 of the Federal Deposit Insurance Act) and a subsidiary of the State nonmember bank which the Corporation finds are consistent with the public interest, the purposes of this Act, the Federal Deposit Insurance Act, or other Federal law applicable to State nonmember banks and the standards in paragraph (2).

(2) STANDARDS.—The Federal Deposit Insurance Corporation may exercise authority under paragraph (1) if the Corporation finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of banks.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the State nonmember bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between subsidiaries owned or controlled by domestic banks and subsidiaries owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Federal Deposit Insurance Corporation shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Corporation finds is no longer required for such purposes.

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(2) PROHIBITION ON BANKING AGENCIES.—Except as provided in paragraph (3), a Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(3) CERTAIN EXAMINATIONS AUTHORIZED.—Nothing in this subsection prevents the Federal Deposit Insurance Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(3) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the same meaning as in section 3(z) of the Federal Deposit Insurance Act.

(4) REGISTERED INVESTMENT COMPANY.—The term ''registered investment company'' means an investment company which is registered with the Commission under the Investment Company Act of 1940.

(5) SAVINGS AND LOAN HOLDING COMPANY.—The term ''savings and loan holding company'' has the same meaning as in section 10(a)(1)(D) of the Home Owners' Loan Act.

SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

''SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

''(a) LIMITATION ON DIRECT ACTION.—

''(1) IN GENERAL.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company unless the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

''(A) the financial safety, soundness, or stability of an affiliated depository institution; or

''(B) the domestic or international payment system.

''(2) CRITERIA FOR BOARD ACTION.—The Board shall not take action otherwise permitted under paragraph (1) unless the Board finds that it is not reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

''(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a financial holding company or a wholesale financial holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a regulated subsidiary that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

''(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a regulated subsidiary with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

''(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'regulated subsidiary' means any company that is not a bank holding company and is—

''(1) a broker or dealer registered under the Securities Exchange Act of 1934;

''(2) an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State, whichever is required by law, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(3) an investment company registered under the Investment Company Act of 1940;

''(4) an insurance company or an insurance agency, with respect to the insurance activities and activities incidental to such insurance activities, subject to supervision by a State insurance commission, agency, or similar authority; or

''(5) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.''.

SEC. 117. EQUIVALENT REGULATION AND SUPERVISION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of—

(1) section 5(c) of the Bank Holding Company Act of 1956 (as amended by this Act) that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on bank holding companies and their nonbank subsidiaries or that require deference to other regulators; and

(2) section 10A of the Bank Holding Company Act of 1956 (as added by this Act) that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to bank holding companies and their nonbank subsidiaries,

shall also limit whatever authority that a Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) might otherwise have under any statute to require reports, make examinations, impose capital requirements or take any other direct or indirect action with respect to bank holding companies and their nonbank subsidiaries (including nonbank subsidiaries of depository institutions), subject to the same standards and requirements as are applicable to the Board under such provisions.

(b) CERTAIN EXAMINATIONS AUTHORIZED.—No provision of this section shall be construed as preventing the Federal Deposit Insurance Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

SEC. 118. PROHIBITION ON FDIC ASSISTANCE TO AFFILIATES AND SUBSIDIARIES.

Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking ''to benefit any shareholder of'' and inserting ''to benefit any shareholder, affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act), or subsidiary of''.

SEC. 119. REPEAL OF SAVINGS BANK PROVISIONS IN THE BANK HOLDING COMPANY ACT OF 1956.

Section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

''(f) [Repealed].''.

SEC. 120. TECHNICAL AMENDMENT.

Section 2(o)(1)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)(1)(A)) is amended by striking ''section 38(b)'' and inserting ''section 38''.

Subtitle C—Subsidiaries of National Banks

SEC. 121. PERMISSIBLE ACTIVITIES FOR SUBSIDIARIES OF NATIONAL BANKS.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

''SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.

''(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

''(1) EXCLUSIVE AUTHORITY.—No provision of section 5136 or any other provision of this title LXII of the Revised Statutes of the United States shall be construed as authorizing a subsidiary of a national bank to engage in, or own any share of or any other interest in any company engaged in, any activity that—

''(A) is not permissible for a national bank to engage in directly; or

''(B) is conducted under terms or conditions other than those that would govern the conduct of such activity by a national bank, unless a national bank is specifically authorized by the express terms of a Federal statute and not by implication or interpretation to acquire shares of or an interest in, or to control, such subsidiary, such as by paragraph (2) of this subsection and section 25A of the Federal Reserve Act.

''(2) SPECIFIC AUTHORIZATION TO CONDUCT ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—Subject to paragraphs (3) and (4), a national bank may control a financial subsidiary, or hold an interest in a financial subsidiary, that is controlled by insured depository institutions or subsidiaries thereof.

''(3) ELIGIBILITY REQUIREMENTS.—A national bank may control or hold an interest in a company pursuant to paragraph (2) only if—

''(A) the national bank and all depository institution affiliates of the national bank are well capitalized;

''(B) the national bank and all depository institution affiliates of the national bank are well managed;

''(C) the national bank and all depository institution affiliates of such national bank have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such bank or institution; and

''(D) the bank has received the approval of the Comptroller of the Currency.

''(4) ACTIVITY LIMITATIONS.—In addition to any other limitation imposed on the activity of subsidiaries of national banks, a subsidiary of a national bank may not, pursuant to paragraph (2)—

''(A) engage as principal in insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (other than in connection with credit-related insurance) or in providing or issuing annuities;

''(B) engage in real estate investment or development activities; or

''(C) engage in any activity permissible for a financial holding company under paragraph (3)(I) of section 6(c) of the Bank Holding Company Act of 1956 (relating to insurance company investments).

''(5) SIZE FACTOR WITH REGARD TO FREE-STANDING NATIONAL BANKS.—Notwithstanding paragraph (2), a national bank which has total assets of $10,000,000,000 or more may not control a subsidiary engaged in financial activities pursuant to such paragraph unless such national bank is a subsidiary of a bank holding company.

''(6) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY AFFILIATED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes an affiliate of a national bank during the 12-month period preceding the date of an approval by the Comptroller of the Currency under paragraph (3)(D) for such bank, and any depository institution which becomes an affiliate

of the national bank after such date, may be excluded for purposes of paragraph (3)(C) during the 12-month period beginning on the date of such affiliation if—

''(A) the national bank or such depository institution has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution; and

''(B) the plan has been accepted by such agency.

''(7) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) COMPANY; CONTROL; AFFILIATE; SUBSIDIARY.—The terms 'company', 'control', 'affiliate', and 'subsidiary' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

''(B) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which is a subsidiary of an insured bank and is engaged in financial activities that have been determined to be financial in nature or incidental to such financial activities in accordance with subsection (b) or permitted in accordance with subsection (b)(4), other than activities that are permissible for a national bank to engage in directly or that are authorized under the Bank Service Company Act, section 25 or 25A of the Federal Reserve Act, or any other Federal statute (other than this section) that specifically authorizes the conduct of such activities by its express terms and not by implication or interpretation.

''(C) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

''(D) WELL MANAGED.—The term 'well managed' means—

''(i) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

''(I) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

''(II) at least a rating of 2 for management, if that rating is given; or

''(ii) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

''(E) INCORPORATED DEFINITIONS.—The terms 'appropriate Federal banking agency' and 'depository institution' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(b) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) FINANCIAL ACTIVITIES.—

''(A) IN GENERAL.—For purposes of subsection (a)(7)(B), an activity shall be considered to have been determined to be financial in nature or incidental to such financial activities only if—

''(i) such activity is permitted for a financial holding company pursuant to section 6(c)(3) of the Bank Holding Company Act of 1956 (to the extent such activity is not otherwise prohibited under this section or any other provision of law for a subsidiary of a national bank engaged in activities pursuant to subsection (a)(2)); or

''(ii) the Secretary of the Treasury determines the activity to be financial in nature or incidental to such financial activities in accordance with subparagraph (B) or paragraph (3).

''(B) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

''(i) PROPOSALS RAISED BEFORE THE SECRETARY OF THE TREASURY.—

''(I) CONSULTATION.—The Secretary of the Treasury shall notify the Board of, and consult with the Board concerning, any request, proposal, or application under this subsection, including any regulation or order proposed under paragraph (3), for a determination of whether an activity is financial in nature or incidental to such a financial activity.

''(II) BOARD VIEW.—The Secretary of the Treasury shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Board notifies the Secretary in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Secretary determines to be appropriate in light of the circumstances) that the Board believes that the activity is not financial in nature or incidental to a financial activity.

''(ii) PROPOSALS RAISED BY THE BOARD.—

''(I) BOARD RECOMMENDATION.—The Board may, at any time, recommend in writing that the Secretary of the Treasury find an activity to be financial in nature or incidental to a financial activity (other than an activity which the Board has sole authority to regulate under subparagraph (C)).

''(II) TIME PERIOD FOR SECRETARIAL ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Board under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate in light of the circumstances), the Secretary shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Board in writing of the determination of the Secretary and, in the event that the Secretary determines not to seek public comment on the proposal, the reasons for that determination.

''(C) AUTHORITY OVER MERCHANT BANKING.—The Board shall have sole authority to prescribe regulations and issue interpretations to implement this paragraph with respect to activities described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956.

''(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Secretary shall take into account—

''(A) the purposes of this Act and the Financial Services Act of 1999;

''(B) changes or reasonably expected changes in the marketplace in which banks compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a bank and the subsidiaries of a bank to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

''(iii) offer customers any available or emerging technological means for using financial services.

''(3) AUTHORIZATION OF NEW FINANCIAL ACTIVITIES.—The Secretary of the Treasury shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(B) Providing any device or other instrumentality for transferring money or other financial assets.

''(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(4) DEVELOPING ACTIVITIES.—Subject to subsection (a)(2), a financial subsidiary of a national bank may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Secretary has not determined to be financial in nature or incidental to financial activities under this subsection if—

''(A) the subsidiary reasonably concludes that the activity is financial in nature or incidental to financial activities;

''(B) the gross revenues from all activities conducted under this paragraph represent less than 5 percent of the consolidated gross revenues of the national bank;

''(C) the aggregate total assets of all companies the shares of which are held under this paragraph do not exceed 5 percent of the national bank's consolidated total assets;

''(D) the total capital invested in activities conducted under this paragraph represents less than 5 percent of the consolidated total capital of the national bank;

''(E) neither the Secretary of the Treasury nor the Board has determined that the activity is not financial in nature or incidental to financial activities under this subsection; and

''(F) the national bank provides written notice to the Secretary of the Treasury describing the activity commenced by the subsidiary or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.

''(c) PROVISIONS APPLICABLE TO NATIONAL BANKS THAT FAIL TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If a national bank or depository institution affiliate is not in compliance with the requirements of subparagraph (A), (B), or (C) of subsection (a)(3), the appropriate Federal banking agency shall notify the Comptroller of the Currency, who shall give notice of such finding to the national bank.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Not later than 45 days after receipt by a national bank of a notice given under paragraph (1) (or such additional period as the Comptroller of the Currency may permit), the national bank and any relevant affiliated depository institution shall execute an agreement acceptable to the Comptroller of the Currency and the other appropriate Federal banking agencies, if any, to comply with the requirements applicable under subsection (a)(3).

''(3) COMPTROLLER OF THE CURRENCY MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a national bank under paragraph (1) are corrected—

''(A) the Comptroller of the Currency may impose such limitations on the conduct or activities of the national bank or any subsidiary of the bank as the Comptroller of the Currency determines to be appropriate under the circumstances; and

''(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of an affiliated depository

institution or any subsidiary of the depository institution as such agency determines to be appropriate under the circumstances.

''(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a national bank and other affiliated depository institutions do not—

''(A) execute and implement an agreement in accordance with paragraph (2);

''(B) comply with any limitations imposed under paragraph (3);

''(C) in the case of a notice of failure to comply with subsection (a)(3)(A), restore the national bank or any depository institution affiliate of the bank to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the national bank (or such other period permitted by the Comptroller of the Currency); or

''(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (a)(3), restore compliance with any such subparagraph on or before the date on which the next examination of the depository institution subsidiary is completed or by the end of such other period as the Comptroller of the Currency determines to be appropriate,

the Comptroller of the Currency may require such national bank, under such terms and conditions as may be imposed by the Comptroller of the Currency and subject to such extension of time as may be granted in the Comptroller of the Currency's discretion, to divest control of any subsidiary engaged in activities pursuant to subsection (a)(2) or, at the election of the national bank, instead to cease to engage in any activity conducted by a subsidiary of the national bank pursuant to subsection (a)(2).

''(5) CONSULTATION.—In taking any action under this subsection, the Comptroller of the Currency shall consult with all relevant Federal and State regulatory agencies.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

''5136A. Subsidiaries of national banks.''.

SEC. 122. SAFETY AND SOUNDNESS FIREWALLS BETWEEN BANKS AND THEIR FINANCIAL SUBSIDIARIES.

(a) PURPOSES.—The purposes of this section are—

(1) to protect the safety and soundness of any insured bank that has a financial subsidiary;

(2) to apply to any transaction between the bank and the financial subsidiary (including a loan, extension of credit, guarantee, or purchase of assets), other than an equity investment, the same restrictions and requirements as would apply if the financial subsidiary were a subsidiary of a bank holding company having control of the bank; and

(3) to apply to any equity investment of the bank in the financial subsidiary restrictions and requirements equivalent to those that would apply if—

(A) the bank paid a dividend in the same dollar amount to a bank holding company having control of the bank; and

(B) the bank holding company used the proceeds of the dividend to make an equity investment in a subsidiary that was engaged in the same activities as the financial subsidiary of the bank.

(b) SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 45 (as added by section 113(b) of this title) the following new section:

''SEC. 46. SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.

''(a) LIMITING THE EQUITY INVESTMENT OF A BANK IN A SUBSIDIARY.—

''(1) CAPITAL DEDUCTION.—In determining whether an insured bank complies with applicable regulatory capital standards—

''(A) the appropriate Federal banking agency shall deduct from the assets and tangible equity of the bank the aggregate amount of the outstanding equity investments of the bank in financial subsidiaries of the bank; and

''(B) the assets and liabilities of such financial subsidiaries shall not be consolidated with those of the bank.

''(2) INVESTMENT LIMITATION.—An insured bank shall not, without the prior approval of the appropriate Federal banking agency, make any equity investment in a financial subsidiary of the bank if that investment would, when made, exceed the amount that the bank could pay as a dividend without obtaining prior regulatory approval.

''(3) TREATMENT OF RETAINED EARNINGS.—The amount of any net earnings retained by a financial subsidiary of an insured depository institution shall be treated as an outstanding equity investment of the bank in the subsidiary for purposes of paragraph (1).

''(b) OPERATIONAL AND FINANCIAL SAFEGUARDS FOR THE BANK.—An insured bank that has a financial subsidiary shall maintain procedures for identifying and managing any financial and operational risks posed by the financial subsidiary.

''(c) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS.—

''(1) IN GENERAL.—Each insured bank shall ensure that the bank maintains and complies with reasonable policies and procedures to preserve the separate corporate identity and legal status of the bank and any financial subsidiary or affiliate of the bank.

''(2) EXAMINATIONS.—The appropriate Federal banking agency, as part of each examination, shall review whether an insured bank is observing the separate corporate identity and separate legal status of any subsidiaries and affiliates of the bank.

''(d) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section, the term 'financial subsidiary' has the meaning given to such term in section 5136A(a)(7)(B) of the Revised Statutes of the United States.

''(e) REGULATIONS.—The appropriate Federal banking agencies shall jointly prescribe regulations implementing this section.''.

(c) TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARIES AND OTHER AFFILIATES.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

''(e) RULES RELATING TO BANKS WITH FINANCIAL SUBSIDIARIES.—

''(1) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section and section 23B, the term 'financial subsidiary' means a company which is a subsidiary of a bank and is engaged in activities that are financial in nature or incidental to such financial activities pursuant to subsection (a)(2) or (b)(4) of section 5136A of the Revised Statutes of the United States.

''(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank which is not a financial subsidiary) and notwithstanding subsection (b)(2) and section 23B(d)(1), the financial subsidiary of the bank—

''(A) shall be an affiliate of the bank and any other subsidiary of the bank which is not a financial subsidiary; and

''(B) shall not be treated as a subsidiary of the bank.

''(3) APPLICATION TO TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES.—

''(A) IN GENERAL.—A transaction between a financial subsidiary and an affiliate of the financial subsidiary shall not be deemed to be a transaction between a subsidiary of a national bank and an affiliate of the bank for purposes of section 23A or section 23B of the Federal Reserve Act.

''(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of subparagraph (A) and notwithstanding paragraph (4), the term 'affiliate' shall not include a bank, or a subsidiary of a bank, which is engaged exclusively in activities permissible for a national bank to engage in directly or which are authorized by any Federal law other than section 5136A of the Revised Statutes of the United States.

''(4) EQUITY INVESTMENTS EXCLUDED SUBJECT TO THE APPROVAL OF THE BANKING AGENCY.—Subsection (a)(1) shall not apply so as to limit the equity investment of a bank in a financial subsidiary of such bank, except that any investment that exceeds the amount of a dividend that the bank could pay at the time of the investment without obtaining prior approval of the appropriate Federal banking agency and is in excess of the limitation which would apply under subsection (a)(1), but for this paragraph, may be made only with the approval of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) with respect to such bank.''.

(d) ANTITYING.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: ''For purposes of this section, a subsidiary of a national bank which engages in activities pursuant to subsection (a)(2) or (b)(4) of section 5136A of the Revised Statutes of the United States shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''.

SEC. 123. MISREPRESENTATIONS REGARDING DEPOSITORY INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following new section:

''§ 1008. Misrepresentations regarding financial institution liability for obligations of affiliates

''(a) IN GENERAL.—No institution-affiliated party of an insured depository institution or institution-affiliated party of a subsidiary or affiliate of an insured depository institution shall fraudulently represent that the institution is or will be liable for any obligation of a subsidiary or other affiliate of the institution.

''(b) CRIMINAL PENALTY.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 5 years, or both.

''(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' has the same meaning as in section 3 of the Federal Deposit Insurance Act and any reference in that section shall also be deemed to refer to a subsidiary or affiliate of an insured depository institution.

''(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'affiliate', 'insured depository institution', and 'subsidiary' have same meanings as in section 3 of the Federal Deposit Insurance Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after

the item relating to section 1007 the following new item:

''1008. Misrepresentations regarding financial institution liability for obligations of affiliates.''.

SEC. 124. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designated as ''(m)'' and inserting ''(m) [Repealed]''.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

SEC. 131. WHOLESALE FINANCIAL HOLDING COMPANIES ESTABLISHED.

Section 10 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended to read as follows:

''SEC. 10. WHOLESALE FINANCIAL HOLDING COMPANIES.

''(a) COMPANIES THAT CONTROL WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) WHOLESALE FINANCIAL HOLDING COMPANY DEFINED.—The term 'wholesale financial holding company' means any company that—

''(A) is registered as a bank holding company;

''(B) is predominantly engaged in financial activities as defined in section 6(f)(2);

''(C) controls 1 or more wholesale financial institutions;

''(D) does not control—

''(i) a bank other than a wholesale financial institution;

''(ii) an insured bank other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2); or

''(iii) a savings association; and

''(E) is not a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

''(2) SAVINGS ASSOCIATION TRANSITION PERIOD.—Notwithstanding paragraph (1)(D)(iii), the Board may permit a company that controls a savings association and that otherwise meets the requirements of paragraph (1) to become supervised under paragraph (1), if the company divests control of any such savings association within such period not to exceed 5 years after becoming supervised under paragraph (1) as permitted by the Board.

''(b) SUPERVISION BY THE BOARD.—

''(1) IN GENERAL.—The provisions of this section shall govern the reporting, examination, and capital requirements of wholesale financial holding companies.

''(2) REPORTS.—

''(A) IN GENERAL.—The Board from time to time may require any wholesale financial holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) the company's or subsidiary's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions with depository institution subsidiaries of the holding company; and

''(ii) the extent to which the company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that the wholesale financial holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

''(ii) AVAILABILITY.—A wholesale financial holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(C) EXEMPTIONS FROM REPORTING REQUIREMENTS.—

''(i) IN GENERAL.—The Board may, by regulation or order, exempt any company or class of companies, under such terms and conditions and for such periods as the Board shall provide in such regulation or order, from the provisions of this paragraph and any regulation prescribed under this paragraph.

''(ii) CRITERIA FOR CONSIDERATION.—In making any determination under clause (i) with regard to any exemption under such clause, the Board shall consider, among such other factors as the Board may determine to be appropriate, the following factors:

''(I) Whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978) or a foreign regulatory authority of a similar type.

''(II) The primary business of the company.

''(III) The nature and extent of the domestic and foreign regulation of the activities of the company.

''(3) EXAMINATIONS.—

''(A) LIMITED USE OF EXAMINATION AUTHORITY.—The Board may make examinations of each wholesale financial holding company and each subsidiary of such company in order to—

''(i) inform the Board regarding the nature of the operations and financial condition of the wholesale financial holding company and its subsidiaries;

''(ii) inform the Board regarding—

''(I) the financial and operational risks within the wholesale financial holding company system that may affect any depository institution owned by such holding company; and

''(II) the systems of the holding company and its subsidiaries for monitoring and controlling those risks; and

''(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any depository institution controlled by the wholesale financial holding company and any of the company's other subsidiaries.

''(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a wholesale financial holding company under this paragraph to—

''(i) the holding company; and

''(ii) any subsidiary (other than an insured depository institution subsidiary) of the holding company that, because of the size, condition, or activities of the subsidiary, the nature or size of transactions between such subsidiary and any affiliated depository institution, or the centralization of functions within the holding company system, could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

''(C) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use the reports of examination of depository institutions made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision or the appropriate State depository institution supervisory authority for the purposes of this section.

''(D) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and by instead reviewing the reports of examination made of—

''(i) any registered broker or dealer or any registered investment adviser by or on behalf of the Commission; and

''(ii) any licensed insurance company by or on behalf of any State government insurance agency responsible for the supervision of the insurance company.

''(E) CONFIDENTIALITY OF REPORTED INFORMATION.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, the Board shall not be compelled to disclose any nonpublic information required to be reported under this paragraph, or any information supplied to the Board by any domestic or foreign regulatory agency, that relates to the financial or operational condition of any wholesale financial holding company or any subsidiary of such company.

''(ii) COMPLIANCE WITH REQUESTS FOR INFORMATION.—No provision of this subparagraph shall be construed as authorizing the Board to withhold information from the Congress, or preventing the Board from complying with a request for information from any other Federal department or agency for purposes within the scope of such department's or agency's jurisdiction, or from complying with any order of a court of competent jurisdiction in an action brought by the United States or the Board.

''(iii) COORDINATION WITH OTHER LAW.—For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered to be a statute described in subsection (b)(3)(B) of such section.

''(iv) DESIGNATION OF CONFIDENTIAL INFORMATION.—In prescribing regulations to carry out the requirements of this subsection, the Board shall designate information described in or obtained pursuant to this paragraph as confidential information.

''(F) COSTS.—The cost of any examination conducted by the Board under this section may be assessed against, and made payable by, the wholesale financial holding company.

''(4) CAPITAL ADEQUACY GUIDELINES.—

''(A) CAPITAL ADEQUACY PROVISIONS.—Subject to the requirements of, and solely in accordance with, the terms of this paragraph, the Board may adopt capital adequacy rules or guidelines for wholesale financial holding companies.

''(B) METHOD OF CALCULATION.—In developing rules or guidelines under this paragraph, the following provisions shall apply:

''(i) FOCUS ON DOUBLE LEVERAGE.—The Board shall focus on the use by wholesale financial holding companies of debt and other liabilities to fund capital investments in subsidiaries.

''(ii) NO UNWEIGHTED CAPITAL RATIO.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

''(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that—

''(I) is not a depository institution; and

''(II) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority.

''(iv) LIMITATION.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution and that is registered as an investment adviser under the Investment Advisers Act of 1940, except that this

clause shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

''(v) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, unless the investment company is—

''(I) a bank holding company; or

''(II) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(vi) APPROPRIATE EXCLUSIONS.—The Board shall take full account of—

''(I) the capital requirements made applicable to any subsidiary that is not a depository institution by another Federal regulatory authority or State insurance authority; and

''(II) industry norms for capitalization of a company's unregulated subsidiaries and activities.

''(vii) INTERNAL RISK MANAGEMENT MODELS.—The Board may incorporate internal risk management models of wholesale financial holding companies into its capital adequacy guidelines or rules and may take account of the extent to which resources of a subsidiary depository institution may be used to service the debt or other liabilities of the wholesale financial holding company.

''(c) NONFINANCIAL ACTIVITIES AND INVESTMENTS.—

''(1) GRANDFATHERED ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a company that becomes a wholesale financial holding company may continue to engage, directly or indirectly, in any activity and may retain ownership and control of shares of a company engaged in any activity if—

''(i) on the date of the enactment of the Financial Services Act of 1999, such wholesale financial holding company was lawfully engaged in that nonfinancial activity, held the shares of such company, or had entered into a contract to acquire shares of any company engaged in such activity; and

''(ii) the company engaged in such activity continues to engage only in the same activities that such company conducted on the date of the enactment of the Financial Services Act of 1999, and other activities permissible under this Act.

''(B) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A wholesale financial holding company that engages in activities or holds shares pursuant to this paragraph, or a subsidiary of such wholesale financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under section 6(c).

''(C) LIMITATION TO SINGLE EXEMPTION.—No company that engages in any activity or controls any shares under subsection (f) of section 6 may engage in any activity or own any shares pursuant to this paragraph.

''(2) COMMODITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company which was predominately engaged as of January 1, 1997, in financial activities in the United States (or any successor to any such company) may engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of January 1, 1997, if such wholesale financial holding company, or any subsidiary of such holding company, was engaged directly, indirectly, or through any such company in any of such activities as of January 1, 1997, in the United States.

''(B) LIMITATION.—The attributed aggregate consolidated assets of a wholesale financial holding company held under the authority granted under this paragraph and not otherwise permitted to be held by all wholesale financial holding companies under this section may not exceed 5 percent of the total consolidated assets of the wholesale financial holding company, except that the Board may increase such percentage of total consolidated assets by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act.

''(3) CROSS MARKETING RESTRICTIONS.—A wholesale financial holding company shall not permit—

''(A) any company whose shares it owns or controls pursuant to paragraph (1) or (2) to offer or market any product or service of an affiliated wholesale financial institution; or

''(B) any affiliated wholesale financial institution to offer or market any product or service of any company whose shares are owned or controlled by such wholesale financial holding company pursuant to such paragraphs.

''(d) QUALIFICATION OF FOREIGN BANK AS WHOLESALE FINANCIAL HOLDING COMPANY.—

''(1) IN GENERAL.—Any foreign bank, or any company that owns or controls a foreign bank, that operates a branch, agency, or commercial lending company in the United States, including a foreign bank or company that owns or controls a wholesale financial institution, may request a determination from the Board that such bank or company be treated as a wholesale financial holding company other than for purposes of subsection (c), subject to such conditions as the Board considers appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity and the requirements imposed on domestic banks and companies.

''(2) CONDITIONS FOR TREATMENT AS A WHOLESALE FINANCIAL HOLDING COMPANY.—A foreign bank and a company that owns or controls a foreign bank may not be treated as a wholesale financial holding company unless the bank and company meet and continue to meet the following criteria:

''(A) NO INSURED DEPOSITS.—No deposits held directly by a foreign bank or through an affiliate (other than an institution described in subparagraph (D) or (F) of section 2(c)(2)) are insured under the Federal Deposit Insurance Act.

''(B) CAPITAL STANDARDS.—The foreign bank meets risk-based capital standards comparable to the capital standards required for a wholesale financial institution, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(C) TRANSACTION WITH AFFILIATES.—Transactions between a branch, agency, or commercial lending company subsidiary of the foreign bank in the United States, and any securities affiliate or company in which the foreign bank (or any company that owns or controls such foreign bank) has invested, directly or indirectly, and which engages in any activity pursuant to subsection (c) or (g) of section 6, comply with the provisions of sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as such transactions would be required to comply with such sections if the bank were a member bank.

''(3) TREATMENT AS A WHOLESALE FINANCIAL INSTITUTION.—Any foreign bank which is, or is affiliated with a company which is, treated as a wholesale financial holding company under this subsection shall be treated as a wholesale financial institution for purposes of subsections (c)(1)(C) and (c)(3) of section 9B of the Federal Reserve Act, and any such foreign bank or company shall be subject to paragraphs (3), (4), and (5) of section 9B(d) of the Federal Reserve Act, except that the Board may adopt such modifications, conditions, or exemptions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(4) SUPERVISION OF FOREIGN BANK WHICH MAINTAINS NO BANKING PRESENCE OTHER THAN CONTROL OF A WHOLESALE FINANCIAL INSTITUTION.—A foreign bank that owns or controls a wholesale financial institution but does not operate a branch, agency, or commercial lending company in the United States (and any company that owns or controls such foreign bank) may request a determination from the Board that such bank or company be treated as a wholesale financial holding company, except that such bank or company shall be subject to the restrictions of paragraphs (2)(A) and (3) of this subsection.

''(5) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the authority of the Board under the International Banking Act of 1978 with respect to the regulation, supervision, or examination of foreign banks and their offices and affiliates in the United States.

''(6) APPLICABILITY OF COMMUNITY REINVESTMENT ACT OF 1977.—The branches in the United States of a foreign bank that is, or is affiliated with a company that is, treated as a wholesale financial holding company shall be subject to section 9B(b)(11) of the Federal Reserve Act as if the foreign bank were a wholesale financial institution under such section. The Board and the Comptroller of the Currency shall apply the provisions of sections 803(2), 804, and 807(1) of the Community Reinvestment Act of 1977 to branches of foreign banks which receive only such deposits as are permissible for receipt by a corporation organized under section 25A of the Federal Reserve Act, in the same manner and to the same extent such sections apply to such a corporation.''.

SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) FEDERAL RESERVE ACT.—The last sentence of the eighth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended to read as follows: ''The Board of Governors of the Federal Reserve System, at its discretion, may furnish reports of examination or other confidential supervisory information concerning State member banks or any other entities examined under any other authority of the Board to any Federal or State authorities with supervisory or regulatory authority over the examined entity, to officers, directors, or receivers of the examined entity, and to any other person that the Board determines to be proper.''.

(b) COMMODITY FUTURES TRADING COMMISSION.—The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101(7) of the (12 U.S.C. 3401(7))—

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(B) by inserting after subparagraph (F) the following new subparagraph:

''(G) the Commodity Futures Trading Commission; or''; and

(2) in section 1112(e), by striking ''and the Securities and Exchange Commission'' and inserting '', the Securities and Exchange Commission, and the Commodity Futures Trading Commission''.

SEC. 133. CONFORMING AMENDMENTS.

(a) BANK HOLDING COMPANY ACT OF 1956.—

(1) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by inserting after subsection (p) (as added by section 103(b)(1)) the following new subsections:

''(q) WHOLESALE FINANCIAL INSTITUTION.—The term 'wholesale financial institution' means a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(r) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

''(s) DEPOSITORY INSTITUTION.—The term 'depository institution'—

''(1) has the meaning given to such term in section 3 of the Federal Deposit Insurance Act; and

''(2) includes a wholesale financial institution.''.

(2) DEFINITION OF BANK INCLUDES WHOLESALE FINANCIAL INSTITUTION.—Section 2(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(1)) is amended by adding at the end the following new subparagraph:

''(C) A wholesale financial institution.''.

(3) INCORPORATED DEFINITIONS.—Section 2(n) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(n)) is amended by inserting '' 'insured bank','' after '' 'in danger of default',''.

(4) EXCEPTION TO DEPOSIT INSURANCE REQUIREMENT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: ''This subsection shall not apply to a wholesale financial institution.''.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended to read as follows:

''(A) any State member insured bank (except a District bank) and any wholesale financial institution subject to section 9B of the Federal Reserve Act;''.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

SEC. 136. WHOLESALE FINANCIAL INSTITUTIONS.

(a) NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136A (as added by section 121(a) of this title) the following new section:

''SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.

''(a) AUTHORIZATION OF THE COMPTROLLER REQUIRED.—A national bank may apply to the Comptroller on such forms and in accordance with such regulations as the Comptroller may prescribe, for permission to operate as a national wholesale financial institution.

''(b) REGULATION.—A national wholesale financial institution may exercise, in accordance with such institution's articles of incorporation and regulations issued by the Comptroller, all the powers and privileges of a national bank formed in accordance with section 5133 of the Revised Statutes of the United States, subject to section 9B of the Federal Reserve Act and the limitations and restrictions contained therein.

''(c) COMMUNITY REINVESTMENT ACT OF 1977.—A national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

(2) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136A (as added by section 121(d) of this title) the following new item:

''5136B. National wholesale financial institutions.''.

(b) WHOLESALE FINANCIAL INSTITUTIONS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

''SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.

''(a) APPLICATION FOR MEMBERSHIP AS WHOLESALE FINANCIAL INSTITUTION.—

''(1) APPLICATION REQUIRED.—

''(A) IN GENERAL.—Any bank may apply to the Board of Governors of the Federal Reserve System to become a State wholesale financial institution, or to the Comptroller of the Currency to become a national wholesale financial institution, and, as a wholesale financial institution, to subscribe to the stock of the Federal reserve bank organized within the district where the applying bank is located.

''(B) TREATMENT AS MEMBER BANK.—Any application under subparagraph (A) shall be treated as an application under, and shall be subject to the provisions of, section 9.

''(2) INSURANCE TERMINATION.—No bank the deposits of which are insured under the Federal Deposit Insurance Act may become a wholesale financial institution unless it has met all requirements under that Act for voluntary termination of deposit insurance.

''(b) GENERAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) FEDERAL RESERVE ACT.—Except as otherwise provided in this section, wholesale financial institutions shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks or national banks, except that a wholesale financial institution may terminate membership under this Act only with the prior written approval of the Board and on terms and conditions that the Board determines are appropriate to carry out the purposes of this Act.

''(2) PROMPT CORRECTIVE ACTION.—A wholesale financial institution shall be deemed to be an insured depository institution for purposes of section 38 of the Federal Deposit Insurance Act except that—

''(A) the relevant capital levels and capital measures for each capital category shall be the levels specified by the Board for wholesale financial institutions;

''(B) subject to subparagraph (A), all references to the appropriate Federal banking agency or to the Corporation in that section shall be deemed to be references to the Comptroller of the Currency, in the case of a national wholesale financial institution, and to the Board, in the case of all other wholesale financial institutions; and

''(C) in the case of wholesale financial institutions, the purpose of prompt corrective action shall be to protect taxpayers and the financial system from the risks associated with the operation and activities of wholesale financial institutions.

''(3) ENFORCEMENT AUTHORITY.—Section 3(u), subsections (j) and (k) of section 7, subsections (b) through (n), (s), (u), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to a wholesale financial institution in the same manner and to the same extent as such provisions apply to State member insured banks or national banks, as the case may be, and any reference in such sections to an insured depository institution shall be deemed to include a reference to a wholesale financial institution.

''(4) CERTAIN OTHER STATUTES APPLICABLE.—A wholesale financial institution shall be deemed to be a banking institution, and the Board shall be the appropriate Federal banking agency for such bank and all such bank's affiliates, for purposes of the International Lending Supervision Act.

''(5) BANK MERGER ACT.—A wholesale financial institution shall be subject to sections 18(c) and 44 of the Federal Deposit Insurance Act in the same manner and to the same extent the wholesale financial institution would be subject to such sections if the institution were a State member insured bank or a national bank.

''(6) BRANCHING.—Notwithstanding any other provision of law, a wholesale financial institution may establish and operate a branch at any location on such terms and conditions as established by, and with the approval of—

''(A) the Board, in the case of a State-chartered wholesale financial institution; and

''(B) the Comptroller of the Currency, in the case of a national bank wholesale financial institution.

''(7) ACTIVITIES OF OUT-OF-STATE BRANCHES OF WHOLESALE FINANCIAL INSTITUTIONS.—A State-chartered wholesale financial institution shall be deemed to be a State bank and an insured State bank for purposes of paragraphs (1), (2), and (3) of section 24(j) of the Federal Deposit Insurance Act.

''(8) DISCRIMINATION REGARDING INTEREST RATES.—Section 27 of the Federal Deposit Insurance Act shall apply to State-chartered wholesale financial institutions in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such section to a State-chartered insured depository institution shall be deemed to include a reference to a State-chartered wholesale financial institution.

''(9) PREEMPTION OF STATE LAWS REQUIRING DEPOSIT INSURANCE FOR WHOLESALE FINANCIAL INSTITUTIONS.—The appropriate State banking authority may grant a charter to a wholesale financial institution notwithstanding any State constitution or statute requiring that the institution obtain insurance of its deposits and any such State constitution or statute is hereby preempted solely for purposes of this paragraph.

''(10) PARITY FOR WHOLESALE FINANCIAL INSTITUTIONS.—A State bank that is a wholesale financial institution under this section shall have all of the rights, powers, privileges, and immunities (including those derived from status as a federally chartered institution) of and as if it were a national bank, subject to such terms and conditions as established by the Board.

''(11) COMMUNITY REINVESTMENT ACT OF 1977.—A State wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

''(c) SPECIFIC REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) LIMITATIONS ON DEPOSITS.—

''(A) MINIMUM AMOUNT.—

''(i) IN GENERAL.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis.

''(ii) LIMITATION ON DEPOSITS OF LESS THAN $100,000.—No wholesale financial institution may receive initial deposits of $100,000 or less if such deposits constitute more than 5 percent of the institution's total deposits.

''(B) NO DEPOSIT INSURANCE.—Except as otherwise provided in section 8A(f) of the Federal Deposit Insurance Act, no deposits held by a wholesale financial institution

shall be insured deposits under the Federal Deposit Insurance Act.

''(C) ADVERTISING AND DISCLOSURE.—The Board and the Comptroller of the Currency shall prescribe jointly regulations pertaining to advertising and disclosure by wholesale financial institutions to ensure that each depositor is notified that deposits at the wholesale financial institution are not federally insured or otherwise guaranteed by the United States Government.

''(2) MINIMUM CAPITAL LEVELS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—The Board shall, by regulation, adopt capital requirements for wholesale financial institutions—

''(A) to account for the status of wholesale financial institutions as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

''(B) to provide for the safe and sound operation of the wholesale financial institution without undue risk to creditors or other persons, including Federal reserve banks, engaged in transactions with the bank.

''(3) ADDITIONAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—In addition to any requirement otherwise applicable to State member insured banks or applicable, under this section, to wholesale financial institutions, the Board may impose, by regulation or order, upon wholesale financial institutions—

''(A) limitations on transactions, direct or indirect, with affiliates to prevent—

''(i) the transfer of risk to the deposit insurance funds; or

''(ii) an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

''(B) special clearing balance requirements; and

''(C) any additional requirements that the Board determines to be appropriate or necessary to—

''(i) promote the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

''(ii) prevent the transfer of risk to the deposit insurance funds; or

''(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

''(4) EXEMPTIONS FOR WHOLESALE FINANCIAL INSTITUTIONS.—The Board may, by regulation or order, exempt any wholesale financial institution from any provision applicable to a member bank that is not a wholesale financial institution, if the Board finds that such exemption is consistent with—

''(A) the promotion of the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

''(B) the protection of the deposit insurance funds; and

''(C) the protection of creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

''(5) LIMITATION ON TRANSACTIONS BETWEEN A WHOLESALE FINANCIAL INSTITUTION AND AN INSURED BANK.—For purposes of section 23A(d)(1) of the Federal Reserve Act, a wholesale financial institution that is affiliated with an insured bank shall not be a bank.

''(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the Board's authority over member banks or the authority of the Comptroller of the Currency over national banks under any other provision of law, or to create any obligation for any Federal Reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

''(d) CAPITAL AND MANAGERIAL REQUIREMENTS.—

''(1) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

''(2) NOTICE TO COMPANY.—The Board shall promptly provide notice to a company that controls a wholesale financial institution whenever such wholesale financial institution is not well capitalized or well managed.

''(3) AGREEMENT TO RESTORE INSTITUTION.—Not later than 45 days after the date of receipt of a notice under paragraph (2) (or such additional period not to exceed 90 days as the Board may permit), the company shall execute an agreement acceptable to the Board to restore the wholesale financial institution to compliance with all of the requirements of paragraph (1).

''(4) LIMITATIONS UNTIL INSTITUTION RESTORED.—Until the wholesale financial institution is restored to compliance with all of the requirements of paragraph (1), the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

''(5) FAILURE TO RESTORE.—If the company does not execute and implement an agreement in accordance with paragraph (3), comply with any limitation imposed under paragraph (4), restore the wholesale financial institution to well capitalized status not later than 180 days after the date of receipt by the company of the notice described in paragraph (2), or restore the wholesale financial institution to well managed status within such period as the Board may permit, the company shall, under such terms and conditions as may be imposed by the Board subject to such extension of time as may be granted in the discretion of the Board, divest control of its subsidiary depository institutions.

''(6) WELL MANAGED DEFINED.—For purposes of this subsection, the term 'well managed' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

''(e) RESOLUTION OF WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) CONSERVATORSHIP OR RECEIVERSHIP.—

''(A) APPOINTMENT.—The Board may appoint a conservator or receiver to take possession and control of a wholesale financial institution to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

''(B) POWERS.—The conservator or receiver for a wholesale financial institution shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

''(2) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed under paragraph (1), and the wholesale financial institution for which it has been appointed, as the Comptroller of the Currency has with respect to a conservator or receiver for a national bank and the national bank for which the conservator or receiver has been appointed.

''(3) BANKRUPTCY PROCEEDINGS.—The Comptroller of the Currency (in the case of a national wholesale financial institution) or the Board may direct the conservator or receiver of a wholesale financial institution to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the wholesale financial institution in lieu of otherwise applicable Federal or State insolvency law.

''(f) BOARD BACKUP AUTHORITY.—

''(1) NOTICE TO THE COMPTROLLER.—Before taking any action under section 8 of the Federal Deposit Insurance Act involving a wholesale financial institution that is chartered as a national bank, the Board shall notify the Comptroller and recommend that the Comptroller take appropriate action. If the Comptroller fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Board before the close of the 30-day period beginning on the date of receipt of the formal recommendation from the Board, the Board may take such action.

''(2) EXIGENT CIRCUMSTANCES.—Notwithstanding paragraph (1), the Board may exercise its authority without regard to the time period set forth in paragraph (1) where the Board finds that exigent circumstances exist and the Board notifies the Comptroller of the Board's action and of the exigent circumstances.

''(g) EXCLUSIVE JURISDICTION.—Subsections (c) and (e) of section 43 of the Federal Deposit Insurance Act shall not apply to any wholesale financial institution.''.

(c) VOLUNTARY TERMINATION OF INSURED STATUS BY CERTAIN INSTITUTIONS.—

(1) SECTION 8 DESIGNATIONS.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(2) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

''SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS INSURED DEPOSITORY INSTITUTION.

''(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if—

''(1) the bank provides written notice of the bank's intent to terminate such insured status—

''(A) to the Corporation and the Board of Governors of the Federal Reserve System, in the case of an insured State bank, or to the Corporation and the Comptroller of the Currency, in the case of an insured national bank authorized to operate as a wholesale financial institution, not less than 6 months before the effective date of such termination; and

''(B) to all depositors at such bank, not less than 6 months before the effective date of the termination of such status; and

''(2) either—

''(A) the deposit insurance fund of which such bank is a member equals or exceeds the fund's designated reserve ratio as of the date the bank provides a written notice under paragraph (1) and the Corporation determines that the fund will equal or exceed the applicable designated reserve ratio for the 2 semiannual assessment periods immediately following such date; or

''(B) the Corporation and the Board of Governors of the Federal Reserve System, in the case of an insured State bank, or the Corporation and the Comptroller of the Currency, in the case of an insured national bank authorized to operate as a wholesale financial institution, has approved the termination of the bank's insured status and the bank pays an exit fee in accordance with subsection (e).

''(b) EXCEPTION.—Subsection (a) shall not apply with respect to—

''(1) an insured savings association; or

''(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978.

''(c) ELIGIBILITY FOR INSURANCE TERMINATED.—Any bank that voluntarily elects to terminate the bank's insured status under subsection (a) shall not be eligible for insurance on any deposits or any assistance authorized under this Act after the period specified in subsection (f)(1).

''(d) INSTITUTION MUST BECOME WHOLESALE FINANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any depository institution which voluntarily terminates such institution's status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(e) EXIT FEES.—

''(1) IN GENERAL.—Any bank that voluntarily terminates such bank's status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund's designated reserve ratio as of the date the bank provides a written notice under subsection (a)(1).

''(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

''(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

''(1) TRANSITION PERIOD.—The insured deposits of each depositor in a State bank or a national bank on the effective date of the voluntary termination of the bank's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months and not more than 2 years, as determined by the Corporation. During such period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of such termination shall be insured by the Corporation.

''(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1) with respect to any bank, the bank shall continue to pay assessments under section 7 as if the bank were an insured depository institution. The bank shall, in all other respects, be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act during such period, and in the event that the bank is closed due to an inability to meet the demands of the bank's depositors during such period, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured depository institution.

''(g) ADVERTISEMENTS.—

''(1) IN GENERAL.—A bank that voluntarily terminates the bank's insured status under this section shall not advertise or hold itself out as having insured deposits, except that the bank may advertise the temporary insurance of deposits under subsection (f) if, in connection with any such advertisement, the advertisement also states with equal prominence that additions to deposits and new deposits made after the effective date of the termination are not insured.

''(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by a State bank or a national bank after the effective date of the voluntary termination of the bank's insured status under this section shall be accompanied by a conspicuous, prominently displayed notice that such certificate of deposit or other obligation or security is not insured under this Act.

''(h) NOTICE REQUIREMENTS.—

''(1) NOTICE TO THE CORPORATION.—The notice required under subsection (a)(1)(A) shall be in such form as the Corporation may require.

''(2) NOTICE TO DEPOSITORS.—The notice required under subsection (a)(1)(B) shall be—

''(A) sent to each depositor's last address of record with the bank; and

''(B) in such manner and form as the Corporation finds to be necessary and appropriate for the protection of depositors.''.

(3) DEFINITION.—Section 19(b)(1)(A)(i) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is amended by inserting '', or any wholesale financial institution subject to section 9B of this Act'' after ''such Act''.

(d) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANKRUPTCY CODE.—

(1) BANKRUPTCY CODE DEBTORS.—Section 109(b)(2) of title 11, United States Code, is amended by striking ''; or'' and inserting the following: '', except that—

''(A) a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Comptroller of the Currency (in the case of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States) or the Board of Governors of the Federal Reserve System (in the case of any wholesale financial institution); and

''(B) a corporation organized under section 25A of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or''.

(2) CHAPTER 7 DEBTORS.—Section 109(d) of title 11, United States Code, is amended to read as follows:

''(d) Only a railroad and a person that may be a debtor under chapter 7 of this title, except that a stockbroker, a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, a corporation organized under section 25A of the Federal Reserve Act, or a commodity broker, may be a debtor under chapter 11 of this title.''.

(3) DEFINITION OF FINANCIAL INSTITUTION.—Section 101(22) of title 11, United States Code, is amended to read as follows:

''(22) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or corporation organized under section 25A of the Federal Reserve Act and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer,''.

(4) SUBCHAPTER V OF CHAPTER 7.—

(A) IN GENERAL.—Section 103 of title 11, United States Code, is amended—

(i) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(ii) by inserting after subsection (d) the following:

''(e) Subchapter V of chapter 7 of this title applies only in a case under such chapter concerning the liquidation of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.''.

(B) WHOLESALE BANK LIQUIDATION.—Chapter 7 of title 11, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

''§ 781. Definitions for subchapter

''In this subchapter—

''(1) the term 'Board' means the Board of Governors of the Federal Reserve System;

''(2) the term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any wholesale bank;

''(3) the term 'national wholesale financial institution' means a wholesale financial institution established under section 5136B of the Revised Statutes of the United States; and

''(4) the term 'wholesale bank' means a national wholesale financial institution, a wholesale financial institution established under section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.

''§ 782. Selection of trustee

''(a) Notwithstanding any other provision of this title, the conservator or receiver who files the petition shall be the trustee under this chapter, unless the Comptroller of the Currency (in the case of a national wholesale financial institution for which it appointed the conservator or receiver) or the Board (in the case of any wholesale bank for which it appointed the conservator or receiver) designates an alternative trustee. The Comptroller of the Currency or the Board (as applicable) may designate a successor trustee, if required.

''(b) Whenever the Comptroller of the Currency or the Board appoints or designates a trustee, chapter 3 and sections 704 and 705 of this title shall apply to the Comptroller or the Board, as applicable, in the same way and to the same extent that they apply to a United States trustee.

''§ 783. Additional powers of trustee

''(a) The trustee under this subchapter has power to distribute property not of the estate, including distributions to customers that are mandated by subchapters III and Iv of this chapter.

''(b) The trustee under this subchapter may, after notice and a hearing—

''(1) sell the wholesale bank to a depository institution or consortium of depository institutions (which consortium may agree on the allocation of the wholesale bank among the consortium);

''(2) merge the wholesale bank with a depository institution;

''(3) transfer contracts to the same extent as could a receiver for a depository institution under paragraphs (9) and (10) of section 11(e) of the Federal Deposit Insurance Act;

''(4) transfer assets or liabilities to a depository institution;

''(5) transfer assets and liabilities to a bridge bank as provided in paragraphs (1), (3)(A), (5), (6), and (9) through (13), and subparagraphs (A) through (H) and (K) of paragraph (4) of section 11(n) of the Federal Deposit Insurance Act, except that—

''(A) the bridge bank shall be treated as a wholesale bank for the purpose of this subsection; and

''(B) any references in any such provision of law to the Federal Deposit Insurance Corporation shall be construed to be references to the appointing agency and that references to deposit insurance shall be omitted.

''(c) Any reference in this section to transfers of liabilities includes a ratable transfer of liabilities within a priority class.

''§ 784. Right to be heard

''The Comptroller of the Currency (in the case of a national wholesale financial institution), the Board (in the case of any wholesale bank), or a Federal Reserve bank (in the case of a wholesale bank that is a member of

that bank) may raise and may appear and be heard on any issue in a case under this subchapter.

(C) CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

''781. Definitions for subchapter.
''782. Selection of trustee.
''783. Additional powers of trustee.
''784. Right to be heard.''.

(e) RESOLUTION OF EDGE CORPORATIONS.—The 16th undesignated paragraph of section 25A of the Federal Reserve Act (12 U.S.C. 624) is amended to read as follows:

''(16) APPOINTMENT OF RECEIVER OR CONSERVATOR.—

''(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this section to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver for such corporation shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

''(B) EQUIVALENT AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under the provisions of this section under this paragraph and any such corporation as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank for which a conservator or receiver has been appointed.

''(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this section to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the corporation in lieu of otherwise applicable Federal or State insolvency law.''.

Subtitle E—Preservation of FTC Authority

SEC. 141. AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956 TO MODIFY NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting ''and, if the transaction also involves an acquisition under section 4 or section 6, the Board shall also notify the Federal Trade Commission of such approval'' before the period at the end of the first sentence.

SEC. 142. INTERAGENCY DATA SHARING.

To the extent not prohibited by other law, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System shall make available to the Attorney General and the Federal Trade Commission any data in the possession of any such banking agency that the antitrust agency deems necessary for antitrust review of any transaction requiring notice to any such antitrust agency or the approval of such agency under section 3, 4, or 6 of the Bank Holding Company Act of 1956, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, section 10 of the Home Owners' Loan Act, or the antitrust laws.

SEC. 143. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or any other law enforced by the Federal Trade Commission.

(b) SAVINGS PROVISION.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

(c) HART–SCOTT–RODINO AMENDMENTS.—

(1) BANKS.—Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting before the semicolon at the end the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 6 of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 3 of the Bank Holding Company Act of 1956''.

(2) BANK HOLDING COMPANIES.—Section 7A(c)(8) of the Clayton Act (15 U.S.C. 18a(c)(8)) is amended by inserting before the semicolon at the end the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 6 of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 4 of the Bank Holding Company Act of 1956''.

SEC. 144. ANNUAL GAO REPORT.

(a) IN GENERAL.—By the end of the 1-year period beginning on the date of the enactment of this Act and annually thereafter, the Comptroller General of the United States shall submit a report to the Congress on market concentration in the financial services industry and its impact on consumers.

(b) ANALYSIS.—Each report submitted under subsection (a) shall contain an analysis of—

(1) the positive and negative effects of affiliations between various types of financial companies, and of acquisitions pursuant to this Act and the amendments made by this Act to other provisions of law, including any positive or negative effects on consumers, area markets, and submarkets thereof or on registered securities brokers and dealers which have been purchased by depository institutions or depository institution holding companies;

(2) the changes in business practices and the effects of any such changes on the availability of venture capital, consumer credit, and other financial services or products and the availability of capital and credit for small businesses; and

(3) the acquisition patterns among depository institutions, depository institution holding companies, securities firms, and insurance companies including acquisitions among the largest 20 percent of firms and acquisitions within regions or other limited geographical areas.

(c) SUNSET.—This section shall not apply after the end of the 5-year period beginning on the date of the enactment of this Act.

Subtitle F—National Treatment

SEC. 151. FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

''(3) TERMINATION OF GRANDFATHERED RIGHTS.—

''(A) IN GENERAL.—If any foreign bank or foreign company files a declaration under section 6(b)(1)(D) or receives a determination under section 10(d)(1) of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity which the Board has determined to be permissible for financial holding companies under section 6 of such Act shall terminate immediately.

''(B) RESTRICTIONS AND REQUIREMENTS AUTHORIZED.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity which the Board has determined to be permissible for financial holding companies under section 6 of the Bank Holding Company Act of 1956 has not filed a declaration with the Board of its status as a financial holding company under such section or received a determination under section 10(d)(1) by the end of the 2-year period beginning on the date of enactment of the Financial Services Act of 1999, the Board, giving due regard to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a financial holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 114 of the Financial Services Act.''.

SEC. 152. FOREIGN BANKS AND FOREIGN FINANCIAL INSTITUTIONS THAT ARE WHOLESALE FINANCIAL INSTITUTIONS.

Section 8A of the Federal Deposit Insurance Act (as added by section 136(c)(2) of this Act) is amended by adding at the end the following new subsection:

''(i) VOLUNTARY TERMINATION OF DEPOSIT INSURANCE.—The provisions on voluntary termination of insurance in this section shall apply to an insured branch of a foreign bank (including a Federal branch) in the same manner and to the same extent as they apply to an insured State bank or a national bank.''.

SEC. 153. REPRESENTATIVE OFFICES.

(a) DEFINITION OF ''REPRESENTATIVE OFFICE''.—Section 1(b)(15) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by striking ''State agency, or subsidiary of a foreign bank'' and inserting ''or State agency''.

(b) EXAMINATIONS.—Section 10(c) of the International Banking Act of 1978 (12 U.S.C. 3107(c)) is amended by adding at the end the following: ''The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board deems it necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or other applicable Federal banking law.''.

SEC. 154. RECIPROCITY.

(a) NATIONAL TREATMENT REPORTS.—

(1) REPORT REQUIRED IN THE EVENT OF CERTAIN ACQUISITIONS.—

(A) IN GENERAL.—Whenever a person from a foreign country announces its intention to acquire or acquires a bank, a securities underwriter, broker, or dealer, an investment adviser, or insurance company that ranks within the top 50 firms in that line of business in the United States, the Secretary of Commerce, in the case of an insurance company, or the Secretary of the Treasury, in the case of a bank, a securities underwriter, broker, or dealer, or an investment adviser, shall, within the earlier of 6 months of such announcement or such acquisition and in consultation with other appropriate Federal and State agencies, prepare and submit to

the Congress a report on whether a United States person would be able, de facto or de jure, to acquire an equivalent sized firm in the country in which such person from a foreign country is located.

(B) ANALYSIS AND RECOMMENDATIONS.—If a report submitted under subparagraph (A) states that the equivalent treatment referred to in such subparagraph, de facto and de jure, is not provided in the country which is the subject of the report, the Secretary of Commerce or the Secretary of the Treasury, as the case may be and in consultation with other appropriate Federal and State agencies, shall include in the report analysis and recommendations as to how that country's laws and regulations would need to be changed so that reciprocal treatment would exist.

(2) REPORT REQUIRED BEFORE FINANCIAL SERVICES NEGOTIATIONS COMMENCE.—The Secretary of Commerce, with respect to insurance companies, and the Secretary of the Treasury, with respect to banks, securities underwriters, brokers, dealers, and investment advisers, shall, not less than 6 months before the commencement of the financial services negotiations of the World Trade Organization and in consultation with other appropriate Federal and State agencies, prepare and submit to the Congress a report containing—

(A) an assessment of the 30 largest financial services markets with regard to whether reciprocal access is available in such markets to United States financial services providers; and

(B) with respect to any such financial services markets in which reciprocal access is not available to United States financial services providers, an analysis and recommendations as to what legislative, regulatory, or enforcement changes would be required to ensure full reciprocity for such providers.

(3) PERSON OF A FOREIGN COUNTRY DEFINED.—For purposes of this subsection, the term ''person of a foreign country'' means a person, or a person which directly or indirectly owns or controls that person, that is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(b) PROVISIONS APPLICABLE TO SUBMISSIONS.—

(1) NOTICE.—Before preparing any report required under subsection (a), the Secretary of Commerce or the Secretary of the Treasury, as the case may be, shall publish notice that a report is in preparation and seek comment from United States persons.

(2) PRIVILEGED SUBMISSIONS.—Upon the request of the submitting person, any comments or related communications received by the Secretary of Commerce or the Secretary of the Treasury, as the case may be, with regard to the report shall, for the purposes of section 552 of title 5, of the United States Code, be treated as commercial information obtained from a person that is privileged or confidential, regardless of the medium in which the information is obtained. This confidential information shall be the property of the Secretary and shall be privileged from disclosure to any other person. However, this privilege shall not be construed as preventing access to that confidential information by the Congress.

(3) PROHIBITION OF UNAUTHORIZED DISCLOSURES.—No person in possession of confidential information, provided under this section may disclose that information, in whole or in part, except for disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the confidential information of any person.

Subtitle G—Federal Home Loan Bank System Modernization

SEC. 161. SHORT TITLE.

This subtitle may be cited as the ''Federal Home Loan Bank System Modernization Act of 1999''.

SEC. 162. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) in paragraph (1), by striking ''term 'Board' means'' and inserting ''terms 'Finance Board' and 'Board' mean'';

(2) by striking paragraph (3) and inserting the following:

''(3) STATE.—The term 'State', in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

(3) by adding at the end the following new paragraph:

''(13) COMMUNITY FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'community financial institution' means a member—

''(i) the deposits of which are insured under the Federal Deposit Insurance Act; and

''(ii) that has, as of the date of the transaction at issue, less than $500,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

''(B) ADJUSTMENTS.—The $500,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.''.

SEC. 163. SAVINGS ASSOCIATION MEMBERSHIP.

Section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1464(f)) is amended to read as follows:

''(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—On and after January 1, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act.''.

SEC. 164. ADVANCES TO MEMBERS; COLLATERAL.

(a) IN GENERAL.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(2) by striking ''(a) Each'' and inserting the following:

''(a) IN GENERAL.—

''(1) ALL ADVANCES.—Each'';

(3) by striking the 2d sentence and inserting the following:

''(2) PURPOSES OF ADVANCES.—A long-term advance may only be made for the purposes of—

''(A) providing funds to any member for residential housing finance; and

''(B) providing funds to any community financial institution for small business, agricultural, rural development, or low-income community development lending.'';

(4) by striking ''A Bank'' and inserting the following:

''(3) COLLATERAL.—A Bank'';

(5) in paragraph (3) (as so designated by paragraph (4) of this subsection)—

(A) in subparagraph (C) (as so redesignated by paragraph (1) of this subsection) by striking ''Deposits'' and inserting ''Cash or deposits'';

(B) in subparagraph (D) (as so redesignated by paragraph (1) of this subsection), by striking the 2d sentence; and

(C) by inserting after subparagraph (D) (as so redesignated by paragraph (1) of this subsection) the following new subparagraph:

''(E) Secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans, in the case of any community financial institution.'';

(6) in paragraph (5)—

(A) in the 2d sentence, by striking ''and the Board'';

(B) in the 3d sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(C) by striking ''(5) Paragraphs (1) through (4)'' and inserting the following:

''(4) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3)''; and

(7) by adding at the end the following:

''(5) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Board may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

''(6) DEFINITIONS.—For purposes of this subsection, the terms 'small business', 'agriculture', 'rural development', and 'low-income community development' shall have the meanings given those terms by rule or regulation of the Finance Board.''.

(b) CLERICAL AMENDMENT.—The section heading for section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended to read as follows:

''SEC. 10. ADVANCES TO MEMBERS.''.

(c) CONFORMING AMENDMENTS RELATING TO MEMBERS WHICH ARE NOT QUALIFIED THRIFT LENDERS—The 1st of the 2 subsections designated as subsection (e) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(1)) is amended—

(1) in the last sentence of paragraph (1), by inserting ''or, in the case of any community financial institution, for the purposes described in subsection (a)(2)'' before the period; and

(2) in paragraph (5)(C), by inserting ''except that, in determining the actual thrift investment percentage of any community financial institution for purposes of this subsection, the total investment of such member in loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such loans, shall be treated as a qualified thrift investment (as defined in such section 10(m))'' before the period.

SEC. 165. ELIGIBILITY CRITERIA.

Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) in paragraph (2)(A), by inserting, ''(other than a community financial institution)'' after ''institution''; and

(2) by adding at the end the following new paragraph:

''(3) LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).''.

SEC. 166. MANAGEMENT OF BANKS.

(a) BOARD OF DIRECTORS.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) by striking ''(d) The term'' and inserting the following:

''(d) TERMS OF OFFICE.—The term''; and

(2) by striking ''shall be two years''.

(b) COMPENSATION.—Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended by striking '', subject to the approval of the board''.

(c) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421

et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(d) SECTION 12.—Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended—

(1) in subsection (a)—

(A) by striking '', but, except'' and all that follows through ''ten years'';

(B) by striking ''subject to the approval of the Board'' the first place that term appears;

(C) by striking ''and, by its Board of directors,'' and all that follows through ''agent of such bank,'' and inserting ''and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank''; and

(D) by striking ''Board of directors'' where such term appears in the penultimate sentence and inserting ''board of directors''; and

(2) in subsection (b), by striking ''loans banks'' and inserting ''loan banks''.

(e) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) ISSUANCE OF NOTICES OF VIOLATIONS.—Section 2B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)) is amended by adding at the end the following new paragraphs:

''(5) To issue and serve a notice of charges upon a Federal home loan bank or upon any executive officer or director of a Federal home loan bank if, in the determination of the Finance Board, the bank, executive officer, or director is engaging or has engaged in, or the Finance Board has reasonable cause to believe that the bank, executive officer, or director is about to engage in, any conduct that violates any provision of this Act or any law, order, rule, or regulation or any condition imposed in writing by the Finance Board in connection with the granting of any application or other request by the bank, or any written agreement entered into by the bank with the agency, in accordance with the procedures provided in section 1371(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Such authority includes the same authority to take affirmative action to correct conditions resulting from violations or practices or to limit activities of a bank or any executive officer or director of a bank as appropriate Federal banking agencies have to take with respect to insured depository institutions under paragraphs (6) and (7) of section 8(b) of the Federal Deposit Insurance Act, and to have all other powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and their executive officers and directors as the Office of Federal Housing Enterprise Oversight has to enforce the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act with respect to the Federal housing enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(6) To address any insufficiencies in capital levels resulting from the application of section 5(f) of the Home Owners' Loan Act.

''(7) To sue and be sued, by and through its own attorneys.''.

(2) TECHNICAL AMENDMENT.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking ''Federal Home Loan Bank Board,'' and inserting ''Director of the Office of Thrift Supervision, ''the Federal Housing Finance Board,''.

(f) ELIGIBILITY TO SECURE ADVANCES.—

(1) SECTION 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the 2d sentence, by striking ''with the approval of the Board''; and

(B) in the 3d sentence, by striking '', subject to the approval of the Board,''.

(2) SECTION 10.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(A) in subsection (c)—

(i) in the 1st sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(ii) by striking the 2d sentence;

(B) in subsection (d)—

(i) in the 1st sentence, by striking ''and the approval of the Board''; and

(ii) by striking ''Subject to the approval of the Board, any'' and inserting ''Any''; and

(C) in subsection (j)(1)—

(i) by striking ''to subsidize the interest rate on advances'' and inserting ''to provide subsidies, including subsidized interest rates on advances'';

(ii) by striking ''Pursuant'' and inserting the following:

''(A) ESTABLISHMENT.—Pursuant''; and

(iii) by adding at the end the following new subparagraph:

''(B) NONDELEGATION OF APPROVAL AUTHORITY.—Subject to such regulations as the Finance Board may prescribe, the board of directors of each Federal home loan bank may approve or disapprove requests from members for Affordable Housing Program subsidies, and may not delegate such authority.''.

(g) SECTION 16.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) in the 3d sentence—

(A) by striking ''net earnings'' and inserting ''previously retained earnings or current net earnings''; and

(B) by striking '', and then only with the approval of the Federal Housing Finance Board''; and

(2) by striking the 4th sentence.

(h) SECTION 18.—Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)) is amended by striking paragraph (4).

SEC. 167. RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

''(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—

''(i) IN GENERAL.—To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.75 percent of the net earnings of that bank (after deducting expenses relating to section 10(j) and operating expenses).

''(ii) ANNUAL DETERMINATION.—The Board annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of $300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations.

''(iii) PAYMENT TERM ALTERATIONS.—The Board shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the banks is equivalent to the value of an annuity referred to in clause (ii).

''(iv) TERM BEYOND MATURITY.—If the Board extends the term of payments beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.75 percent of its net earnings (after deducting expenses relating to section 10(j) and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.75 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the banks to the Treasury, the Finance Board shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1999. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act, as amended by this section.

SEC. 168. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended to read as follows:

''SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

''(a) REGULATIONS.—

''(1) CAPITAL STANDARDS.—Not later than 1 year after the date of enactment of the Financial Services Act of 1999, the Finance Board shall issue regulations prescribing uniform capital standards applicable to each Federal home loan bank, which shall require each such bank to meet—

''(A) the leverage requirement specified in paragraph (2); and

''(B) the risk-based capital requirements, in accordance with paragraph (3).

''(2) LEVERAGE REQUIREMENT.—

''(A) IN GENERAL.—The leverage requirement shall require each Federal home loan bank to maintain a minimum amount of total capital based on the aggregate on-balance sheet assets of the bank and shall be 5 percent.

''(B) TREATMENT OF STOCK AND RETAINED EARNINGS.—In determining compliance with the minimum leverage ratio established under subparagraph (A), the paid-in value of the outstanding Class B stock shall be multiplied by 1.5, the paid-in value of the outstanding Class C stock and the amount of retained earnings shall be multiplied by 2.0, and such higher amounts shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio.

''(3) RISK-BASED CAPITAL STANDARDS.—

''(A) IN GENERAL.—Each Federal home loan bank shall maintain permanent capital in an amount that is sufficient, as determined in accordance with the regulations of the Finance Board, to meet—

''(i) the credit risk to which the Federal home loan bank is subject; and

''(ii) the market risk, including interest rate risk, to which the Federal home loan bank is subject, based on a stress test established by the Finance Board that rigorously tests for changes in market variables, including changes in interest rates, rate volatility, and changes in the shape of the yield curve.

''(B) CONSIDERATION OF OTHER RISK-BASED STANDARDS.—In establishing the risk-based standard under subparagraph (A)(ii), the Finance Board shall take due consideration of any risk-based capital test established pursuant to section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) for the enterprises (as defined in that Act), with such modifications as the Finance Board determines to be

appropriate to reflect differences in operations between the Federal home loan banks and those enterprises.

''(4) OTHER REGULATORY REQUIREMENTS.—The regulations issued by the Finance Board under paragraph (1) shall—

''(A) permit each Federal home loan bank to issue, with such rights, terms, and preferences, not inconsistent with this Act and the regulations issued hereunder, as the board of directors of that bank may approve, any 1 or more of—

''(i) Class A stock, which shall be redeemable in cash and at par 6 months following submission by a member of a written notice of its intent to redeem such shares;

''(ii) Class B stock, which shall be redeemable in cash and at par 5 years following submission by a member of a written notice of its intent to redeem such shares; and

''(iii) Class C stock, which shall be nonredeemable;

''(B) provide that the stock of a Federal home loan bank may be issued to and held by only members of the bank, and that a bank may not issue any stock other than as provided in this section;

''(C) prescribe the manner in which stock of a Federal home loan bank may be sold, transferred, redeemed, or repurchased; and

''(D) provide the manner of disposition of outstanding stock held by, and the liquidation of any claims of the Federal home loan bank against, an institution that ceases to be a member of the bank, through merger or otherwise, or that provides notice of intention to withdraw from membership in the bank.

''(5) DEFINITIONS OF CAPITAL.—For purposes of determining compliance with the capital standards established under this subsection—

''(A) permanent capital of a Federal home loan bank shall include (as determined in accordance with generally accepted accounting principles)—

''(i) the amounts paid for the Class C stock and any other nonredeemable stock approved by the Finance Board;

''(ii) the amounts paid for the Class B stock, in an amount not to exceed 1 percent of the total assets of the bank; and

''(iii) the retained earnings of the bank; and

''(B) total capital of a Federal home loan bank shall include—

''(i) permanent capital;

''(ii) the amounts paid for the Class A stock, Class B stock (excluding any amount treated as permanent capital under subparagraph (5)(A)(ii)), or any other class of redeemable stock approved by the Finance Board;

''(iii) consistent with generally accepted accounting principles, and subject to the regulation of the Finance Board, a general allowance for losses, which may not include any reserves or allowances made or held against specific assets; and

''(iv) any other amounts from sources available to absorb losses incurred by the bank that the Finance Board determines by regulation to be appropriate to include in determining total capital.

''(6) TRANSITION PERIOD.—Notwithstanding any other provisions of this Act, the requirements relating to purchase and retention of capital stock of a Federal home loan bank by any member thereof in effect on the day before the date of enactment of the Federal Home Loan Bank System Modernization Act of 1999, shall continue in effect with respect to each Federal home loan bank until the regulations required by this subsection have taken effect and the capital structure plan required by subsection (b) has been approved by the Finance Board and implemented by such bank.

''(b) CAPITAL STRUCTURE PLAN.—

''(1) APPROVAL OF PLANS.—Not later than 270 days after the date of publication by the Finance Board of final regulations in accordance with subsection (a), the board of directors of each Federal home loan bank shall submit for Finance Board approval a plan establishing and implementing a capital structure for such bank that—

''(A) the board of directors determines is best suited for the condition and operation of the bank and the interests of the members of the bank;

''(B) meets the requirements of subsection (c); and

''(C) meets the minimum capital standards and requirements established under subsection (a) and other regulations prescribed by the Finance Board.

''(2) APPROVAL OF MODIFICATIONS.—The board of directors of a Federal home loan bank shall submit to the Finance Board for approval any modifications that the bank proposes to make to an approved capital structure plan.

''(c) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall contain provisions addressing each of the following:

''(1) MINIMUM INVESTMENT.—

''(A) IN GENERAL.—Each capital structure plan of a Federal home loan bank shall require each member of the bank to maintain a minimum investment in the stock of the bank, the amount of which shall be determined in a manner to be prescribed by the board of directors of each bank and to be included as part of the plan.

''(B) INVESTMENT ALTERNATIVES.—

''(i) IN GENERAL.—In establishing the minimum investment required for each member under subparagraph (A), a Federal home loan bank may, in its discretion, include any 1 or more of the requirements referred to in clause (ii), or any other provisions approved by the Finance Board.

''(ii) AUTHORIZED REQUIREMENTS.—A requirement is referred to in this clause if it is a requirement for—

''(I) a stock purchase based on a percentage of the total assets of a member; or

''(II) a stock purchase based on a percentage of the outstanding advances from the bank to the member.

''(C) MINIMUM AMOUNT.—Each capital structure plan of a Federal home loan bank shall require that the minimum stock investment established for members shall be set at a level that is sufficient for the bank to meet the minimum capital requirements established by the Finance Board under subsection (a).

''(D) ADJUSTMENTS TO MINIMUM REQUIRED INVESTMENT.—The capital structure plan of each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust the minimum investment required of each member of that bank, as necessary to ensure that the bank remains in compliance with applicable minimum capital levels established by the Finance Board, and shall require each member to comply promptly with any adjustments to the required minimum investment.

''(2) TRANSITION RULE.—

''(A) IN GENERAL.—The capital structure plan of each Federal home loan bank shall specify the date on which it shall take effect, and may provide for a transition period of not longer than 3 years to allow the bank to come into compliance with the capital requirements prescribed under subsection (a), and to allow any institution that was a member of the bank on the date of enactment of the Financial Services Act of 1999, to come into compliance with the minimum investment required pursuant to the plan.

''(B) INTERIM PURCHASE REQUIREMENTS.—The capital structure plan of a Federal home loan bank may allow any member referred to in subparagraph (A) that would be required by the terms of the capital structure plan to increase its investment in the stock of the bank to do so in periodic installments during the transition period.

''(3) DISPOSITION OF SHARES.—The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank that terminates its membership or that provides notice of its intention to withdraw from membership in that bank.

''(4) CLASSES OF STOCK.—

''(A) IN GENERAL.—The capital structure plan of a Federal home loan bank shall afford each member of that bank the option of maintaining its required investment in the bank through the purchase of any combination of classes of stock authorized by the board of directors of the bank and approved by the Finance Board in accordance with its regulations.

''(B) RIGHTS REQUIREMENT.—A Federal home loan bank shall include in its capital structure plan provisions establishing terms, rights, and preferences, including minimum investment, dividends, voting, and liquidation preferences of each class of stock issued by the bank, consistent with Finance Board regulations and market requirements.

''(C) REDUCED MINIMUM INVESTMENT.—The capital structure plan of a Federal home loan bank may provide for a reduced minimum stock investment for any member of that bank that elects to purchase Class B, Class C, or any other class of nonredeemable stock, in a manner that is consistent with meeting the minimum capital requirements of the bank, as established by the Finance Board.

''(D) LIQUIDATION OF CLAIMS.—The capital structure plan of a Federal home loan bank shall provide for the liquidation in an orderly manner, as determined by the bank, of any claim of that bank against a member, including claims for any applicable prepayment fees or penalties resulting from prepayment of advances prior to stated maturity.

''(5) LIMITED TRANSFERABILITY OF STOCK.—The capital structure plan of a Federal home loan bank shall—

''(A) provide that—

''(i) any stock issued by that bank shall be available only to, held only by, and tradable only among members of that bank and between that bank and its members; and

''(ii) a bank has no obligation to repurchase its outstanding Class C stock but may do so, provided it is consistent with Finance Board regulations and is at a price that is mutually agreeable to the bank and the member; and

''(B) establish standards, criteria, and requirements for the issuance, purchase, transfer, retirement, and redemption of stock issued by that bank.

''(6) BANK REVIEW OF PLAN.—Before filing a capital structure plan with the Finance Board, each Federal home loan bank shall conduct a review of the plan by—

''(A) an independent certified public accountant, to ensure, to the extent possible, that implementation of the plan would not result in any write-down of the redeemable bank stock investment of its members; and

''(B) at least 1 major credit rating agency, to determine, to the extent possible, whether implementation of the plan would have any material effect on the credit ratings of the bank.

''(d) TERMINATION OF MEMBERSHIP.—

''(1) VOLUNTARY WITHDRAWAL.—Any member may withdraw from a Federal home loan bank by providing written notice to the bank of its intent to do so. The applicable stock

redemption notice periods shall commence upon receipt of the notice by the bank. Upon the expiration of the applicable notice period for each class of redeemable stock, the member may surrender such stock to the bank, and shall be entitled to receive in cash the par value of the stock. During the applicable notice periods, the member shall be entitled to dividends and other membership rights commensurate with continuing stock ownership.

''(2) INVOLUNTARY WITHDRAWAL.—

''(A) IN GENERAL.—The board of directors of a Federal home loan bank may terminate the membership of any institution if, subject to Finance Board regulations, it determines that—

''(i) the member has failed to comply with a provision of this Act or any regulation prescribed under this Act; or

''(ii) the member has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a State or Federal authority with regulatory and supervisory responsibility for the member.

''(B) STOCK DISPOSITION.—An institution, the membership of which is terminated in accordance with subparagraph (A)—

''(i) shall surrender redeemable stock to the Federal home loan bank, and shall receive in cash the par value of the stock, upon the expiration of the applicable notice period under subsection (a)(4)(A);

''(ii) shall receive any dividends declared on its redeemable stock, during the applicable notice period under subsection (a)(4)(A); and

''(iii) shall not be entitled to any other rights or privileges accorded to members after the date of the termination.

''(C) COMMENCEMENT OF NOTICE PERIOD.—With respect to an institution, the membership of which is terminated in accordance with subparagraph (A), the applicable notice period under subsection (a)(4) for each class of redeemable stock shall commence on the earlier of—

''(i) the date of such termination; or

''(ii) the date on which the member has provided notice of its intent to redeem such stock.

''(3) LIQUIDATION OF INDEBTEDNESS.—Upon the termination of the membership of an institution for any reason, the outstanding indebtedness of the member to the bank shall be liquidated in an orderly manner, as determined by the bank and, upon the extinguishment of all such indebtedness, the bank shall return to the member all collateral pledged to secure the indebtedness.

''(e) REDEMPTION OF EXCESS STOCK.—

''(1) IN GENERAL.—A Federal home loan bank, in its sole discretion, may redeem or repurchase, as appropriate, any shares of Class A or Class B stock issued by the bank and held by a member that are in excess of the minimum stock investment required of that member.

''(2) EXCESS STOCK.—Shares of stock held by a member shall not be deemed to be 'excess stock' for purposes of this subsection by virtue of a member's submission of a notice of intent to withdraw from membership or termination of its membership in any other manner.

''(3) PRIORITY.—A Federal home loan bank may not redeem any excess Class B stock prior to the end of the 5-year notice period, unless the member has no Class A stock outstanding that could be redeemed as excess.

''(f) IMPAIRMENT OF CAPITAL.—If the Finance Board or the board of directors of a Federal home loan bank determines that the bank has incurred or is likely to incur losses that result in or are expected to result in charges against the capital of the bank, the bank shall not redeem or repurchase any stock of the bank without the prior approval of the Finance Board while such charges are continuing or are expected to continue. In no case may a bank redeem or repurchase any applicable capital stock if, following the redemption, the bank would fail to satisfy any minimum capital requirement.

''(g) REJOINING AFTER DIVESTITURE OF ALL SHARES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution that divests all shares of stock in a Federal home loan bank may not, after such divestiture, acquire shares of any Federal home loan bank before the end of the 5-year period beginning on the date of the completion of such divestiture, unless the divestiture is a consequence of a transfer of membership on an uninterrupted basis between banks.

''(2) EXCEPTION FOR WITHDRAWALS FROM MEMBERSHIP BEFORE 1998.—Any institution that withdrew from membership in any Federal home loan bank before December 31, 1997, may acquire shares of a Federal home loan bank at any time after that date, subject to the approval of the Finance Board and the requirements of this Act.

''(h) TREATMENT OF RETAINED EARNINGS.—

''(1) IN GENERAL.—The holders of the Class C stock of a Federal home loan bank, and any other classes of nonredeemable stock approved by the Finance Board (to the extent provided in the terms thereof), shall own the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

''(2) NO NONREDEEMABLE CLASSES OF STOCK.—If a Federal home loan bank has no outstanding Class C or other such nonredeemable stock, then the holders of any other classes of stock of the bank then outstanding shall have ownership in, and a private property right in, the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

''(3) EXCEPTION.—Except as specifically provided in this section or through the declaration of a dividend or a capital distribution by a Federal home loan bank, or in the event of liquidation of the bank, a member shall have no right to withdraw or otherwise receive distribution of any portion of the retained earnings of the bank.

''(4) LIMITATION.—A Federal home loan bank may not make any distribution of its retained earnings unless, following such distribution, the bank would continue to meet all applicable capital requirements.''.

Subtitle H—ATM Fee Reform

SEC. 171. SHORT TITLE.

This subtitle may be cited as the ''ATM Fee Reform Act of 1999''.

SEC. 172. ELECTRONIC FUND TRANSFER FEE DISCLOSURES AT ANY HOST ATM.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended by adding at the end the following new paragraph:

''(3) FEE DISCLOSURES AT AUTOMATED TELLER MACHINES.—

''(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall require any automated teller machine operator who imposes a fee on any consumer for providing host transfer services to such consumer to provide notice in accordance with subparagraph (B) to the consumer (at the time the service is provided) of—

''(i) the fact that a fee is imposed by such operator for providing the service; and

''(ii) the amount of any such fee.

''(B) NOTICE REQUIREMENTS.—

''(i) ON THE MACHINE.—The notice required under clause (i) of subparagraph (A) with respect to any fee described in such subparagraph shall be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer; and

''(ii) ON THE SCREEN.—The notice required under clauses (i) and (ii) of subparagraph (A) with respect to any fee described in such subparagraph shall appear on the screen of the automated teller machine, or on a paper notice issued from such machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

''(C) PROHIBITION ON FEES NOT PROPERLY DISCLOSED AND EXPLICITLY ASSUMED BY CONSUMER.—No fee may be imposed by any automated teller machine operator in connection with any electronic fund transfer initiated by a consumer for which a notice is required under subparagraph (A), unless—

''(i) the consumer receives such notice in accordance with subparagraph (B); and

''(ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

''(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

''(i) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' includes a transaction which involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

''(ii) AUTOMATED TELLER MACHINE OPERATOR.—The term 'automated teller machine operator' means any person who—

''(I) operates an automated teller machine at which consumers initiate electronic fund transfers; and

''(II) is not the financial institution which holds the account of such consumer from which the transfer is made.

''(iii) HOST TRANSFER SERVICES.—The term 'host transfer services' means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.''.

SEC. 173. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS WHEN ATM CARD IS ISSUED.

Section 905(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)) is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(3) by inserting after paragraph (9) the following new paragraph:

''(10) a notice to the consumer that a fee may be imposed by—

''(A) an automated teller machine operator (as defined in section 904(d)(3)(D)(ii)) if the consumer initiates a transfer from an automated teller machine which is not operated by the person issuing the card or other means of access; and

''(B) any national, regional, or local network utilized to effect the transaction.''.

SEC. 174. FEASIBILITY STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of requiring, in connection with any electronic fund transfer initiated by a consumer through the use of an automated teller machine—

(1) a notice to be provided to the consumer before the consumer is irrevocably committed to completing the transaction, which clearly states the amount of any fee which will be imposed upon the consummation of the transaction by—

(A) any automated teller machine operator (as defined in section 904(d)(3)(D)(ii) of the Electronic Fund Transfer Act) involved in the transaction;

(B) the financial institution holding the account of the consumer;

(C) any national, regional, or local network utilized to effect the transaction; and

(D) any other party involved in the transfer; and

(2) the consumer to elect to consummate the transaction after receiving the notice described in paragraph (1).

(b) FACTORS TO BE CONSIDERED.—In conducting the study required under subsection (a) with regard to the notice requirement described in such subsection, the Comptroller General shall consider the following factors:

(1) The availability of appropriate technology.

(2) Implementation and operating costs.

(3) The competitive impact any such notice requirement would have on various sizes and types of institutions, if implemented.

(4) The period of time which would be reasonable for implementing any such notice requirement.

(5) The extent to which consumers would benefit from any such notice requirement.

(6) Any other factor the Comptroller General determines to be appropriate in analyzing the feasibility of imposing any such notice requirement.

(c) REPORT TO THE CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study required under subsection (a); and

(2) the recommendation of the Comptroller General with regard to the question of whether a notice requirement described in subsection (a) should be implemented and, if so, how such requirement should be implemented.

SEC. 175. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.

Section 910 of the Electronic Fund Transfer Act (15 U.S.C 1693h) is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR DAMAGED NOTICES.—If the notice required to be posted pursuant to section 904(d)(3)(B)(i) by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for failure to comply with section 904(d)(3)(B)(i).''.

Subtitle I—Direct Activities of Banks

SEC. 181. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE CERTAIN MUNICIPAL BONDS.

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following new sentence: ''In addition to the provisions in this paragraph for dealing in, underwriting or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).''.

Subtitle J—Deposit Insurance Funds

SEC. 186. STUDY OF SAFETY AND SOUNDNESS OF FUNDS.

(a) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall conduct a study of the following issues with regard to the Bank Insurance Fund and the Savings Association Insurance Fund:

(1) SAFETY AND SOUNDNESS.—The safety and soundness of the funds and the adequacy of the reserve requirements applicable to the funds in light of—

(A) the size of the insured depository institutions which are resulting from mergers and consolidations since the effective date of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994; and

(B) the affiliation of insured depository institutions with other financial institutions pursuant to this Act and the amendments made by this Act.

(2) CONCENTRATION LEVELS.—The concentration levels of the funds, taking into account the number of members of each fund and the geographic distribution of such members, and the extent to which either fund is exposed to higher risks due to a regional concentration of members or an insufficient membership base relative to the size of member institutions.

(3) MERGER ISSUES.—Issues relating to the planned merger of the funds, including the cost of merging the funds and the manner in which such costs will be distributed among the members of the respective funds.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress on the study conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—The report shall include—

(A) detailed findings of the Board of Directors with regard to the issues described in subsection (a);

(B) a description of the plans developed by the Board of Directors for merging the Bank Insurance Fund and the Savings Association Insurance Fund, including an estimate of the amount of the cost of such merger which would be borne by Savings Association Insurance Fund members; and

(C) such recommendations for legislative and administrative action as the Board of Directors determines to be necessary or appropriate to preserve the safety and soundness of the deposit insurance funds, reduce the risks to such funds, provide for an efficient merger of such funds, and for other purposes.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act.

(2) BIF AND SAIF MEMBERS.—The terms ''Bank Insurance Fund member'' and ''Savings Association Insurance Fund member'' have the same meanings as in section 7(l) of the Federal Deposit Insurance Act.

SEC. 187. ELIMINATION OF SAIF AND DIF SPECIAL RESERVES.

(a) SAIF SPECIAL RESERVES.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (L).

(b) DIF SPECIAL RESERVES.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is amended—

(1) by striking subsection (b); and

(2) in subsection (d)—

(A) by striking paragraph (4);

(B) in paragraph (6)(C)(i), by striking ''(6) and (7)'' and inserting ''(5), (6), and (7)''; and

(C) in paragraph (6)(C), by striking clause (ii) and inserting the following:

''(ii) by redesignating paragraph (8) as paragraph (5).''.

Subtitle K—Miscellaneous Provisions

SEC. 191. TERMINATION OF ''KNOW YOUR CUSTOMER'' REGULATIONS.

(a) IN GENERAL.—None of the proposed regulations described in subsection (b) may be published in final form and, to the extent any such regulation has become effective before the date of the enactment of this Act, such regulation shall cease to be effective as of such date.

(b) PROPOSED REGULATIONS DESCRIBED.—The proposed regulations referred to in subsection (a) are as follows:

(1) The regulation proposed by the Comptroller of the Currency to amend part 21 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(2) The regulation proposed by the Director of the Office of Thrift Supervision to amend part 563 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(3) The regulation proposed by the Board of Governors of the Federal Reserve System to amend parts 208, 211, and 225 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(4) The regulation proposed by the Federal Deposit Insurance Corporation to amend part 326 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

SEC. 192. STUDY AND REPORT ON FEDERAL ELECTRONIC FUND TRANSFERS.

(a) STUDY.—The Secretary of the Treasury shall conduct a feasibility study to determine—

(1) whether all electronic payments issued by Federal agencies could be routed through the Regional Finance Centers of the Department of the Treasury for verification and reconciliation;

(2) whether all electronic payments made by the Federal Government could be subjected to the same level of reconciliation as United States Treasury checks, including matching each payment issued with each corresponding deposit at financial institutions;

(3) whether the appropriate computer security controls are in place in order to ensure the integrity of electronic payments;

(4) the estimated costs of implementing, if so recommended, the processes and controls described in paragraphs (1), (2), and (3); and

(5) a possible timetable for implementing those processes if so recommended.

(b) REPORT TO CONGRESS.—Not later than October 1, 2000, the Secretary of the Treasury shall submit a report to Congress containing the results of the study required by subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''electronic payment'' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tapes so as to order, instruct, or authorize a debit or credit to a financial account.

SEC. 193. GENERAL ACCOUNTING OFFICE STUDY OF CONFLICTS OF INTEREST

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study analyzing the conflict of interest faced by the Board of Governors of the Federal Reserve System between its role as a primary regulator of the banking industry and its role as a vendor of services to the banking and financial services industry.

(b) SPECIFIC CONFLICT REQUIRED TO BE ADDRESSED.—In the course of the study required under subsection (a), the Comptroller General shall address the conflict of interest faced by the Board of Governors of the Federal Reserve System between the role of the Board as a regulator of the payment system, generally, and its participation in the payment system as a competitor with private entities who are providing payment services.

(c) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study required under this section, together with such recommendations for such legislative or administrative actions as the Comptroller General may determine to be appropriate, including recommendations for resolving any such conflict of interest.

SEC. 194. STUDY OF COST OF ALL FEDERAL BANKING REGULATIONS.

(a) IN GENERAL.—In accordance with the finding in the Board of Governors of the Federal Reserve System Staff Study Numbered 171 (April, 1998) that ''Further research covering more and different types of regulations and regulatory requirements is clearly needed to make informed decisions about regulations'', the Board of Governors of the Federal Reserve System, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) shall conduct a comprehensive study of the total annual costs and benefits of all Federal financial regulations and regulatory requirements applicable to banks.

(b) REPORT REQUIRED.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a comprehensive report to the Congress containing the findings and conclusions of the Board in connection with the study required under subsection (a) and such recommendations for legislative and administrative action as the Board may determine to be appropriate.

SEC. 195. STUDY AND REPORT ON ADAPTING EXISTING LEGISLATIVE REQUIREMENTS TO ONLINE BANKING AND LENDING.

(a) STUDY REQUIRED.—The Federal banking agencies shall conduct a study of banking regulations regarding the delivery of financial services, including those regulations that may assume that there will be person-to-person contact during the course of a financial services transaction, and report their recommendations on adapting those existing requirements to online banking and lending.

(b) REPORT REQUIRED.—Within 1 year of the date of the enactment of this Act, the Federal banking agencies shall submit a report to the Congress on the findings and conclusions of the agencies with respect to the study required under subsection (a), together with such recommendations for legislative or regulatory action as the agencies may determine to be appropriate.

(c) DEFINITION.—For purposes of this section, the term ''Federal banking agencies'' means each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act).

SEC. 196. REGULATION OF UNINSURED STATE MEMBER BANKS.

Section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph:

''(24) ENFORCEMENT AUTHORITY OVER UNINSURED STATE MEMBER BANKS.—Section 3(u) of the Federal Deposit Insurance Act, subsections (j) and (k) of section 7 of such Act, and subsections (b) through (n), (s), (u), and (v) of section 8 of such Act shall apply to an uninsured State member bank in the same manner and to the same extent such provisions apply to an insured State member bank and any reference in any such provision to 'insured depository institution' shall be deemed to be a reference to 'uninsured State member bank' for purposes of this paragraph.''.

SEC. 197. CLARIFICATION OF SOURCE OF STRENGTH DOCTRINE.

Section 18 of the Federal Deposit Insurance Act (21 U.S.C. 1828) is amended by adding at the end the following new subsection:

''(t) LIMITATION ON CLAIMS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law other than paragraph (2), no person shall have any claim for monetary damages or return of assets or other property against any Federal banking agency (including in its capacity as conservator or receiver) relating to the transfer of money, assets, or other property to increase the capital of an insured depository institution by any depository institution holding company or controlling shareholder for such depository institution, or any affiliate or subsidiary of such depository institution, if at the time of the transfer—

''(A) the insured depository institution is subject to any direction issued in writing by a Federal banking agency to increase its capital;

''(B) the depository institution is undercapitalized, significantly undercapitalized, or critically undercapitalized (as defined in section 38 of this Act); and

''(C) for that portion of the transfer that is made by an entity covered by section 5(g) of the Bank Holding Company Act of 1956 or section 45 of this Act, the Federal banking agency has followed the procedure set forth in such section.

''(2) EXCEPTION.—No provision of this subsection shall be construed as limiting—

''(A) the right of an insured depository institution, a depository institution holding company, or any other agency or person to seek direct review of an order or directive issued by a Federal banking agency under this Act, the Bank Holding Company Act of 1956, the National Bank Receivership Act, the Bank Conservation Act, or the Home Owners' Loan Act;

''(B) the rights of any party to a contract pursuant to section 11(e) of this Act; or

''(C) the rights of any party to a contract with a depository institution holding company or a subsidiary of a depository institution holding company (other than an insured depository institution).''

SEC. 198. INTEREST RATES AND OTHER CHARGES AT INTERSTATE BRANCHES.

Section 44 of the Federal Deposit Insurance Act (12 U.S.C. 1831u) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

''(f) APPLICABLE RATE AND OTHER CHARGE LIMITATIONS.—

''(1) IN GENERAL.—Except as provided for in paragraph (3), upon the establishment of a branch of any insured depository institution in a host State under this section, the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved from time to time in any loan or discount made or upon any note, bill of exchange, financing transaction, or other evidence of debt by any insured depository institution in such State shall be equal to not more than the greater of—

''(A) the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction under the constitution, statutory, or other lows of the home State of the insured depository institution establishing any such branch, without reference to this section, as such maximum interest rate or amount of interest may change from time to time; or

''(B) the maximum rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

''(2) PREEMPTION.—The limitations established under paragraph (1) shall apply only in any State that has a constitutional provision that sets a maximum lawful rate of interest on any contract at not more than 5 percent per annum above the Federal Reserve Discount Rate or 90-day commercial paper in effect in the Federal Reserve Bank in the Federal Reserve District in which the State is located.

''(3) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as superseding section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980.

Subtitle L-Effective Date of Title

SEC. 199. EFFECTIVE DATE.

Except with regard to any subtitle or other provision of this title for which a specific effective date is provided, this title and the amendments made by this title shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

SEC. 201. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

''(4) BROKER.—

''(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

''(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any one or more of the following activities under the conditions described:

''(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other written arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if—

''(I) such broker or dealer is clearly identified as the person performing the brokerage services;

''(II) the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

''(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

''(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement are in compliance with the Federal securities laws before distribution;

''(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or

ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the types of investment vehicles available from the bank and the broker or dealer under the arrangement;

''(VI) bank employees do not receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

''(VII) such services are provided by the broker or dealer on a basis in which all customers which receive any services are fully disclosed to the broker or dealer;

''(VIII) the bank does not carry a securities account of the customer except as permitted under clause (ii) or (viii) of this subparagraph; and

''(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

''(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee or fiduciary capacity in its trust department, or another department where the trust or fiduciary activity is regularly examined by bank examiners under the same standards and in the same way as such activities are examined in the trust department, and—

''(I) is chiefly compensated for such transactions, consistent with fiduciary principles and standards, on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers, or any combination of such fees; and

''(II) does not solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

''(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(iv) CERTAIN STOCK PURCHASE PLANS.—

''(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), in the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its affiliates (as defined in section 2 of the Bank Holding Company Act of 1956), if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan; and

''(bb) the bank's compensation for such plan or program consists chiefly of administration fees, or flat or capped per order processing fees, or both.

''(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), in the securities of an issuer as part of that issuer's dividend reinvestment plan, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

''(cc) the bank's compensation for such plan or program consists chiefly of administration fees, or flat or capped per order processing fees, or both.

''(III) ISSUER PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), in the securities of an issuer as part of that issuer's plan for the purchase or sale of that issuer's shares, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program;

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

''(cc) the bank's compensation for such plan or program consists chiefly of administration fees, or flat or capped per order processing fees, or both.

''(IV) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by a bank's delivery of written or electronic plan materials to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

''(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Act of 1999; or

''(bb) otherwise permitted by the Commission.

''(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

''(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate (as defined in section 2 of the Bank Holding Company Act of 1956) of the bank other than—

''(I) a registered broker or dealer; or

''(II) an affiliate that is engaged in merchant banking, as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956.

''(vii) PRIVATE SECURITIES OFFERINGS.—The bank—

''(I) effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder;

''(II) at any time after the date that is 1 year after the date of enactment of the Financial Services Act of 1999, is not affiliated with a broker or dealer that has been registered for more than 1 year in accordance with this Act, and engages in dealing, market making, or underwriting activities, other than with respect to exempted securities; and

''(III) effects transactions exclusively with qualified investors.

''(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

''(I) IN GENERAL.—The bank, as part of customary banking activities—

''(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

''(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

''(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions; or

''(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law, if the bank maintains records separately identifying the securities and the customer.

''(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) of this title and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

''(ix) EXCEPTED BANKING PRODUCTS.—The bank effects transactions in excepted banking products, as defined in section 206 of the Financial Services Act of 1999.

''(x) MUNICIPAL SECURITIES.—The bank effects transactions in municipal securities.

''(xi) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (x), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

''(C) BROKER DEALER EXECUTION.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

''(i) the bank directs such trade to a registered broker or dealer for execution;

''(ii) the trade is a cross trade or other substantially similar trade of a security that—

''(I) is made by the bank or between the bank and an affiliated fiduciary; and

''(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

''(iii) the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

''(D) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii), the term 'fiduciary capacity' means—

''(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor

act, or as an investment adviser if the bank receives a fee for its investment advice;

''(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

''(iii) in any other similar capacity.

''(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

''(i) was, immediately prior to the enactment of the Financial Services Act of 1999, subject to section 15(e) of this title; and

''(ii) is subject to such restrictions and requirements as the Commission considers appropriate.''.

SEC. 202. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

''(5) DEALER.—

''(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

''(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

''(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

''(I) for the bank; or

''(II) for accounts for which the bank acts as a trustee or fiduciary.

''(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or other separate entity, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations (other than securities of which the bank is not the issuer), or pools of any such obligations predominantly originated by—

''(I) the bank;

''(II) an affiliate of any such bank other than a broker or dealer; or

''(III) a syndicate of banks of which the bank is a member, if the obligations or pool of obligations consists of mortgage obligations or consumer-related receivables.

''(iv) EXCEPTED BANKING PRODUCTS.—The bank buys or sells excepted banking products, as defined in section 206 of the Financial Services Act of 1999.

''(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative instrument to which the bank is a party—

''(I) to or from a qualified investor, except that if the instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), the transaction shall be effected with or through a registered broker or dealer; or

''(II) to or from other persons, except that if the derivative instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), or is a security (other than a government security), the transaction shall be effected with or through a registered broker or dealer; or

''(III) to or from any person if the instrument is neither a security nor provides for the delivery of one or more securities (other than a derivative instrument).''.

SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.

Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (i) the following new subsection:

''(j) REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.—A registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, in the six month period preceding the date of enactment of this Act, engaged in effecting such sales.''.

SEC. 204. INFORMATION SHARING.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

''(t) RECORDKEEPING REQUIREMENTS.—

''(1) REQUIREMENTS.—Each appropriate Federal banking agency, after consultation with and consideration of the views of the Commission, shall establish recordkeeping requirements for banks relying on exceptions contained in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934. Such recordkeeping requirements shall be sufficient to demonstrate compliance with the terms of such exceptions and be designed to facilitate compliance with such exceptions. Each appropriate Federal banking agency shall make any such information available to the Commission upon request.

''(2) DEFINITIONS.—As used in this subsection the term 'Commission' means the Securities and Exchange Commission.''.

SEC. 205. TREATMENT OF NEW HYBRID PRODUCTS.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

''(i) RULEMAKING TO EXTEND REQUIREMENTS TO NEW HYBRID PRODUCTS.—

''(1) LIMITATION.—The Commission shall not—

''(A) require a bank to register as a broker or dealer under this section because the bank engages in any transaction in, or buys or sells, a new hybrid product; or

''(B) bring an action against a bank for a failure to comply with a requirement described in subparagraph (A);

unless the Commission has imposed such requirement by rule or regulation issued in accordance with this section.

''(2) CRITERIA FOR RULEMAKING.—The Commission shall not impose a requirement under paragraph (1) of this subsection with respect to any new hybrid product unless the Commission determines that—

''(A) the new hybrid product is a security; and

''(B) imposing such requirement is necessary or appropriate in the public interest and for the protection of investors, consistent with the requirements of section 3(f).

''(3) CONSIDERATIONS.—In making a determination under paragraph (2), the Commission shall consider—

''(A) the nature of the new hybrid product; and

''(B) the history, purpose, extent, and appropriateness of the regulation of the new hybrid product under the Federal securities laws and under the Federal banking laws.

''(4) CONSULTATION.—In promulgating rules under this subsection, the Commission shall consult with and consider the views of the Board of Governors of the Federal Reserve System regarding the nature of the new hybrid product, the history, purpose, extent, and appropriateness of the regulation of the new product under the Federal banking laws, and the impact of the proposed rule on the banking industry.

''(5) NEW HYBRID PRODUCT.—For purposes of this subsection, the term 'new hybrid product' means a product that—

''(A) was not subjected to regulation by the Commission as a security prior to the date of enactment of this subsection; and

''(B) is not an excepted banking product, as such term is defined in section 206 of the Financial Services Act of 1999.''.

SEC. 206. DEFINITION OF EXCEPTED BANKING PRODUCT.

(a) DEFINITION OF EXCEPTED BANKING PRODUCT.—For purposes of paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5)), the term ''excepted banking product'' means—

(1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(2) a banker's acceptance;

(3) a letter of credit issued or loan made by a bank;

(4) a debit account at a bank arising from a credit card or similar arrangement;

(5) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

(A) to qualified investors; or

(B) to other persons that—

(i) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

(ii) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines; or

(6) a derivative instrument that involves or relates to—

(A) currencies, except options on currencies that trade on a national securities exchange;

(B) interest rates, except interest rate derivative instruments that—

(i) are based on a security or a group or index of securities (other than government securities or a group or index of government securities);

(ii) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange; or

(C) commodities, other rates, indices, or other assets, except derivative instruments that—

(i) are securities or that are based on a group or index of securities (other than government securities or a group or index of government securities);

(ii) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange.

(b) CLASSIFICATION LIMITED.—Classification of a particular product as an excepted banking product pursuant to this section shall not be construed as finding or implying that such product is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(c) INCORPORATED DEFINITIONS.—For purposes of this section—

(1) the terms ''bank'', ''qualified investor'', and ''securities laws'' have the same meanings given in section 3(a) of the Securities Exchange Act of 1934, as amended by this Act; and

(2) the term ''government securities'' has the meaning given in section 3(a)(42) of such Act (as amended by this Act), and, for purposes of this section, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities.

SEC. 207. ADDITIONAL DEFINITIONS.

Section 3(a) of the Securities Exchange Act of 1934 is amended by adding at the end the following new paragraphs:

''(54) DERIVATIVE INSTRUMENT.—

''(A) DEFINITION.—The term 'derivative instrument' means any individually negotiated contract, agreement, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets, but does not include an excepted banking product, as defined in paragraphs (1) through (5) of section 206(a) of the Financial Services Act of 1999.

''(B) CLASSIFICATION LIMITED.—Classification of a particular contract as a derivative instrument pursuant to this paragraph shall not be construed as finding or implying that such instrument is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

''(55) QUALIFIED INVESTOR.—

''(A) DEFINITION.—For purposes of this title, the term 'qualified investor' means—

''(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

''(ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940;

''(iii) any bank (as defined in paragraph (6) of this subsection), savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

''(iv) any small business investment company licensed by the United States Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958;

''(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

''(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

''(vii) any market intermediary exempt under section 3(c)(2) of the Investment Company Act of 1940;

''(viii) any associated person of a broker or dealer other than a natural person;

''(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

''(x) the government of any foreign country;

''(xi) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xiii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or

''(xiv) any multinational or supranational entity or any agency or instrumentality thereof.

''(B) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters.''.

SEC. 208. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(E) for purposes of sections 15, 15C, and 17A as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes of the United States.''.

SEC. 209. EFFECTIVE DATE.

This subtitle shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

SEC. 210. RULE OF CONSTRUCTION.

Nothing in this Act shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking ''(f) Every registered'' and inserting the following:

''(f) CUSTODY OF SECURITIES.—

''(1) Every registered'';

(3) by redesignating the second, third, fourth, and fifth sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and

(4) by adding at the end the following new paragraph:

''(6) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person, promoter, organizer, or sponsor of, or principal underwriter for, a registered management company may serve as custodian of that registered management company.''.

(b) UNIT INVESTMENT TRUSTS.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

''(b) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or depositor of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1).''.

(c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–35(a)) is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (2) the following:

''(3) as custodian.''.

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(a)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(4) to loan money or other property to such registered company, or to any company controlled by such registered company, in contravention of such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.''.

SEC. 213. INDEPENDENT DIRECTORS.

(a) IN GENERAL.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(A)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account over which the investment company's investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account for which the investment company's investment adviser has borrowing authority,''.

(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(B)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account over which the investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account for which the investment adviser has borrowing authority,''.

(c) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by striking ''bank, except'' and inserting ''bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 2 of the Bank Holding Company Act of 1956), except''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of enactment of this subtitle.

SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(a)) is amended to read as follows:

''(a) MISREPRESENTATION OF GUARANTEES.—

''(1) IN GENERAL.—It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

''(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

''(B) has been insured by the Federal Deposit Insurance Corporation; or

''(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

''(2) DISCLOSURES.—Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

''(3) DEFINITIONS.—The terms 'insured depository institution' and 'appropriate Federal banking agency' have the same meanings given in section 3 of the Federal Deposit Insurance Act.''.

SEC. 215. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(6)) is amended to read as follows:

''(6) The term 'broker' has the same meaning given in section 3 of the Securities Exchange Act of 1934, except that such term does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.''.

SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as follows:

''(11) The term 'dealer' has the same meaning given in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) INVESTMENT ADVISER.—Section 202(a)(11)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)(A)) is amended by striking ''investment company'' and inserting ''investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser''.

(b) SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

''(26) The term 'separately identifiable department or division' of a bank means a unit—

''(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

''(B) for which all of the records relating to its investment adviser activities are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of this Act or the Investment Company Act of 1940 and rules and regulations promulgated under this Act or the Investment Company Act of 1940.''.

SEC. 218. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

''(3) The term 'broker' has the same meaning given in section 3 of the Securities Exchange Act of 1934.''.

SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

''(7) The term 'dealer' has the same meaning given in section 3 of the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 220. INTERAGENCY CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 210 the following new section:

''SEC. 210A. CONSULTATION.

''(a) EXAMINATION RESULTS AND OTHER INFORMATION.—

''(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access with respect to the investment advisory activities—

''(A) of any—

''(i) bank holding company;

''(ii) bank; or

''(iii) separately identifiable department or division of a bank,

that is registered under section 203 of this title; and

''(B) in the case of a bank holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, of such bank or bank holding company.

''(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company, bank, or separately identifiable department or division of a bank, which is registered under section 203 of this title.

''(b) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any other provision of law.

''(c) DEFINITION.—For purposes of this section, the term 'appropriate Federal banking agency' shall have the same meaning given in section 3 of the Federal Deposit Insurance Act.''.

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking ''or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian'' and inserting ''or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

''(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)) is amended by inserting before the period the following: '', if—

''(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

''(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

''(i) advertised; or

''(ii) offered for sale to the general public; and

''(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law''.

SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following new subsection:

''(g) CONTROLLING INTEREST IN INVESTMENT COMPANY PROHIBITED.—

''(1) IN GENERAL.—If an investment adviser to a registered investment company, or an affiliated person of that investment adviser, holds a controlling interest in that registered investment company in a trustee or fiduciary capacity, such person shall—

''(A) if it holds the shares in a trustee or fiduciary capacity with respect to any employee benefit plan subject to the Employee Retirement Income Security Act of 1974, transfer the power to vote the shares of the investment company through to another person acting in a fiduciary capacity with respect to the plan who is not an affiliated person of that investment adviser or any affiliated person thereof; or

''(B) if it holds the shares in a trustee or fiduciary capacity with respect to any person or entity other than an employee benefit plan subject to the Employee Retirement Income Security Act of 1974—

''(i) transfer the power to vote the shares of the investment company through to—

''(I) the beneficial owners of the shares;

''(II) another person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof; or

''(III) any person authorized to receive statements and information with respect to the trust who is not an affiliated person of that investment adviser or any affiliated person thereof;

''(ii) vote the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

''(iii) vote the shares of the investment company as otherwise permitted under such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.

''(2) EXEMPTION.—Paragraph (1) shall not apply to any investment adviser to a registered investment company, or any affiliated person of that investment adviser, that holds shares of the investment company in a trustee or fiduciary capacity if that registered investment company consists solely of assets held in such capacities.

''(3) SAFE HARBOR.—No investment adviser to a registered investment company or any affiliated person of such investment adviser shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law solely by reason of acting in accordance with clause (i), (ii), or (iii) of paragraph (1)(B).''.

SEC. 223. STATUTORY DISQUALIFICATION FOR BANK WRONGDOING.

Section 9(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)) is amended in paragraphs (1) and (2) by striking ''securities dealer, transfer agent,'' and inserting ''securities dealer, bank, transfer agent,''.

SEC. 224. CONFORMING CHANGE IN DEFINITION.

Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(5)) is amended by striking ''(A) a banking institution organized under the laws of the United States'' and inserting ''(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978)''.

SEC. 225. CONFORMING AMENDMENT.

Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following new subsection:

''(c) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.''.

SEC. 226. CHURCH PLAN EXCLUSION.

Section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(14)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraph (B) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting ''(A)'' after ''(14)''; and

(4) by adding at the end the following new subparagraph:

''(B) If a registered investment company would be excluded from the definition of investment company under this subsection but for the fact that some of the company's assets do not satisfy the condition of subparagraph (A)(ii) of this paragraph, then any investment adviser to the company or affiliated person of such investment adviser shall not be subject to the requirements of section 15(g)(1)(B) with respect to shares of the investment company.''.

SEC. 227. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by redesignating subsection (i) as subsection (k); and

(2) by inserting after subsection (h) the following new subsection:

''(i) INVESTMENT BANK HOLDING COMPANIES.—

''(1) ELECTIVE SUPERVISION OF AN INVESTMENT BANK HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

''(A) IN GENERAL.—An investment bank holding company that is not—

''(i) an affiliate of a wholesale financial institution, an insured bank (other than an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956), or a savings association;

''(ii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978; or

''(iii) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act,

may elect to become supervised by filing with the Commission a notice of intention to become supervised, pursuant to subparagraph (B) of this paragraph. Any investment bank holding company filing such a notice shall be supervised in accordance with this section and comply with the rules promulgated by the Commission applicable to supervised investment bank holding companies.

''(B) NOTIFICATION OF STATUS AS A SUPERVISED INVESTMENT BANK HOLDING COMPANY.—An investment bank holding company that elects under subparagraph (A) to become supervised by the Commission shall file with the Commission a written notice of intention to become supervised by the Commission in such form and containing such information and documents concerning such investment bank holding company as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Unless the Commission finds that such supervision is not necessary or appropriate in furtherance of the purposes of this section, such supervision shall become effective 45 days after the date of receipt of such written notice by the Commission or within such shorter time period as the Commission, by rule or order, may determine.

''(2) ELECTION NOT TO BE SUPERVISED BY THE COMMISSION AS AN INVESTMENT BANK HOLDING COMPANY.—

''(A) VOLUNTARY WITHDRAWAL.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon such terms and conditions as the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from Commission supervision. Such notice shall not become effective until one year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

''(B) DISCONTINUATION OF COMMISSION SUPERVISION.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

''(3) SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES.—

''(A) RECORDKEEPING AND REPORTING.—

''(i) IN GENERAL.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

''(I) the company's or affiliate's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

''(II) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(ii) FORM AND CONTENTS.—Such records and reports shall be prepared in such form and according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time upon request by the Commission. Such records and reports may include—

''(I) a balance sheet and income statement;

''(II) an assessment of the consolidated capital of the supervised investment bank holding company;

''(III) an independent auditor's report attesting to the supervised investment bank holding company's compliance with its internal risk management and internal control objectives; and

''(IV) reports concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Commission shall, to the fullest extent possible, accept reports in fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

''(ii) AVAILABILITY.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

''(C) EXAMINATION AUTHORITY.—

''(i) FOCUS OF EXAMINATION AUTHORITY.—The Commission may make examinations of any supervised investment bank holding company and any affiliate of such company in order to—

''(I) inform the Commission regarding—

''(aa) the nature of the operations and financial condition of the supervised investment bank holding company and its affiliates;

''(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and

''(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and

''(II) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable provisions of subchapter II of chapter 53, title 31, United States Code (commonly referred to as the 'Bank Secrecy Act') and regulations thereunder.

''(ii) RESTRICTED FOCUS OF EXAMINATIONS.—The Commission shall limit the focus and scope of any examination of a supervised investment bank holding company to—

''(I) the company; and

''(II) any affiliate of the company that, because of its size, condition, or activities, the nature or size of the transactions between such affiliate and any affiliated broker or dealer, or the centralization of functions within the holding company system, could, in the discretion of the Commission, have a materially adverse effect on the operational or financial condition of the broker or dealer.

''(iii) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Commission shall, to the fullest extent possible, use the reports of examination of an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956 made by the appropriate regulatory agency, or of a licensed insurance company made by the appropriate State insurance regulator.

''(4) HOLDING COMPANY CAPITAL.—

''(A) AUTHORITY.—If the Commission finds that it is necessary to adequately supervise investment bank holding companies and their broker or dealer affiliates consistent with the purposes of this subsection, the Commission may adopt capital adequacy rules for supervised investment bank holding companies.

''(B) METHOD OF CALCULATION.—In developing rules under this paragraph:

''(i) DOUBLE LEVERAGE.—The Commission shall consider the use by the supervised investment bank holding company of debt and other liabilities to fund capital investments in affiliates.

''(ii) NO UNWEIGHTED CAPITAL RATIO.—The Commission shall not impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

''(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Commission shall not, by rule, regulation, guideline, order or otherwise, impose any capital adequacy provision on a nonbanking affiliate (other than a broker or dealer) that is in compliance with applicable capital requirements of another Federal regulatory authority or State insurance authority.

''(iv) APPROPRIATE EXCLUSIONS.—The Commission shall take full account of the applicable capital requirements of another Federal regulatory authority or State insurance regulator.

''(C) INTERNAL RISK MANAGEMENT MODELS.—The Commission may incorporate internal risk management models into its capital adequacy rules for supervised investment bank holding companies.

''(5) FUNCTIONAL REGULATION OF BANKING AND INSURANCE ACTIVITIES OF SUPERVISED INVESTMENT BANK HOLDING COMPANIES.—The Commission shall defer to—

''(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, and operations of banks, and institutions described in subparagraph (D), (F), and (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956; and

''(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

''(6) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'investment bank holding company' means—

''(i) any person other than a natural person that owns or controls one or more brokers or dealers; and

''(ii) the associated persons of the investment bank holding company.

''(B) The term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection.

''(C) The terms 'affiliate', 'bank', 'bank holding company', 'company', 'control', 'savings association', and 'wholesale financial institution' have the same meanings given in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

''(D) The term 'insured bank' has the same meaning given in section 3 of the Federal Deposit Insurance Act.

''(E) The term 'foreign bank' has the same meaning given in section 1(b)(7) of the International Banking Act of 1978.

''(F) The terms 'person associated with an investment bank holding company' and 'associated person of an investment bank holding company' mean any person directly or indirectly controlling, controlled by, or under common control with, an investment bank holding company.''.

''(j) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and (C) of subsection (i)(5) as confidential information for purposes of section 24(b)(2) of this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended by adding at the end the following new subparagraph:

''(H) When used with respect to an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956—

''(i) the Comptroller of the Currency, in the case of a national bank or a bank in the District of Columbia examined by the Comptroller of the Currency;

''(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or any corporation chartered under section 25A of the Federal Reserve Act;

''(iii) the Federal Deposit Insurance Corporation, in the case of any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; or

''(iv) the Commission in the case of all other such institutions.''.

(2) Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(A) by striking ''this title'' and inserting ''law''; and

(B) by inserting '', examination reports'' after ''financial records''.

Subtitle D—Disclosure of Customer Costs of Acquiring Financial Products

SEC. 241. IMPROVED AND CONSISTENT DISCLOSURE.

(a) REVISED REGULATIONS REQUIRED.—Within one year after the date of enactment of this Act, each Federal financial regulatory authority shall prescribe rules, or revisions to its rules, to improve the accuracy, simplicity, and completeness, and to make more consistent, the disclosure of information by persons subject to the jurisdiction of such regulatory authority concerning any commissions, fees, or other costs incurred by customers in the acquisition of financial products.

(b) CONSULTATION.—In prescribing rules and revisions under subsection (a), the Federal financial regulatory authorities shall consult with each other and with appropriate State financial regulatory authorities.

(c) CONSIDERATION OF EXISTING DISCLOSURES.—In prescribing rules and revisions under subsection (a), the Federal financial regulatory authorities shall consider the sufficiency and appropriateness of then existing

laws and rules applicable to persons subject to their jurisdiction, and may prescribe exemptions from the rules and revisions required by subsection (a) to the extent appropriate in light of the objective of this section to increase the consistency of disclosure practices.

(d) ENFORCEMENT.—Any rule prescribed by a Federal financial regulatory authority pursuant to this section shall, for purposes of enforcement, be treated as a rule prescribed by such regulatory authority pursuant to the statute establishing such regulatory authority's jurisdiction over the persons to whom such rule applies.

(e) DEFINITION.—As used in this section, the term ''Federal financial regulatory authority'' means the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and any self-regulatory organization under the supervision of any of the foregoing.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. STATE REGULATION OF THE BUSINESS OF INSURANCE.

The Act entitled ''An Act to express the intent of the Congress with reference to the regulation of the business of insurance'' and approved March 9, 1945 (15 U.S.C. 1011 et seq.), commonly referred to as the ''McCarran-Ferguson Act'' remains the law of the United States.

SEC. 302. MANDATORY INSURANCE LICENSING REQUIREMENTS.

No person shall engage in the business of insurance in a State as principal or agent unless such person is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to section 104.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.

The insurance activities of any person (including a national bank exercising its power to act as agent under the 11th undesignated paragraph of section 13 of the Federal Reserve Act) shall be functionally regulated by the States, subject to section 104.

SEC. 304. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) IN GENERAL.—Except as provided in section 305, a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.

(b) AUTHORIZED PRODUCTS.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1999, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) DEFINITION.—For purposes of this section, the term ''insurance'' means—

(1) any product regulated as insurance as of January 1, 1999, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1999, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including, but not limited to, surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph (B) shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, if the bank were subject to tax as an insurance company under section 831 of that Code; or

(3) any annuity contract, the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

SEC. 305. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) GENERAL PROHIBITION.—No national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting or sale of title insurance.

(b) NONDISCRIMINATION PARITY EXCEPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including section 104 of this Act), in the case of any State in which banks organized under the laws of such State are authorized to sell title insurance as agency, a national bank and a subsidiary of a national bank may sell title insurance as agent in such State, but only in the same manner, to the same extent, and under the same restrictions as such State banks are authorized to sell title insurance as agent in such State.

(2) COORDINATION WITH ''WILDCARD'' PROVISION.—A State law which authorizes State banks to engage in any activities in such State in which a national bank may engage shall not be treated as a statute which authorizes State banks to sell title insurance as agent, for purposes of paragraph (1).

(c) GRANDFATHERING WITH CONSISTENT REGULATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and notwithstanding subsections (a) and (b), a national bank, and a subsidiary of a national bank, may conduct title insurance activities which such national bank or subsidiary was actively and lawfully conducting before the date of the enactment of this Act.

(2) INSURANCE AFFILIATE.—In the case of a national bank which has an affiliate which provides insurance as principal and is not a subsidiary of the bank, the national bank and any subsidiary of the national bank may not engage in the underwriting of title insurance pursuant to paragraph (1).

(3) INSURANCE SUBSIDIARY.—In the case of a national bank which has a subsidiary which provides insurance as principal and has no affiliate other than a subsidiary which provides insurance as principal, the national bank may not directly engage in any activity involving the underwriting of title insurance.

(d) ''AFFILIATE'' AND ''SUBSIDIARY'' DEFINED.—For purposes of this section, the terms ''affiliate'' and ''subsidiary'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

(e) RULE OF CONSTRUCTION.—No provision of this Act or any other Federal law shall be construed as superseding or affecting a State law which was in effect before the date of the enactment of this Act and which prohibits title insurance from being offered, provided, or sold in such State, or from being underwritten with respect to real property in such State, by any person whatsoever.

SEC. 306. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FEDERAL REGULATORS.

(a) FILING IN COURT OF APPEALS.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator as to whether any product is or is not insurance, as defined in section 304(c) of this Act, or whether a State statute, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, either regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) EXPEDITED REVIEW.—The United States Court of Appeals in which a petition for review is filed in accordance with subsection (a) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date on which such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiorari to the Supreme Court of the United States of any judgment of a United States Court of Appeals with respect to a petition for review under this section shall be filed with the Supreme Court of the United States as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No petition may be filed under this section challenging an order, ruling, determination, or other action of a Federal regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date on which the first public notice is made of such order, ruling, determination or other action in its final form; or

(2) the end of the 6-month period beginning on the date on which such order, ruling, determination, or other action takes effect.

(e) STANDARD OF REVIEW.—The court shall decide a petition filed under this section based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.

SEC. 307. CONSUMER PROTECTION REGULATIONS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 46 (as added by section 122(b) of this Act) the following new section:

''SEC. 47. CONSUMER PROTECTION REGULATIONS.

''(a) REGULATIONS REQUIRED.—

''(1) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of the Financial Services Act of 1999, consumer protection regulations (which the agencies jointly determine to be appropriate) that—

''(A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution; and

''(B) are consistent with the requirements of this Act and provide such additional protections for consumers to whom such sales, solicitations, advertising, or offers are directed as the agency determines to be appropriate.

''(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiaries of an insured depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

''(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

''(b) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall include anticoercion rules applicable to the sale of insurance products which prohibit an insured depository institution from engaging in any practice that would lead a consumer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

''(1) the purchase of an insurance product from the institution or any of its affiliates; or

''(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

''(1) DISCLOSURES.—

''(A) IN GENERAL.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iv), at the time of application for an extension of credit:

''(i) UNINSURED STATUS.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the insured depository institution.

''(ii) INVESTMENT RISK.—In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

''(iv) COERCION.—The approval of an extension of credit may not be conditioned on—

''(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of its affiliates or subsidiaries; or

''(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(B) MAKING DISCLOSURE READILY UNDERSTANDABLE.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

''(i) 'NOT FDIC–INSURED'.

''(ii) 'NOT GUARANTEED BY THE BANK'.

''(iii) 'MAY GO DOWN IN VALUE'.

''(iv) 'NOT INSURED BY ANY GOVERNMENT AGENCY'.

''(C) ADJUSTMENTS FOR ALTERNATIVE METHODS OF PURCHASE.—In prescribing the requirements under subparagraphs (A) and (D), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

''(D) CONSUMER ACKNOWLEDGMENT.—A requirement that an insured depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time a consumer receives the disclosures required under this paragraph or at the time of the initial purchase by the consumer of such product, an acknowledgment by such consumer of the receipt of the disclosure required under this subsection with respect to such product.

''(2) PROHIBITION ON MISREPRESENTATIONS.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the insured depository institution, or any subsidiary as appropriate, which could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

''(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

''(B) in the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

''(d) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

''(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits is kept, to the extent practicable, physically segregated from insurance product activity.

''(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following:

''(A) SEPARATE SETTING.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

''(B) REFERRALS.—Standards which permit any person accepting deposits from the public in an area where such transactions are routinely conducted in an insured depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

''(C) QUALIFICATION AND LICENSING REQUIREMENTS.—Standards prohibiting any insured depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

''(e) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section, which shall—

''(1) establish a group within each regulatory agency to receive such complaints;

''(2) develop procedures for investigating such complaints;

''(3) develop procedures for informing consumers of rights they may have in connection with such complaints; and

''(4) develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.

''(f) EFFECT ON OTHER AUTHORITY.—

''(1) IN GENERAL.—No provision of this section shall be construed as granting, limiting, or otherwise affecting—

''(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

''(B) except as provided in paragraph (2), any authority of any State insurance commissioner or other State authority under any State law.

''(2) COORDINATION WITH STATE LAW.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

''(B) PREEMPTION.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Federal Deposit Insurance Corporation determine jointly that the protection afforded by such provision for consumers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, such provision of the regulations prescribed under this section shall supersede the comparable provision of such State statute, regulation, order, or interpretation.

''(h) INSURANCE PRODUCT DEFINED.—For purposes of this section, the term 'insurance product' includes an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.''.

SEC. 308. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

Except as provided in section 104(a)(2), no State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or significantly interfere with the ability of any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), to become a financial holding company or to acquire control of an insured depository institution;

(2) limit the amount of an insurer's assets that may be invested in the voting securities of an insured depository institution (or any company which controls such institution), except that the laws of an insurer's State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) prevent, significantly interfere with, or have the authority to review, approve, or disapprove a plan of reorganization by which

an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

SEC. 309. INTERAGENCY CONSULTATION.

(a) PURPOSE.—It is the intention of Congress that the Board of Governors of the Federal Reserve System, as the umbrella supervisor for financial holding companies, and the State insurance regulators, as the functional regulators of companies engaged in insurance activities, coordinate efforts to supervise companies that control both a depository institution and a company engaged in insurance activities regulated under State law. In particular, Congress believes that the Board and the State insurance regulators should share, on a confidential basis, information relevant to the supervision of companies that control both a depository institution and a company engaged in insurance activities, including information regarding the financial health of the consolidated organization and information regarding transactions and relationships between insurance companies and affiliated depository institutions. The appropriate Federal banking agencies for depository institutions should also share, on a confidential basis, information with the relevant State insurance regulators regarding transactions and relationships between depository institutions and affiliated companies engaged in insurance activities. The purpose of this section is to encourage this coordination and confidential sharing of information, and to thereby improve both the efficiency and the quality of the supervision of financial holding companies and their affiliated depository institutions and companies engaged in insurance activities.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—

(1) INFORMATION OF THE BOARD.—Upon the request of the appropriate insurance regulator of any State, the Board may provide any information of the Board regarding the financial condition, risk management policies, and operations of any financial holding company that controls a company that is engaged in insurance activities and is regulated by such State insurance regulator, and regarding any transaction or relationship between such an insurance company and any affiliated depository institution. The Board may provide any other information to the appropriate State insurance regulator that the Board believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(2) BANKING AGENCY INFORMATION.—Upon the request of the appropriate insurance regulator of any State, the appropriate Federal banking agency may provide any information of the agency regarding any transaction or relationship between a depository institution supervised by such Federal banking agency and any affiliated company that is engaged in insurance activities regulated by such State insurance regulator. The appropriate Federal banking agency may provide any other information to the appropriate State insurance regulator that the agency believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(3) STATE INSURANCE REGULATOR INFORMATION.—Upon the request of the Board or the appropriate Federal banking agency, a State insurance regulator may provide any examination or other reports, records, or other information to which such insurance regulator may have access with respect to a company which—

(A) is engaged in insurance activities and regulated by such insurance regulator; and

(B) is an affiliate of an insured depository institution, wholesale financial institution, or financial holding company.

(c) CONSULTATION.—Before making any determination relating to the initial affiliation of, or the continuing affiliation of, an insured depository institution, wholesale financial institution, or financial holding company with a company engaged in insurance activities, the appropriate Federal banking agency shall consult with the appropriate State insurance regulator of such company and take the views of such insurance regulator into account in making such determination.

(d) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to an insured depository institution, wholesale financial institution, or bank holding company or any affiliate thereof under any provision of law.

(e) CONFIDENTIALITY AND PRIVILEGE.—

(1) CONFIDENTIALITY.—The appropriate Federal banking agency shall not provide any information or material that is entitled to confidential treatment under applicable Federal banking agency regulations, or other applicable law, to a State insurance regulator unless such regulator agrees to maintain the information or material in confidence and to take all reasonable steps to oppose any effort to secure disclosure of the information or material by the regulator. The appropriate Federal banking agency shall treat as confidential any information or material obtained from a State insurance regulator that is entitled to confidential treatment under applicable State regulations, or other applicable law, and take all reasonable steps to oppose any effort to secure disclosure of the information or material by the Federal banking agency.

(2) PRIVILEGE.—The provision pursuant to this section of information or material by a Federal banking agency or State insurance regulator shall not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY; INSURED DEPOSITORY INSTITUTION.—The terms ''appropriate Federal banking agency'' and ''insured depository institution'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD; FINANCIAL HOLDING COMPANY; AND WHOLESALE FINANCIAL INSTITUTION.—The terms ''Board'', ''financial holding company'', and ''wholesale financial institution'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 310. DEFINITION OF STATE.

For purposes of this subtitle, the term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

Subtitle B—National Association of Registered Agents and Brokers

SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING REFORMS.

(a) IN GENERAL.—The provisions of this subtitle shall take effect unless, not later than 3 years after the date of enactment of this Act, at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) UNIFORMITY REQUIRED.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) RECIPROCITY REQUIRED.—States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) if the following conditions are met:

(1) ADMINISTRATIVE LICENSING PROCEDURES.—At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent that such producer is permitted to sell or solicit the purchase of insurance in its State, if the producer's home State also awards such licenses on such a reciprocal basis, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority.

(2) CONTINUING EDUCATION REQUIREMENTS.—A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) NO LIMITING NONRESIDENT REQUIREMENTS.—A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) RECIPROCAL RECIPROCITY.—Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) DETERMINATION.—

(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this Act, the National Association of Insurance Commissioners shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) has been achieved.

(2) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the National Association of Insurance Commissioners' determination under this section and such court shall apply the standards set forth in section 706 of title 5, United States Code, when reviewing any such challenge.

(e) CONTINUED APPLICATION.—If, at any time, the uniformity or reciprocity required by subsections (b) and (c) no longer exists, the provisions of this subtitle shall take effect 2 years after the date on which such uniformity or reciprocity ceases to exist, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) SAVINGS PROVISION.—No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c), unless any such law, regulation, provision, or action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

(g) UNIFORM LICENSING.—Nothing in this section shall be construed to require any State to adopt new or additional licensing requirements to achieve the uniformity necessary to satisfy subsection (a)(1).

SEC. 322. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (hereafter in this subtitle referred to as the ''Association'').

(b) STATUS.—The Association shall—

(1) be a nonprofit corporation;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agent or instrumentality of the United States Government; and

(4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y–1001 et seq.).

SEC. 323. PURPOSE.

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

The Association shall be subject to the supervision and oversight of the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the ''NAIC'').

SEC. 325. MEMBERSHIP.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year period preceding the date on which such producer applies for membership.

(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—

(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or

(B) the suspension or revocation is subsequently overturned.

(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association shall have the authority to establish membership criteria that—

(1) bear a reasonable relationship to the purposes for which the Association was established; and

(2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) ESTABLISHMENT OF CLASSES AND CATEGORIES.—

(1) CLASSES OF MEMBERSHIP.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) CATEGORIES.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are insured depository institutions or wholesale financial institutions or for their employees, agents, or affiliates.

(d) MEMBERSHIP CRITERIA.—

(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) MINIMUM STANDARD.—In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) EFFECT OF MEMBERSHIP.—Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) ANNUAL RENEWAL.—Membership in the Association shall be renewed on an annual basis.

(g) CONTINUING EDUCATION.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) SUSPENSION AND REVOCATION.—The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association; or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) OFFICE OF CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) RECORDS AND REFERRALS.—The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) TELEPHONE AND OTHER ACCESS.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.

(a) ESTABLISHMENT.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the ''Board'') for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) POWERS.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) COMPOSITION.—

(1) MEMBERS.—The Board shall be composed of 7 members appointed by the NAIC.

(2) REQUIREMENT.—At least 4 of the members of the Board shall have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—If, by the end of the 2-year period beginning on the date of enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) ALTERNATE COMPOSITION.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) INOPERABILITY.—If fewer than 7 State insurance regulators accept appointment to

the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) TERMS.—The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with ⅓ of the directors to be appointed each year.

(e) BOARD VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) MEETINGS.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) IN GENERAL.—

(1) POSITIONS.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) MANNER OF SELECTION.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) CRITERIA FOR CHAIRPERSON.—Only individuals who are members of the NAIC shall be eligible to serve as the chairperson of the board of directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) ADOPTION AND AMENDMENT OF BYLAWS.—

(1) COPY REQUIRED TO BE FILED WITH THE NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) upon such earlier date as the NAIC may determine.

(3) DISAPPROVAL BY THE NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subtitle and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such subsection.

(b) ADOPTION AND AMENDMENT OF RULES.—

(1) FILING PROPOSED REGULATIONS WITH THE NAIC.—

(A) IN GENERAL.—The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) OTHER RULES AND AMENDMENTS INEFFECTIVE.—No proposed rule or amendment shall take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) INITIAL CONSIDERATION BY THE NAIC.—Not later than 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date, if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC PROCEEDINGS.—

(A) IN GENERAL.—Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded not later than 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) DISPOSITION OF PROPOSAL.—At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) EXTENSION OF TIME FOR CONSIDERATION.—The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) for such longer period as to which the Association consents.

(4) STANDARDS FOR REVIEW.—

(A) GROUNDS FOR APPROVAL.—The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) APPROVAL BEFORE END OF NOTICE PERIOD.—The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date on which the Association files proposed rules or amendments in accordance with paragraph (1), unless the NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) ALTERNATE PROCEDURE.—

(A) IN GENERAL.—Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association shall take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) ABROGATION BY THE NAIC.—

(i) IN GENERAL.—At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or clause (ii) of this subparagraph, the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subtitle.

(ii) EFFECT OF RECONSIDERATION BY THE NAIC.—Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be a final action.

(c) ACTION REQUIRED BY THE NAIC.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any bylaw, rule or amendment of the Association, whenever adopted.

(d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as a ''disciplinary action''), the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subtitle, the rules or regulations under this subtitle, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC REVIEW OF DISCIPLINARY ACTION.—

(1) NOTICE TO THE NAIC.—If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) REVIEW BY THE NAIC.—Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC's own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC's own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) SCOPE OF REVIEW.—

(1) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(A) determine whether the action should be taken;

(B) affirm, modify, or rescind the disciplinary sanction; or

(C) remand to the Association for further proceedings.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(A) the specific grounds on which the action is based exist in fact;

(B) the action is in accordance with applicable rules and regulations; and

(C) such rules and regulations are, and were, applied in a manner consistent with the purposes of this subtitle.

SEC. 329. ASSESSMENTS.

(a) INSURANCE PRODUCERS SUBJECT TO ASSESSMENT.—The Association may establish such application and membership fees as the Association finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b), except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC ASSESSMENTS.—The NAIC may assess the Association for any costs that the NAIC incurs under this subtitle.

SEC. 330. FUNCTIONS OF THE NAIC.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) EXAMINATIONS AND REPORTS.—

(1) EXAMINATIONS.—The NAIC may make such examinations and inspections of the Association and require the Association to furnish to the NAIC such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.

(2) REPORT BY ASSOCIATION.—As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) LIABILITY OF THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES.—Neither the Association nor any of its directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subtitle.

SEC. 332. ELIMINATION OF NAIC OVERSIGHT.

(a) IN GENERAL.—The Association shall be established without NAIC oversight and the provisions set forth in section 324, subsections (a), (b), (c), and (e) of section 328, and sections 329(b) and 330 of this subtitle shall cease to be effective if, at the end of the 2-year period beginning on the date on which the provisions of this subtitle take effect pursuant to section 321—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a), (b), and (c) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328 or is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) BOARD APPOINTMENTS.—If the repeals required by subsection (a) are implemented, the following shall apply:

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the Senate, shall appoint the members of the Association's Board established under section 326 from lists of candidates recommended to the President by the National Association of Insurance Commissioners.

(2) PROCEDURES FOR OBTAINING NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS APPOINTMENT RECOMMENDATIONS.—

(A) INITIAL DETERMINATION AND RECOMMENDATIONS.—After the date on which the provisions of subsection (a) take effect, the NAIC shall, not later than 60 days thereafter, provide a list of recommended candidates to the President. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 326(c), the President shall, with the advice and consent of the Senate, make the requisite appointments without considering the views of the NAIC.

(B) SUBSEQUENT APPOINTMENTS.—After the initial appointments, the NAIC shall provide a list of at least 6 recommended candidates for the Board to the President by January 15 of each subsequent year. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 6 recommended candidates or comply with the requirements of section 326(c), the President, with the advice and consent of the Senate, shall make the requisite appointments without considering the views of the NAIC.

(C) PRESIDENTIAL OVERSIGHT.—

(i) REMOVAL.—If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) SUSPENSION OF RULES OR ACTIONS.—The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(c) ANNUAL REPORT.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to the Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

SEC. 333. RELATIONSHIP TO STATE LAW.

(a) PREEMPTION OF STATE LAWS.—State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted as provided in subsection (b).

(b) PROHIBITED ACTIONS.—No State shall—

(1) impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association;

(2) impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency;

(3) impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different from the criteria for membership in the Association or renewal of such membership, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section; or

(4) implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 325.

(c) SAVINGS PROVISION.—Except as provided in subsections (a) and (b), no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or other action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.

(a) COORDINATION WITH STATE INSURANCE REGULATORS.—The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) COORDINATION WITH THE NATIONAL ASSOCIATION OF SECURITIES DEALERS.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.

(a) JURISDICTION.—The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) EXHAUSTION OF REMEDIES.—An aggrieved person shall be required to exhaust all available administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.

(c) STANDARDS OF REVIEW.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) HOME STATE.—The term ''home State'' means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

(2) INSURANCE.—The term ''insurance'' means any product, other than title insurance, defined or regulated as insurance by the appropriate State insurance regulatory authority.

(3) INSURANCE PRODUCER.—The term ''insurance producer'' means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(4) STATE.—The term ''State'' includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

Subtitle C—Rental Car Agency Insurance Activities

SEC. 341. STANDARD OF REGULATION FOR MOTOR VEHICLE RENTALS.

(a) PROTECTION AGAINST RETROACTIVE APPLICATION OF REGULATORY AND LEGAL ACTION.—Except as provided in subsection (b), during the 3-year period beginning on the date of the enactment of this Act, it shall be a presumption that no State law imposes any licensing, appointment, or education requirements on any person who solicits the purchase of or sells insurance connected with, and incidental to, the lease or rental of a motor vehicle.

(b) PREEMINENCE OF STATE INSURANCE LAW.—No provision of this section shall be construed as altering the validity, interpretation, construction, or effect of—

(1) any State statute;

(2) the prospective application of any court judgment interpreting or applying any State statute; or

(3) the prospective application of any final State regulation, order, bulletin, or other statutorily authorized interpretation or action,

which, by its specific terms, expressly regulates or exempts from regulation any person who solicits the purchase of or sells insurance connected with, and incidental to, the short-term lease or rental of a motor vehicle.

(c) SCOPE OF APPLICATION.—This section shall apply with respect to—

(1) the lease or rental of a motor vehicle for a total period of 90 consecutive days or less; and

(2) insurance which is provided in connection with, and incidentally to, such lease or rental for a period of consecutive days not exceeding the lease or rental period.

(d) MOTOR VEHICLE DEFINED.—For purposes of this section, the term ''motor vehicle'' has the meaning given to such term in section 13102 of title 49, United States Code.

Subtitle D—Confidentiality

SEC. 351. CONFIDENTIALITY OF HEALTH AND MEDICAL INFORMATION.

(a) IN GENERAL.—A company which underwrites or sells annuities contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (other than credit-related insurance) and any subsidiary or affiliate thereof shall maintain a practice of protecting the confidentiality of individually identifiable customer health and medical and genetic information and may disclose such information only—

(1) with the consent, or at the direction, of the customer;

(2) for insurance underwriting and reinsuring policies, account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), providing information to the customer's physician or other health care provider, participating in research projects, enabling the purchase, transfer, merger, or sale of any insurance-related business, or as otherwise required or specifically permitted by Federal or State law; or

(3) in connection with—

(A) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card or account number, or by other payment means;

(B) the transfer of receivables, accounts, or interest therein;

(C) the audit of the debit, credit, or other payment information;

(D) compliance with Federal, State, or local law;

(E) compliance with a properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities as governed by the requirements of this section; or

(F) fraud protection, risk control, resolving customer disputes or inquiries, communicating with the person to whom the information relates, or reporting to consumer reporting agencies.

(b) STATE ACTIONS FOR VIOLATIONS.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, State insurance regulator, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction.

(c) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), subsection (a) shall take effect on February 1, 2000.

(2) SUNSET.—Subsection (a) shall not take effect if, or shall cease to be effective on and after the date on which, legislation is enacted that satisfies the requirements in section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

(d) CONSULTATION.—While subsection (a) is in effect, State insurance regulatory authorities, through the National Association of Insurance Commissioners, shall consult with the Secretary of Health and Human Services in connection with the administration of such subsection.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. PROHIBITION ON NEW UNITARY SAVINGS AND LOAN HOLDING COMPANIES.

(a) IN GENERAL.—Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

''(9) TERMINATION OF EXPANDED POWERS FOR NEW UNITARY HOLDING COMPANY.—

''(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after March 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

''(i) under paragraph (1)(C) or (2); or

''(ii) for financial holding companies under section 6(c) of the Bank Holding Company Act of 1956.

''(B) EXISTING UNITARY HOLDING COMPANIES AND THE SUCCESSORS TO SUCH COMPANIES.—Subparagraph (A) shall not apply, and paragraph (3) shall continue to apply, to a company (or any subsidiary of such company) that—

''(i) either—

''(I) acquired 1 or more savings associations described in paragraph (3) pursuant to applications at least 1 of which was filed on or before March 4, 1999; or

''(II) subject to subparagraph (C), became a savings and loan holding company by acquiring control of the company described in subclause (I); and

''(ii) continues to control the savings association referred to in clause (i)(II) or the successor to any such savings association.

''(C) NOTICE PROCESS FOR NONFINANCIAL ACTIVITIES BY A SUCCESSOR UNITARY HOLDING COMPANY.—

''(i) NOTICE REQUIRED.—Subparagraph (B) shall not apply to any company described in subparagraph (B)(i)(II) which engages, directly or indirectly, in any activity other than activities described in clauses (i) and (ii) of subparagraph (A), unless—

''(I) in addition to an application to the Director under this section to become a savings and loan holding company, the company submits a notice to the Board of Governors of the Federal Reserve System of such nonfinancial activities in the same manner as a notice of nonbanking activities is filed with the Board under section 4(j) of the Bank Holding Company Act of 1956; and

''(II) before the end of the applicable period under such section 4(j), the Board either approves or does not disapprove of the continuation of such activities by such company, directly or indirectly, after becoming a savings and loan holding company.

''(ii) PROCEDURE.—Section 4(j) of the Bank Holding Company Act of 1956, including the standards for review, shall apply to any notice filed with the Board under this subparagraph in the same manner as it applies to notices filed under such section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)(3)) is amended by striking ''Notwithstanding'' and inserting ''Except as provided in paragraph (9) and notwithstanding''.

(c) CONFORMING AMENDMENT.—Section 10(o)(5) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)(5)) is amended—

(1) in subparagraph (E), by striking '', except subparagraph (B)''; and

(2) by adding at the end the following new subparagraph:

''(F) In the case of a mutual holding company which is a savings and loan holding company described in subsection (c)(3), engaging in the activities permitted for financial holding companies under section 6(c) of the Bank Holding Company Act of 1956.''.

SEC. 402. RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled ''An Act to enable national banking associations to increase their capital stock and to change their names or locations'', approved May 1, 1886 (12 U.S.C. 30), is amended by adding at the end the following new subsection:

''(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Financial Services Act of 1999 may retain the term 'Federal' in the name of such institution if such depository institution remains an insured depository institution.

''(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

TITLE V—PRIVACY

Subtitle A—Privacy Policy

SEC. 501. DEPOSITORY INSTITUTION PRIVACY POLICIES.

Section 6 of the Bank Holding Company Act of 1956 (as added by section 103 of this title) is amended by adding at the end the following new subsection:

''(h) DEPOSITORY INSTITUTION PRIVACY POLICIES.—

''(1) DISCLOSURE REQUIRED.—In the case of any insured depository institution which becomes affiliated under this section with a financial holding company, the privacy policy of such depository institution shall be clearly and conspicuously disclosed—

''(A) with respect to any person who becomes a customer of the depository institution any time after the depository institution becomes affiliated with such company, to such person at the time at which the business relationship between the customer and the institution is initiated; and

''(B) with respect to any person who already is a customer of the depository institution at the time the depository institution becomes affiliated with such company, to such person within a reasonable time after the affiliation is consummated.

''(2) INFORMATION TO BE INCLUDED.—The privacy policy of an insured depository institution which is disclosed pursuant to paragraph (1) shall include—

''(A) the policy of the institution with respect to disclosing customer information to third parties, other than agents of the depository institution, for marketing purposes; and

''(B) the disclosures required under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act with regard to the right of the customer, at any time, to direct that information referred to in such section not be shared with affiliates of the depository institution.

''(3) APPLICABILITY.—For purposes of section 10 of the Home Owners' Loan Act, this subsection and subsection (i) shall apply with regard to a savings and loan holding company and any affiliate or insured depository institution subsidiary of such holding company to the same extent and in the same manner this subsection and subsection (i) apply with respect to a financial holding company, affiliate of a financial holding company, or insured depository institution subsidiary of a financial holding company.''.

SEC. 502. STUDY OF CURRENT FINANCIAL PRIVACY LAWS.

(a) IN GENERAL.—The Federal banking agencies shall conduct a study of whether existing laws which regulate the sharing of customer information by insured depository institutions with affiliates of such institutions adequately protect the privacy rights of customers of such institutions.

(b) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal banking agencies shall submit a report to the Congress containing the findings and conclusions of the agency with respect to the study required under subsection (a), together with such recommendations for legislative or administrative action as the agencies may determine to be appropriate.

(c) DEFINITIONS.—For purposes of this section, the terms ''affiliate'', ''Federal banking agency'', and ''insured depository institution'' have the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

Subtitle B—Fraudulent Access to Financial Information

SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this subtitle for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

(1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution;

(2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or

(3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this subtitle to request a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

(e) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No provision of this section shall be construed so as to prevent any insurance institution, or any officer, employee, or agency of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(f) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

(g) NONAPPLICABILITY TO COLLECTION OF CHILD SUPPORT JUDGMENTS.—No provision of this section shall be construed to prevent any State-licensed private investigator, or any officer, employee, or agent of such private investigator, from obtaining customer information of a financial institution, to the extent reasonably necessary to collect child support from a person adjudged to have been delinquent in his or her obligations by a Federal or State court, and to the extent that such action by a State-licensed private investigator is not unlawful under any other Federal or State law or regulation, and has been authorized by an order or judgment of a court of competent jurisdiction.

SEC. 522. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Compliance with this subtitle shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the title VIII, the Fair Debt Collection Practices Act, to enforce compliance with such title.

(b) NOTICE OF ACTIONS.—The Federal Trade Commission shall—

(1) notify the Securities and Exchange Commission whenever the Federal Trade Commission initiates an investigation with respect to a financial institution subject to regulation by the Securities and Exchange Commission;

(2) notify the Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such Federal banking agency; and

(3) notify the appropriate State insurance regulator whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such regulator.

SEC. 523. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly and intentionally violates, or knowingly and intentionally attempts to violate, section 521 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 521 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 524. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subtitle as determined by the Commission, on its own motion or upon the petition of any interested party.

SEC. 525. AGENCY GUIDANCE.

In furtherance of the objectives of this subtitle, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) and the Securities and Exchange Commission or self-regulatory organizations, as appropriate, shall review regulations and guidelines applicable to financial institutions under their respective jurisdictions and shall prescribe such revisions to such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of customer financial information and to deter and detect activities proscribed under section 521.

SEC. 526. REPORTS.

(a) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, the Securities and Exchange Commission, appropriate Federal law enforcement agencies, and appropriate State insurance regulators, shall submit to the Congress a report on the following:

(1) The efficacy and adequacy of the remedies provided in this subtitle in addressing attempts to obtain financial information by fraudulent means or by false pretenses.

(2) Any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(b) ANNUAL REPORT BY ADMINISTERING AGENCIES.—The Federal Trade Commission and the Attorney General shall submit to Congress an annual report on number and disposition of all enforcement actions taken pursuant to this subtitle.

SEC. 527. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) CUSTOMER.—The term ''customer'' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term ''customer information of a financial institution'' means any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

(3) DOCUMENT.—The term ''document'' means any information in any form.

(4) FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''financial institution'' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term ''financial institution'' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

(C) SECURITIES INSTITUTIONS.—For purposes of subparagraph (B)—

(i) the terms ''broker'' and ''dealer'' have the meanings provided in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(ii) the term ''investment adviser'' has the meaning provided in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); and

(iii) the term ''investment company'' has the meaning provided in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(D) FURTHER DEFINITION BY REGULATION.—The Federal Trade Commission, after consultation with Federal banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subtitle.

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in House Report 106–214. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider Amendment No. 1 printed in House Report 106–214.

AMENDMENT NO. 1 OFFERED BY MR. BURR OF NORTH CAROLINA

Mr. BURR of North Carolina. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BURR of North Carolina:

Page 29, line 24, before the period insert '', except this paragraph shall not apply with respect to a company that owns a broadcasting station licensed under title III of the Communications Act of 1934 and the shares of which have been controlled by an insurance company since January 1, 1998''.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from North Carolina (Mr. BURR) and the gentleman from Michigan (Mr. DINGELL) each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BURR).

Mr. BURR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me say that this is a very narrow amendment for a unique situation. As a matter of fact, this amendment only applies to the Jefferson Pilot Insurance Corporation of Greensboro, North Carolina.

Their principal business is life insurance. But in the past 40 years they have been in the broadcast business as well under Raycom Sports, that great ACC delivery system. According to the Federal Reserve, Jefferson Pilot is the only insurance company in the United States in the broadcast business.

This amendment simply gives Jefferson Pilot the option of increasing their broadcast interest in order to maximize the value of their asset divestiture. They would still be required to stay under the 15-percent gross revenue limitation and to divest any non-bank and financial institution assets in the 10-year period if they were purchased by a bank.

The Federal Reserve and the Treasury have no objection to this amendment. I urge my colleagues on both sides of the aisle to support this very common sense amendment.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I ask unanimous consent to yield the entirety of my time to the gentleman from New York (Mr. LAFALCE) to dispense as he pleases.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I oppose this amendment on two basic grounds. Number one, it is special-interest legislation. It should not be on the floor today.

Secondly, how can we give 10 minutes' time for special-interest legislation when we could not give 10 minutes' time for an insurance redlining amendment, when we could not give 10 minutes' time so that we could satisfy the desires of those would want a basic life-line banking, we could not give 10 minutes' time to those who wanted to add to the privacy protections that we have come to consensually in the Pryce-Oxley-Frost-Menendez-LaFalce amendment?

For those reasons, I oppose the bill.

Madam Chairman, I ask unanimous consent to yield the balance of my time for the purpose of control to the gentleman from Texas (Mr. BENTSEN).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BENTSEN. Madam Chairman, I yield to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I rise in support of the Burr-Myrick amendment.

It is true that this amendment will impact on the one company in the Nation, because this is a unique company. The company happens to be in the insurance business and it currently happens to be in the communications business.

The underlying bill restricts income from nonfinancial activities to 15 percent and limits ownership before divestiture to 10 years. All this company is asking to do is to go up to those limits by acquisition. They are not at those limits now.

There may be other companies that are grandfathered under this provision that are already at those limits. They are not asking to go beyond those limits. They are simply asking to be able to conduct their business within the confines of the limits of divestiture and time that are applicable to other companies.

I certainly think this is reasonable. We should not restrict companies from growing as long as they are not restricting commerce and unduly exposing financial activities to risks that are not foreseen. Obviously, the risks

are foreseen by this bill because the 15-percent, 10-year limit continues to apply.

Mr. BURR of North Carolina. Madam Chairman, I yield to the gentlewoman from Charlotte, North Carolina (Mrs. MYRICK) a member of the Committee on Rules.

Mrs. MYRICK. Madam Chairman, I rise in support of the amendment of the gentleman from North Carolina (Mr. BURR).

I would just like to reiterate what the gentleman from North Carolina (Mr. BURR) has already said. This amendment does not harm the delicate compromises of this bill. Jefferson Pilot has been in the insurance business and the communications business for 40 years. The amendment is narrowly crafted, and it maintains the 15-percent gross revenue limitation on nonfinancial activities. They also are subjected to the 10-year divestiture requirement.

Madam Chairman, a vote for this amendment is a vote for ACC basketball.

Mr. BENTSEN. Madam Chairman, I reserve the balance of my time.

Mr. BURR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, in most cases we would criticize on this House floor for a very specific tailored amendment for a specific company. But, as has been pointed out, this is a unique company because they are the only ones that will get caught in the catch-22 of what we created, which was an atmosphere in the Telecommunications Act of 1996 where we go through a different calculation as to how we value assets in the communications business today.

In fact, it has been official to have a pool of companies in a particular market to achieve the true asset value of a communications business. As this company agrees to divest themselves of the nonfinancial assets, I think that it is only fair to look at that 1996 Act, to look at what we are getting ready to do, and to say we will allow this company who is caught in the middle to, under their divestiture of this broadcast business, to at least achieve the asset value that it is worth.

Unfortunately, that means that we have to create this one amendment that says, during this 10-year period, we will allow them possibly to add a radio station in a market because it raises the value of the sale in that market to where it should be.

I do not think that it is out of line to allow companies, and specifically this one, who are affected by changes that we make to in fact be excluded from the specific language that we are here to do today.

I appreciate the concerns expressed by my dear friends on the other side. I hope that in the end they will support this, because I believe it is the right thing to do.

Mr. BENTSEN. Madam Chairman, I yield myself the remaining time.

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Chairman, first of all, I do not have any problem with this particular company, and I do not have any problem with the ACC, and I do not have any problem with North Carolina. I think it is a great State. Not as great as the State of Texas, but I think it is a pretty good State. But the problem I have is that this is a specific carve-out that apparently affects one company in the United States.

Now, the bill that is before us sets some pretty strict rules for companies. And we had long debates in the Committee on Banking and Financial Services, and I am assuming the Committee on Commerce as well, on the issues of banking and commerce.

□ 1845

This bill also sets limits on a number of companies called unitary thrifts. There are about 75 of those who because of the way they are valued, their value is going to change because of this bill. We could not debate that on the floor because apparently we are not capable of doing that, but nonetheless, we made those decisions, and we made strict rules.

I am sorry that this company is affected by it, but they are just going to have to make a choice under the rules that are provided for in this bill of either being a broadcast company and insurance company or an insurance company and a banking company, but they want to have it all three ways, and they would be the only one in the United States that could do that. I do not think that is appropriate. That is not given to anybody else.

For that reason, I have to oppose the amendment. I would hope that our colleagues would oppose the amendment as well.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BURR).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BENTSEN. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. BURR) will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 106–214.

AMENDMENT NO. 2 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. SCHAKOWSKY:

Page 72, after line 13, insert the following new section (and amend the table of contents accordingly):

SEC. 110A. STUDY OF FINANCIAL MODERNIZATION'S AFFECT ON THE ACCESSIBILITY OF SMALL BUSINESS AND FARM LOANS.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Federal banking agencies (as defined in Section 3(z) of the Federal Deposit Insurance Act), shall conduct a study of the extent to which credit is being provided to and for small business and farms, as a result of this Act.

(b) REPORT.—Before the end of the 5-year period beginning on the date of the enactment of this Act, the Secretary, in consultation with the Federal banking agencies, shall submit a report to the Congress on the study conducted pursuant to subsection (a) and shall include such recommendations as the Secretary determines to be appropriate for administrative and legislative action.

The CHAIRMAN. Pursuant to House Resolution 235, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Madam Chairman, I yield myself 2 minutes.

First of all, I would like to thank my cosponsors, the gentlewoman from California (Ms. LEE), the gentleman from Illinois (Mr. GUTIERREZ) and the gentleman from North Carolina (Mr. WATT) for their help on this amendment.

This amendment would call for a 5-year study of financial modernization's effect on small business and farm lending. What it does is direct the U.S. Treasury Department with Federal bank regulators to study the effect of this bill, and the consolidation of the financial services industry into large conglomerates that it will undoubtedly encourage, on small business and farm lending and suggest legislative and regulatory changes as necessary to aid small business and farm lending.

I think our first rule in this House ought to be, first we do no harm. I am not suggesting that this bill will do any harm to small businesses or farms, but we want to make sure that that is the case, because small business certainly does deserve our support. There are 23 million small businesses that employ 53 percent of the workforce and account for 47 percent of all sales. Sixty-seven percent of all small businesses get their credit from banks, and many of these are small banks. We know that smaller businesses often have more difficulty in obtaining loans from banks.

What we want to make sure is that the result of H.R. 10 is not that we see fewer loans going to small banks and to farmers. The data shows, as I said, that small businesses and farmers do rely on small banks for their financing and a world without small banks could negatively affect the businesses and our national economy.

Chairman Greenspan of the Federal Reserve acknowledged before the Committee on Banking and Financial Services during hearings on H.R. 10 that

''small bank lending is inherent in the way small business is effectively financed. If it turns out that a lot of community banks would sort of fade or be absorbed into large institutions, I would be concerned.''

What my amendment does is ensure that regulators and the public will have the necessary information to combat negative effects on small business from this legislation.

Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. LAFALCE), the ranking member of the Committee on Banking and Financial Services.

Mr. LAFALCE. Madam Chairman, I rise in support of the amendment of the gentlewoman from Illinois. It is a very good amendment. We must always be concerned about the effect of any legislation we pass on small business and on farm lending.

But I rise primarily to thank the gentlewoman for being such an outstanding freshman member of the House Committee on Banking and Financial Services. I know of no member who is a greater champion of the consumer and consumer interest, whether it has to do with redlining, whether it has to do with privacy, whether it has to do with housing. She has been a true champion and she is going to be a great leader in the future.

Ms. SCHAKOWSKY. Madam Chairman, I yield 30 seconds to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, I would like to echo the gentleman from New York's comments about the gentlewoman. She has brought a great contribution to the Committee on Banking and Financial Services. We are all very appreciative.

This particular amendment is common sense, it is reasonable, and the majority has no objection whatsoever.

Ms. SCHAKOWSKY. Madam Chairman, I yield 30 seconds to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I echo my colleagues' statements about the gentlewoman's efforts as a new Member of Congress. I especially think this is important to those of us that represent States that have a significant rural constituency.

Minnesota, incidentally, is sort of a small bank State. We have 555 banks. Many of them serve the rural constituents in that State. I would like to report to the House the dire problems that we are facing in the western, north and east portions of Minnesota with regards to the farm economy. It is a very stressful time and a time of great concern.

Clearly, the financial engine of these communities are these small town banks that continue to extend credit and to provide the lifeblood that they need. A study of these as the gentlewoman has envisioned as well as for other small businesses which are having a very difficult time in our economy and that we really want to get behind and support with such bills as the PRIME bill and the community financial services programs that we support will be helpful.

I know the gentlewoman supports those efforts. I support this study. It would be good to have the information available so we can plot what the impact is and the profile of the market.

Ms. SCHAKOWSKY. Madam Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, I thank the gentlewoman for yielding me this time. As a cosponsor of this amendment, I rise in support of the amendment.

One of the concerns that a number of people have had about all of this consolidation and the ability to merge and cross financial lines is the impact that it will have on lending, particularly for minority communities, for small businesses, for farms. That is why we have been so insistent on maintaining the CRA provisions, and that is why I think it is important for us to support this amendment, to make sure that if there is an adverse impact that results from this bill, we know about it immediately and can take whatever steps are appropriate and necessary to respond to it.

I want to applaud the gentlewoman for coming forward with this amendment and strongly encourage my colleagues to support it.

The CHAIRMAN pro tempore (Mrs. MYRICK). Is there any Member who is opposed to this amendment?

If there is no opposition, the question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in House Report 106–214.

AMENDMENT NO. 3 OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. VELÁZQUEZ:

Page 96, line 12, strike ''operations of''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 235, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Madam Chairman, I yield myself such time as I may consume. I rise in support of this bipartisan amendment and urge its immediate adoption. This amendment would slightly modify section 114 to ensure that the banking policies established by Congress are implemented in a fair and consistent manner with respect to all entities, domestic and foreign, conducting a banking business in the United States. The passage of this amendment will enable all banks doing business in the United States to serve the needs of their customers.

The language in H.R. 10 grants the Federal Reserve Board authority regarding the overseas operations of a foreign bank. However, it is not clear what exactly the scope of this particular language means and the Federal Reserve has agreed to delete the words ''operations of'' to clarify that the provision expressly applies to the foreign bank itself and not the bank's parent or sister affiliates. This clarification ensures parity with U.S. law.

Foreign banks have a large and longstanding presence in New York and they are an important part of our economy in New York and throughout the country. For example, many foreign banks have broker-dealers subsidiaries that provide capital and liquidity to the U.S. securities markets, serving to enhance the ability of U.S. businesses to raise capital.

This bipartisan amendment has been cleared by the Federal Reserve Board, is supported by the Conference of State Bank Supervisors, and similar language is included in the version of financial modernization passed by the other body.

I urge my colleagues to adopt this amendment.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Iowa.

Mr. LEACH. We have carefully reviewed this amendment with the Federal Reserve Board of the United States. It is my understanding that they have no objection to the amendment, that it is a very thoughtful and reasonable approach to dealing with a particular problem. Therefore, we have great respect for the gentlewoman's effort and support her amendment.

Ms. VELAZQUEZ. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Is there any Member who is opposed to this amendment?

If not, the question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in House Report 106–214.

AMENDMENT NO. 4 OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BARR of Georgia:

Page 235, after line 23, insert the following new subsections:

(c) PREVENTION OF FUTURE PRIVACY INVASIONS.—

(1) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

''(1) IN GENERAL.—Any financial institution, and any director, officer, employee, or

agent of any financial institution, may report to the Secretary any transaction relevant to a possible violation of a law or regulation.''';

(B) in paragraph (2), by striking ''suspicious'';

(C) in paragraph (4)(A)—

(i) by striking ''requiring'' and inserting ''receiving''; and

(ii) by striking ''suspicious transaction'' and inserting ''transaction relevant to a possible violation of a law or regulation'';

(D) in paragraph (4)(B), by striking ''suspicious transaction'' and inserting ''transaction relevant to a possible violation of a law or regulation''; and

(E) by adding at the end of paragraph (4) the following new subparagraph:

''(D) RECORDKEEPING.—The Secretary shall ensure that no report filed under this paragraph is maintained by the Secretary or any Federal or State law enforcement or supervisory agency to whom access to the report (or information therein) has been granted after the earlier of—

''(i) the end of the 4-year period beginning on the date the report was received; or

''(ii) 60 days after the expiration of the longest statute of limitations relating to any possible violation of a law or regulation identified in such report,

unless the report or information contained in the report is being used in an on-going investigation of a possible violation of a law or regulation identified in such report.''.

(2) CLARIFICATION OF PURPOSES OF ANTI-MONEY LAUNDERING PROGRAM.—Section 5318(h) of title 31, United States Code, is amended by adding at the end the following new paragraph:

''(3) LIMITATION.—Notwithstanding paragraphs (1) and (2), the Secretary may not require or encourage an insured depository institution or any affiliate of an insured depository institution to—

''(A) determine the sources of funds used by any customer of the institution or affiliate in any transaction;

''(B) assess the purpose of any transaction or seek from the customer an explanation for the transaction;

''(C) determine what transactions are normal or expected for a customer;

''(D) monitor customer body language or behavior;

''(E) monitor customer transactions and compare them to historical patterns; or

''(F) report to the Secretary transactions that do not conform to a customer's historical transaction patterns.

(3) CLERICAL AMENDMENTS.—

(A) The subsection heading for section 5318(g) is amended to read as follows:

''(g) REPORTING POSSIBLE VIOLATIONS OF LAWS AND REGULATIONS.—''.

(B) The paragraph heading for section 5318(g)(4) of title 31, United States Code, is amended to read as follows:

''(4) SINGLE DESIGNEE FOR REPORTING TRANSACTIONS RELEVANT TO A POSSIBLE VIOLATION OF LAW OR REGULATION.—''.

(d) INCREASE IN TRIGGER AMOUNT FOR CASH TRANSACTION REPORTS.—

(1) DOMESTIC.—Section 5313(a) of title 31, United States Code, is amended by adding at the end the following new sentence: ''In no event may the Secretary require reports under this section for transactions involving less than $25,000.''.

(2) IMPORTING AND EXPORTING.—Section 5316(a) is amended by striking ''$10,000'' each place such term appears and inserting ''$25,000''.

(e) AGENCY REPORTS ON RECONCILING PENALTY AMOUNTS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) shall submit reports to the Congress containing proposed legislation to conform the penalties imposed on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) for violations of subchapter II of chapter 53 of title 31, United States Code, to the penalties imposed on such institutions under section 8 of the Federal Deposit Insurance Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 235, the gentleman from Georgia (Mr. BARR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Madam Chairman, I yield myself 1½ minutes.

Earlier this year, as a matter of fact late last year, the American people were treated to one of the most gross examples of overreaching by the Federal Government, by Federal regulators, that they had ever witnessed, the so-called ''know your customer'' regulations that were proposed by the FDIC. These proposed regulations would have required every financial institution in the country to develop a profile on every one of their customers all over the country and to determine what the financial transaction habits of each individual customer were so that if there was something that occurred out of the ordinary, outside of that profile, the law enforcement authorities would be notified. Thankfully, the American people, through the work of this Congress, stopped the ''know your customer'' regulations dead in their tracks.

Well, they are back. Under the guise of the Bank Secrecy Act, which has some very laudable, important provisions in it, the suspicious activity reports require, in essence, ''know your customer'' regulations mandated on the banks.

The amendment proposed by the gentleman from California, the gentleman from Texas and myself today simply removes the mandatory nature of the suspicious activity reports which in essence are ''know your customer'' regulations. We do not remove the important tool that law enforcement has in working with financial institutions to disclose to the government suspicious activity. We simply tell the government that the millions upon millions of reports that they have accumulated by requirement over the years and have never used and which are rarely used shall no longer be required.

□ 1900

Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Georgia (Mr. BARR).

Mr. HUTCHINSON. Madam Chairman, I rise in opposition as well. Is there any provision to split the time?

The CHAIRMAN. By unanimous consent each gentleman could split the time if so desired.

Mr. LAFALCE. Madam Chairman, I yield 2½ of my 5 minutes to either the gentleman from Iowa (Mr. LEACH) or his designee.

Mr. LEACH. Madam Chairman, I would be happy to yield that time to my distinguished colleague from Arkansas (Mr. HUTCHINSON).

The CHAIRMAN. Without objection, the gentleman from Arkansas (Mr. HUTCHINSON) will control 2½ minutes.

There was no objection.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Let me say that a number of Republicans are going to be recognized by me:

The gentleman from Iowa (Mr. LEACH), the gentleman from Florida (Mr. MCCOLLUM), the gentlewoman from New Jersey (Mrs. ROUKEMA), the gentleman from Alabama (Mr. BACHUS).

I will only have 30 seconds for myself and no more than 30 seconds for anyone else.

I oppose this amendment strongly. It goes way beyond the repeal of Know Your Customer. It basically would repeal provisions of the Bank Secrecy Act that have been in existence for decades. The FBI strongly opposes this, says it cannot enforce the law, Treasury and Justice strongly oppose it. Based upon my conversation with the administration I think they would be constrained to veto a bill that did not repeal these strong law enforcement provisions.

I strongly urge the defeat of this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. HUTCHINSON. Madam Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. MCCOLLUM) who has been such a leader on this issue.

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Madam Chairman, I thank the gentleman for yielding this time to me. I just want to say with all due respect to my colleagues who are promoting this amendment this is far beyond a Know Your Customer amendment. I am opposed to that too, just like everybody, I suspect, here is. That was a horrible idea the Treasury had, and I am very glad to see that it has disappeared.

But what we are doing in this amendment, if it is passed, it actually guts existing money laundering laws. It would set the drug war back by some estimates that I suspect is true, maybe 20 years. What it really would do would be to allow drug kingpins to launder money undetected. The current laws say that one has to have a currency transaction report if they go to the bank and take cash of $10,000 or more and deposit it in order for us to have the notice that we need to have of that transaction so that law enforcement can get ahold of these drug kingpins

and can have a chain and prove the evidence.

What the gentleman from Georgia (Mr. BARR) and the gentleman from Texas (Mr. PAUL) are offering here would increase that amount to $25,000. There are lots of what we call smurfing transactions for far less than $25,000, and, in addition, the most visceral thing in here, this amendment would actually eliminate the requirement that banks report suspected illegal activity, eliminate the requirement. It is all volunteer in the parts of the bank. The Treasury Department could no longer in their law enforcement hat or in their regulatory hat require banks to report suspected illegal activity of any sort, not just money laundering, but any sort.

I think that the gentleman from Georgia (Mr. BARR) and the gentleman from Texas (Mr. PAUL) and the gentleman from California (Mr. CAMPBELL) have gone further than they may have intended. This is no time to retreat on the effort on the war against drugs or the financial fraud and the money laundering, and that is what this amendment does.

So in the strongest terms I urge this amendment to be defeated.

Mr. BARR of Georgia. Madam Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Madam Chairman, I thank the gentleman from Georgia (Mr. BARR) for yielding this time to me.

Madam Chairman, if my colleagues are opposed to Know Your Customer regulations they must support this amendment because this does away with Know Your Customer regulations, the profiling of every single customer in this country. This notion that it is going to ruin law enforcement is just not valid. There is estimated $100 million cost for one conviction by the reports that are sent in, and this does not prohibit the banks from sending in reports. If there is a suspicious character, they can still do this.

So it will not hinder law enforcement.

What it does, Madam Chairman: It protects the consumer, it protects the citizen, it protects the right of all Americans. We cannot rationalize and justify the abuse of liberty for the pretense that on occasion we might catch a criminal. But the fact that it could cost $100 million per conviction is sort of what I would call overkill.

What we must do is protect the American citizen. Law enforcement will not be hindered. If my colleagues are opposed to Know Your Customer regulation, they must vote for this amendment.

Mr. LAFALCE. Madam Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. DINGELL), the distinguished past and future chairman of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, I thank my good friend and colleague for yielding me this time.

Madam Chairman, I know the authors of this amendment are Members of great decency and goodness, and I think they are accomplishing something that they really do not want. This is opposed by the Department of Justice, the FBI, the Department of Treasury.

Banks have been involved in money laundering, too, I would remind my colleagues, and when we make the action of the bank voluntary with regard to reporting, we subject ourselves to a real probability that the banks are simply not going to report. The money launderers, the Cali Cartel, the drug merchants and the Mafia will love this amendment.

If my colleagues like that, if they want crime, this is a good amendment to support; if my colleagues want to clean up the situation, I would urge them to oppose the amendment.

Mr. HUTCHINSON. Madam Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Madam Chairman, I rise in strong opposition to this position, and it is an open invitation to drug dealers, and that is why, as has been stated, every law enforcement and every banking group is opposed to it.

I rise in strong opposition.

This amendment guts our money laundering laws and helps drug dealers. I oppose strongly. What we have learned through hearings is that we need to tighten up, not loosen.

1. Making suspicious activity reports voluntary plays into the hands of the drug dealers. This will only make money laundering easier.

2. Raising the cash transaction reporting level to $25,000 from $10,000 is not justified. How many legitimate cash transactions are there over $10,000?

3. Purging Suspicious Activities Report (SAR) records after 4 years would undermine crime fighting efforts.

Money laundering involves complex financial transactions. Law enforcement sometimes needs several years to put together cases. This will hurt.

The Banking agencies oppose Barr/Campbell.

Law enforcement uniformly opposes Barr/Campbell.

N.J. Governor Whitman opposes Barr/Campbell.

The ABA Fraud Prevention Oversight Council opposes Barr/Campbell.

Mr. HUTCHINSON. Madam Chairman, I yield 30 seconds to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Madam Chairman, I like to quote from the President of the Organization of Police Chiefs of the United States. He says this amendment will have a significant detrimental impact on the ability of law enforcement agencies nationwide to effectively investigate and prosecute cases involving money laundering, fraud, and other financial crimes. If this amendment had been in effect in 1997, it would have stopped 2,536 Federal investigations resulting in convictions for financial institution fraud matters.

And finally, what does the FBI say about this? A vote for this amendment will send a signal to criminal organizations worldwide that the U.S. is a money laundering haven.

Clearly this is a no vote.

Madam Chairman, I include for the RECORD the following letter:

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Alexandria, VA, July 1, 1999.

Hon. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On behalf of the International Association of Chiefs of Police (IACP), I am writing to express our profound concern over the Barr/Paul/Campbell Amendment to H.R. 10, the Financial Services Act. This amendment will have a significant detrimental impact on the ability of law enforcement agencies to effectively investigate and prosecute cases involving money laundering, fraud and other financial crimes. I urge you to oppose this amendment.

The Barr/Paul/Campbell amendment, by eliminating the requirement that financial institutions file Suspicious Activity Reports (SARs), will deprive law enforcement of an invaluable investigative tool which, according to the FBI, was used in 98% of the cases filed by its Fraud Investigation Squad in 1998. These 1998 investigations resulted in the convictions of more than 2600 individuals and the restoration of more than $490 million to the victims of fraud.

In addition, by elevating the threshold limit of the Currency Transaction Report (CTR) from $10,000 to $25,000, the Barr/Paul/Campbell amendment would severely undermine the anti-drug efforts of law enforcement agencies. Since there are few legitimate cash transactions exceeding the $10,000 limit, the CTR often provides law enforcement with valuable information on the money laundering operations of drug dealers. Raising the CTR threshold to $25,000 will only assist criminals in their efforts to hide their illegal profits.

Once again, I urge you to protect the ability of law enforcement to combat fraud, money laundering and financial crimes by opposing the Barr/Paul/Campbell amendment to H.R. 10.

Thank you for your attention in this matter.

Sincerely,

RONALD S. NEUBAUER,
President.

Mr. BARR of Georgia. Madam Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. CAMPBELL).

(Mr. CAMPBELL asked and was given permission to revise and extend his remarks.)

Mr. CAMPBELL. Madam Chairman, the cost to every bank that has to comply is huge, but the cost of individual liberty is much more important. What business does the Federal Government have ordering a bank to tell them about my bank account?

What we are dealing with today is a function of invasion of individual liberty in the guise of law enforcement.

This argument that we will lose so many prosecutions is absurd. The number of $25,000 does not even adjust for inflation from the original $10,000 established in 1970. So when we hear these arguments that we will suddenly be a haven for money laundering, recognize that we are not even adjusting for inflation from the $10,000 requirement established in 1970 to a $25,000 requirement today. It ought to be $40,000 if we adjusted for inflation.

But let us say that just for a moment there may be one prosecution that does not happen, but in return, in return, we do not have the Federal Government ordering banks to profile me, to find out what my activities are when I depart from normal activity, to define what is normal activity, to condemn me if I do not behave in a normal manner. For that price of freedom I think we are sacrificing very, very little, if anything, on law enforcement.

I conclude by saying if we were to repeal the Fourth Amendment, if we were to repeal the Fifth Amendment, we could improve law enforcement, but it would not be worth it.

Mr. LAFALCE. Madam Chairman, I yield 30 seconds to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I rise in strong opposition to this amendment. This is really a privacy gone crazy. It would gut the Bank Secrecy Act and the provisions dealing with the suspicious activities reports as well as the cash transaction reports. It is under the guise of privacy, a 30-year law that has been effective in terms of protecting and help us deal with the emerging types of networks of crime that exist in our society. Just raising the cash transaction itself, we should subject this to deliberate hearings and considerations, and I do not think that we should shove it out under the basis of the unpopularity of Know Your Customer, which, in fact, this bill has stopped in its tracks.

Mr. HUTCHINSON. Madam Chairman, I yield 30 seconds to the distinguished chairman from Iowa (Mr. LEACH).

(Mr. LEACH asked and was given permission to revise and extend his remarks.)

Mr. LEACH. Madam Chairman, first let me just stress section 191 of this bill repeals the Know Your Customer regulation. Secondly, the committee would be happy to deal with further modifications in this area. But thirdly, it has to be understood by everybody here that money laundering is the Achilles heel of drug traffickers, and many are able to separate themselves from their illegal activities, but they cannot from their money, and just like Al Capone was convicted for tax evasion, drug traffickers today are convicted more than anything else of money laundering. To throw this out would be an absolute assault on law enforcement. We must not allow it to happen.

Madam Chairman, I yield to the gentleman from Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Madam Chairman, I rise in opposition to the amendment. It is antilaw enforcement, and I plan to vote no on the amendment.

Mr. BARR of Georgia. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, just a little over a week ago we heard that the sky was going to fall if asset forfeiture laws of this country were brought in line with normal standards of fairness, due process and other constitutional safeguards. Today we hear that the sky will fall if we simply require law enforcement to do its job and not mandate that banks do its job for them.

The fact that there have been tens of millions of suspicious activity reports filed and virtually no prosecutions initiated based on those suspicious activity reports clearly illustrates that what we are hearing today is hyperbole based on the unwillingness of law enforcement to make any changes whatsoever in the way they are accustomed to operating.

If my colleagues are opposed to Know Your Customer, then they must be opposed to these provisions of the suspicious activity report requirement which does not gut the Bank Secrecy Act. This amendment addresses just one small portion of the Bank Secrecy Act. It is simply one of a number of tools that are provided for law enforcement under the Bank Secrecy Act. It is not an essential tool. It takes nothing away from law enforcement that it might otherwise get through legitimate law enforcement means. All, virtually all, money laundering cases of any significance are prosecuted, investigated and convictions obtained thereon not based on mandated secrecy reports, but on other provisions of the Bank Secrecy Act and other provisions of the money laundering statutes.

To say that law enforcement will be gutted by this amendment is a red herring. If colleagues oppose Know Your Customer, then they must support the Barr-Paul-Campbell amendment.

Mr. LAFALCE. Madam Chairman, I yield 30 seconds to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Chairman, what a contradiction for so-called law and order Members of this House to be advocating this amendment. The Paul-Barr-Campbell amendment should be entitled: The Drug Dealers' Improvement Act of 1999 because the amendment will increase the ability of drug dealers to launder drug profits.

There are few legitimate cash transactions in excess of $10,000. It is unusual to have someone walking around with $25,000 of cash in their wallet or their purse. Therefore, it is inappropriate to raise the reporting requirement to $25,000. It indeed guts the Bank Secrecy Act.

I would ask every Member of this House to say no to the dope dealers and those that would support their ability to launder money.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Again I strongly oppose this, but I want to point out to those who have not spoken that we have had individuals from the Republican party and the Democratic party strongly oppose this from the right, from the left, the gentleman from Arkansas (Mr. HUTCHINSON), the gentleman from Florida (Mr. MCCOLLUM), the gentleman from Alabama (Mr. BACHUS), the gentleman from Iowa (Mr. LEACH), the gentlewoman from New Jersey (Mrs. ROUKEMA). On the Democratic side, my colleagues heard from the gentlewoman from California (Ms. WATERS), the gentleman from Minnesota (Mr. VENTO), the gentleman from Michigan (Mr. DINGELL). The administration believes that this would shred their ability to enforce antimoney laundering and bank secrecy provisions.

□ 1915

I strongly urge everyone to defeat this amendment. I am sorry that it was permitted. We could have used this 10 minutes to discuss something like redlining, something that would have brought about bipartisan support.

Mrs. MALONEY of New York. Madam Chairman, I am certainly sympathetic to the privacy concerns being raised during this debate. And I voted for the amendment during the Banking Committee mark-up of H.R. 10 which eliminated the newly proposed "Know Your Customer" rules.

This amendment, however, will seriously curtail the efforts of law enforcement in curbing fraud and stopping drug traffickers.

The Bank Secrecy Act requires certain forms . . . the Suspicious Activities Report and the Currency Transactions Report to be filed when certain triggers are met. This amendment would make this system voluntary . . . not basing these reports on any of the triggers which may be hit, and probably resulting in banks becoming the favored launderers of fraudulent funds and drug money.

Yet these reports have been crucial to uncovering all sorts of fraud and drug rings. In New York City last year, the FBI's office received a Suspicious Activity Report which indicated that a former vice president of a large bank had embezzled funds. The investigation discovered that the embezzlement reached $20 million.

Another New York City case in July 1997 used these reports to uncover a fraudulent loan scheme worth $20 million in losses to area banks. These cases most likely would not have been discovered without the triggers in the Bank Secrecy Act.

Join with the Justice Department, the Treasury Department and the Customs Service in helping law enforcement fight fraud and the drug trade.

This amendment is anti-law enforcement.

Oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BARR).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BARR of Georgia. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Georgia (Mr. BARR) will be postponed.

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. LEWIS of Kentucky) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 775) ''An Act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.''.

The message also announced that the Senate has passed a concurrent resolution of the following title in which concurrence of the House is requested:

S. Con. Res. 43. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

The SPEAKER pro tempore. The Committee will resume its sitting.

FINANCIAL SERVICES ACT OF 1999

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 106–214.

AMENDMENT NO. 5 OFFERED BY MR. FOLEY

Mr. FOLEY. Madam Chairman, I offer amendment No. 5.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. FOLEY:

Page 244, after line 18, insert the following new section (and amend the table of contents accordingly):

SEC. 198A. INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.

Section 5(a)(7) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(7)), is amended to read as follows:

''(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS, UPGRADES OF CERTAIN FOREIGN BANK AGENCIES AND BRANCHES.—Notwithstanding paragraphs (1) and (2), a foreign bank may—

''(A) with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

''(i) the establishment and operation of such branch or agency is permitted by the State in which the branch or agency is to be established, and

''(ii) in the case of a Federal or State branch, the branch receives only such deposits as would be permitted for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.), or

''(B) with the approval of the Board and the relevant licensing authority (the Comptroller in the case of a Federal branch or the appropriate State supervisor in the case of a State branch), upgrade an agency, or a branch of the type referred to in subparagraph (A)(ii), located in a State outside the foreign bank's home State, into a Federal or State branch if—

''(i) the establishment and operation of such branch is permitted by such State; and

''(ii) such agency or branch—

''(I) was in operation in such State on the day before September 29, 1994; or

''(II) has been in operation in such State for a period of time that meets the State's minimum age requirement permitted under section 44(a)(5) of the Federal Deposit Insurance Act.''.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Florida (Mr. FOLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the amendment I am offering today is a States' rights issue. It is noncontroversial, we hope, an amendment that will fix an anomaly in Federal interstate banking laws. It will also help the flow of trade from the U.S. to countries all over the world.

This amendment would allow foreign banks currently operating in the United States to expand their operations as was intended by the Riegle-Neal Banking and Branching Act by allowing agencies to upgrade to branches.

In 1994, when the Riegle-Neal Interstate Banking and Branching bill was passed. Congress sought to allow foreign banks to open additional branches just like domestic banks. This amendment would conform with the intent of the original act.

Unfortunately, not one foreign bank has been able to open additional branches under the Riegle-Neal Federal law provision. While the intention of the act was to allow expansion of foreign banks, the provision in current law has proved to be unworkable.

This amendment would allow foreign bank agencies to upgrade to a branch with the approval of the appropriate chartering agency, the OCC or the State bank supervisor, and the Federal Reserve Board.

In order to accomplish this upgrade, the agency would have to meet the State's minimum age requirement for entry, just like domestic banks. In addition, the agency must meet the requirements for consolidated home country supervision.

This change in Federal law that I am proposing today is a States' rights amendment. If passed, it would remove a Federal limitation that interferes with State law.

The amendment is supported by the Florida Banking Department, the New York Banking Department, the Texas Banking Department and the California Banking Department, as well as the Florida International Bankers Association and Conference of State Bank Supervisors. This amendment has been fully vetted with the Federal Reserve Board, and they have indicated that they have no objection to it.

Madam Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I should note that under the rules someone is entitled to 5 minutes in opposition. I would describe myself for these purposes as leaning against but open to persuasion, I would reassure my friend, the gentleman from Florida (Mr. FOLEY). I am not firmly committed on the subject.

I was interested in what the gentleman said and will listen some more, but I also wanted to use this occasion to address the general bill, Madam Chairman. It is a somewhat constricted debate situation.

What I wanted to do was to explain why I would be voting against this bill, although I think on the subjects that it deals with it does a good job. That is, I think this is a bill which suffers from incompleteness.

I think with regard to the regulation of the financial services industry, this is as good a product as we can expect from a broad representative body. I think the Committee on Banking and Financial Services on both sides worked seriously and well under the leadership of the chairman and the ranking member.

The problem is, in my mind, it carries out a pattern that is too much present in America today and that I think threatens great harm even as it makes some specific progress, and that is a pattern in which we do a good job of fostering conditions in which the capitalist system can flourish. It is in our interest that the capitalist system flourish.

Capitalism clearly has established itself as the superior way for a society to generate wealth, and the generation of wealth is very important. It is important in and of itself because it provides resources for individuals to enjoy themselves, and it is important as a way to provide the resources which help us deal with other problems.

On the other hand, we have learned that capitalism, as great an engine as it is in generating wealth, can have some downsides. In particular, the era of capitalism in which we now are, a kind of globally competitive world, is one where increased wealth is unfortunately accompanied by increased inequality in many cases and by an undermining of society's capacity to deal with some of the social problems that the market does not take care of.

This bill should have been an opportunity to deal with both aspects of

that. It is a good piece of legislation for setting forth the conditions for the financial services industry, central to capitalism. It is a good situation in which the intermediation function of the financial services industry can go forward.

We understand that, in and of itself, that is going to leave us some problems. In particular, I regret terribly the refusal of the majority to let us deal seriously with the amendment offered by the gentlewoman from California, which would have tried to deal with those geographic areas that are left behind.

I do not think we adequately deal with privacy. In fact, in some ways we may be making it worse. That is, unfortunately, a kind of paradigm we are following too frequently. We go forward and we provide the conditions and improve the conditions for wealth to be generated, and I am for that. I would vote for this bill if we were talking simply about these conditions and no other were relevant, but to do that while at the same time we refuse to address the serious problems of poverty in inner cities, and obviously this is not a bill in and of itself to alleviate poverty, but it does seem reasonable to me to say to the large financial institutions they are getting a pretty good set of conditions here. We are responding to their needs. Can they not make a little extra effort in the course of this to help the people who are being left behind? Can they not help the consumers?

I understand if we leave it entirely to the market they would not want to do that. That is why we ought to be coupling market-enhancing legislation like this with some reasonable conditions that say they are going to make more money out of this, and that is a good thing because that is how our society will prosper. But can they not take a little bit of the extra money that they are making out of this and worry about the poor, worry about geographically underserved areas, worry about consumer protection? Can they not do a little more on privacy? Can they not maybe restrict a little bit the extra money they are going to make so people's legitimate privacy concerns can be addressed?

That is the tragedy of this bill. It is a good bill in what it does, but it is a bad bill in what it does not do.

While in other circumstances I might have felt, well, that is the best we can do, it has unfortunately become too common in our society.

I will say I am affected on this by what is going on in my own State where two of the largest banks are merging and are not, in my judgment, willing to do enough to share the benefits of their merger with people who are not doing so well.

So I congratulate the work that the leaders of the Committee on Banking and Financial Services and others have done on the banking provisions that deal specifically with the financial services, but I will not be part of a conditioned pattern of helping people make more money and not worry about those who might be left behind in that very process.

With that, I would reassure again my friend, the gentleman from Florida (Mr. FOLEY), that I am open to persuasion

Madam Chairman, I reserve the balance of my time.

Mr. FOLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I believe I have just been given a reprieve from the gentleman from Massachusetts (Mr. FRANK). I did not hear an objection to my amendment. I feel it is a very good amendment.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, let me say, in hopes that the gentleman from Massachusetts (Mr. FRANK) can still be persuaded to this amendment, I would inform the gentleman that the Federal Reserve has no objection to it.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. When the gentleman tells me the Federal Reserve has no objection, is he trying to get me to be for it or against?

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, fair enough.

In addition, the New York Banking Department, the Texas Banking Department, the California Banking Department and the Conference of State Bank Supervisors are leaning in this direction. So I believe it is a very thoughtful, very professional amendment, and I certainly want to compliment the gentleman for bringing it forth, and I am just hopeful for getting unanimity.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me say that I have been persuaded, and I will support this amendment. When the gentleman mentioned the Texas Banking Department, my colleague from Texas urged me on.

I will say, as we improve this bill and its specific impact on the financial services industry, I regret even more our collective unwillingness to do more than we are doing and to do, in fact, what we could easily do to help those who are being left behind. It is an inappropriate continuation of a pattern of helping the wealthy and the powerful, and we all benefit to some extent from that, but ignoring the other end of the society.

Mr. FOLEY. Madam Chairman, I move adoption of the amendment and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FOLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 106–214.

AMENDMENT NO. 6 OFFERED BY MS. SLAUGHTER.

Ms. SLAUGHTER. Madam Chairman, I offer amendment No. 6.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. Slaughter:

Page 244, after line 18, insert the following new section:

SEC. 198A. FAIR TREATMENT OF WOMEN BY FINANCIAL ADVISERS.

(a) FINDINGS.—The Congress finds as follows:

(1) Women's stature in society has risen considerably, as they are now able to vote, own property, and pursue independent careers, and are granted equal protection under the law.

(2) Women are at least as fiscally responsible as men, and more than half of all women have sole responsibility for balancing the family checkbook and paying the bills.

(3) Estate planners, trust officers, investment advisers, and other financial planners and advisers still encourage the unjust and outdated practice of leaving assets in trust for the category of wives and daughters, along with senile parents, minors, and mentally incompetent children.

(4) Estate planners, trust officers, investment advisers, and other financial planners and advisers still use sales themes and tactics detrimental to women by stereotyping women as uncomfortable handling money and needing protection from their own possible errors of judgment and ''fortune hunters''.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that estate planners, trust officers, investment advisers, and other financial planners and advisers should—

(1) eliminate examples in their training materials which portray women as incapable and foolish; and

(2) develop fairer and more balanced presentations that eliminate outmoded and stereotypical examples which lead clients to take actions that are financially detrimental to their wives and daughters.

The CHAIRMAN. Pursuant to House Resolution 235, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am offering this noncontroversial amendment to express the sense of Congress that financial advisors should treat women fairly in drafting wills and trusts. Specifically, financial planners should be urged to modify their training materials to eliminate examples that portray women as incapable and foolish and should develop fairer and more balanced presentations to clients that eliminate outmoded and stereotypical examples. These stereotypical examples lead clients to place more financial restrictions on female heirs.

In the past year, I have learned that estate planners and financial advisors still encourage the unjust practice of leaving assets in trust for senile parents, minors, mentally incompetent children and all wives and daughters.

Women were ostensibly included to protect them from the perceived inability to manage money. However, in researching this issue, I found the real reason to include wives and daughters in this list has little to do with protection. The financial advisors are simply selling a product.

By adding women to this list, financial advisors have substantially increased their sales base, which, of course, increases their own income and bottom line.

Financial planners sell a trust on several arguments. First, they try to sell a trust based on protection; in other words, the inexperience of the woman. Or they try to sell a trust based on tax advantages which do not seem to be as important for sons.

A sure sales pitch is suggesting to a husband that in the event of his wife's remarriage a trust would prevent some other man from enjoying his hard-earned assets. These things which have worked so well in the past are alive and healthy today and always to the detriment of women.

As I found out, this is not just a relic from the 1950s. An article in a monthly publication from August, 1998, includes an example of how clients should protect their financially irresponsible daughter and her equally financially irresponsible spouse without disinheriting them.

□ 1930

The article's author, a financial planner, advises the clients to devise a trust for the daughter to prevent creditors from accessing the principal. The financial planners sell the trust by saying it will serve as a deterrent to keep the daughter's inheritance out of the spendthrift son-in-law's hands. No such restrictions are proposed for any son who might have a spendthrift wife.

A specific example from the financial planner further illustrates my point on the selling tactics currently used.

The financial planners publication said, ''Mr. Smith loves his wife, but he does not love the way she handles money. He knows she is a big spender, and he realizes that he never had the time or patience to teach her how to deal with financial matters . . . Mr. Smith wants a wall built around the assets he leaves behind. The wall is designed to protect Mrs. Smith from herself. It is a wall that will keep con men and well-intended amateur financial advisers out, and if Mrs. Smith remarries, her new husband cannot touch the money in the trust, nor will he get any should he outlive her, unless she puts instructions to that effect in her will.''

These unfair practices were brought to my attention by a woman from Florida who was herself negatively affected by these practices. Her mother's will directed that her estate be directed into five equal parts for her children, then set up an individual trust for each of her daughters, and directed that her sons be given their money outright.

At the time the will was drawn up, she was 28 years old and her sisters were in their twenties. Her brothers, who were deemed apparently capable of handling their inheritance outright, were 21 and 14.

The trust set out for Kappie Spencer and her sisters for their ''protection'' provided for them to receive the annual interest on the assets. Her mother's will contained provisions for withdrawing the principal only for the health, support, and proper care of her daughters and their children, and they could only touch the principal for these very limited reasons if they had exhausted every other source of income available to them.

Surely we would all agree that these restrictions are deeply unfair and condescending to all women.

This amendment is an important step forward to ensure a woman's financial well-being. Because women live longer than men, they need to support themselves longer, but they also earn less than men, wait longer to start saving for retirement, put aside less money, and take fewer of the risks that produce greater returns.

Husbands, however well-intentioned, then aggravate the situation by trying to shield their wives from any decisions regarding money by setting up a trust arrangement, giving a banker, a lawyer, or an accountant control of the purse strings. This may be good business for the financial planner, but it is offensive to keep the spouse in the dark about finances.

With more women handling the checkbook and finances in their families, these outdated selling tactics by financial planners have to be exposed for the patronizing practices which they clearly are. While we cannot mandate society's attitudes, we should encourage a rethinking of these financial practices.

I ask my friends on both sides of the aisle to support this amendment, and I thank the gentleman for accepting this amendment.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, we are very happy to accept this amendment. I would say it is brought to the Congress in a very thoughtful way by one of the most respected members of this body. I think that reflects on the amendment itself.

Ms. SLAUGHTER. I thank the chairman very much.

Mr. VENTO. Madam Chairman, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Minnesota.

Mr. VENTO. Madam Chairman, I would say that I certainly rise in support, and in the absence the gentleman from New York (Mr. LAFALCE), we are pleased to receive the gentlewoman's amendment.

Ms. SLAUGHTER. I thank the gentlemen very much.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 106–214.

AMENDMENT NO. 7 OFFERED BY MR. COOK

Mr. COOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. COOK:

Page 311, strike line 4 and all that follows through page 312, line 16 and insert the following new section (and amend the table of contents accordingly):

SEC. 241. STUDY OF LIMITING THROUGH REGULATION FEES ASSOCIATED WITH PROVIDING FINANCIAL PRODUCTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the consequences of limiting, through regulation, commissions, fees, or other costs incurred by customers in the acquisition of financial products.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Utah (Mr. COOK) and a Member opposed each will control 5 minutes.

Mr. DINGELL. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) will be recognized for 5 minutes.

The Chair recognizes the gentleman from Utah (Mr. COOK).

Mr. COOK. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I want to thank the Committee on Rules for allowing me to offer this amendment, which would replace the existing section 241 with a provision requiring the General Accounting Office to study the consequences of limiting, through regulation, commissions, fees, or other costs incurred by customers in the acquisition of financial products.

Through this study, Congress could determine the potential negative effects of the regulation of commissions and fees before directing regulators to impose such rules.

Currently section 241 of H.R. 10 would mandate that financial regulators impose rules requiring the disclosure of commissions, fees, or other costs incurred by customers in the acquisition of financial products. In my view, this could be tantamount to price controls, and really has no place in financial modernization.

The provision in the bill is currently a solution in search of a problem. The question of the effectiveness of disclosing fees and commissions in protecting customers is really untested. There is little indication that disclosing fees and commissions beyond

the extensive disclosure that is currently required would significantly benefit customers.

Such a requirement could even have unanticipated negative consequences. Disclosure of fees and commissions could stifle competition or threaten financial innovation or market liquidity.

Furthermore, the fee disclosure provision is vaguely worded. The term ''other costs incurred by customers'' could be expansively and inappropriately interpreted to include, for example, markups on securities transactions, which have been specifically excluded from the bill's language. Markups are of a very different nature than fees and commissions, but it could be wrongly swept into any rules resulting from the bill.

The fee disclosure proposal contradicts a policy of regulatory reform. This proposal would impose significant new compliance burdens for those affected. This proposal runs counter to streamlining regulation, which is the purpose of this carefully crafted bipartisan legislation.

The SEC and other financial regulators already have the full authority to require that fees and commissions be disclosed. Indeed, in many cases, such disclosure is already mandated. No regulator has suggested that they need additional authority in this area. Forcing regulators to broaden fee disclosure regulations represents congressional micro-management of the regulatory process.

The financial services industry is arguably the most competitive in our economy, and is expected to become increasingly more competitive with passage of H.R. 10. Before we mandate additional government regulation, we should be sure it will not jeopardize this growing financial market.

I urge all my colleagues to support this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield myself 3 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, with all respect to the author of this amendment, the amendment would keep consumers in the dark, and financial providers would enjoy it mightily.

Section 241 of H.R. 10 includes a noncontroversial and commonsense provision that passed the House last year in similar legislation. It requires all financial services regulatory agencies to prescribe or revise rules to improve the disclosure of commissions, fees, and other costs incurred by consumers in the purchase of financial products.

This section does not regulate or limit fees. That would be done by the market. Section 241 merely requires disclosure so consumers can comparison shop on the basis of understandable and accurate disclosure. This helps both competition and consumers.

The amendment would delete this disclosure requirement and replace it with a GAO study, a red herring rate regulation that nobody wants or seeks. We do not seek to regulate rates.

This bill is already a bust for consumers. We are functioning under a gag rule. But this amendment simply strips the consumers of banking and other financial services of one more right, and that is a right to know what the charges are being assessed against them by the banks and other financial institutions, and in a sense it significantly changes existing law.

Madam Chairman, I reserve the balance of my time.

Mr. COOK. Madam Chairman, I yield 30 seconds to my colleague, the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Chairman, I thank the gentleman for yielding time to me.

I rise in support of the amendment. This is what the Committee on Banking and Financial Services adopted. As the gentleman mentioned, the regulatory authorities already have the authority to impose this. We are telling them to do this, rather than waiting to see what the complications would be.

We are seeing increasing transparency in the financial services market. I think it would be a mistake for us to congressionally impose this without getting a study on it first. I commend the gentleman for his amendment, and I rise in support of it.

Mr. DINGELL. Madam Chairman, I yield 30 seconds to my good friend, the gentleman from New York (Mr. LAFALCE)

Mr. LAFALCE. Madam Chairman, I realize there was a discrepancy on this issue between the approach taken by the gentleman from Michigan (Mr. DINGELL) and the Committee on Banking and Financial Services, but my personal preference would be to obtain the language that is in the print before us right now.

I believe in disclosure, and I do not favor the amendment offered by the gentleman from Utah (Mr. COOK). I associate myself with the remarks of the gentleman from Michigan (Mr. DINGELL).

Mr. COOK. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to remind the gentleman from Michigan and the gentleman from New York that basically my amendment restores the Committee on Banking and Financial Services language that I think was brokered in a bipartisan agreement between myself and the gentleman from Vermont (Mr. SANDERS).

It was, of course, changed in the Committee on Commerce, and I very much respect their opinions, but felt that this was kind of agreed to back in the Committee on Banking and Financial Services. I just wanted to make that point.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, what we are talking about here is a banking system and a financial system that is going to be fair and open. The gentleman, I am sure, will recall that this amendment was adopted unanimously, unanimously by the House last year. This is not something that has been snuck up into the proceedings in some curious fashion, it was in the bill last year. It was adopted overwhelmingly in the Committee on Commerce.

It simply says, disclose. Tell the truth. There is nothing wrong with that.

Madam Chairman, I yield back the balance of my time, with an expression of respect and affection for my colleague on the other side.

Mr. COOK. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, I thank the gentleman. I very much appreciate that. I just want to quickly say that the fee disclosure proposal does contradict, I think, a policy of regulatory reform, and this proposal would impose, I think, significant new compliance burdens for those affected. I think it does run counter to deregulation, which I think has been a hallmark of this Congress.

I urge my colleagues' support.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. COOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. COOK. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Utah (Mr. COOK) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 8 printed in House Report 106–214.

AMENDMENT NO. 8 OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mrs. ROUKEMA:

Page 312, after line 16, insert the following new subtitle (and amend the table of contents accordingly):

Subtitle E—Banks and Bank Holding Companies

SEC. 251. CONSULTATION.

(a) IN GENERAL.—The Securities and Exchange Commission shall consult and coordinate comments with the appropriate Federal banking agency before taking any action or rendering any opinion with respect to the

manner in which any insured depository institution or depository institution holding company reports loan loss reserves in its financial statement, including the amount of any such loan loss reserve.

(b) DEFINITIONS.—For purposes of subsection (a), the terms ''insured depository institution'', ''depository institution holding company'', and ''appropriate Federal banking agency'' have the same meaning as in section 3 of the Federal Deposit Insurance Act.

The CHAIRMAN. Pursuant to House Resolution 235, the gentlewoman from New Jersey (Mrs. ROUKEMA) and a Member opposed each will control 5 minutes.

Mr. DINGELL. I rise in opposition to the amendment, Madam Chairman.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Madam Chairman, I yield myself 2 minutes and 40 seconds.

Madam Chairman, this issue is very straightforward and it is very clear. Members do not have to know anything about loan loss reserves or about accounting to understand this amendment.

Quite simply, the amendment requires the regulators, that is, the SEC and the Federal banking agencies, to communicate and coordinate before taking any action.

I must stress, there is misinformation out there. I must stress, it does not establish a different accounting system or anything that is bank-friendly in this rule. It does not lower accounting standards. It keeps the same accounting gap standards.

It does not eliminate, and this is the most important thing, it does not eliminate the SEC's statutory authority under the law to set accounting standards for these publicly-held companies, but it does require regulators, including the SEC, to communicate and coordinate.

This is extremely important because it has meant that over time, and particularly within this last year in the Sun Trust case, which I will not go into the details of, there was quite a bit of disagreement here, but it turned out that the SEC, when it took its action against Sun Trust, had had no consultation with the Fed, who is the functional regulator.

It seems very clear that, unfortunately, because of lack of clarification in the law about the requirements for coordination, the banks are being subjected to a kind of regulatory whipsaw. That is what this amendment is designed to deal with. Bank regulators are required by Federal law to apply gap or stricter standards to the banks.

□ 1945

We are not loosening that in any way. We are applying those same statutory requirements.

I had a hearing on June 16 on this subject, and we have received a multiple number of assurances from the SEC that they will work with the banking agencies. Yet that guidance that we have given them has never been followed. The type of prior consultation coordination with the banking agencies that are absolutely essential here have not been done.

I think we have to make it clear that we are not going to stand for this whipsawing back and forth and we will have a clear definition of responsibility.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield myself 3 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, I begin by expressing great respect and affection to the gentlewoman from New Jersey (Mrs. ROUKEMA). I would like to read the essential part of the language of the amendment. It says ''The Securities and Exchange Commission shall consult and coordinate comments with the appropriate Federal banking agency before taking any action or rendering any opinion''.

Now, that is pretty broad authority. It makes essentially the SEC, by the requirement for coordinating, subservient with regard to all of the matters under its jurisdiction in dealing with the banking regulators. For example, they could be compelled to address questions of behaviors of bank on accounting and accounting principles.

What the amendment really has in practical effect is the ability for the SEC to be prevented from imposing the same honest financial reporting it requires from other companies. I think we should ask the question why should the banks not play by the same rules that everybody else plays by?

We have got a lot of troubles with accounting and with misapplication of sound accounting principles. I think we ought to take a look at the requirements now, which are generally accepted accounting principles, GAP, as opposed to RAP.

Accounting trickery can afford enormous savings to wrongdoers. It can be sanctified by banking regulators as it has been in the past. It can cost taxpayers billions of dollars again, as it did in the 1980s when banking regulators permitted the use of regulatory accounting, which enabled the banks to then phony up their goodwill and to look solid and solvent where, in fact, they were not.

Bank regulators have said in the hearings before the Committee on Banking and Financial Services, they do not need this authority. The amendment is unnecessary.

The question then is, why would we treat banks differently than others in terms of the reporting which they must make to the regulatory agencies and to the shareholders and stockholders in their periodic reports? Who then but the banks would want to evade the responsibility of telling the truth? How would honest reporting and accounting under the jurisdiction of regulators who treat everybody the same way be bettered by permitting the banks to achieve separate different special and probably more favorable treatment?

Madam Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Madam Chairman, I yield 15 seconds to the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, I would just like to say that I think the amendment that the gentlewoman from New Jersey (Mrs. ROUKEMA) has brought is a very thoughtful and reasonable amendment and that it deserves to be added to this bill.

I recognize that what the gentleman from Michigan (Mr. DINGELL) says has a basis in good thought, but I think this is a true improvement.

Mrs. ROUKEMA. Madam Chairman, I yield 1 minute to the gentleman from Florida (Mr. MCCOLLUM), a senior member from the committee.

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Madam Chairman, I want to strongly support this amendment of the gentlewoman from New Jersey (Mrs. ROUKEMA). I think that, with all due respect to the gentleman from Michigan (Mr. DINGELL), banks are different from other corporations for good reason. Banks involve safety and soundness issues. We do not want a bank to fail.

Banks make loans. That is their business. When they make loans, they need loan loss reserves in order to have the padding to assure that they do not fail. That is a business that is best understood by banking regulators.

Yes, the Securities and Exchange Commission should regulate the corporate functions of a bank like it does any other corporation, except that it needs to be aware more than apparently it has been lately of the concerns we all have if we have failures, bankruptcies, defaults that could occur in a down and weak economy.

We have been blessed by a strong one right now. We do not want to see banks put in jeopardy. We do not want to see our deposits in banks put in jeopardy by the potential of their failure if their loans go south and they do not have enough loan loss reserves.

Let us do what the gentlewoman is asking. The gentlewoman from New Jersey (Mrs. ROUKEMA) is simply asking that bank regulators coordinate with the SEC anytime loan loss reserves are involved. That is what should be passed. That is this amendment. Vote yes.

Mr. DINGELL. Madam Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Madam Chairman, I yield 30 seconds to the gentleman from Minnesota (Mr. VENTO), the ranking member of the Subcommittee on Financial Institutions and Consumer Credit.

Mr. VENTO. Madam Chairman, I rise in support of the amendment. This does not change the Federal accounting standard board or the principles. It does not change the accounting rules or the standards. It simply says that, when one is going to apply them, that one has to have coordination.

The primary regulators here, after all, of banks are the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the State Regulatory Authorities. The fact is the bank should not be pulled in two directions at once.

The fact is most of these are guidelines. They claim that they are cooperating with the regulators. In fact, of course, they keep going and circumventing them around. The fact is that the instance that is brought up here actually reduced the amount of loan loss reserves. It took money out of the bank. We need those loan loss reserves. We need safety and soundness. We need this amendment.

I want to rise in support of Mrs. ROUKEMA's amendment which will require the Securities and Exchange Commission to consult and coordinate with the appropriate Federal banking agency on the issue of loan loss reserves before issuing any comments, taking any action, or rendering any opinion on the level of an institution's loan loss reserves.

This amendment will ensure that the SEC cannot take significant actions that could have a critical or negative impact upon the adequacy of capital that a bank has without communicating with the proper banking regulator. This amendment should help ensure that FDIC insured institutions will not be caught flat footed when the inevitable downward tick of the business cycle hits.

Bank regulators have been strongly stressing that better attention be paid to credit quality in their portfolios. The regulators have been asking banks to have proper reserves. The amendment will have the positive impact of assuring that the SEC cannot act unilaterally to lower important loan loss reserves without consulting with those responsible to assure that the banks are operating in a safe and sound manner.

The amendment does not change accounting standards. It does not alter FASB interpretations. It does not eliminate SEC authority. It is a simple and fair amendment that requires regulatory discourse.

When I asked the SEC witness at our Financial Institutions and Consumer Credit Subcommittee what the SEC's relationship would be with the banking regulators in the instance of a challenge or an issue with regards to an institution's loan loss reserves, the response was there was a hope to continue conferring with the bank regulators. This amendment should do the trick.

I thank the gentlewoman, Chairwoman ROUKEMA, for bringing this amendment for the consideration of the House and ask my colleagues to support it.

The CHAIRMAN. As a member of the reporting committee controlling time in opposition to the amendment, the gentleman from Michigan (Mr. DINGELL) will have the right to close.

Mrs. ROUKEMA. Madam Chairman, I yield 30 seconds to the gentleman from Alabama (Mr. BACHUS), a member of the committee.

(Mr. BACHUS asked and was given permission to revise and extend his remarks.)

Mr. BACHUS. Madam Chairman, we have five agencies that regulate the banks, including the OTS, the FDIC, the Federal Reserve, the Comptroller of the Currency, and the SEC. They all got together said we have overlapping jurisdiction. That is causing concerns. Some warned we need to coordinate our efforts.

The SEC simply does not, has not done that. They have questioned the other organizations, their interpretations on what are the loan loss reserve requirements. They do not have the experience these other regulators have with the banks. Someone has to take the lead.

The bottom line, the SEC cannot come in here like a bull in a China shop and overrule these other banks on their auditing practices and on their reserve practices. This is a great amendment.

Madam Chairman, I would like to thank the gentlewoman from New Jersey for all of her hard work on this legislation and her efforts on this amendment. I would also like to discuss a related accounting matter.

I have been informed by a constituent that the Federal Accounting Standards Board (FASB) may propose a rule eliminating an accounting practice known as ''pooling''.

Pooling is an accounting method used when two companies merge to become one.

In a pooling, the acquiring and acquired companies simply combine their financial statements.

I believe it is important that this issue be discussed publicly before any final rule is implemented.

In addition, it is my understanding that in the past the Federal Accounting Standards Board has not always sought adequate input from the accounting or banking communities on proposed changes in regulations.

I appreciate the Chairwoman's efforts on the pending amendment. I would appreciate it if she would keep this in mind when the conference committee meets so that we include language either in this bill or future legislation to ensure that this process is an open and fair one.

I thank the gentlewoman for her time and attention to this matter.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. BARR).

(Mr. BARR of Georgia asked and was given permission to revise and extend his remarks.)

Mr. BARR of Georgia. Madam Chairman, I rise in support of the amendment offered by the gentlewoman from New Jersey.

Madam Chairman, I appreciate the chairwoman of the Subcommittee of the Financial Institutions and Consumer Credit, MARGE ROUKEMA, for following my lead and bringing this issue to the attention of the House of Representatives today. This amendment comes about from my initial letter to the Securities and Exchange Commission (SEC) in November 1998. Last fall, I wrote the Chairman of the Securities and Exchange Commission (SEC) the following letter detailing my concerns with the loan loss reserve issue:

NOVEMBER 9, 1998.

In re inquiry by the SEC into Sun Trust's accounting practices.

Hon. ARTHUR LEVITT, Jr.,
Chairman, Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN LEVITT: It has come to my attention that the Securities and Exchange Commission (SEC) has begun an inquiry into the accounting practices of Sun Trust Bank. The $60.7 billion-asset Sun Trust Bank, based in Atlanta, announced the SEC has opened an inquiry examining its policies for loan-loss reserves as part of a review of the pending acquisition of Crestar Financial Corporation.

It is my understanding that a bank's loan loss reserve is arrived at by evaluating prior loan loss expectations and future loan loss expectations. In addition, a loan loss reserve is a subjective matter which is determined every quarter by a bank's management, its board of Directors, and the banks principal regulator as to the adequacy of the level at any given time. Banking experts believe the SEC's actions are the first time the Commission has judged a bank's reserve to be too large. With a fluctuating economy it would be imprudent to expect institutions to operate in a manner in which they maintain only marginal reserves.

As a member of the House of Representatives Banking and Financial Institutions Committee, I am concerned about the SEC's review of SunTrust's accounting practices.

I would like to review the SEC's decision with someone from your staff. I would therefore appreciate someone contacting my Banking Legislative Assistant, Sarah Dumont, at (202) 225–2944, to schedule a meeting to discuss this issue further.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

In addition, my staff met with the SEC, and it was determined a hearing should be held to discuss this very important issue. Therefore, I contacted the Chairman of the Banking Committee at the start of the 106th Congress to request a hearing.

January 20, 1999.

In Re loan loss reserve hearing.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As the 106th Congress begins, and the Banking and Financial Services Committee begins to formulate its agenda for the upcoming session, I wanted to take this opportunity to outline a proposed hearing for the Banking Committee to consider.

In September 1998, the Securities and Exchange Commission (SEC) found that some banks been aggressively reserving for future loan losses which the Commission argued made it difficult for investors to understand the real profit picture of these banks. In the past, bank regulators often scrutinized banks for under-reserving.

With a fluctuating economy, many experts agree it is inadvisable to expect institutions to operate in a manner in which they maintain only marginal reserves. However, the SEC's recent inquiry into the ''excess'' reserves at some banks is the first time the Commission has judged a bank's reserve to be too large. The SEC puts forth the novel arguments that banks which over-reserve for

future loan-losses make it difficult for investors to understand the true profit picture.

This increased scrutiny of banks' earnings management has sent mixed signals to the banking community. It is my understanding a loan loss reserve is a subjective matter which is determined every quarter by a bank's management, its Board of Directors, and the banks principal regulator as to the adequacy of the level at any given time. Under the scenario not advocated by the SEC, banks are now faced with a highly uncertain and arbitrary regulatory environment.

A hearing to clarify the past and approaching loan-loss reserve levels would serve a beneficial purpose to clarify regulatory efforts of the SEC and its effects on current banking regulatory procedures.

I will look forward to hearing from you with regard to this proposed hearing.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

In addition, on February 11, 1999, I sent a followup letter to Chairman LEACH, expressing the urgency of this issue and the concern this uncertainty would have on the banking community. I emphasized a hearing would bring clarity to an issue that is confusing and dangerous to the health of the banking industry.

FEBRUARY 11, 1999.

In re loan loss reserve hearing.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to express my appreciation to both you and Chairwoman Roukema for your commitment to pursue the issue of loan loss reserve limits, and the Security and Exchange Commission's regulation of these limits in the Committee this session.

As you know, in September 1998, the Securities and Exchange Commission (SEC) found that some banks had been aggressively reserving for future loan losses, which the Commission argued made it difficult for investors to understand the real profit picture of these banks. In the past, bank regulators were often scrutinized banks for under-reserving.

Banks are highly regulated and closely supervised by regulatory agencies familiar with the individual banks they regulate and the credit quality of their loan portfolios. It is inefficient, unreasonable, and inappropriate for the SEC to exert discretion over a bank's credit philosophy, which could result in banks lowering the level of reserves they put aside to protect against credit losses. With a fluctuating economy, to undertake such actions or implement policies discourages banks from conservatively reserving for loan losses. Such a policy by the SEC could in fact be detrimental to the health of our financial industry.

This action taken by the SEC now places our banks in a highly uncertain and arbitrary regulatory environment. A hearing to clarify the past and approaching loan-loss reserve levels would clarify regulatory efforts of the SEC, and its effects on current banking regulatory procedures.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

On June 16, 1999, Chairwoman ROUKEMA held a hearing per my request. Again, I thank you, the Chairwoman, for promptly responding to my request for a hearing to determine the process and controversies on setting the adequate loan loss reserve amounts.

As I made you aware of my concerns when the SEC's conducted a 2-month review process of a bank in my congressional district, this bank was penalized and required to restate its earnings by $100 million. During the investigation, the SEC began to question the ''excessive'' reserves at predominately conservative banks. This finding sent a ripple effect across the financial services community. In my opinion, the SEC has over-stepped its authority by attempting to coerce banks into adopting less conservative lending practices.

What the SEC may discourage as ''aggressively'' reserving, the bank regulators and others may support as ''conservatively reserving. There is broad agreement among the industry that an accurate earnings picture is vital for out financial institutions to operate successfully. I am not aware of any complaints filed by bank analysts alleging dishonest or misleading financial reports. Moreover, the bank regulators reviewed banks records and found they complied with all current laws and regulations. When it became clear to me the SEC was acting without the support of the appropriate banking regulators, I wrote to Chairman LEACH, asking hearings be held to look into the SEC's finding that some banks had been improperly reserving for future loan losses.

It seems clear the SEC has engaged in heavy-handed tactics, resulting in at least one bank (SunTrust) restating its earnings from 1994 to 1996; thereby cutting its reserves by $100 million. The SEC's inquiry into the ''excess'' reserves at some banks is the first time in recent history the Commission has judged a bank's reserve to be too large, and argued that over-reserving for future loan losses makes it difficult for investors to understand the true profit picture.

Madam Chairman, as you and I were told back in March during the mark-up of H.R. 10, the SEC and bank regulators have been working together to publish a joint clarification on banks' loan loss reserves. This clarification was to include the methodology and accounting rules as well as documentation and disclosure requirements to help guide banks. However, that clarification never reached a consensus.

On its own initiative, the SEC pushed for the recent issuance of the Financial Accounting Standards Board (FASB) clarifying rule on Statements No. 5, Accounting for Contingencies, and No. 114, Accounting by Creditors for Impairment of a Loan, published on April 12, 1999. The FASB clarification was meant to help guide the Generally Accepted Accounting Principles (GAAP). Instead, the rule seems to have left banks in a state of confusion. This is distressing.

This present confusion over excessive reserve amounts creates a disincentive for banks to maintain the necessary protection against today's fluctuating economy. Unfortunately, banks are receiving conflicting signals concerning loan loss withholdings by two differing interest groups: the SEC and the bank regulators.

Aren't we supposed to learn from our mistakes? One need only look to the Savings and Loan debacle in the 1980's to understand the urgent need to create a clear and concise, uniform standard regarding loan loss reserves. The safety and soundness of our banking industry is vitally important to our economy and it is obvious the SEC's mandate does not reflect common sense or the well-being of the American people. That should alarm everyone.

The financial security and lifetime savings of millions of Americans depends on the ability of banks to establish and follow safe, sound and reasonable lending practices. Maintaining adequate and realistic loan loss reserves is a key part of this process. Any concerns the SEC has with the market value of financial institutions must be reasonable, based on common sense, and arrived at in conjunction with the banks and bank deregulators. Moreover, these loan loss reserve guidelines must not be allowed to become the tail wagging the regulatory dog; seen as more important than the goal of protecting basic fiscal soundness of our banks. Hopefully, the SEC will end its efforts to force hanks to drop conservative lending policies, at least without clear congressional action.

CONGRESS OF THE UNITED STATES,
Washington, DC, February 11, 1999.

In re loan reserve hearing.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to express my appreciation to both you and Chairwoman Roukema for your commitment to pursue the issue of loan loss reserve limits, and the Security and Exchange Commission's regulation of those limits in the Committee this session.

As you know, in September 1998, the Securities and Exchange Commission (SEC) found that some banks had been aggressively reserving for future loan losses, which the Commission argued made it difficult for investors to understand the real profit picture of these banks. In the past, bank regulators were often scrutinized banks for under-reserving.

Banks are highly regulated and closely supervised by regulatory agencies familiarly with the individual banks they regulate and the credit quality of their loan portfolios. It is inefficient, unreasonable, and inappropriate for the SEC to exert discretion over a bank's credit philosophy, which could result in banks lowering the level of reserves they put aside to protect against credit losses. With a fluctuating economy, to undertake such actions or implement policies discourages banks from conservatively reserving for loan losses. Such a policy by the SEC could in fact be detrimental to the health of our financial industry.

This action taken by the SEC now places our banks in a highly uncertain and arbitrary regulatory environment. A hearing to clarify the past and approaching loan-loss reserve levels would clarify regulatory efforts by the SEC, and its effects on current banking regulatory procedures.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, January 20, 1999.

In re loan loss reserve hearing.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Rayburn House Office Building, Washington DC.

DEAR MR. CHAIRMAN: As the 106th Congress begins, and the Banking and Financial Services Committee begins to formulate its agenda for the upcoming session, I wanted to

take this opportunity to outline a proposed hearing for the Banking Committee to consider.

In September 1998, the Securities and Exchange Commission (SEC) found that some banks had been aggressively reserving for future loan losses which the Commission argued made it difficult for investors to understand the real profit picture of these banks, In the past, bank regulators often scrutinized banks for under-reserving.

With a fluctuating economy, many experts agree it is inadvisable to expect institutions to operate in a manner in which they maintain only marginal reserves. However, the SEC's recent inquiry into the ''excess'' reserves at some banks is the first time the Commission has judged a bank's reserve to be too large. The SEC puts forth the novel argument that banks which over-reserve for future loan-losses make it difficult for investors to understand the true profit picture.

This increased scrutiny of banks' earnings management has sent mixed signals to the banking community. It is my understanding a loan loss reserve is a subjective matter which is determined every quarter by a bank's management, its Board of Directors, and the bank's principal regulator as to the adequacy of the level at any given time. Under the scenario not advocated by the SEC, banks are now faced with a highly uncertain and arbitrary regulatory environment.

A hearing to clarify the past and approaching loan-loss reserve levels would serve a beneficial purpose to clarify regulatory efforts of the SEC and its effects on current banking regulatory procedures

I will look forward to hearing from you with regard to the proposed hearing.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

MARKUP OF H.R. 10, THE FINANCIAL SERVICES ACT OF 1999, WEDNESDAY, MARCH 10, 1999, HOUSE OF REPRESENTATIVES, COMMITTEE ON BANKING AND FINANCIAL SERVICES, WASHINGTON, DC.

The CHAIRMAN. The Clerk will call up the amendment.

Ms. COLE. Amendment offered by Mr. Barr. Page 96 after line——

The CHAIRMAN. Without objection, the amendment will be considered as read and Mr. Barr is recognized.

Mr. BARR. Thank you, Mr. Chairman. Mr. Chairman, this amendment provides for at least a partial redress for a problem that has arisen last fall in which the Securities and Exchange Commission, in not consulting with federal banking agencies, took action against a major bank—in this case, Sun Trust—forcing it to lower its loan loss reserves after it had already set those, by $100 million.

As far as I know, Mr. Chairman, this is the first instance in which the SEC or any federal agency has taken against a bank for being perhaps, too conservative in seeking to protect its customers, its shareholders, against possible problems in the future economy.

If in fact, we are witnessing here some action or policy on the part of the SEC that is going to create uncertainty with regard to banks being able to establish proper and conservative reserves for future loan losses, then I think at least it ought to be something that is done in consultation with the banking agencies, the federal banking agencies.

I have been looking at this and appreciate very much the very strong support and active involvement of Chairwoman Marge Roukema in this regard as well.

And what I have proposed here, Mr. Chairman, is a very simple, straightforward amendment that simply requires that within 60 days after the enactment of this Act the SEC and the federal banking agencies will consult with each other concerning these matters of future loan loss reserves, so that we don't have a patchwork lack of policy in this regard.

Moreover, Mr. Chairman, at subparagraph B, I provide that pursuant to and as a result of these negotiations the SEC and the banking agencies submit a report to the Congress reflecting the results of their consultation, so that we can have, and so that the banking industry knows where they stand.

I think this is very, very prudent and a good management too, Mr. Chairman, and will avoid the disruptions that certainly will occur if the SEC is allowed to unilaterally, without consulting with the banking agencies, force banks after the fact to lower their loan loss reserves.

This is not, as far as I can tell, Mr. Chairman, an instance in which Sun Trust had done anything wrong. As a matter of fact, they were being very, very prudent in setting their future loan loss reserves.

So I would urge other members to adopt this very reasonable approach which hopefully will avoid further disruptions. It will impose no significant cost on anybody but hopefully will avoid significant costs in the future by forcing the SEC to work with the federal banking agencies as opposed to possibly adverse to them.

I understand that the SEC is interested in working something out on this, Mr. Chairman, but I don't think that obviates the need for this amendment at this time. If in fact, something is worked out then that will be just fine.

But I do think that it is important for this committee at this time and for the full House in taking up consideration of H.R. 10 to tell the SEC, if you are going to take this sort of action which is something that is very novel, at least do so in consultation with the federal banking agencies.

So that the banks know where things stand and if they do have to change their policies at least they know in advance as opposed to coming in—the SEC that is—coming in after the fact and forcing them to expend very significant sums of money and causing disruptions to shareholders and to the banking community.

I would urge adoption of the amendment.

The CHAIRMAN. Mrs. Roukema.

Mrs. ROUKEMA. Mr. Chairman, may I be recognized out of my own time?

The CHAIRMAN. Yes, you are.

Mrs. ROUKEMA. Thank you. Thank you, Mr. Chairman. I apologize to you and all the members of the committee, and now especially to Mr. BARR because I have arrived so late here.

Believe it or not because of weather conditions I have been traveling since 7 o'clock yesterday morning to get back here to Washington. And you might not believe that, but that was the fact, and I apologize for being late but it couldn't be helped. God wasn't working with me today.

Now, Mr. BARR and I have been working on this. I think we have had consistent opinions on this problem of loan loss reserves, and I believe he and I have the same amendment that was put forth.

However, I have been working with the SEC and the other regulators on this and I have just learned moments before I entered here that aside from it being imminent where we had a draft of the agreement that the SEC and the regulators are working on the same things that Mr. BARR and I had been trying to get agreement on, I have just been informed not more than two or three minutes ago that agreement has been completely reached by all parties, including the SEC, and that the final agreement is being faxed.

Now, it is my understanding that accomplishes completely what Mr. BARR and I have been trying to do here. So I would say that pending receipt of that final agreement, I don't know whether there is any point to passing this legislation, this amendment or not, or whether we should reserve judgment until Mr. BARR, I, and other staff and the Chairman go over it, because I believe it has accomplished our purpose.

Certainly the questions that I've asked all have been answered at least on the phone and in the first draft. So we are waiting momentarily for that final draft to be here.

Mr. BACHUS. Would the Chairwoman yield?

Mrs. ROUKEMA. Yes. Yes, I yield to my friend.

Mr. BARR. If we could procedurally, Mr. Chairman, I would have no objection to withholding the amendment at this time so long as we will have an opportunity before a final voting on H.R. 10 in this committee, to resurrect it if it becomes necessary. Or if not, we could incorporate the agreement that we hope has been reached and reflects our views in the final product.

The CHAIRMAN. Let me just respond generally——

Mrs. ROUKEMA. If that is possible that would certainly be a sensible way, I would think, of approaching the subject. Because it is something that we do want to see is corrected in this legislation, if need be.

The CHAIRMAN. Well, if the gentlelady would yield, let me say to both her and Mr. BARR that this is a very extraordinary subject matter and it is one that would necessitate Congressional intervention if the various regulators did not come to mutual understanding.

I appreciate the offer of the gentleman, Mr. BARR. I think it is the most appropriate offer, and that is to withdraw the amendment at the moment and then to review what has occurred.

And in that event let me say, the amendment is withdrawn and the Chair would ask unanimous consent to return to the subject matter in the event that Mrs. ROUKEMA and Mr. BARR are dissatisfied in a fundamental way with what is apparently proceeding today in the Executive Branch.

Without objection so ordered. The subject matter is reserved and the amendment is withdrawn. Are there further amendments to Title I?

Mrs. ROUKEMA. Thank you, Mr. Chairman.

Ms. WATERS. Mr. Chairman.

The CHAIRMAN. I said to Mrs. WATERS that I would recognize her next.

Ms. WATERS. Yes, thank you very much, Mr. Chairman. This is really offered by Mr. GUTIERREZ. I and Ms. SCHAKOWSKY have supported and co-sponsored this with him. He had to leave so he asked me to take it up. So the amendment is at the desk.

Mrs. ROUKEMA. Madam Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. KELLY) from the committee.

(Mrs. KELLY asked and was given permission to revise and extend her remarks.)

Mrs. KELLY. Madam Chairman, I rise in support of the amendment.

I thank my good friend from New Jersey for yielding me time.

Madam Chairman, I rise in strong support of this amendment. This loan loss reserve issue is creating a great deal of confusion for banks that are publicly traded on an exchange or market. This situation where they are torn between directions from their primary bank regulator and the SEC need not happen if proper

communications are established between the regulators. In this case—the proper loan loss reserves needed by the banks—communication was clearly lacking. This language does not stop the SEC from doing anything, it simply requires them to communicate as they should have been doing all along.

We held a hearing on this loan loss reserve issue in our Financial Institutions Subcommittee on June 16. The message we heard from all parties involved was that better communication is necessary. I hope all of my colleagues on both sides of the aisle will join us in support of this common sense amendment.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LAFALCE), the ranking member.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Madam Chairman, I rise in support of the amendment.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BENTSEN), also a member of the committee.

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Chairman, I rise in support of the amendment.

Mrs. ROUKEMA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I want to again stress there is no change in GAP, no change in the accounting standards or the statutory requirements and the statutory authority of the SEC. It simply requires absolute coordination and conferring.

Mr. DINGELL. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me read the language of the amendment again so everybody understands what we are talking about. It says, ''The Securities and Exchange Commission shall consult and coordinate comments with the appropriate Federal banking agency before taking any action or rendering any opinion.''

That makes the SEC subject to the bank regulators in matters in which it has traditionally acted under its powers given it by the Congress of the United States. Never before has it been subject to the jurisdiction of the bank regulators.

Now, the bank regulators said they did not need this authority. As a matter of fact, the joint guidance issued in March of this year by the SEC and by the bank regulators reaffirmed the importance of credible financial statements and meaningful disclosure to investors to a safe and sound financial system.

The joint interagency letter reaffirms the policy set by Congress that the banks should follow GAP when recording and reporting loan locations.

I would simply advise my colleagues, there is no reason to do this. The bank regulators do not seek the authority to have this done. The only good-hearted folks who want to do it is the bankers. The bankers simply do not want to tell the people all the things they should. They want to be able to get things cooked around the way they might like to have them done.

I would also inform my colleagues that there is something else. This is going to impose interminable amounts of delay on banks in getting decisions on matters important to them which are charged to the SEC because of the immense amount of coordination, the immense amount of time, the immense amount of effort, and the immense amount of action that will be required by both the SEC and by the bank regulators.

If my colleagues want to waste time, hurt banking, hurt consumers, and see to it that the people do not receive an honest picture of events going on in the bank, this is the amendment for them. If, however, my colleagues want to continue a system which works generally well and which causes no problem and which the bank regulators seek no change, then vote with me. Vote against the amendment.

Madam Chairman, I include for the RECORD the Joint Release that I referred to as follows:

SECURITIES AND EXCHANGE COMMISSION, FEDERAL DEPOSIT INSURANCE CORPORATION, FEDERAL RESERVE BOARD, OFFICE OF COMPTROLLER OF THE CURRENCY, OFFICE OF THRIFT SUPERVISION,

Washington, DC, March 10, 1999.

JOINT PRESS RELEASE

The Securities and Exchange Commission, Federal Deposit Insurance Corporation, Federal Reserve Board, Office of Comptroller of the Currency, and Office of Thrift Supervision have jointly issued the attached letter to financial institutions on the allowance for loan losses.

Attachment:

JOINT INTERAGENCY LETTER TO FINANCIAL INSTITUTIONS

Last November, the Securities and Exchange Commission, Federal Deposit Insurance Corporation, Federal Reserve Board, Office of Comptroller of the Currency, and Office of Thrift Supervision (the Agencies) issued a Joint Interagency Statement in which they reaffirmed the importance of credible financial statements and meaningful disclosure to investors and to a safe and sound financial system. The Joint Interagency Statement underscored the requirement that depository institutions record and report their allowance for loan and lease losses in accordance with generally accepted accounting principles (GAAP). We stress and continue to emphasize the importance of depository institutions having prudent, conservative, but not excessive, loan loss allowances that fall within an acceptable range of estimated losses. We recognize that today instability in certain global markets, for example is likely to increase loss inherent in affected institutions' portfolios and consequently require higher allowances for credit losses than were appropriate in more stable times.

Despite the issuance of the November Joint Interagency Statement, there is continued uncertainty among financial institutions as to the expectations of the banking and securities regulators on the appropriate amount, disclosure and documentation of the allowance for credit losses. The Agencies now announce additional measures designed to address this continued uncertainty. These measures are consistent with the Agencies' mutual objective of, and focus on, addressing prospectively, where feasible, issues related to improving the documentation, disclosure, and reporting of loan loss allowances of financial institutions.

The Agencies are establishing a Joint Working Group, comprised of policy representatives from each of the Agencies, to gain a better understanding of the procedures and processes, including ''sound practices,'' used generally by banking organizations to determine the allowance for credit losses. An important aspect of the Joint Working Group's activities will be to receive input from representatives of the banking industry and the accounting profession on these matters, and will not involve joint examinations of institutions. The common base of knowledge that results will facilitate the joint and individual efforts of the Agencies to provide improved guidance on appropriate procedures, documentation, and disclosures to the banking industry. This will assist the banking community in complying with GAAP and will improve comparability among financial statements of depository and other lending institutions. The Joint Working Group will also share information and insights concerning issues of mutual concern that may arise.

Using information gathered through the Joint Working Group and from representatives of the accounting profession and the banking industry, the Agencies will work together to issue parallel guidance, on a timely basis, and within a year on the first two items listed below, in the following key areas regarding credit loss allowances:

Appropriate Methodologies and Supporting Documentation.—The Agencies intend to issue guidance that will suggest procedures and processes necessary for a reasoned assessment of losses inherent in a portfolio and discuss ways to ensure that documentation supports the reported allowance.

Enhanced Disclosures.—This guidance will address appropriate disclosures of allowances for credit losses and the credit quality of institutions' portfolios by identifying key areas for enhanced disclosures, including the need for institutions to disclose changes in risk factor and asset quality that affect allowances for credit losses. The enhanced disclosures would contribute to better understanding by investors and the public of the risk profile of banking institutions and improve market discipline.

The Agencies will work together to encourage and support the Financial Accounting Standards Board's process of providing additional guidance regarding accounting for allowances for loan losses. The Agencies emphasize that GAAP requires that management's determination be based on a comprehensive, adequately documented, and consistently applied analysis of the particular institution's exposures, the effects of its lending and collection policies, and its own loss experience under comparable conditions.

In addition, the Agencies will support and encourage the task force of the American Institute of Certified Public Accountants (AICPA) that is developing more specific guidance on the accounting for allowances for credit losses and the techniques of measuring the credit loss inherent in a portfolio at a particular date. In particular, the AICPA task force will focus on providing guidance on how best to distinguish probable-losses inherent in the portfolio as of the balance sheet date—the guidepost agreed to by the Agencies for reporting allowances in accordance with GAAP—from possible or future losses not inherent in the balance sheet

as of that date. Additionally, the Agencies will ask the AICPA task force to consider recently developed portfolio credit risk measurement and management techniques that are consistent with GAAP as part of this effort. The AICPA project already has been initiated and will include representatives from the accounting profession and the banking industry, as well as observers from the SEC and the banking agencies.

Senior staff of the Agencies will continue to meet to discuss banking industry accounting and financial disclosure policy issues of interest that affect the transparency of financial reporting and bank safety and soundness. These discussions will address progress in the application of accounting and disclosure standards by banking institutions, including those impacting the allowance for credit losses, with particular focus on recently identified issues and trends. The meetings also will be used to coordinate projects of the Agencies in areas of mutual interest. The first of these meetings was held on January 27.

The Agencies believe that the actions announced above will promote a better and clearer understanding among financial institutions of the appropriate procedures and processes for determining credit losses in accordance with GAAP. The Agencies intend that these steps will enhance the transparency of financial information and improve market discipline, consistent with safety and soundness objectives. In recognition of the specialized regulatory nature of the banking industry and in order to resolve ongoing uncertainties in the industry, with the announcement of these initiatives, the Agencies' focus, in so far as feasible, will be on enhancing allowance practices going forward.

To: Washington, Consuela.
Subject: More on loan loss.
Re: the transcript I just sent you—I know a few of the bank regulators kind of waffled or ducked a little on the answer to ''do we need regulation?'' but NONE of them said anything close to ''yes.''

Also, below is an excerpt from the appendix to the OCC's written testimony for the loan loss hearing (also on the H. Banking website):

Question 4. Please discuss whether the SEC has consulted with and coordinated its comments on loan loss reserves with the Federal Reserve and other federal banking regulators. Please discuss whether you believe consultation between the SEC and the regulators prior to the SEC issuing loan loss reserve comments would be workable and whether prior consultation would promote a more consistent approach to GAAP.

Answer 4. Although SEC staff occasionally consult with the OCC's Chief Accountant's staff on accounting issues, the SEC has not generally done so on issues involving comments for a specific registrant, particularly regarding the registrant's loan loss reserve.

The OCC believes that such consultation would promote a more consistent approach to GAAP. However, because of examination timing and other logistical issues, such consultation, if practiced for all filings, might detract from the SEC's ability to ensure that registrants receive timely reviews of their statements. A more efficient approach would be for the SEC to consult with bank regulators on filings where it has significant questions pertaining to a registrant's loan loss reserve.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. ROUKEMA. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 235, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 1 offered by the gentleman from North Carolina (Mr. BURR), amendment No. 4 offered by the gentleman from Georgia (Mr. BARR), amendment No. 7 offered by the gentleman from Utah (Mr. COOK), and amendment No. 8 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. BURR OF NORTH CAROLINA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 1 offered by the gentleman from North Carolina (Mr. BURR) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 189, not voting 7, as follows:

[Roll No. 268]

AYES—238

Abercrombie
Aderholt
Archer
Armey
Bachus
Baird
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Boswell
Boucher
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clyburn
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
Delahunt
DeLay
DeMint
Diaz-Balart
Dickey
Dixon
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Etheridge
Everett
Ewing
Fletcher
Fowler
Franks (NJ)
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hilliard
Hobson
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Jones (NC)
Kasich
Kelly
Kildee
King (NY)
Kingston
Kleczka
Knollenberg
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Metcalf
Miller (FL)
Minge
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Ose
Oxley
Packard
Paul
Payne
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Reynolds
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Rush
Salmon
Sanford
Sawyer
Saxton
Schaffer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simpson
Skelton
Smith (TX)
Souder
Spence
Spratt
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Toomey
Towns
Traficant
Udall (CO)
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—189

Ackerman
Allen
Andrews
Baldacci
Baldwin
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Blagojevich
Blumenauer
Bonior
Bono
Boyd
Brady (PA)
Brown (OH)
Campbell
Capps
Capuano
Cardin
Carson
Clement
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Green (WI)
Gutierrez
Hall (OH)
Hefley
Hill (IN)
Hill (MT)
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Hooley
Hostettler
Hutchinson
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kilpatrick
Kind (WI)
Klink
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Lantos
Larson
Leach
Lee
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, George
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Petri
Phelps
Pickett
Pomeroy
Porter
Rahall
Rangel
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer

Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Scarborough
Schakowsky
Serrano
Sherman
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Stabenow
Stark
Stearns
Tanner
Tiahrt
Tierney
Turner
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Waters
Waxman
Wexler
Weygand
Woolsey
Wu

NOT VOTING—7

Borski
Brown (CA)
Fossella
Ganske
Green (TX)
Lipinski
Pelosi

□ 2025

Messrs. DAVIS of Illinois, NUSSLE, OBERSTAR, RILEY, DEUTSCH, and TIAHRT changed their vote from ''aye'' to ''no.''

Mrs. THURMAN, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. ABERCROMBIE, SHADEGG, HILLIARD, DIXON, UDALL of Colorado, and LAZIO changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 235, the Chair announces that it will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 4 OFFERED BY MR. BARR OF GEORGIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 4 offered by the gentleman from Georgia (Mr. BARR) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 129, noes 299, not voting 6, as follows:

[Roll No. 269]

AYES—129

Aderholt
Archer
Armey
Barcia
Barr
Bartlett
Barton
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Burr
Buyer
Callahan
Camp
Campbell
Chabot
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Cook
Crane
Cubin
Deal
DeMint
Doolittle
Dreier
Duncan
Ehrlich
English
Everett
Fletcher
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Green (WI)
Gutknecht
Hall (TX)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hoekstra
Hostettler
Hulshof
Hunter
Istook
Jenkins
Johnson, Sam
Jones (NC)
Kingston
Largent
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McInnis
McIntyre
McKeon
Metcalf
Miller, Gary
Miller, George
Mink
Moran (KS)
Myrick
Nethercutt
Ney
Norwood
Ose
Packard
Paul
Pease
Peterson (MN)
Pickering
Pickett
Pitts
Pombo
Radanovich
Reynolds
Riley
Rivers
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sanford
Scarborough
Schaffer
Sensenbrenner
Sessions
Sherwood
Shuster
Skeen
Smith (MI)
Smith (NJ)
Spence
Stearns
Stump
Sununu
Tancredo
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Toomey
Walden
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Wicker
Woolsey
Young (AK)

NOES—299

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Bryant
Burton
Calvert
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clyburn
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Filner
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Granger
Greenwood
Gutierrez
Hall (OH)
Hansen
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hutchinson
Hyde
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
Latham
Lazio
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntosh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Minge
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Peterson (PA)
Petri
Phelps
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shows
Simpson
Sisisky
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Sweeney
Talent
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Weygand
Whitfield
Wilson
Wise
Wolf
Wu
Wynn
Young (FL)

NOT VOTING—6

Borski
Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi

□ 2033

Mr. NADLER changed his vote from ''aye'' to ''no.''

Mr. TAYLOR of Mississippi changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. COOK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 7 offered by the gentleman from Utah (Mr. COOK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 114, noes 313, not voting 7, as follows:

[Roll No. 270]

AYES—114

Aderholt
Archer
Armey
Bachus
Baker
Barr
Bartlett
Bentsen
Biggert
Blunt
Boehner
Bonilla
Boswell
Burton
Buyer
Callahan
Cannon
Chambliss
Coburn
Collins
Cook
Cramer
Crane
Cubin
Cunningham
Davis (VA)
DeLay
DeMint
Diaz-Balart
Dreier
Duncan
Dunn
Engel
English
Everett
Fletcher
Gibbons
Gilchrest
Goodling
Goss
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hoekstra
Horn
Hostettler
Hutchinson
Isakson
Jenkins
Kingston
Kuykendall
Latham
Leach
Lewis (KY)
Linder
Maloney (NY)
McCollum
McCrery
McGovern
McInnis
McIntosh
McKeon
McNulty
Metcalf

Miller, Gary
Morella
Myrick
Nadler
Nethercutt
Norwood
Nussle
Ose
Packard
Paul
Peterson (MN)
Riley
Rogers
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Scarborough
Sessions
Shadegg
Shuster
Simpson
Slaughter
Smith (MI)
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Weldon (FL)
Weller
Wicker

NOES—313

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bereuter
Berkley
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonior
Bono
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Calvert
Camp
Campbell
Canady
Capps
Capuano
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Filner
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Graham
Granger
Green (WI)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Napolitano
Neal
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pease
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Vitter
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Wexler
Weygand
Whitfield
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Borski
Brown (CA)
Chenoweth
Fossella
Green (TX)
Lipinski
Pelosi

□ 2040

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MRS. ROUKEMA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 8 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 407, noes 20, not voting 7, as follows:

[Roll No. 271]

AYES—407

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pascrell
Paul
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker

Wilson	Woolsey	Young (FL)
Wise	Wu	
Wolf	Young (AK)	

NOES—20

DeGette	Markey	Rivers
Deutsch	Martinez	Rush
Dingell	McCarthy (MO)	Sanchez
Engel	McKinney	Stark
Hill (MT)	Pallone	Towns
Larson	Pastor	Wynn
Luther	Rangel	

NOT VOTING—7

Borski	Fossella	Pelosi
Brown (CA)	Green (TX)	
Diaz-Balart	Lipinski	

□ 2048

Mr. LUTHER changed his vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider Amendment No. 9 printed in House Report 106–214.

AMENDMENT NO. 9 OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. WATT of North Carolina:

Page 325, line 25, strike the ''or'' after the semicolon.

Page 326, line 4, strike the period and insert ''; or''.

Page 326, after line 4, insert the following new subparagraph:

''(C) in the case of an institution or subsidiary at which insurance products are sold or offered for sale, the fact that—

''(i) the approval of an extension of credit to a customer by the institution or subsidiary may not be conditioned on the purchase of an insurance product by such customer from the institution or subsidiary; and

''(ii) the customer is free to purchase the insurance product from another source.''.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 5 minutes.

Mr. HILL of Montana. Madam Chairman, I claim the time on the other side.

The CHAIRMAN. Is the gentleman in opposition?

Mr. HILL of Montana. I am momentarily leaning against this amendment, however I am persuadable.

The CHAIRMAN. The gentleman from Montana will be recognized for 5 minutes.

Mr. WATT of North Carolina. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, this amendment is noncontroversial, I believe, and I hope that there is no opposition to it.

In this day in which we are moving toward allowing banks and insurance companies and securities companies to come together into one corporation, the concern that I hear more often than any other concern as I talk to constituents is a concern that when they go to borrow money from a bank, that bank will require them as a condition of getting the loan to use other services that are being brought into this umbrella such as requiring them to purchase insurance from a subsidiary of the bank or an affiliate of the bank, and of course that would be extremely unfair and put the customer at a disadvantage and would put the financial institution at a substantial advantage if they could require as a condition of getting a loan that insurance be bought from one of the affiliated companies.

So in the Committee on Banking and Financial Services I offered this amendment. It passed overwhelmingly in the Committee on Banking and Financial Services, and for some reason when the bill was re-printed, it was not there. So I offered the amendment before the Committee on Rules to get this reinstated.

Let me be clear that this does not prohibit a bank from requiring insurance to be purchased in connection with a loan, because many loans are securitized with life insurance or other kinds of insurance, title insurance. What it says is that that lender cannot require that the customer obtain that insurance from one of its affiliates, and it should be clear that the customer is free to go to an unaffiliated company to obtain insurance if in fact that insurance is required as a condition of the loan.

Let me make one other quick point. This amendment becomes even more important in light of all of the discussions about privacy because if there is to be a sharing of information among affiliates, one of the things that will be able to be shared is the expiration dates on insurance policies, and that in and of itself is likely to put a subsidiary insurance company at an advantage because they may know when an insurance policy is expiring. All the more reason we need to make it absolutely explicitly clear that no customer can be required to purchase insurance from a subsidiary or affiliate of the lending company as a condition for getting the loan.

Madam Chairman, I reserve the balance of my time.

Mr. HILL of Montana. Madam Chairman, I yield myself 3 minutes.

(Mr. HILL of Montana asked and was given permission to revise and extend his remarks.)

Mr. HILL of Montana. Madam Chairman, I first want to join with the chairman to state that I do support the amendment and compliment the gentleman from North Carolina (Mr. WATT) for bringing it forward. This bill is going to create new financial institutions, allow them to provide new services which will hopefully lower the cost to consumers and create greater competition, and in the end the consumers are going to benefit that.

But there is a serious concern, and that has to do with lending institutions who have the ability to exert undue influence, some would say even potentially coercive influence over their customers.

H.R. 10, this bill, substantially erodes the States' supervision over insurance sales. In fact, it defers to the Comptroller of the Currency with regard to the sale of insurance by national banks. And there is great concern on my part and others about this bill for that reason, and it is my hope that we will go beyond this amendment in conference to deal with this.

But it is extremely important, I think, that the House tonight assert the concept that lenders cannot exert this influence, tying sales of other services in order to influence a loan. Today in every State in the union that conduct is assured through the actions of insurance commissioners and state legislators. Unfortunately this law, H.R. 10 if it passes, will preempt that making that authority void.

I think it is important for Members in the Chamber then tonight to say that no consumer who is applying for a loan or any form of credit should mistakenly believe that their purchase of insurance, or any other service for that matter, from that lender will enhance their ability to get that loan and that credit.

I have a similar provision in this bill with regard to the conduct of the activity of title insurance, however it goes substantially further. It reasserts the State authority over the conduct of title insurance sales activity.

Again, I hope that the conferees will find a better solution than just this amendment, but I think it is essential tonight that the House make clear that we want these protections for consumers in its place.

I would like to just speak briefly to the bill. I hope tonight that we will have an overwhelming support for this bill. I have some concerns about the State regulation of insurance and the structure of these new financial institutions, but it is essential that we modernize our financial institutions.

We have a trade surplus in services and substantially a consequence of our competitiveness in financial services, and if we want to maintain the jobs and the opportunities, the investment in our economy and the growth, then we need to have institutions that are competitive internationally.

Madam Chairman, I would urge all my colleagues to support this bill and to support this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Madam Chairman, I rise in support of the amendment, and I thank the gentleman from North Carolina for offering it.

This provision was included within the product produced by the Committee on Banking and Financial Services as were a number of other important consumer protection provisions. The Committee on Rules permitted

this amendment to be offered; that is good. They could have permitted the other consumer protection provisions that were included in the banking bill to come before the floor also; most importantly, the one prohibiting redlining by insurance companies that would affiliate with banks. They should not have permitted an amendment on an insurance provision on which there was never a hearing allowing the redomestication of mutual insurance companies in order to rip off the policyholders in order to satisfy the greed of the officers and directors of those mutual insurance companies.

Support the Watt amendment. Strongly oppose the Bliley amendment.

Mr. HILL of Montana. Madam Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, I thank the gentleman for yielding this time to me, and I would like to address briefly the Watt amendment. This is an extraordinarily thoughtful amendment brought by one of the most thoughtful Members of our body. Indeed, as chairman of the committee, I would like to say as strongly as I can I know of no more constructively involved member of the Committee on Banking and Financial Services or of this Congress than the gentleman from North Carolina (Mr. WATT), and I would urge support of this amendment. It makes good common sense.

□ 2100

Mr. WATT of North Carolina. Madam Chairman, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Madam Chairman, I would say to the gentleman from Iowa (Mr. LEACH) and the gentleman from North Carolina (Mr. WATT), the sponsor of this amendment, I stood here, having been a freshman member of the Committee on Banking and Financial Services, going through H.R. 10, and wondered what was in it for the consumer.

Under financial modernization, a bank can become an insurance company; an insurance company could become a bank? What would happen to the consumer?

Thank God, thanks to the leadership of our ranking member and the gentleman from North Carolina (Mr. WATT) and other members of the committee, there were consumer protection provisions like this one that said that even if I get a loan from bank A, I do not have to get my insurance from bank A.

So all the little old women walking into banks could say, someone is looking out for me.

I am pleased to stand here in favor, Madam Chairman, of this amendment. I stand here in support of this amendment believing it will help H.R. 10 get closer to the bill that came out of the Committee on Banking and Financial Services.

Mr. HILL of Montana. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I think what is important for all the Members in the Chamber to understand is that, without this amendment, H.R. 10, in essence, creates a void with regard to the regulation of insurance with regard to this activity, the potential course of sale of insurance or other services to loan customers of lending institutions.

So I would urge all of my colleagues to support this amendment.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in House Report 106–214.

AMENDMENT NO. 10 OFFERED BY MR. BLILEY

Mr. BLILEY. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. BLILEY:

Page 327, after line 16, insert the following subsection (and redesignate subsequent subsections accordingly):

''(e) DOMESTIC VIOLENCE DISCRIMINATION PROHIBITION.—

''(1) IN GENERAL.—In the case of an applicant for, or an insured under, any insurance product described in paragraph (2), the status of the applicant or insured as a victim of domestic violence, or as a provider of services to victims of domestic violence, shall not be considered as a criterion in any decision with regard to insurance underwriting, pricing, renewal, or scope of coverage of insurance policies, or payment of insurance claims, except as required or expressly permitted under State law.

''(2) SCOPE OF APPLICATION.—The prohibition contained in paragraph (1) shall apply to any insurance product which is sold or offered for sale, as principal, agent, or broker, by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution.

''(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that, by the end of the 30-month period beginning on the date of the enactment of this Act, the States should enact prohibitions against discrimination with respect to insurance products that are at least as strict as the prohibitions contained in paragraph (1).

''(4) DOMESTIC VIOLENCE DEFINED.—For purposes of this subsection, the term 'domestic violence' means the occurrence of 1 or more of the following acts by a current or former family member, household member, intimate partner, or caretaker:

''(A) Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape, or sexual assault.

''(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm.

''(C) Subjecting another person to false imprisonment.

''(D) Attempting to cause or cause damage to property so as to intimidate or attempt to control the behavior of another person.

Page 336, after line 13, insert the following new subtitle (and redesignate subsequent subtitles and amend the table of contents accordingly):

Subtitle B—Redomestication of Mutual Insurers

SEC. 311. GENERAL APPLICATION.

This subtitle shall only apply to a mutual insurance company in a State which has not enacted a law which expressly establishes reasonable terms and conditions for a mutual insurance company domiciled in such State to reorganize into a mutual holding company.

SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.

(a) REDOMESTICATION.—A mutual insurer organized under the laws of any State may transfer its domicile to a transferee domicile as a step in a reorganization in which, pursuant to the laws of the transferee domicile and consistent with the standards in subsection (f), the mutual insurer becomes a stock insurer that is a direct or indirect subsidiary of a mutual holding company.

(b) RESULTING DOMICILE.—Upon complying with the applicable law of the transferee domicile governing transfers of domicile and completion of a transfer pursuant to this section, the mutual insurer shall cease to be a domestic insurer in the transferor domicile and, as a continuation of its corporate existence, shall be a domestic insurer of the transferee domicile.

(c) LICENSES PRESERVED.—The certificate of authority, agents' appointments and licenses, rates, approvals and other items that a licensed State allows and that are in existence immediately prior to the date that a redomesticating insurer transfers its domicile pursuant to this subtitle shall continue in full force and effect upon transfer, if the insurer remains duly qualified to transact the business of insurance in such licensed State.

(d) EFFECTIVENESS OF OUTSTANDING POLICIES AND CONTRACTS.—

(1) IN GENERAL.—All outstanding insurance policies and annuities contracts of a redomesticating insurer shall remain in full force and effect and need not be endorsed as to the new domicile of the insurer, unless so ordered by the State insurance regulator of a licensed State, and then only in the case of outstanding policies and contracts whose owners reside in such licensed State.

(2) FORMS.—

(A) Applicable State law may require a redomesticating insurer to file new policy forms with the State insurance regulator of a licensed State on or before the effective date of the transfer.

(B) Notwithstanding subparagraph (A), a redomesticating insurer may use existing policy forms with appropriate endorsements to reflect the new domicile of the redomesticating insurer until the new policy forms are approved for use by the State insurance regulator of such licensed State.

(e) NOTICE.—A redomesticating insurer shall give notice of the proposed transfer to the State insurance regulator of each licensed State and shall file promptly any resulting amendments to corporate documents required to be filed by a foreign licensed mutual insurer with the insurance regulator of each such licensed State.

(f) PROCEDURAL REQUIREMENTS.—No mutual insurer may redomesticate to another State and reorganize into a mutual holding company pursuant to this section unless the State insurance regulator of the transferee domicile determines that the plan of reorganization of the insurer includes the following requirements:

(1) APPROVAL BY BOARD OF DIRECTORS AND POLICYHOLDERS.—The reorganization is approved by at least a majority of the board of directors of the mutual insurer and at least a majority of the policyholders who vote after notice, disclosure of the reorganization and the effects of the transaction on policyholder contractual rights, and reasonable opportunity to vote, in accordance with such notice, disclosure, and voting procedures as are approved by the State insurance regulator of the transferee domicile.

(2) CONTINUED VOTING CONTROL BY POLICYHOLDERS; REVIEW OF PUBLIC STOCK OFFERING.—After the consummation of a reorganization, the policyholders of the reorganized insurer shall have the same voting rights with respect to the mutual holding company as they had before the reorganization with respect to the mutual insurer. With respect to an initial public offering of stock, the offering shall be conducted in compliance with applicable securities laws and in a manner approved by the State insurance regulator of the transferee domicile.

(3) AWARD OF STOCK OR GRANT OF OPTIONS TO OFFICERS AND DIRECTORS.—For a period of 6 months after completion of an initial public offering, neither a stock holding company nor the converted insurer shall award any stock options or stock grants to persons who are elected officers or directors of the mutual holding company, the stock holding company, or the converted insurer, except with respect to any such awards or options to which a person is entitled as a policyholder and as approved by the State insurance regulator of the transferee domicile.

(4) CONTRACTUAL RIGHTS.—Upon reorganization into a mutual holding company, the contractual rights of the policyholders are preserved.

(5) FAIR AND EQUITABLE TREATMENT OF POLICYHOLDERS.—The reorganization is approved as fair and equitable to the policyholders by the insurance regulator of the transferee domicile.

SEC. 313. EFFECT ON STATE LAWS RESTRICTING REDOMESTICATION.

(a) IN GENERAL.—Unless otherwise permitted by this subtitle, State laws of any transferor domicile that conflict with the purposes and intent of this subtitle are preempted, including but not limited to—

(1) any law that has the purpose or effect of impeding the activities of, taking any action against, or applying any provision of law or regulation to, any insurer or an affiliate of such insurer because that insurer or any affiliate plans to redomesticate, or has redomesticated, pursuant to this subtitle;

(2) any law that has the purpose or effect of impeding the activities of, taking action against, or applying any provision of law or regulation to, any insured or any insurance licensee or other intermediary because such person has procured insurance from or placed insurance with any insurer or affiliate of such insurer that plans to redomesticate, or has redomesticated, pursuant to this subtitle, but only to the extent that such law would treat such insured licensee or other intermediary differently than if the person procured insurance from, or placed insurance with, an insured licensee or other intermediary which had not redomesticated;

(3) any law that has the purpose or effect of terminating, because of the redomestication of a mutual insurer pursuant to this subtitle, any certificate of authority, agent appointment or license, rate approval, or other approval, of any State insurance regulator or other State authority in existence immediately prior to the redomestication in any State other than the transferee domicile.

(b) DIFFERENTIAL TREATMENT PROHIBITED.—No State law, regulation, interpretation, or functional equivalent thereof, of a State other than a transferee domicile may treat a redomesticating or redomesticated insurer or any affiliate thereof any differently than an insurer operating in that State that is not a redomesticating or redomesticated insurer.

(c) LAWS PROHIBITING OPERATIONS.—If any licensed State fails to issue, delays the issuance of, or seeks to revoke an original or renewal certificate of authority of a redomesticated insurer immediately following redomestication, except on grounds and in a manner consistent with its past practices regarding the issuance of certificates of authority to foreign insurers that are not redomesticating, then the redomesticating insurer shall be exempt from any State law of the licensed State to the extent that such State law or the operation of such State law would make unlawful, or regulate, directly or indirectly, the operation of the redomesticated insurer, except that such licensed State may require the redomesticated insurer to—

(1) comply with the unfair claim settlement practices law of the licensed State;

(2) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on licensed insurers or policyholders under the laws of the licensed State;

(3) register with and designate the State insurance regulator as its agent solely for the purpose of receiving service of legal documents or process;

(4) submit to an examination by the State insurance regulator in any licensed state in which the redomesticated insurer is doing business to determine the insurer's financial condition, if—

(A) the State insurance regulator of the transferee domicile has not begun an examination of the redomesticated insurer and has not scheduled such an examination to begin before the end of the 1-year period beginning on the date of the redomestication; and

(B) any such examination is coordinated to avoid unjustified duplication and repetition;

(5) comply with a lawful order issued in—

(A) a delinquency proceeding commenced by the State insurance regulator of any licensed State if there has been a judicial finding of financial impairment under paragraph (7); or

(B) a voluntary dissolution proceeding;

(6) comply with any State law regarding deceptive, false, or fraudulent acts or practices, except that if the licensed State seeks an injunction regarding the conduct described in this paragraph, such injunction must be obtained from a court of competent jurisdiction as provided in section 314(a);

(7) comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance regulator alleging that the redomesticating insurer is in hazardous financial condition or is financially impaired;

(8) participate in any insurance insolvency guaranty association on the same basis as any other insurer licensed in the licensed State; and

(9) require a person acting, or offering to act, as an insurance licensee for a redomesticated insurer in the licensed State to obtain a license from that State, except that such State may not impose any qualification or requirement that discriminates against a nonresident insurance licensee.

SEC. 314. OTHER PROVISIONS.

(a) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over litigation arising under this section involving any redomesticating or redomesticated insurer.

(b) SEVERABILITY.—If any provision of this section, or the application thereof to any person or circumstances, is held invalid, the remainder of the section, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 315. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) COURT OF COMPETENT JURISDICTION.—The term ''court of competent jurisdiction'' means a court authorized pursuant to section 314(a) to adjudicate litigation arising under this subtitle.

(2) DOMICILE.—The term ''domicile'' means the State in which an insurer is incorporated, chartered, or organized.

(3) INSURANCE LICENSEE.—The term ''insurance licensee'' means any person holding a license under State law to act as insurance agent, subagent, broker, or consultant.

(4) INSTITUTION.—The term ''institution'' means a corporation, joint stock company, limited liability company, limited liability partnership, association, trust, partnership, or any similar entity.

(5) LICENSED STATE.—The term ''licensed State'' means any State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands in which the redomesticating insurer has a certificate of authority in effect immediately prior to the redomestication.

(6) MUTUAL INSURER.—The term ''mutual insurer'' means a mutual insurer organized under the laws of any State.

(7) PERSON.—The term ''person'' means an individual, institution, government or governmental agency, State or political subdivision of a State, public corporation, board, association, estate, trustee, or fiduciary, or other similar entity.

(8) POLICYHOLDER.—The term ''policyholder'' means the owner of a policy issued by a mutual insurer, except that, with respect to voting rights, the term means a member of a mutual insurer or mutual holding company granted the right to vote, as determined under applicable State law.

(9) REDOMESTICATED INSURER.—The term ''redomesticated insurer'' means a mutual insurer that has redomesticated pursuant to this subtitle.

(10) REDOMESTICATING INSURER.—The term ''redomesticating insurer'' means a mutual insurer that is redomesticating pursuant to this subtitle.

(11) REDOMESTICATION OR TRANSFER.—The terms ''redomestication'' and ''transfer'' mean the transfer of the domicile of a mutual insurer from one State to another State pursuant to this subtitle.

(12) STATE INSURANCE REGULATOR.—The term ''State insurance regulator'' means the principal insurance regulatory authority of a State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands.

(13) STATE LAW.—The term ''State law'' means the statutes of any State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands and any regulation, order, or requirement prescribed pursuant to any such statute.

(14) TRANSFEREE DOMICILE.—The term ''transferee domicile'' means the State to which a mutual insurer is redomesticating pursuant to this subtitle.

(15) TRANSFEROR DOMICILE.—The term ''transferor domicile'' means the State from which a mutual insurer is redomesticating pursuant to this subtitle.

SEC. 316. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.

PARLIAMENTARY INQUIRY

Mr. VENTO. Madam Chairman, parliamentary inquiry.

Madam Chairman, is it possible to have this amendment divided by unanimous consent?

The CHAIRMAN. Under the rule, the amendment is not divisible; and the Committee cannot alter that feature of the rule.

Mr. VENTO. Even though these are separate topics, completely separate topics, in the amendment?

The CHAIRMAN. It is not in order under the rule, even by unanimous consent.

Mr. LAFALCE. Even though it is not in order under the rule that we oppose, could we not divide it if there were unanimous consent?

The CHAIRMAN. The Committee of the Whole cannot change the rule.

Mr. LAFALCE. Could we have unanimous consent to rise and then ask unanimous consent to go into the full House and then request a division of this amendment into two parts?

Mr. BLILEY. I object.

The CHAIRMAN. No request has been made.

MOTION OFFERED BY MR. LAFALCE

Mr. LAFALCE. Madam Chairman, I move that the Committee do now rise for the purpose aforestated.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York (Mr. LAFALCE).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 232, not voting 23, as follows:

[Roll No. 272]

AYES—179

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dixon
Doggett
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Mink
Moakley
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Schakowsky
Scott
Serrano
Sherman
Shows
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Woolsey
Wu
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—232

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Cook
Cooksey
Costello
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Ford
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, George
Minge
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Ose
Oxley
Packard
Pastor
Paul
Pease
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Reynolds
Riley
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield

NOT VOTING—23

Baldacci
Barton
Borski
Brown (CA)
Clay
Combest
Dicks
Dooley
Doyle
Fossella
Green (TX)
Gutierrez
Holden
Lipinski
Menendez
Miller, Gary
Nussle
Pelosi
Pombo
Porter
Radanovich
Rogan
Sawyer

□ 2124

Mrs. MYRICK, Mr. GUTKNECHT, Mr. GREENWOOD, and Mrs. MORELLA changed their vote from ''aye'' to ''no.''

Mr. HOEFFEL, Mr. DAVIS of Illinois, Ms. SANCHEZ, and Ms. MCKINNEY changed their vote from ''no'' to ''aye.''

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Virginia (Mr. BLILEY) and a Member opposed each will control 5 minutes.

Mr. LAFALCE. Madam Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) will be recognized to control the time in opposition.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Madam Chairman, I yield myself 1½ minutes.

Madam Chairman, this amendment is simple and straightforward. It does only two things. First, it prohibits banks from discriminating against victims of domestic violence and insurance sales.

The majority of States already have laws preventing discrimination against victims of domestic violence. However, H.R. 10 would allow Federal banking regulators to preempt a number of State consumer protection laws, and in addition, a few States have not yet acted on this issue.

This amendment would not preempt State laws, but ensures where no protections for domestic violence victims existed or where the banking regulators were trying to preempt such laws, the domestic violence victims will be protected.

Second, the bill would allow mutual insurance companies to redomesticate and reorganize into a mutual holding company or into a stock company. Without the redomestication provision, mutual insurance companies will be placed at a severe disadvantage in raising capital and competing with other financial holding companies.

It only takes effect in States that have not enacted laws governing mutual holding companies, and it requires approval from the insurance regulator that the company has met numerous specific consumer protections.

Madam Chairman, I yield 1½ minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Chairman, I rise in reluctant support of the Bliley amendment. I guess I am pleased, if a

little bit puzzled, that this amendment has been coupled, the domestic violence amendment has been coupled with redomestication of mutual insurers. I think the only two things that are the same in these concepts are the word ''domestic.''

□ 2130

But the reason I support this amendment is because it is extremely important to millions of domestic violence victims around this country, many of them women who have been discriminated against, unbelievably, in insurance company underwriting and in claims processing and in rates.

We have a woman in Colorado, for example, whose husband tried to murder her by burning down their house. She was almost killed, but she survived. When the insurance company got the claim, they only paid 50 percent because they said she was 50 percent responsible for the house burning down because she was a domestic violence victim.

I am disappointed, frankly, that the Committee on Rules did not make in order my amendment with the gentleman from Ohio (Mr. Oxley), a stand alone amendment, which was unanimously supported in the Committee on Commerce, which passed this House last year as part of the House bill, and went on to the Senate. I am saddened that that was not done in its own right. But, frankly, it was not. So, to me, it is important for the millions of domestic violence victims to pass this amendment.

Mr. LAFALCE. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, this amendment is a travesty and should be opposed. It is absolutely outrageous that the Committee on Rules has permitted the combination of prohibitions against discrimination because of domestic violence with redomestication of mutual insurance companies.

My colleagues would get 100 percent of this body to vote for the prohibition with respect to domestic violence, and they know that. No one should vote for the redomestication of mutual insurance company, and that is the only reason the gentleman from Virginia (Mr. BLILEY) has combined them, because no one would vote for his amendment if it were standing by itself.

Why? Because greed is involved. Greed on the part of the officers and directors of the mutual insurance companies.

Why? Because theft is involved. Theft is involved of the ownership right of, not millions, but tens of millions of policy holders, women and men and children, et cetera. One is stealing their rights by this Federal law.

Why? Because this is an anti-States rights amendment. That is why the National Conference of State Legislatures have said, do not pass this amendment. We recognize the provisions of domestic violence. We love those. But we do not want you to infringe on our rights.

The gentleman from Virginia said, well, if the State has got a mutual holding company provision, it does not apply. Well, New York does not. Massachusetts does not. Countless other States do not. The gentleman would override theirs.

The gentleman said, well, the State insurance regulator has to approve. Not of the host States, just of the States they want to go to. They will pick the worst State in the Union, they will go to that State, and, of course, the insurance regulator will permit it. They will do anything to get a domestic, a mutual insurance company to relocate so long as they can satisfy the officers and directors.

There is no good reason for it. There has been no hearing on it. It has absolutely no relationship to financial services modernization. It has absolutely no relationship to affiliation. What is this? It is a pay off to the mutual insurance industry. No more. No less.

Mr. BLILEY. Madam Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Madam Chairman, I rise today in support of the amendment of the gentleman from Virginia (Mr. BLILEY) to put this redomestication provision back in this legislation. This is a technical issue, and I think I want to try to clarify what this amendment seeks to do.

Mutual insurance companies are essentially cooperatives and they have no stockholders, only policy holders. A mutual company may own the stock of the subsidiary, but, having no shareholders, it is confined to lower subsidiaries if they want to diversify.

This structure imposes serious limitations on the ability of a mutual company to make significant acquisitions in order to stay competitive. In addition, a mutual insurer cannot sell stock, thereby limiting its ability to raise capital to diversify.

Taken together, these factors place mutual insurers at a substantial disadvantage in an affiliated environment such as H.R. 10 allows for.

While State laws generally permit insurers to move their base, States are capable of imposing significant practical barriers to redomestication. I do not believe that a mutual insurer's ability to participate fully in an affiliated financial services environment should depend solely on the State where they are based.

It is for these reasons I believe we should support this amendment.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Chairman, this is the most shameful abuse of the democratic process I have ever seen. My colleagues have an effort not to stop the insurance company from demutualizing, but simply to require them to abide by the State law where they were chartered and their contract with their policy holders.

The gentleman from Virginia is not saying they should be able to demutualize, he is saying they should be able to do it without sharing with the policyholders what they pledged to the policyholders they would do when they sold them the policy. That is so hard to defend that he is literally hiding behind battered women.

Why are these together? Domestic violence and redomestication? I am surprised the gentleman does not have in there housebreaking one's dog for domestic animals because that is all it has got in common.

The gentleman has something so bad it cannot stand on its own. He is asking to give permission to the mutual insurance companies. What the gentlewoman from New York (Mrs. KELLY) said is completely irrelevant. No one is trying to stop them from demutualizing.

They now have to, in certain States, demutualize in accordance with the rules of that State where they were chartered and in accordance with what they promise the policyholders. This is a license for them to avoid States rights, break the rules that they have for policyholders, and the gentleman shamefully does it by hiding behind the victims of domestic violence.

Mr. BLILEY. Madam Chairman, I yield the balance of my time to the gentleman from New York (Mr. TOWNS).

(Mr. TOWNS asked and was given permission to revise and extend his remarks.)

Mr. TOWNS. Madam Chairman, let me say that, first of all, the argument is the Committee on Rules. My colleagues point to the fact that the Committee on Rules did it again. That is what they are really saying. But I do not think that my colleagues should forget about what we are dealing with here. We are talking about two things, domestic violence and redomestication. I think that these issues are very, very important.

Also, I want to talk about the fact that insurance, the last time I heard, was under the jurisdiction of the Committee on Commerce. I mean, unless something changed over the last 24 hours, the Committee on Commerce had jurisdiction over insurance. So, therefore, I think that the Committee on Commerce here really has a lot to say about this issue.

I think that the other thing that I would like to just sort of talk about, mutual insurance companies would be placed at a severe disadvantage in terms of raising capital. I think that capital is very, very important. This amendment corrects that. I think that we need to make certain that that is done. I think that is important that we do that.

Let me say to my colleagues that I think this is a good amendment, and I urge support of it.

Mr. LaFALCE. Madam Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, I rise in opposition to particularly the last part of this amendment. It really is a real disservice to mutual policyholders, who are owners of the insurance company. To allow an insurance company to take the assets and convert to a stock company puts those policyholders at a real disadvantage.

Now, I had some experience with this. The last case that I ever handled in the practice of law was one of these cases where a mutual company, without the authorization of the insureds, tried to do this very thing. They ended up understating the value of the assets. They were not going to give the insurance policyholders one dime until we got involved, and they ended up paying them millions of dollars.

I think this is a bad idea, and we should vote against this amendment.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. BARRETT) for closure.

Mr. BARRETT of Wisconsin. Madam Chairman, the States rights, States rights, States rights. Where are they? Where are the States rights?

We have got all these elected officials at the State level, and we do not trust them. Because if they refuse to pass a law that the mutual insurance companies like, we are going to just allow them to pack up and move out of State.

This is the most hypocritical amendment for advocates of States rights that I have seen in this Chamber. How anybody can vote for this amendment and claim they are in favor of States rights defies logic.

It is a rip-off. It is a rip-off to shareholders and for stockholders and mutual insurance policyholders who bought those policies because they would be owners of that company. It rips them off. It is wrong, wrong, wrong.

It is unfortunate that it is being hidden behind battered women. That is disgusting. This amendment should be voted down. We should do it right, provide protection for the battered women, and not allow this dangerous rip-off.

The CHAIRMAN. All time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from Virginia (Mr. BLILEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BLILEY. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

It is now in order to consider amendment No. 11 printed in House Report 106–214.

AMENDMENT NO. 11 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. OXLEY:

Page 378, beginning on line 16, strike subtitle A of title V and insert the following (and conform the table of contents accordingly):

Subtitle A—Disclosure of Nonpublic Personal Information

SEC. 501. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) PRIVACY OBLIGATION POLICY.—It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.

(b) FINANCIAL INSTITUTIONS SAFEGUARDS.—In furtherance of the policy in subsection (a), each agency or authority described in section 505(a) shall establish appropriate standards for the financial institutions subject to their jurisdiction relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of customer records and information;

(2) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(3) to protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

SEC. 502. OBLIGATIONS WITH RESPECT TO DISCLOSURES OF PERSONAL INFORMATION.

(a) NOTICE REQUIREMENTS.—Except as otherwise provided in this subtitle, a financial institution may not, directly or through any affiliate, disclose to a nonaffiliated third party any nonpublic personal information, unless such financial institution provides or has provided to the consumer a notice that complies with section 503(b).

(b) OPT OUT.—

(1) IN GENERAL.—A financial institution may not disclose nonpublic personal information to nonaffiliated third parties unless—

(A) such financial institution clearly and conspicuously discloses to the consumer, in writing or in electronic form (or other form permitted by the regulations prescribed under section 504), that such information may be disclosed to such third parties;

(B) the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third parties; and

(C) the consumer is given an explanation of how the consumer can exercise that nondisclosure option.

(2) EXCEPTION.—This subsection shall not prevent a financial institution from providing nonpublic personal information to a nonaffiliated third party to perform services or functions on behalf of the financial institution, including marketing of the financial institution's own products or services or financial products or services offered pursuant to joint agreements between two or more financial institutions that comply with the requirements imposed by the regulations prescribed under section 504, if the financial institution fully discloses the providing of such information and enters into a contractual agreement with the third party that requires the third party to maintain the confidentiality of such information.

(c) LIMITS ON REUSE OF INFORMATION.—Except as otherwise provided in this subtitle, a nonaffiliated third party that receives from a financial institution nonpublic personal information under this section shall not, directly or through an affiliate of such receiving third party, disclose such information to any other person that is a nonaffiliated third party of both the financial institution and such receiving third party, unless such disclosure would be lawful if made directly to such other person by the financial institution.

(d) LIMITATIONS ON THE SHARING OF ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.—A financial institution shall not disclose an account number or similar form of access number or access code for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(e) GENERAL EXCEPTIONS.—Subsections (a) and (b) shall not prohibit the disclosure of nonpublic personal information—

(1) as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer, or in connection with—

(A) servicing or processing a financial product or service requested or authorized by the consumer;

(B) maintaining or servicing the consumer's account with the financial institution; or

(C) a proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer;

(2) with the consent or at the direction of the consumer;

(3) to protect the confidentiality or security of its records pertaining to the consumer, the service or product, or the transaction therein, or to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability, for required institutional risk control, or for resolving customer disputes or inquiries, or to persons holding a beneficial interest relating to the consumer, or to persons acting in a fiduciary capacity on behalf of the consumer;

(4) to provide information to insurance rate advisory organizations, guaranty funds or agencies, applicable rating agencies of the financial institution, persons assessing the institution's compliance with industry standards, and the institution's attorneys, accountants, and auditors;

(5) to the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978, to law enforcement agencies (including a Federal functional regulator, a State insurance authority, or the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;

(6) to a consumer reporting agency in accordance with the Fair Credit Reporting Act, or in accordance with interpretations of such Act by the Board of Governors of the Federal Reserve System or the Federal Trade Commission, including interpretations published as commentary (16 C.F.R. 601-622);

(7) in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; or

(8) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena by Federal, State, or local authorities; or to respond to judicial

process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law.

SEC. 503. DISCLOSURE OF INSTITUTION PRIVACY POLICY.

(a) DISCLOSURE REQUIRED.—A financial institution shall clearly and conspicuously disclose to each consumer, at the time of establishing the customer relationship with the consumer and not less than annually, in writing or in electronic form (or other form permitted by the regulations prescribed under section 504), its policies and practices with respect to protecting the nonpublic personal information of consumers in accordance with the rules prescribed under section 504.

(b) INFORMATION TO BE INCLUDED.—The disclosure required by subsection (a) shall include—

(1) the policy and practices of the institution with respect to disclosing nonpublic personal information to nonaffiliated third parties, other than agents of the institution, consistent with section 502 of this subtitle, and including—

(A) the categories of persons to whom the information is or may be disclosed, other than the persons to whom the information may be provided pursuant to section 502(e); and

(B) the practices and policies of the institution with respect to disclosing of nonpublic personal information of persons who have ceased to be customers of the financial institution;

(2) the categories of nonpublic personal information that are collected by the financial institution;

(3) the policies that the institution maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501; and

(4) the disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act.

SEC. 504. RULEMAKING.

(a) REGULATORY AUTHORITY.—The Federal banking agencies, the National Credit Union Association, the Secretary of the Treasury, and the Securities and Exchange Commission, shall jointly prescribe, after consultation with the Federal Trade Commission, and representatives of State insurance authorities designated by the National Association of Insurance Commissioners, such regulations as may be necessary to carry out the purposes of this subtitle. Such regulations shall be prescribed in accordance with applicable requirements of the title 5, United States Code, and shall be issued in final form within 6 months after the date of enactment of this Act.

(b) AUTHORITY TO GRANT EXCEPTIONS.—The regulations prescribed under subsection (a) may include such additional exceptions to subsections (a) and (b) of section 502 as are deemed consistent with the purposes of this subtitle.

SEC. 505. ENFORCEMENT.

(a) IN GENERAL.—This subtitle and the rules prescribed thereunder shall be enforced by the Federal functional regulators, the State insurance authorities, and the Federal Trade Commission with respect to financial institutions subject to their jurisdiction under applicable law, as follows:

(1) Under section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, bank holding companies and their nonbank subsidiaries or affiliates (except broker-dealers, affiliates providing insurance, investment companies, and investment advisers), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured State branches of foreign banks, and any subsidiaries of such entities, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings association the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such a savings association, by the Director of the Office of Thrift Supervision.

(2) Under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal or state chartered credit union, and any subsidiaries of such an entity.

(3) Under the Farm Credit Act of 1971, by the Farm Credit Administration with respect to the Federal Agricultural Mortgage Corporation, any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(4) Under the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker-dealer.

(5) Under the Investment Company Act of 1940, by the Securities and Exchange Commission with respect to investment companies.

(6) Under the Investment Advisers Act of 1940, by the Securities and Exchange Commission with respect to investment advisers registered with the Commission under such Act.

(7) Under Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U. S. C. 4501 et seq.), by the Office of Federal Housing Enterprise Oversight with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(8) Under the Federal Home Loan Bank Act, by the Federal Housing Finance Board with respect to Federal home loan banks.

(9) Under State insurance law, in the case of any person engaged in providing insurance, by the State insurance authority of the State in which the person is domiciled, subject to section 104 of this Act.

(10) Under the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (9) of this subsection.

(b) ENFORCEMENT OF SECTION 501.—

(1) IN GENERAL.—Except as provided in paragraph (2), the agencies and authorities described in subsection (a) shall implement the standards prescribed under section 501(b) in the same manner, to the extent practicable, as standards prescribed pursuant to subsection (a) of section 39 of the Federal Deposit Insurance Act are implemented pursuant to such section.

(2) EXCEPTION.—The agencies and authorities described in paragraphs (4), (5), (6), (9), and (10) of subsection (a) shall implement the standards prescribed under section 501(b) by rule with respect to the financial institutions subject to their respective jurisdictions under subsection (a).

(c) DEFINITIONS.—The terms used in subsection (a)(1) that are not defined in this subtitle or otherwise defined in section 3(s) of the Federal Deposit Insurance Act shall have the meaning given to them in section 1(b) of the International Banking Act of 1978.

SEC. 506. FAIR CREDIT REPORTING ACT AMENDMENT.

(a) AMENDMENT.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (d), by striking everything following the end of the second sentence; and

(2) by striking subsection ''(e)'' and inserting in lieu thereof the following:

''(e) REGULATORY AUTHORITY.—

''(1) The Federal banking agencies referred to in paragraphs (1) and (2) of subsection (b) shall jointly prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraphs (1) and (2) of subsection (b), or to the holding companies and affiliates of such persons.

''(2) The Administrator of the National Credit Union Administration shall prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraph (3) of subsection (b).''.

(b) CONFORMING AMENDMENT.—Section 621(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a)) is amended by striking paragraph (4).

SEC. 507. RELATION TO OTHER PROVISIONS.

This subtitle shall not apply to any information to which subtitle D of title III applies.

SEC. 508. STUDY OF INFORMATION SHARING AMONG FINANCIAL AFFILIATES.

(a) IN GENERAL.—The Secretary of the Treasury, in conjunction with the Federal functional regulators and the Federal Trade Commission, shall conduct a study of information sharing practices among financial institutions and their affiliates. Such study shall include—

(1) the purposes for the sharing of confidential customer information with affiliates or with nonaffiliated third parties;

(2) the extent and adequacy of security protections for such information;

(3) the potential risks for customer privacy of such sharing of information;

(4) the potential benefits for financial institutions and affiliates of such sharing of information;

(5) the potential benefits for customers of such sharing of information;

(6) the adequacy of existing laws to protect customer privacy;

(7) the adequacy of financial institution privacy policy and privacy rights disclosure under existing law;

(8) the feasibility of different approaches, including opt-out and opt-in, to permit customers to direct that confidential information not be shared with affiliates and nonaffiliated third parties; and

(9) the feasibility of restricting sharing of information for specific uses or of permitting customers to direct the uses for which information may be shared.

(b) CONSULTATION.—The Secretary shall consult with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, and also with financial services industry, consumer organizations and privacy groups, and other representatives of the general public, in formulating and conducting the study required by subsection (a).

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress containing the findings and conclusions of the study required under subsection (a), together with such recommendations for legislative or administrative action as may be appropriate.

SEC. 509. DEFINITIONS.

As used in this subtitle:

(1) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term ''Federal functional regulator'' means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Board of Directors of the Federal Deposit Insurance Corporation;

(D) the Director of the Office of Thrift Supervision;

(E) the National Credit Union Administration Board;

(F) the Farm Credit Administration; and

(G) the Securities and Exchange Commission.

(3) FINANCIAL INSTITUTION.—The term ''financial institution'' means any institution the business of which is engaging in financial activities or activities that are incidental to financial activities, as described in section 6(c) of the Bank Holding Company Act of 1956.

(4) NONPUBLIC PERSONAL INFORMATION.—

(A) The term ''nonpublic personal information'' means personally identifiable financial information—

(i) provided by a consumer to a financial institution;

(ii) resulting from any transaction with the consumer or the service performed for the consumer; or

(iii) otherwise obtained by the financial institution.

(B) Such term does not include publicly available information, as such term is defined by the regulations prescribed under section 504.

(C) Notwithstanding subparagraph (B), such term shall include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable information other than publicly available information.

(5) NONAFFILIATED THIRD PARTIES.—The term ''nonaffiliated third parties'' means any entity that is not an affiliate of, or related by common ownership or affiliated by corporate control with, the financial institution, but does not include a joint employee of such institution.

(6) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(7) NECESSARY TO EFFECT, ADMINISTER, OR ENFORCE.—The term ''as necessary to effect, administer or enforce the transaction'' means—

(A) the disclosure is required, or is a usual, appropriate or acceptable method, to carry out the transaction or the product or service business of which the transaction is a part, and record or service or maintain the consumer's account in the ordinary course of providing the financial service or financial product, or to administer or service benefits or claims relating to the transaction or the product or service business of which it is a part, and includes—

(i) providing the consumer or the consumer's agent or broker with a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product; and

(ii) the accrual or recognition of incentives or bonuses associated with the transaction that are provided by the financial institution or any other party;

(B) the disclosure is required, or is one of the lawful or appropriate methods, to enforce the rights of the financial institution or of other persons engaged in carrying out the financial transaction, or providing the product or service;

(C) the disclosure is required, or is a usual, appropriate, or acceptable method, for insurance underwriting at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law; or

(D) the disclosure is required, or is a usual, appropriate or acceptable method, in connection with—

(i) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card, check, or account number, or by other payment means;

(ii) the transfer of receivables, accounts or interests therein; or

(iii) the audit of debit, credit or other payment information.

(8) STATE INSURANCE AUTHORITY.—The term ''State insurance authority'' means, in the case of any person engaged in providing insurance, the State insurance authority of the State in which the person is domiciled.

(9) CONSUMER.—The term ''consumer'' means an individual who obtains, from a financial institution, financial products or services which are to be used primarily for personal, family, or household purposes, and also means the legal representative of such an individual.

(10) JOINT AGREEMENT.—The term ''joint agreement'' means a formal written contract pursuant to which two or more financial institutions jointly offer, endorse, or sponsor a financial product or service, and any payments between the parties are based on business or profit generated.

SEC. 510. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date on which the rules under section 503 are promulgated, except—

(1) to the extent that a later date is specified in such rules; and

(2) that section 506 shall be effective upon enactment.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 15 minutes.

Mr. MARKEY. Madam Chairman, I rise to request control of the time in opposition to the amendment.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. MARKEY. I am in momentary opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, I want to talk about what the brave new world of financial services marketplace is going to look like and what it is going to look like realistically as opposed to some of the scare stories my colleagues are going to hear from the gentleman from Massachusetts (Mr. MARKEY).

Basically, it means more choice of services and products, varied for the consumer, the joint ventures and, yes, the responsible sharing of consumer information taking place in the market today.

The reality is, the integrated products and services today's consumer expects from his or her financial institutions require information sharing, especially among affiliates. After all, in the eyes of the consumer, what are affiliates other than different departments of the same company that they are dealing with.

One can bet, for example, that if a consumer in Ohio, for example, has a relationship with bank one and is applying for a preapproved mortgage loan, he expects them to know when he calls that he has a savings account, a checking account, a car loan, and a CD with them. The last thing he wants is more government regulation and more forms to fill out when he is dealing with his own company.

The amendment I offer today with the gentlewoman from Ohio (Ms. PRYCE) and the gentlewoman from New Jersey (Mrs. ROUKEMA) takes a more realistic, more free market, more consumer friendly approach to the issue of privacy.

The amendment, I want to make this very clear, requires mandatory disclosure for the first time of financial institutions' privacy policy in clear and conspicuous language. The amendment provides an opt-out provision, enabling consumers who so choose not to have their confidential financial information disclosed to unaffiliated third parties.

It includes a prohibition on the sharing of consumer account numbers to third parties in connection with the marketing of products, thus addressing concerns regarding third-party telemarketing.

The amendment requires the financial institution regulators to set and enforce standards for the security of confidential information. An amendment requires the Secretary of Treasury to do a comprehensive study on privacy issues as it relates to affiliate structure.

I would point out to the Members this issue of information sharing within affiliates has had no hearing whatsoever, the Committee on Banking and Financial Services or in the Committee on Commerce. This would require a study by the Treasury Department to find out exactly where the pressure points are.

Madam Chairman, these are strong, new protections for consumer privacy, unheard of before. It takes a huge step in providing the kind of privacy for consumers and, at the same time, at the same time, allowing the efficiencies of the marketplace to work so effectively.

We trust consumers to make those kinds of choices when they are dealing

with their financial services company. If they do not like that privacy policy or they think that they are having their information passed on, they can simply change companies and vote with their feet.

□ 2145

That is what this amendment does. We trust the consumer. We think this is the best approach to privacy. I would ask support of the Oxley amendment.

Madam Chairman, I reserve the balance of my time.

Mr. MARKEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, maybe there are Members in this institution and maybe there are Americans who do not share the same concerns I have about my financial privacy. When I go to the ATM machine in this building, I go over and I punch in my four numbers, and then, as the machine spits out the hundred dollars, I pocket that and out spits a receipt. The receipt tells me what my balance is.

Now, I do not know about the other people in this Chamber, but I hide that sheet from the intern or the page who is standing right behind me, because I do not want them to know what my balance is.

Now, maybe I am different from other people in this room. As a matter of fact, I do not even throw away that slip in the bucket that is right there. I walk 10 buckets away, or I pocket it because I do not want anyone to know what my balance is.

Now, the Oxley amendment makes some progress because it gives an opportunity for a consumer to block the sale of that information to an unaffiliated company. That is progress. However, it does not stop within a bank holding company, if our checking records or any of our banking records are now affiliated with a new brokerage or a new insurance or a new telemarketing firm, because in fact the bank holding company can now be affiliated with a telemarketer. Or, looking earlier at the Burr amendment, perhaps television stations. Perhaps it will be CNBC. Perhaps it will be the Drudge Report. They can be affiliated with anything, anything, potentially. Well, we do not get any protection because they can share the information with anyone they affiliate with.

So the Oxley amendment does take a step forward, yes. Yes, indeed. But only when we reach, only when we reach the recommittal motion, which is coming up in about 15 or 20 minutes, will we get a chance to close the big loophole. The big loophole. And all I ask of my colleagues is that while, in fact, the Oxley amendment shuts down sale to robbers, that is burglars, those outside the bank holding company, it does not do anything about electronic embezzlers inside the bank holding company marketing it, not just to its affiliates, but they can market it because they are affiliates to anyone else in the world. That is the loophole. We have no privacy.

So the Oxley amendment is a good step forward but with a big loophole left that the recommittal motion is going to give every Member out here a chance to vote in a substantive way for, as they will for the health care provision that the gentleman from California (Mr. CONDIT) wants and the redlining provision that the gentlewoman from Texas (Ms. JACKSON-LEE) wants.

But the key here is to understand that at least on this Oxley amendment, while it is a good step forward, there is another big vote coming up in about 15 minutes after that, and this is just a preview of coming attractions that we are going to try to give our colleagues during the course of this debate on Oxley.

Madam Chairman, I reserve the balance of my time.

Mr. OXLEY. Madam Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER), a member of the Committee on Banking and Financial Services and a subcommittee chair.

Mr. BAKER. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, if we listened to the previous speaker's concerns about security and privacy in today's world, with computers on everyone's desk at home, computers across this Nation in business at this moment exchanging billions of pieces of information, we should be extremely concerned about privacy. I would merely point out, if AL GORE had not invented the Internet to begin with, we would not be having this problem tonight.

But let us get to the current state of law. The fact is, if we do not adopt this amendment and approve this bill there is no privacy constraints not only on financial institutions but on free enterprise institutions outside the financial marketplace.

Let us talk about the amendment. What does it do? It says, if someone is outside the bank, we can no longer give them proprietary private information of those customers, which does not belong to them. We cannot sell it to them, we cannot give it to them, we cannot do anything with it because that is prohibited by this law. First time ever. Federal law prohibits the use of proprietary financial institution information to third parties. This is a major step forward.

This kind of reminds me like my first experience in one of those big grocery stores. As I walked down the aisle I saw jeans for 12 bucks. First time in my life. That was a big deal. I walked around the corner, and I saw tires for four-wheelers. My goodness, how did they get here? I went around the next corner, and I ran into one of these nice ladies, and she had these little bitty wieners they only give out one at a time. But they were selling those little wieners in the store, along with the tires, along with the jeans, along with everything else. I thought this is amazing. What convenience. And great prices, too.

If we adopt this bill tonight, without the extreme provisions that the gentleman from Massachusetts (Mr. MARKEY) proposes, we can have the same thing in financial services. We can go to one location and we can buy insurance, we can invest in stocks, we can manage our retirement fund, all with the ease of dealing with one person and one institution.

What about the small town bank? The guy who runs the small town bank, he is the loan officer, he is the chief executive officer. He opens up in the morning; he closes at night. He sells insurance. If we took the Markey position with technology, that guy would have to have some type of surgery to split his head because he could not talk to the customer about two products. It would be prohibited because he would be sharing information improperly.

Please, this is a good product. It is the right approach. It is the right time.

Mr. MARKEY. Madam Chairman, I yield 3 minutes to the gentleman from New York (Mr. LAFALCE), the ranking member of the Committee on Banking and Financial Services.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Madam Chairman, I rise in support of this amendment. And, first of all, I want to give special thanks to two members from my staff, Dean Sagar and Tricia Hasten, who worked so hard on this; Kirsten Johnson from the staff of the gentleman from Minnesota (Mr. VENTO); Kristi from the staff of the gentleman from Texas (Mr. FROST); and so many other people, the gentlewoman from Ohio (Ms. PRYCE) and her staff, et cetera; the gentleman from Iowa (Mr. LEACH) and his staff.

This is a significant advancement with respect to privacy. There is no question about it. The gentleman from Massachusetts (Mr. MARKEY) had two options, to offer an amendment as a substitute for this, and I think this would have been preferable if we had to choose between the two; or to offer an amendment that would augment this. In his motion to recommit he will offer an amendment that will augment this; and, therefore, we could have the best of both worlds. So I advise my colleagues of that.

Now, what is good about this? What is excellent about this? Well, first of all, it creates for the very first time an affirmative and continuing obligation, a duty on the part of financial institutions to protect customer information. That does not exist under current law.

I introduced this bill in the last Congress. We were unable to get it. We did not even get it in the Committee on Banking and Financial Services' product. We have it in this amendment. This is terrific.

Further, not only do we create an obligation, we give the financial regulators the ability to articulate standards that the financial institutions must meet in order to fulfill that obligation. This, too, is terrific. I thank my staff. We have opt-out language that was contained in the amendment of the gentleman from Ohio (Mr. GILLMOR).

I introduced a bill to fulfill the challenge that the Comptroller of the Currency gave when he gave his speech talking about seamy financial institution practices. To fulfill the challenge of the lawsuit brought by the Attorney General from Minnesota, the bill would have been not just an opt-out or an opt-in but an actual prohibition. We have that in this amendment.

We have a prohibition on the disclosure of account numbers. We prohibit financial institutions from sharing with unaffiliated parties any credit card savings and transaction account numbers or other means of access to such accounts for purposes of marketing to the consumer, including telemarketing, including direct mail, and including E-mail marketing.

We have a prohibition on third party resale of private information. We prohibit unaffiliated third parties that receive confidential customer information from a financial institution from reselling or sharing this information with any other unaffiliated parties.

Let us not look a gift horse in the mouth. This is a terrific amendment. We would not have gotten here without the gentleman from Washington (Mr. INSLEE), we would not have gotten here without the gentleman from Massachusetts (Mr. MARKEY), and I thank them for that. Let us accept this and then let us go forward.

Mr. OXLEY. Madam Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE), who has done such a wonderful job in leading us in this effort on privacy.

Ms. PRYCE of Ohio. Madam Chairman, I thank my friend for yielding this time.

Madam Chairman, let me ask my colleagues if they are tired of their phone ringing in the middle of dinner only to be solicited for lawn care service. Are they tired of getting so much junk mail that they have to empty their trash twice as often as they used to? Are they tired of their teenagers being solicited for a new credit card every other week? Are they tired of wondering who in the world is giving out their addresses and phone numbers to these strangers? Well, I am, and I am mad as heck about it.

So today I am taking the floor to issue a public service warning to all of our constituents: ''Mr. and Mrs. America, your personal financial information may be disclosed by your bank to any Tom, Dick and Harry without your knowledge and without your consent.''

That is right, America, in all the years of banking law in this country there are no laws on the book to protect your privacy. Can you imagine that? That is wrong. It is un-American, it is anti-consumer, and it has to stop. The privacy amendment being offered here tonight is a historic precedent to put an end to that.

Now, many of my friends on the other side of the aisle say it is not perfect or complete enough, but, Madam Chairman, for the first time ever we will be saying that each financial institution has a legal obligation to protect the privacy and confidentiality of its customers. And for the first time ever we will be saying that every financial institution must adhere to strict standards to ensure the security and confidentiality of customer records. And for the first time ever we will require every institution to fully disclose to a customer up front what their privacy policy is. And perhaps most importantly, for the first time ever we will require that financial institutions give their customers a right to just say no to the sharing of what most Americans hold very, very dear: private information about themselves and their families.

Madam Chairman, make no mistake, this is a landmark privacy legislation which was drafted in a bipartisan fashion. And given that current law gives our constituents no protection whatsoever, and given that our colleagues in the other body have no privacy protection in their banking bill whatsoever, and given that last year's version of this very bill had no privacy protections whatsoever, while customers are growing more and more troubled by random telemarketing and junk mail, it is critical we adopt this amendment.

Privacy is a very personal thing. Americans feel very strongly about protecting it. Let us heed the voice of America. I urge adoption of the amendment.

Mr. MARKEY. Madam Chairman, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Madam Chairman, the previous speaker, the gentlewoman from Ohio (Ms. PRYCE), is entirely correct. Americans are sick and tired of having their personal financial information, their credit cards, their savings account information given away to telemarketers and getting those obnoxious calls during dinner time.

□ 2200

She is right. But they are just as tired of getting those calls from the affiliates of banks as they are from third parties of banks.

That is why it is imperative to augment the Oxley amendment by the motion to recommit to make sure that Americans have the right to stop not only third parties but affiliates from making those calls and violating their privacy.

Now, if I can share with Members something I learned yesterday and I think it is important in this debate. The members of the industry have objected to affiliate coverage of this vital protection, and they have said that if we do this, the financial system would collapse, there is simply no way that the banking system could accommodate this reasonable consumer protection.

Well, guess what? In Minnesota yesterday, a major U.S. bank got caught with its hand in the cookie jar. They were, in fact, giving away consumer private financial information. It was being used to telemarket to consumers. And when they were caught by the Minnesota attorney general, they said, mea culpa, you got us. We give up. But do my colleagues know what they agreed to? They agreed to a Minnesota consent decree, to a judicial order prohibiting sharing with their affiliate and their third parties because they knew that this could be done.

I am here to say, if it is good enough for the good folks in Minnesota, it is good enough for everybody across America and the U.S. Congress ought to be just as progressive and just as effective as the Minnesota attorney general and we ought to make sure that affiliates are covered just as well. That is why we have got to pass this motion to recommit.

Before I sit, we have talked a lot about privacy. I want to commend the work of the gentleman from Iowa (Chairman LEACH) and the gentleman from New York (Mr. LAFALCE) on this program. We have made some advancement. But we will be sorely, sorely feeling bad when our consumers look back to tonight and say to me and the gentleman from Massachusetts (Mr. MARKEY) and the rest of us, why did we not take care of the affiliates at the same time we took care of the third parties?

It is our chance to do it tonight. Pass the motion to recommit and finish the job.

Mr. OXLEY. Madam Chairman, I am pleased to yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA) who has taken great leadership on this issue and who is the Subcommittee Chair on Financial Institutions and Consumer Credit.

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Madam Chairman, I thank my colleague the gentleman from Ohio (Mr. OXLEY) for yielding me the time.

Madam Chairman, I have got to say that I am really very pleased by this debate thus far. I appreciate everything that the gentleman from New York (Mr. LAFALCE) has said. I think that is very constructive. And certainly I want to commend the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from Ohio (Ms. PRYCE) and I think she and the gentleman from New York (Mr. LAFALCE) have greatly strengthened the whole argument for this by saying this gives us more privacy than under any law that we have ever had.

This is a giant step in the right direction. But I must also say that it is

more than just a start. It is not the whole thing, but it is much more than just a start. It is literally a foundation for whatever we might do in the future. But it is a wonderful foundation, a strong foundation.

I want to say that, as the Chairwoman of the Subcommittee on Financial Institutions and Consumer Credit, some weeks ago before this privacy thing erupted, really I had set privacy hearings for July 21 and 22 with the recognition that there are some complexities that are here that we will have to deal with.

The gentleman from Ohio (Mr. OXLEY) pointed out that there is a report that we are going to be looking for as part of this amendment. But I want to point out to my colleagues that there are complexities to privacy and accountability here that have not been completely thought through.

For example, some may be concerned about the exceptions included in this bill. But, in my opinion, these exceptions are included to ensure that everyday transactions like mortgage servicing, securitization of mortgages, printing of checks can continue under our new financial system. But there are also exceptions that allow our law enforcement officials to conduct important investigations relating to public safety.

This is just another way of saying that this is a wonderful foundation, more than a small step, in the right direction. It is a giant step. But we have more to do, and this puts us on the right direction.

Mr. MARKEY. Madam Chairman, could the Chair tell me how much time is remaining.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MARKEY) has 5½ minutes remaining. The gentleman from Ohio (Mr. OXLEY) has 5 minutes remaining.

Mr. MARKEY. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Chairman, I want to rise to commend the distinguished subcommittee chairman for what he has done but to condemn him for not going as far as he should.

The bill as reported out of the Committee on Banking and Financial Services had no privacy protection at all. The bill that was reported out of the Committee on Commerce had privacy provisions that the gentleman from Massachusetts (Mr. MARKEY) offered that some people thought was too inflexible.

I supported the gentleman from Massachusetts (Mr. MARKEY). I worked with him and his staff to come up with a modified Markey-Barton-Dingell-Inslee-Eshoo et al. amendment that we offered to the Committee on Rules that was not ruled in order.

I remember the old days when we thought that banks should be banks and insurance companies should be insurance companies and brokers should be brokers. That was the good ol' days of the 1980s, not the 1940s or 1950s.

Well, tonight we have before us a mega-financial service reform bill that, according to those that support it, is going to allow companies to operate through hundreds of subsidiaries and affiliates, hundreds.

The question that I ask this body and the country is: If we are concerned about the selling and sharing of information to third parties, should we not be just as concerned about the selling, sharing, transmitting, or accessing that information inside of these affiliates if there are going to be dozens or hundreds of these affiliates?

I think that what the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from Ohio (Ms. PRYCE) have done is a step in the right direction. But it is only a step. Until we solve the riddle of handling information within the affiliates structure, we do not have privacy. We do not have privacy.

So I will vote for the amendment because it is a step in the right direction, but I will vote against final passage until we get this issue settled. It is not going to go away. We need to address it.

The debate this evening on the floor is good. I commend the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from New York (Mr. LAFALCE) and the gentleman from Ohio (Mr. LEACH) and the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from Ohio (Ms. PRYCE) and others for bringing the debate to the country. But the ultimate solution is not Oxley-Pryce. We need to go further.

Mr. OXLEY. Madam Chairman, I am pleased to yield 1 minute to the gentleman from Ohio (Mr. GILLMOR) who has been one of the leaders on the Committee on Commerce on the banking provisions, as well as the privacy provisions.

(Mr. GILLMOR asked and was given permission to revise and extend his remarks.)

Mr. GILLMOR. Madam Chairman, I want to commend the chairman for his leadership on the privacy issue. This amendment is an important step in protecting individual privacy. It protects it by regulating the disclosure and the sharing of consumer information by financial institutions.

It contains a number of the elements that were in an amendment that I offered in the Committee on Commerce, and the Committee on Commerce did adopt those provisions but it is not in the version before us.

Consumers feel they have lost control over how their financial information is being collected, how it is being distributed by institutions having nothing to do with the financial relations they have with those providers.

Personal information is much more accessible now, even without the person whose privacy is invaded knowing it is being invaded. The sale and transfer of that information is both widespread and it is growing. And the simple reason is the astonishing growth in technology today and information gathering and the human benefits the tremendous benefits we get from that also carry with them unprecedented threats to personal privacy and personal privacy need protection because it is an important part of individual freedom.

I urge support of the amendment.

Mr. MARKEY. Madam Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. FROST).

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Madam Chairman, I rise in support of the Oxley amendment.

Mr. MARKEY. Madam Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Madam Chairman, I rise in support of the comprehensive privacy amendment. I believe that this amendment improves the bill by providing consumers with new important safeguards for their financial privacy.

Public concerns about personal information privacy are growing. Seemingly each week, there are new reports of stolen identities, selling of consumer financial data, ''cookies'' on Internet sites, hijacked ATM cards and numbers. Both the Banking Committee and the Commerce Committee, for the first time, addressed consumer privacy in H.R. 10. During the Banking Committee debate on this issue, I stated that the issue of privacy is even bigger than the financial services modernization bill. While it is appropriate to insure that adequate privacy safeguards are in place to protect consumer privacy in the new financial marketplace, this legislation is not the vehicle to address an all embracing comprehensive privacy legislation. This bill will not stop identity theft. It will not stop the stealing of Social Security numbers nor the filing of false tax returns. H.R. 10 will not stop the selling of driver's license information or the selling of its lists or attaching cookies to visitors to web sites. Nor will this bill stop the diversion of an individual's mail nor the stealing of credit card and ATM numbers. Those issues are left for another day and future action.

H.R. 10 should contain a privacy protection component as it relates to financial institutions. That component should not just be a rhetorical statement, it must be a workable safeguard for consumers. The financial privacy protection amendment pending before the Committee is better than the Banking and Commerce Committee alternatives. It is a good, workable product that will serve our constituents well. The Financial Privacy Protection amendment reinforces the opt-out for third party information sharing—a key consumer concern. More importantly, the amendment puts in place strong affirmative provisions of law that provide absolute protections and benefits for consumers.

Those provisions include:

Affirmative privacy responsibility and policy.—Banks, insurance companies, credit unions, security firms, mutual funds, thrifts and

other financial institutions will be required by law to be respect for consumer's financial privacy and to have a privacy policy that meets federal standards to protect the security and confidentiality of the customers personal information.

Prohibition on sharing account numbers.—Consumer account numbers cannot be shared for the purposes of third party marketing. This protection applies to all consumers and requires no action on their part.

Workable ''Opt-Out'' on third party information sharing.—Consumers can ''opt-out'' of sharing of information with third parties in a workable fashion that protects consumers' privacy while allowing the processing of services they request.

Effective regulatory authority.—Regulatory and enforcement authority is provided to the specific regulators of each type of financial institutions. These regulators can best do the job instead of the alternative single regulator who is understaffed and supports privacy ''self-regulation'' for the industry it is currently charged to regulate.

Prohibits repackaging of consumer information.—Consumer information remains protected. It cannot be resold or shared by third parties or profiled or repackaged to avoid privacy protections.

Consumer disclosure.—Consumers must be notified of the financial institutions' privacy policy at the time that they open an account and at least annually thereafter.

These common sense, workable provisions will be added to the substantial protections already included in H.R. 10 that prohibit obtaining customer information through false pretenses and disclosing a consumer's health and medical information.

In addition, the legislation clearly defines what is ''publicly available information''. This definition is designed to insure that non-public information is not disseminated through a public information loophole. Under the amendment, which I helped to draft, publicly available information is intended to include information such as:

Public records from country or municipal sources, such as tax assessors' offices, recorders of deeds, tax collectors, planning departments and court systems;

Public records from state sources, such as planning agencies, secretaries of state, revenue agencies, departments of motor vehicles, state courts, departments of education, departments of forestry, environmental reporting agencies and employment security agencies;

Public records from federal sources, such as federal courts, the IRS, FEMA, the USGS, FCC, FAA, U.S. Post Office and Census Bureau; and

Public information from Journals, newspapers and other publications.

I do not take a back seat to any Member when it comes to consumer rights and consumer privacy. I have worked to protect consumer privacy through laws like Truth in Lending, Fair Credit Reporting Act and the Electronic Fund Transfer Act. I also introduced one of the first proposals to protect a consumer's privacy on the Internet, the Consumer Internet Privacy Protection Act.

During the Banking Committee mark-up, I introduced an amendment that would have provided an annual opt-out on affiliate sharing. I withdrew that amendment because I realized that it was unworkable. Other advocates of the opt-out are to date not dissuaded by the problems. Consumer privacy is not insured and consumer services are reduced. Unified statements cannot be issued and something as simple as calling to get an account balance will become a bureaucratic nightmare. The only thing that an affiliate opt-out amendment accomplishes is to require financial institutions to restructure themselves to conform to the cookie cutter mold developed by Congress.

A law that requires consumer action is appropriate but third party and affiliate ''opt-out'' is hardly the last word in consumer rights. The fact is that a number of consumers have such a right today under FCRA or institution policies. Even with that authority, only a small fraction of individuals, less than 1 percent, exercise that option. Consumer choice is nice but what does it really accomplish—what is the bottom line.

Another deficiency of the alternative proposal is the regulator. That approach gives enforcement authority to the Federal Trade Commission as opposed to the appropriate regulator for each financial institution. This is the same regulator who testified last year before the House Commerce Subcommittee on Telecommunications on Internet privacy. At that time, FTC Chairman Pitofsky testified that: ''The Commission believes that self-regulation is preferred to a detailed legislative mandate . . .'' We should not turn over such an important enforcement authority to such a reluctant regulator.

Madam Chairman, I urge my Colleagues to support the pending amendment. If we are to pass financial modernization, strong consumer privacy protection must be a cornerstone of that proposal. The pending amendment helps us to achieve that goal.

Mr. MARKEY. Madam Chairman, I yield myself the balance of the time.

Madam Chairman, the Oxley amendment is a good step forward. We will concede that. But it has huge loopholes in the law that it does not close.

As soon as we finish this debate on the Oxley amendment, we are going to have an opportunity to vote on a recommital motion. Within that recommital motion, each Member out here on the floor will have a straight shot to vote on the provisions that the Committee on Rules did not give the Members a chance to vote on.

They will have a chance to vote on the Condit amendment. The gentleman from California (Mr. CONDIT) and the gentleman from California (Mr. WAXMAN) have a proposal that will close all the medical loopholes. It will ensure that your medical information cannot be given away. It will guarantee that the exceptions that are inside of this bill that swallow the rule do not allow for families across this country to have their medical information sold and bought as though it was just an ordinary commodity.

Every Member on the floor in the recommital motion will also be put on substantive record on the issue of financial privacy within the holding company. That is, if they have all of their checks inside of a bank right now and they do not want them to give it over to a telemarketing affiliate, they do not want them to give it over to the brokerage affiliate, they do not want them to hand it over to the insurance affiliate, they cannot say no. They have no right to say no under the Republican bill.

In the recommital motion, each Member is going to be given an opportunity to say to every American, I think you should have the right to say no. I do not want any of my children's privacy compromised. I do not want my family's privacy compromised. I do not want the medical secret of my family out on the street just because it happens to be a bank holding company that owns the insurance policy, the checks, or the brokerage account and they have a marketing affiliate that sells my privacy like it is a commodity to hundreds of companies that are dying to find out everything that is going on within my State.

So we are going to give everyone an opportunity in that recommital motion, and we are going to throw in the Lee redlining as well as the third little provision. That is only going to be a 5-minute debate altogether. But when my colleagues vote on it, they are going on record on those issues. Because if it is successful, it goes into the bill immediately, and we are voting final passage. And if my colleagues vote no, this bill is leaving here with every one on record against medical privacy and against the financial privacy provision that ensures that the bank holding company and its telemarketing subsidiary, its affiliate, cannot just take all their secrets and sell them to the rest of the world and make millions of dollars.

Yes, they call it a synergy, by the way, a synergy. But we are trying to take the sin out of the synergy. We are trying to make sure that they get the benefits of all these products, they can say yes if they want them, but they can say no as well. That is what this is all about. It does not stop any bank from trying to get them to buy these products. What it says is they have a right to say, no, I do not want this. I want the checking account, that is it. Please do not sell the rest of the material to anyone else.

So the Oxley amendment is something that should be supported. I think we will all support it unanimously on this side. But the big vote is coming up in about 10 more minutes.

Mr. OXLEY. Madam Chairman, I am pleased to yield 1 minute to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I am pleased to support this amendment. It has a strong bipartisan protection for consumers. I know there is some honest disagreement between my colleagues on this very important issue of privacy. But what I would like to do is urge my colleagues to look at what is in this amendment, not what is missing.

My constituents of my district have told me time and time again that they

do not want their names and permanent information sold to companies they have never heard of. If we pass this Oxley amendment, consumers will be able to tell their banks; no, I do not want my name sold; no, I do not want you to share information with third parties.

Madam Chairman, this amendment takes us much further than I ever dreamt that we would go in strengthening current laws creating new and effective protections for consumers on privacy. Most of all, it has meaningful enforcement language. I urge its passage.

□ 2215

Mr. OXLEY. Madam Chairman, I yield 2 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Madam Chairman, I rise in strong support of this amendment. I would like to begin by not only congratulating the gentleman from Ohio (Mr. OXLEY) but, of course, my colleague on the second row here who worked long and hard as a member of the Committee on Rules and, yes, I want to even congratulate, we have once again made this a bipartisan effort, when I heard the word ''terrific'' used three times by my friend the gentleman from New York (Mr. LAFALCE), and I know that we will see very broad bipartisan support for what is I think a very important measure.

We are all appalled at the thought of telemarketers getting access to information. We all want to do everything that we can to stop that. In fact, the base text of this bill has the strongest consumer privacy protection we have ever had. But guess what? This amendment, that we are all going to be, I hope, overwhelmingly supporting based on the statements that I have been hearing, will be even tougher. The fact of the matter is this is a very balanced compromise. Why? Because privacy is a first priority. That is what it is that the American people want. But there are some other demands that they have. They also demand low cost and integrated financial products and services, they demand on-line banking and brokerage services, and they demand protection against financial fraud. Quite frankly to meet these demands, all of these demands, affiliates have to be able to share some information. That is why I am convinced that this now bipartisan effort which has seen many Members involved is in fact the balance that is needed for us to deal with the issue of privacy as well as meeting consumer demands.

I encourage my colleagues to support it.

Mr. OXLEY. Madam Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Ohio is recognized for 1 minute.

Mr. OXLEY. Madam Chairman, let me reiterate to the Members. Under the Oxley amendment, for the first time we are requiring financial services organizations to actually have a privacy policy. It has to be printed, it has to be explained to the customer, the customer has an opportunity to understand exactly what that privacy policy is. It never happened before until this amendment becomes law.

Secondly, now that the consumer who is working with this affiliate company understands that policy, he may or may not decide to continue to do business with that company. If he is so concerned that the company he is dealing with is going to be selling that information or leaking that information to other parts of the affiliate, he is going to vote with his feet, he is going to act like an educated consumer, to quote a famous line from Sy Syms. He is going to be an educated consumer, and he is going to go someplace else where his privacy is going to be protected. That is the marketplace working very effectively, I would say to my friend from Massachusetts, not some statute that ties up these financial institutions, costs them millions and millions of dollars which is going to be passed on to the consumer ultimately and is going to be less and less efficient.

This is the product that was worked on in a bipartisan way. I ask the Members to support the amendment.

Ms. JACKSON-LEE of Texas. Madam Chairman, I rise in support of the Oxley/Pryce/Roukema amendment because it requires financial institutions to respect the privacy of its customers. This is a basic consumer protection and I urge my colleagues to support this amendment.

The provisions of this amendment include basic consumer privacy protections. It requires an ''affirmative and continuing obligation'' to protect customer's personal information.

This amendment requires regulatory standards to insure security and confidentiality of customer records to protect against unauthorized access and use. With recent advances in technology, there is the possibility that a computer hacker can break into a bank's computer system and access personal account information.

This amendment requires that consumers be given the opportunity to opt-out of the disclosure of their private information with unaffiliated third parties. It also prohibits unaffiliated third parties that receive confidential customer information from sharing that information with any other unaffiliated parties.

Another important provision in this amendment requires that all financial institutions disclose their policies and practices for collecting customer information. All customers should have notice of these policies in advance.

Customers should also have advance knowledge of policies that protect their confidential information and the policies that prevent that information from being shared with unaffiliated parties. Advance knowledge of these policies not only protect the consumer, but it also protects the financial institution.

This amendment prohibits financial institutions from sharing credit card, savings and transaction account numbers for purposes of marketing to the consumer. This account information is especially sensitive and should be kept as confidential as possible.

These are common sense provisions that protect Americans who are sincerely concerned about privacy. These days, many companies have access to information about our spending and saving habits because of lax privacy laws that only make consumers vulnerable. However, I am looking forward to ensuring greater consumer protection as it relates to privacy issues—including medical records privacy—as this legislation moves to conference.

I am concerned that this amendment will allow financial institutions to share consumer information through their affiliates without restriction. However, this amendment is an important first step to ensuring a marginal level of privacy for consumers.I support the provisions in this amendment and I urge my colleagues to vote for its passage.

Mrs. MALONEY of New York. Madam Chairman, last year H.R. 10 passed this Chamber by one vote. In that version of Financial Modernization, there were no privacy provisions. This year things have changed. There are privacy provisions in the base text and there is this amendment which, if adopted, will make this one of the strongest privacy bills to involve the financial services industry.

I would like to thank all of the members who have worked on crafting this amendment, including Representatives FROST, LAFALCE, PRYCE, and OXLEY. A few days ago I submitted to this informal privacy working group a suggested amendment. My proposal would make certain that if an affiliate in a holding company were sold to another entity, only the information about their own customers could be transferred. No information about customers in the original holding company are allowed to be shared with the sold entity's new affiliates unless they were already a customer. This is an important privacy protection and I was pleased that the authors agreed to add it into this amendment.

Perhaps the most important part of this amendment are the strong disclosure provisions. This bill requires financial institutions to annually disclose to their customers their policies practices for collecting and protecting the customer's private information. Financial Modernization means more choices for consumers, and part of that choice should include the privacy policies of the firm which is trying to attract their business. If a customer is unsatisfied with a privacy policy of a firm, they can choose another. But this form of competition only works with strong disclosure requirements.

This amendment will also prohibit financial institutions from reselling a consumer's private information to a third party and will prohibit them also from sharing a customer's account numbers in order to market to that customer. This should prevent many of those unwanted telemarketing calls resulting from a relationship with a bank or other financial firm.

There are still some problems with the base text, including the problems with the privacy of medical information. But I am pleased with the colloquy between Mr. GANSKE and Mr. LAFALCE and I am confident that these issues will be worked out in conference.

These are the best privacy provisions to ever appear in a draft of H.R. 10 and I am supportive of this effort. To be sure, during this debate many good issues have been raised about these privacy issues. Chairman

LEACH has announced hearings on privacy for the end of July and I am sure the Banking Committee will continue to examine the issue and consider appropriate legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. OXLEY. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Ohio (Mr. OXLEY) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 235, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 10 offered by the gentleman from Virginia (Mr. BLILEY); amendment No. 11 offered by the gentleman from Ohio (Mr. OXLEY).

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

AMENDMENT NO. 10 OFFERED BY MR. BLILEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. BLILEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 203, not voting 5, as follows:

[Roll No. 273]

AYES—226

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boucher
Brady (TX)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Kasich
Kelly
Kildee
King (NY)
Kingston
Knollenberg
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
McCollum
McCrery
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Ose
Oxley
Packard
Pallone
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Strickland
Stump
Sununu
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Towns
Traficant
Upton
Vitter
Walden
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—203

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Capuano
Cardin
Carson
Chenoweth
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (IL)
DeFazio
Delahunt
DeLauro
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Gutierrez
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Larson
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Paul
Payne
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weldon (FL)
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—5

Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi

☐ 2240

Messrs. MOAKLEY, MCHUGH and JONES of North Carolina changed their vote from ''aye'' to ''no.''

Messrs. DAVIS of Florida, VITTER, BROWN of Ohio and DEUTSCH changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 235, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 11 OFFERED BY MR. OXLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on Amendment No. 11 offered by the gentleman from Ohio (Mr. OXLEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 427, noes 1, not voting 6, as follows:

[Roll No. 274]

AYES—427

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle

Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—1

Paul

NOT VOTING—6

Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi
Walsh

□ 2249

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mrs. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes, pursuant to House Resolution 235, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER. Is the gentleman from Massachusetts opposed to the bill?

Mr. MARKEY. Yes, I am opposed to the bill in its current form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MARKEY of Massachusetts moves to recommit the bill H.R. 10 to the Committee on Banking and Financial Services with instructions to report the same to the House forthwith with the following amendments:

Page 9, after line 19, insert the following new subparagraph (and redesignate the subsequent subparagraph accordingly):

''(D) In the case of any bank holding company which underwrites or sells, or any affiliate of which underwrites or sells, annuities contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death—

''(i) the company or affiliate has not been adjudicated in any Federal court, and has not entered into a consent decree filed in a Federal court or into a settlement agreement, premised upon a violation of the Fair Housing Act for the activities described in this subparagraph;

''(ii) if such company or affiliate has entered into any such consent decree or settlement agreement, the company or the affiliate is not in violation of the decree or settlement agreement as determined by a court of competent jurisdiction or the agency with which the decree or agreement was entered into; or

''(iii) the company has been exempted from the requirements of clauses (i) and (ii) by the Board under paragraph (4).

Page 9, line 24, strike ''and (C)'' and insert ''(C), and (D)''.

Page 10, line 15, strike ''(1)(D)'' and insert ''(1)(E)''.

Page 11, after line 4, insert the following new paragraph:

''(4) VIOLATIONS OF THE FAIR HOUSING ACT.—The Board may, on a case-by-case basis, exempt a bank holding company from meeting the requirements of clauses (i) and (ii) of paragraph (1)(D).

Page 25, line 2, strike ''or (C)'' and insert ''(C), or (D)''.

Page 26, line 18, strike ''(B) or (C)'' and insert ''(B), (C), or (D)''.

Page 84, line 18, strike ''(1)(D)'' and insert ''(1)(E)''.

Page 184, line 17, strike ''(1)(D)'' and insert ''(1)(E)''.

Page 370, beginning on line 20, strike subtitle D of title III through page 373, line 17 (and conform the table of contents accordingly).

Strike title V and insert the following (and conform the table of contents accordingly):

TITLE V—PRIVACY OF CONSUMER INFORMATION

Subtitle A—Disclosure of Nonpublic Personal Information

SEC. 501. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) PRIVACY OBLIGATION POLICY.—It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.

(b) FINANCIAL INSTITUTIONS SAFEGUARDS.—In furtherance of the policy in subsection (a), each Federal functional regulator shall establish appropriate standards for the financial institutions subject to their jurisdiction, and the Commission shall establish such standards for any financial institutions not subject to such jurisdiction, relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of customer records and information;

(2) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(3) to protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

SEC. 502. OBLIGATIONS WITH RESPECT TO PERSONAL INFORMATION.

(a) GENERAL REQUIREMENTS.—Except as otherwise provided in this subtitle, a financial institution may not, directly or through

any affiliate, disclose or make an unrelated use of any nonpublic personal information collected by the financial institution in connection with any transaction with a consumer in any financial product or any financial service, unless—

(1) such financial institution provides or has provided to the consumer a notice that complies with section 503 and the rules thereunder; and

(2) such financial institution maintains procedures to protect the confidentiality and security of nonpublic personal information.

(b) OPT-OUT REQUIRED FOR INFORMATION TRANSFERS.—

(1) OPPORTUNITY TO OBJECT REQUIRED.—The Commission shall by rule prohibit a financial institution from making available any nonpublic personal information to any affiliate of the institution, or to any other person that is not an affiliate of the institution, unless the consumer to whom the information pertains—

(A) is given the opportunity in accordance with such rule to object to the transfer of such information; and

(B) does not object, or withdraws the objection.

(2) FLEXIBILITY OF FORM.—A financial institution may, in complying with paragraph (1), present the opportunity to object in a manner that permits the consumer to object—

(A)(i) with respect to both affiliates and nonaffiliated persons;

(ii) separately with respect to affiliates generally and nonaffiliated persons generally; or

(iii) separately with respect to specified affiliates and nonaffiliated persons; and

(B) separately with respect to specified financial and nonfinancial products and services that may be offered to the consumer.

(c) ACCESS TO AND CORRECTION OF INFORMATION VENDED TO THIRD PARTIES.—

(1) RULE REQUIRED.—The Commission shall by rule require a financial institution that, for any consideration, makes available nonpublic personal information collected by the financial institution in connection with any transaction with a consumer in any financial product or any financial service to any person or entity other than an employee or agent of such institution, an affiliate of such institution, or an employee or agent of such affiliate, to afford that consumer—

(A) the opportunity to examine, upon request, the nonpublic personal information that was so made available; and

(B) the opportunity to dispute the accuracy of any of such information, and to present evidence thereon.

(2) EXCEPTION FOR PROPRIETARY INFORMATION.—The rule required by paragraph (1) shall not require a financial institution to afford a customer who requests access to the nonpublic personal information that was made available the opportunity to examine or dispute any data obtained by any analysis or evaluation performed using such information, or to examine or dispute the methodology of such analysis or evaluation.

(d) LIMITATIONS ON THE SHARING OF ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.—A financial institution shall not disclose an account number or similar form of access number or access code for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(e) GENERAL EXCEPTIONS.—Subsections (a) and (b) shall not prohibit the disclosing of nonpublic personal information, the making of an unrelated use of such information, or the making available of such information to affiliates or other persons by the financial institution—

(1) as necessary to effect, administer, or enforce the transaction or a related transaction;

(2) with the consent or at the direction of the consumer;

(3) as necessary to protect the confidentiality or security of its records pertaining to the consumer, the financial service or financial product, or the transaction therein;

(4) as necessary to take precautions against liability or to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

(5) as necessary to respond to judicial process;

(6) to the extent permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1974, to provide information to law enforcement agencies (including a functional regulator, a State insurance authority, or the Commission) or for an investigation on a matter related to public safety;

(7) to a consumer reporting agency in accordance with title VI of the Consumer Credit Protection Act;

(8) in executing a sale or exchange whereby the financial institution transfers to another financial institution or other person the business unit or operation, or substantially all the assets of the business unit or operation, with which the customer's transactions were effected; or

(9) in connection with a proposed or actual securitization, secondary market sale or similar commercial transaction;

(10) for reinsurance purposes.

SEC. 503. NOTICE CONCERNING DISCLOSING INFORMATION.

(a) RULE REQUIRED.—The Commission shall, after consultation with the Federal functional regulators and one or more representatives of State insurance regulators, prescribe rules in accordance with this section to prohibit unfair and deceptive acts and practices in connection with the disclosing of nonpublic personal information or with making unrelated uses of such information. Such rules shall require any financial institution, through the use of a form that complies with the rules prescribed under subsection (b), to clearly and conspicuously disclose to the consumer—

(1) the categories of nonpublic personal information that are collected by the financial institution;

(2) the practices and policies of the financial institution with respect to disclosing nonpublic personal information, or making unrelated uses of such information, including—

(A) the categories of persons to whom the information is or may be disclosed or who may be permitted to make unrelated uses of such information, other than the persons to whom the information must be provided to effect, administer, or enforce the transaction; and

(B) the practices and policies of the institution with respect to disclosing or making unrelated uses of nonpublic personal information of persons who have ceased to be customers of the financial institution; and

(3) the policies that the institution maintains to protect the confidentiality and security of nonpublic personal information.

(b) DESIGN OF NOTICE REQUIREMENTS.—In prescribing the form of a notice for purposes of subsection (a), the Commission shall ensure that consumers are readily able to compare differences in the measures that the financial institution takes, and the policies that the institution has established, to protect the consumer's privacy as compared to the measures taken and the policies established by other financial institutions. Such form shall specifically identify the rights the institution affords consumers to grant or deny consent to (1) the disclosing of nonpublic personal information for any purpose other than as required in order to effect, administer, or enforce the consumer's transaction, or (2) the making of an unrelated use of such information.

(c) ADDITIONAL CONTENTS OF RULES; EXEMPTIVE RULES.—The Commission shall, by rule after consultation with the functional regulators, and may by order—

(1) specify the disclosures and uses of information which, for purposes of this subtitle and the rules prescribed thereunder, may be treated as necessary to effect, administer, or enforce a consumer's transaction with respect to a variety of financial services and financial products;

(2) specify timing requirements with respect to notices to new and existing customers, which shall not require notices more frequently than annually unless there has been a change in the information required to be disclosed pursuant to subsection (a); and

(3) provide, consistent with the purposes of this subtitle, exemptions or temporary waivers to, or delayed effective dates for, any requirement of this subtitle or the rules prescribed thereunder.

(d) EXEMPTIVE RULES TO PERMIT EFFICIENT DATA STORAGE AND RETRIEVAL.—The exemptive rules prescribed by the Commission pursuant to subsection (c)(3) shall include such rules as may be necessary to permit financial institutions and their affiliates to establish and maintain efficient systems to collect and access nonpublic personal information in shared or networked data storage and retrieval facilities that are implemented in a manner consistent with the requirements of sections 501 and 502.

(e) RULEMAKING DEADLINE.—The Commission shall initially prescribe the rules required by this section within one year after the date of enactment of this Act. Such rules, and any revisions of such rules, shall be prescribed in accordance with section 553 of title 5, United States Code.

SEC. 504. ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsection (d), this subtitle and the rules prescribed thereunder shall be enforced by the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) ACTIONS BY THE COMMISSION.—The Federal Trade Commission shall prevent any person from violating this subtitle and the rules prescribed thereunder in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subtitle, except that notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)) the Commission shall, for purposes of this title, have jurisdiction with respect to banks, savings and loan institutions, and Federal credit unions. Any person who violates this subtitle or the rules prescribed thereunder shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this subtitle.

(c) TREATMENT OF RULES.—A rule issued by the Commission under this title shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) REGULATIONS PRESCRIBED UNDER SECTION501.—The regulations prescribed under

section 501 by the Federal functional regulators shall be enforced by the Federal functional regulators with respect to financial institutions subject to their jurisdiction under applicable law, as follows:

(1) Under section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, bank holding companies and their nonbank subsidiaries or affiliates (except broker-dealers, affiliates providing insurance, investment companies, and investment advisers), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured State branches of foreign banks, and any subsidiaries of such entities, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings association the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such a savings association, by the Director of the Office of Thrift Supervision.

(2) Under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal or state chartered credit union, and any subsidiaries of such an entity.

(3) Under the Farm Credit Act of 1971, by the Farm Credit Administration with respect to the Federal Agricultural Mortgage Corporation, any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(4) Under the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker-dealer.

(5) Under the Investment Company Act of 1940, by the Securities and Exchange Commission with respect to investment companies.

(6) Under the Investment Advisers Act of 1940, by the Securities and Exchange Commission with respect to investment advisers registered with the Commission under such Act.

(7) Under Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U. S. C. 4501 et seq.), by the Office of Federal Housing Enterprise Oversight with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(8) Under the Federal Home Loan Bank Act, by the Federal Housing Finance Board with respect to Federal home loan banks.

SEC. 505. FAIR CREDIT REPORTING ACT AMENDMENT.

(a) AMENDMENT.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (d), by striking everything following the end of the second sentence; and

(2) by striking subsection ''(e)'' and inserting in lieu thereof the following:

''(e) REGULATORY AUTHORITY.—

''(1) The Federal banking agencies referred to in paragraphs (1) and (2) of subsection (b) shall jointly prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraphs (1) and (2) of subsection (b).

''(2) The Administrator of the National Credit Union Administration shall prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraph (3) of subsection (b).''.

(b) CONFORMING AMENDMENTS.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is further amended—

(1) by striking paragraph (4) of subsection (a); and

(2) in subsection (b)—

(A) by inserting ''and bank holding companies, and subsidiaries of bank holding companies other than depository institutions,'' after ''Federal Reserve Act,'' in paragraph (1)(B); and

(B) by inserting '', and savings and loan holding companies and subsidiaries of savings and loan holding companies'' after ''Insurance Corporation'' in paragraph (2).

SEC. 506. DEFINITIONS.

As used in this subtitle:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term ''Federal functional regulator'' means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Board of Directors of the Federal Deposit Insurance Corporation;

(D) the Director of the Office of Thrift Supervision;

(E) the National Credit Union Administration Board;

(F) the Farm Credit Administration; and

(G) the Securities and Exchange Commission.

(3) FINANCIAL INSTITUTION.—The term ''financial institution'' means any institution the business of which is engaging in financial activities or activities that are incidental to financial activities, as determined under section 6(c) of the Bank Holding Company Act of 1956. Such term, when used in connection with a transaction for a consumer, means only the financial institution with which the consumer expects to conduct such transaction and does not include any affiliate, subsidiary, or contractually-related party of that financial institution, even if such affiliate, subsidiary, or party is also a financial institution and participates in the effecting, administering, or enforcing such transaction.

(4) NONPUBLIC PERSONAL INFORMATION.—

(A) The term ''nonpublic personal information'' means personally identifiable financial information—

(i) provided by a consumer to a financial institution;

(ii) resulting from any transaction with the consumer or the service performed for the consumer; or

(iii) otherwise obtained by the financial institution.

(B) Such term does not include publicly available information, as such term is defined by the regulations prescribed under section 504.

(C) Notwithstanding subparagraph (B), such term shall include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable information other than publicly available information.

(5) DIRECTORY INFORMATION.—The term ''publicly available directory information'' means subscriber list information required to be made available for publication pursuant to section 222(e) of the Communications Act of 1934 (47 U.S.C. 222(3)).

(6) UNRELATED USE.—The term ''unrelated use'', when used with respect to information collected by the financial institution in connection with any transaction with a consumer in any financial product or any financial service, means any use other than a use that is necessary to effect, administer, or enforce such transaction.

(7) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(8) NECESSARY TO EFFECT, ADMINISTER, OR ENFORCE.—The disclosing or use of nonpublic personal information shall be treated—

(A) as necessary to effect or administer a transaction with a consumer if the disclosing or use is required, or is one of the usual and accepted methods, to carry out the transaction and record and maintain the customer's account in the ordinary course of providing the financial service or financial product, and includes—

(i) providing the consumer with a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product; and

(ii) the accrual or recognition of incentives or bonuses associated with the transaction that are provided by the financial institution or any other party;

(B) as necessary to enforce a transaction with a consumer if the disclosing or use is required, or is one of the lawful methods, to enforce the rights of the financial institution or of other persons engaged in carrying out the financial transaction, or providing the financial product or financial service; and

(C) as necessary to effect, administer, or enforce a transaction with a consumer if the disclosure is made in connection with—

(i) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card or account number, or by other payment means;

(ii) the transfer of receivables, accounts or interests therein; or

(iii) the audit of debit, credit or other payment information.

The Commission shall, consistent with the purposes of this subtitle, prescribe by rule actions that shall, in a variety of financial services, and with respect to a variety of financial products, be treated as necessary to effect, administer, or enforce a financial transaction.

(9) FINANCIAL SERVICES; FINANCIAL PRODUCTS; TRANSACTION; RELATED TRANSACTION.—The Commission shall, consistent with the purposes of this subtitle, prescribe by rule definitions of the terms ''financial services'', ''financial products'', ''transaction'', ''related transaction'', and ''unrelated third party'' for purposes of this subtitle.

SEC. 507. EFFECTIVE DATE.

This subtitle shall take effect one year after the date on which the Commission prescribes in final form the rules required by section 503(a), except to the extent that a later date is specified in such rules.

Subtitle B—Fraudulent Access to Financial Information

SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this subtitle for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

(1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution;

(2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or

(3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this subtitle to request a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

(e) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No provision of this section shall be construed so as to prevent any insurance institution, or any officer, employee, or agency of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(f) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

SEC. 522. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Compliance with this subtitle shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the title VIII, the Fair Debt Collection Practices Act, to enforce compliance with such title.

(b) NOTICE OF ACTIONS.—The Federal Trade Commission shall—

(1) notify the Securities and Exchange Commission whenever the Federal Trade Commission initiates an investigation with respect to a financial institution subject to regulation by the Securities and Exchange Commission;

(2) notify the Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such Federal banking agency; and

(3) notify the appropriate State insurance regulator whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such regulator.

SEC. 523. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly and intentionally violates, or knowingly and intentionally attempts to violate, section 521 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 521 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 524. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subtitle as determined by the Commission, on its own motion or upon the petition of any interested party.

SEC. 525. AGENCY GUIDANCE.

In furtherance of the objectives of this subtitle, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) and the Securities and Exchange Commission or self-regulatory organizations, as appropriate, shall review regulations and guidelines applicable to financial institutions under their respective jurisdictions and shall prescribe such revisions to such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of customer financial information and to deter and detect activities proscribed under section 521.

SEC. 526. REPORTS.

(a) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, the Securities and Exchange Commission, appropriate Federal law enforcement agencies, and appropriate State insurance regulators, shall submit to the Congress a report on the following:

(1) The efficacy and adequacy of the remedies provided in this subtitle in addressing attempts to obtain financial information by fraudulent means or by false pretenses.

(2) Any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(b) ANNUAL REPORT BY ADMINISTERING AGENCIES.—The Federal Trade Commission and the Attorney General shall submit to Congress an annual report on number and disposition of all enforcement actions taken pursuant to this subtitle.

SEC. 527. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) CUSTOMER.—The term ''customer'' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term ''customer information of a financial institution'' means any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

(3) DOCUMENT.—The term ''document'' means any information in any form.

(4) FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''financial institution'' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term ''financial institution'' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

(C) SECURITIES INSTITUTIONS.—For purposes of subparagraph (B)—

(i) the terms ''broker'' and ''dealer'' have the meanings provided in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(ii) the term ''investment adviser'' has the meaning provided in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); and

(iii) the term ''investment company'' has the meaning provided in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(D) FURTHER DEFINITION BY REGULATION.—The Federal Trade Commission, after consultation with Federal banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subtitle.

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The gentleman from Massachusetts (Mr. MARKEY) is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, the recommittal motion that we are going to vote upon in 10 minutes will contain three elements. It will contain the amendment of the gentlewoman from California (Ms. LEE) on insurance redlining, which she won in the Committee on Banking and Financial Services, but the Committee on Rules would not put in order. It will include the amendment of the gentleman from California (Mr. CONDIT) and the gentleman from California (Mr. WAXMAN), which ensures that full medical privacy

protections are guaranteed. They are not in this bill; and third, that the financial privacy amendment, which I won in the Committee on Commerce, but not put in order out here, is also voted upon.

Remember, in the Oxley amendment, telemarketing is prohibited by unaffiliated companies of a bank holding company but telemarketing of the financial data is not stopped inside the bank holding company.

We are going to prohibit that tonight in the recommittal motion.

Mr. Speaker, I yield to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, when I appeared before the Committee on Rules yesterday, I said there were a number of corrections or amendments that should be offered. First of all, I said please restore a provision that the Committee on Banking and Financial Services adopted or at least allow us to offer it as an amendment. That dealt with a prohibition against redlining against an insurance company when the insurance company wants to affiliate with a bank. That is in the Markey motion to recommit.

I also said I was very troubled by the Ganske amendment because although it is extremely well intentioned, the exceptions to it one could drive a Mack truck through it right now, and it might be construed as preempting the ability to articulate through regulation more broad sweeping privacy protections.

Also, at that time, the Markey amendment would have been a substitute for the excellent privacy provisions that have been worked out in a bipartisan fashion. I can support the bill but the bill would be improved tremendously by the motion to recommit.

Mr. MARKEY. Mr. Speaker, I yield to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank my colleague, the gentleman from Massachusetts (Mr. MARKEY) for yielding and for his consistent hard work on behalf of our consumers.

Mr. Speaker, I wanted to support a reasonable financial services modernization bill and I worked very hard with my colleagues to include important consumer protections and privacy measures as this bill moved to the floor. Unfortunately, however, the Republicans refused to accept these amendments, and made matters worse by wiping out an adopted anti-redling provision to require the insurance industry to comply with the Fair Housing Act and not discriminate against the poor, minorities and people who live in neighborhoods redlined by the insurance industry.

We have not allowed banks to discriminate. Why should we allow the insurance industry to discriminate?

We did not adopt this amendment to stall this bill as one of my Republican colleagues accused me of earlier. We adopted this amendment to provide equal opportunity for all Americans. The Committee on Rules, by whatever unDemocratic means they used in a blatant, arrogant misuse of their power, deleted this important, agreed-upon amendment. This overt violation of the legislative process is outrageous and really should be illegal. It is an example of governmental lawlessness.

Let us restore some integrity to this process and vote for this motion to recommit

Mr. MARKEY. Mr. Speaker, I yield to the gentleman from California (Mr. CONDIT).

Mr. CONDIT. Mr. Speaker, I rise in support of the recommittal motion and am opposed to H.R. 10. Let me simply just say the reason that I oppose H.R. 10 and support the motion to recommit is section 351.

This section of the bill should have been deleted. The privacy part related to medical records is inadequate. It does not have consumer consent. The definition of the consent under this section on page 371 is too vague. The health research part of the bill creates loopholes for drug companies and marketing firms. Patients rights, they simply do not exist; no access to a person's own health records. A person cannot even get their own records and have control over them. There is no redress if a person's privacy is violated; no restrictions on third party entities from disclosing personal information to marketing firms or other parties.

We ought to do this right on behalf of the American people.

It is important that we do this bill H.R. 10, but it is not more important than us protecting people's privacy. That should be our main thrust in this bill is to make sure that the people of this country can count on us to protect their privacy.

Mr. MARKEY. Mr. Speaker, this is a pure substance vote. These are the votes the bankers did not want to be taken. The reason they did not want them to be taken is because they are so hard. Yes, we are going to offer full medical privacy protection to all of people's records.

□ 2300

This is a straight up-or-down substantive vote. Yes, we are going to give full financial protection. It does not make any difference whether it is some third party or the bank themselves, we have a right to say no. If we want all of these services from this new financial structure, we can take advantage of them, but we might be part of the 10 percent or 20 percent or 30 percent, in the same way that we have an unlisted phone number, we just might not want anyone telemarketing to us, even from our bank, going through all of our checks. Just say no.

Thirdly, the point of the gentlewoman from California (Ms. LEE) on the insurance industry, why should it be any different on redlining? Why should not her community and all the poorer communities of the country have those kinds of protections?

When Members vote for recommital, it goes straight into the bill, it is part of it, and then we vote final passage. If Members vote no, they are voting not to put it in the bill right now. Recommital does not go back to the committee, it just goes right to that desk and into the bill immediately.

This is a straight substance vote. Please, vote for the recommital motion, and Members have made this a good financial services modernization bill for the banks and for the American people.

Mr. LEACH. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER. The gentleman from Iowa (Mr. LEACH) is recognized for 5 minutes.

Mr. LEACH. First, Mr. Speaker, let me express my appreciation for the thoughtfulness of the concerns of the proponents of this motion.

At the risk of presumption, I would stress that the majority and the minority are not as far apart as the rhetoric might lead a listener to this debate to expect.

There are two principal aspects to the amendment. One relates to the Lee amendment on redlining, which some of us on this side differ with, and others, like myself, find quite reasonable.

The other relates to privacy. Here I would simply note that the bill before us represents the greatest expansion of privacy rights in modern day finance. Indeed, it represents, in the words of the gentlewoman from Oregon (Ms. HOOLEY), a movement far further than she would have ever have dreamed.

In the words of the gentleman from Massachusetts (Mr. MARKEY), it is a good step forward. Actually, it is not one but a number of steps forward. Let me mention six.

One, there is a mandatory disclosure by financial institutions of privacy policies.

Two, there are consumer opt-out choices to prevent the sale of confidential information to unaffiliated third parties.

Three, there is a medical opt-in choice to prevent the transfer of a consumer's medical information without the consumer's consent.

Four, there is a prohibition on disclosure of consumer account numbers to third party telemarketers.

Five, there are new privacy enforcement mechanisms for financial institution regulators.

Six, there is a prohibition on pretext calling. This is a policy where individuals can call up an institution and claim they are someone else and get their information, and now that is outlawed.

To object to this bill on final passage will be to vote against these privacy protections. Indeed, the biggest privacy vote of all our careers in the United States Congress will be on final passage of this bill. Let me repeat, the biggest privacy vote of all our careers in Congress will be on final passage of this bill.

Now, what is the amendment before us? Basically, the amendment before us subtracts one feature of the bill and adds another. What it subtracts is the provision of the gentleman from Iowa (Mr. GANSKE) which imposes important new protections for health and medical privacy. I have never known a more misunderstood provision, so let me stress what the Ganske provision does.

It imposes a broad prohibition on the disclosure by an insurance company or its affiliates of individually identifiable health, medical, and genetic information, unless the customer expressly consents to such disclosure.

If Members strip this provision of H.R. 10 from the bill, they are leaving customers of financial companies without any medical privacy protections, thereby leading to precisely the kinds of privacy umbrages that the opponents of the language claim they want to prevent.

In this regard, I would stress again that there is no intent in this bill to preempt executive branch actions or jeopardize any confidences associated with doctor-patient relationships, nor the privacy protections currently afforded any medical records.

Indeed, the intent is to strengthen these protections. To the degree that more precision in this area is required, this gentleman is prepared to work in conference to ensure that that occurs.

What is it that this amendment adds? It adds a restriction on the ability of financial institutions to share consumer information with affiliates that are all part of the same financial organization.

Unfortunately, there is some question whether this proposed restriction on affiliate information-sharing might needlessly and dramatically increase costs for consumers and financial institutions, reduce consumer convenience, impair fraud detection and prevention, and deny consumers new cost-effective products.

It is the intention of the various committees of jurisdiction, including the Committee on Banking and Financial Services, to hold hearings on this issue in the near future. This Member has an open mind. The concerns I raise are questions without definitive answers.

Accordingly, at this time, I would urge caution, and only ask that Members recognize the historical nature of the extraordinary expansion of privacy protection contained in this bill.

In conclusion, I urge an enthusiastic yes vote on final passage, again, final passage on the greatest privacy expansion in the history of American finance, and a preliminary no vote on the Markey motion to recommit until the consequences of his approach receive careful scrutiny in the hearings process.

I thank all, friend and foe, for their courtesies.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 198, nays 232, not voting 5, as follows:

[Roll No. 275]

YEAS—198

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rogan
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Woolsey
Wu
Wynn

NAYS—232

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi

□ 2323

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEACH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 343, noes 86, not voting 6, as follows:

[Roll No. 276]

AYES—343

Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Carson
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Cook
Cooksey
Cox
Cramer
Crane
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Etheridge
Everett
Ewing
Fletcher
Foley
Forbes
Ford
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
Largent
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (FL)
Miller, Gary
Minge
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Strickland
Stump
Sununu
Sweeney
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Tiahrt
Toomey
Towns
Traficant
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—86

Abercrombie
Baldwin
Barrett (WI)
Barton
Bonilla
Brady (PA)
Brady (TX)
Brown (OH)
Campbell
Capps
Capuano
Chenoweth
Clay
Coburn
Combest
Condit
Conyers
Costello
Coyne
Cummings
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Edwards
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gejdenson
Granger
Hefley
Hilliard
Hinchey
Hoekstra
Inslee
Jackson (IL)
Kaptur
Kleczka
Kucinich
LaHood
Lampson
Lantos
Lee
Lewis (GA)
Lofgren
Luther
Markey
Martinez
McCarthy (MO)
McDermott
McKinney
Meehan
Mica
Miller, George
Mink
Moran (KS)
Nadler
Obey
Olver
Ortiz
Paul
Payne
Peterson (MN)
Phelps
Rivers
Rodriguez
Roybal-Allard
Sanders
Schakowsky
Serrano
Stark
Stenholm
Stupak
Tancredo
Taylor (MS)
Thornberry
Thurman
Tierney
Turner
Waters
Waxman
Woolsey

NOT VOTING—6

Archer
Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi

☐ 2332

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 10.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE SENATE AND HOUSE

Mr. REYNOLDS. Mr. Speaker, I call from the Speaker's table the Senate concurrent resolution (S. Con. Res. 43) providing for conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives, and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 43

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, July 1, 1999, Friday, July 2, 1999, or Saturday, July 3, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 12, 1999, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, July 1, 1999, or Friday, July 2, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 12:30 p.m. on Monday, July 12, 1999, for morning-hour debate, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

The SPEAKER. Without objection, House Resolution 236 is laid on the table.

There was no objection.

AUTHORIZING SPEAKER, MAJORITY LEADER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS NOT WITHSTANDING ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, July 12, 1999, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 14, 1999

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 14, 1999.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1300

Mr. FROST. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1300.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF HON. THOMAS M. DAVIS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL JULY 12, 1999

The SPEAKER laid before the House the following communication:

WASHINGTON, DC,
July 1, 1999.

I hereby appoint the Honorable THOMAS M. DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 12, 1999.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER. Without objection, the appointment is accepted.

There was no objection.

RECOGNIZING LATE UNC-CHAPEL HILL CHANCELLOR MICHAEL HOOKER

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to honor the memory of Michael Hooker, the Chancellor of the University of North Carolina. This Nation has lost a great educator, and I have lost a good friend.

Chancellor Hooker passed away Tuesday in the midst of his own service to the public after a courageous battle with cancer. He was just 53 years of age. Our prayers go out to his family.

In his 4 years at UNC, Chancellor Hooker established a reputation as a driven leader with a firm vision for North Carolina's future. He was committed to making UNC the best public university in the Nation. Hooker earned the respect of students, faculty and the citizens of North Carolina with his confidence and enthusiasm. Chancellor Hooker forged a strong bond with many students by meeting them on their own turf. He was a regular at UNC's dining halls and recreation centers and even was spotted crowd surfing in the student section during a UNC basketball game against their rival Duke University.

Mr. Speaker, as the former superintendent of my State and as the father of a UNC graduate, I know firsthand what an outstanding man Michael Hooker was. I worked with him on many projects. His vision and leadership will have a lasting impact on both the University and the citizens of North Carolina for years to come. Rest in peace, Michael Hooker.

He is survived by his wife, Carmen; his daughter, Alexandra; his mother Christine Hooker; and two stepdaughters, Jennifer and Cyndi Buell. Our prayers go out to his family.

Michael Hooker grew up in the coal country of Southwestern Virginia, where he quickly leaned the value of education. Michael once said that his parents decided to have only one child to better commit their attention to his education. His parents' commitment paid off, as Michael earned his bachelor's degree in philosophy from UNC in 1969. After his graduation, he went on to great success, rising from a teaching post at Harvard University to the Presidency of Vermont's Bennington College at the young age of 36. Hooker then spent six years leading the University of Maryland-Baltimore County and another three years as the president of the University of Massachusetts system before returning to North Carolina to lead his alma matter into the 21st century.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Mrs. JOHNSON) is recognized for 5 minutes.

(Mrs. JOHNSON of Connecticut addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

WE ARE WEARING THEM OUT: WHY WE NEED TO INCREASE ARMY TROOP STRENGTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. SKELTON) is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, this year, at the urging of the Joint Chiefs of Staff and other senior military leaders, Congress has taken some critically important steps to improve military pay and benefits. Both the House and the Senate have now approved versions of the Fiscal Year 2000 Defense Authorization Bill that provide higher than requested pay raises for service personnel and reforms the pay table to better reward personnel who have performed particularly well and that repeal reductions in military retirement benefits enacted in 1986.

Although there remain minor differences between the two chambers on some details, service members can be assured that these much needed and much deserved improvements in pay and benefits are on the way.

I hope that the fine young men and women who serve in our Nation's military will see this as evidence that we appreciate what they are doing, that we are aware of how hard they are working, and that we understand, to some degree at least, the tremendous personal sacrifices we ask them to make for our country.

☐ 2340

Having addressed pay and benefits, it is now time for the leaders in the military services and for the Congress to consider other critical steps to ease the burdens of military service. First and foremost in my mind is the need to stop imposing dreadfully excessive day-to-day demands on large parts of the force. The Congress is approving better pay and benefits in the hope that these measures will help stem the hemorrhage of high quality people from the force and ease recruitment of some new high quality people. Pay table reform in particular is designed to encourage the best of the best, the people whose work has led to rapid promotion, to stay in the service for a full career. But service members are not leaving the force simply or mainly because they are not being paid enough. Nobody makes the armed forces a career because of the financial rewards. Rather, too many good people are leaving because we are wearing them out.

Let me emphasize that point again, Mr. Speaker, we are wearing them out. While it is not true of all parts of the force, for too many service members and too many key military specialties, their lives have become a never-ending and often unpredictable cycle of stand-ups and stand-downs; of preparation for exercises, exercises and recovery from exercises; of preparation for deployment abroad, deployment in often tense missions overseas, and of recovery from deployment; of temporary duty assignments to fill out units engaged in exercises or in missions abroad, or of working doubly hard at home to take up the slack caused by the loss of people on temporary duty assignments, and on and on. Unless we take steps to reduce the number of days many service members spend away from home, unless we ease the intensity and constancy of periods of overwork, unless we improve the predictability of periods away from home, unless we do all of these things, the extra pay and benefits we are providing will have but little effect in preserving a high quality, well-trained, ready military force.

All of the military services suffer from the problem of overwork to one degree or another. And all of the services are taking steps to try to ease the workload. Today, however, I want to talk in particular about the state of the Army, where I believe the underlying problems are most deep-rooted and where measures to ameliorate the problem will have to be most far reaching.

To put it bluntly, the Army today is too small. It is not big enough to carry out all of the responsibilities assigned to it without wearing out too many of its best people. We need a bigger Army. How much bigger? I will not at this time venture to say. I do not know whether we need 5,000 more people in the Army or 20,000 or 40,000. But I know we need more. For the record, in testimony before the House Committee on Armed Services in January 1996, Lieutenant General Ted Stroup, who was then the Army personnel chief, said the Army should be at 520,000 active duty troops, which is 40,000 more than is currently authorized.

I believe as well that we cannot afford to follow through on measures to

reduce further the size of the Army National Guard and Reserve components. They, like the active Army, have been reduced enough. Instead of shrinking them further, we need to work on measures to improve the way in which reserve components can help, even more than they have, to ease the strains on the active part of the force.

To his credit, the new Chief of Staff of the Army, General Eric Shinseki, has begun already to raise the issue of personnel levels. In his confirmation hearing before the Senate Armed Services Committee 3 weeks ago, General Shinseki opened the door to a discussion of troop levels, saying, ''It would be a bit premature for me to tell you that raising the end strength right now is the right call. But I think it is a legitimate concern.'' He clarified that comment a bit more last week in his first press conference as Chief of Staff when he said that he suspects the Army will decide it needs more troops after it completes its current review of Army requirements, called ''Total Army Analysis—2007,'' over the next few months.

While I look forward to the results of ''TAA–07,'' for me the question is not whether the Army should pursue an increase of some significant magnitude in its personnel strength—the question is how much and how fast. And I think the sooner the Army leadership begins to make the case for a necessary increase, the better Congress will be prepared to address it, and, more importantly, the sooner the troops will feel that some relief is coming. To explain my reasoning, I want to walk through, step by step, how shortfalls in Army personnel levels have developed in the post-Cold War period and how they have affected the people in the service.

To begin with, like the other services, the Army has drawn down force levels substantially since the end of the Cold War. At the end of fiscal year 1987, the Army had 780,000 active duty troops. At the end of fiscal year 1999, the Army's authorized end-strength will be down to 480,000 troops, which is 38% less. In fact, the Army is actually falling considerably short of its authorized troop level—as of April 30 of this year, there were 469,314 active duty troops in the service.

The Army's cut in end-strength is roughly commensurate with cuts in the size of the force structure, that is, in the number of units in the force. Over the last 12 years, the Army has come down from 18 active divisions to 10, which is a reduction of 44%. The number of brigades has come down somewhat less, because almost all Army divisions are now wholly filled with active duty units rather than some being filled with round-out units from the National Guard, as in the past.

As it has turned out, however, simply shrinking Cold War troop levels in proportion to cuts in the Cold War force structure has not been appropriate in coping with post-Cold War demands on the force. The root cause of the problem is that the Army has deliberately maintained—in the post Cold-War environment as it did during the Cold War—a somewhat larger force structure than it has people to fill. If you take a table or organization for the entire active duty Army today, and count up all the jobs in the organization—including combat jobs, headquarters staff, training, medical, and other support positions—you will come up with a requirement for about 540,000 full time uniformed personnel. As I said, the Army actually has an authorized end-strength of 480,000, which is 60,000 troops, or about 11 percent, below the level need to fully man the organizational structure.

During the Cold War, and to some degree even today, it made sense to fall somewhat short of filling all the Army's positions. As the Defense Department has said in its annual ''Manpower Requirements Report,''

During peacetime, it is neither necessary nor desirable to fill all positions in all units. Some units may not be staffed at all, due to a lack of funding or because we can fill them in an expeditious manner following mobilization. Some units may be staffed with a combination of active and reserve people. As a unit is tasked to perform more in peacetime, the proportion of full-time people, whether active, reserve, or civilian, may be expected to increase.

This explains the underlying premise of the manning policies of the Army, and, to differing degrees, of the other services. In peacetime, units deployed on missions and units designated to deploy early in a conflict, are maintained at full or close-to-full manning levels, while units designated to deploy later and many support activities are maintained at lower levels. In the event of a conflict, critical needs can be filled by reassigning people within the force or by tapping other sources of personnel—including recent retirees who still have an obligation or members of the individual ready reserve, IRR, which is mainly composed of people who have not reenlisted after completing their contractual tours of duty, but who also have a period of obligation remaining.

This system makes sense if you are preparing for an all-out war with the Soviet Union and its allies, as in the Cold War, or for two major theater wars, as planners initially assumed in the post-Cold War era. If the prospect of a major conflict arises, then you do whatever it takes to get the force fully prepared—you take people out of the training system and put them into combat units; you mobilize reserve units and assign some personnel to active units to fill them out; you call back recent retirees and members of the individual ready reserve as needed to fill critical positions. The fully manned Army organization is really a wartime organization, which is not necessary to maintain in peacetime.

In the post-Cold War period, however, we have found that peacetime is not what it used to be. It is not a period in which the Army—or the other services—can focus simply on preparing for the most demanding conflicts in the future. The world is a dangerous place—now. Iraq and North Korea have simmered, threatening to flare into regional crises. India and Pakistan have tested nuclear weapons and are currently engaged in a territorial dispute. Peace in Bosnia and Kosovo confound a neat, easy solution. Terrorism still rears its ugly head. Since the end of the Cold War, our military has responded to an average of one crises or contingency a month, a pace of operations 300% greater than during the Cold War.

Some may argue that we should simply decrease our pace of operations. They would be wrong. The United States must remain engaged in the world. Our global engagement prevents the growth of malevolent powers that could threaten our security. Our engagement provides stability in a world more globally dependent than at any time in history. The world's stability affects our stability. It is simply in America's interests to shape the peace.

The post-Cold War era is a period in which forces have been required to prepare for major theater wars and also to participate in recurring peacekeeping operations, to maintain a constant, active forward presence, and to engage in an extraordinarily broad range of exercises and other activities, with long-time allies and former foes, as part of a policy of international engagement. Senior Army officers have said that this so-called ''peacetime'' has actually been as demanding for the force as a major theater war would be. There is, of course, one big difference—unlike a war, the current demands never go away. There is the strong possibility that if we continue with the high operational tempo, and I foresee no let-up, we will truly end up with a hollow Army.

A policy of not fully manning later deploying units and of not fully manning many critical support functions would make sense if peacetime were actually peaceful, such as during the 1920s and 1930s. But such a policy does not make sense when a wartime level of demand is constantly being imposed on precisely the forces that are deliberately being undermanned on the assumption that they can be built up in the event of a crisis. The effects of this policy have been very deterimental for large parts of the Army. Last year and this, subcommittees of the House Armed Services Committee held a number of hearings to explore the impact of the demanding post-Cold War pace of operations on personnel readiness in different services—including hearings in Norfolk, in Naples Italy, and in San Diego. Last year, at the request of the Committee, the General Accounting Office also surveyed personnel readiness in later-deploying active Army divisions.

While I won't go into great detail on what we learned from these investigations, I will highlight a few points that illustrate what I see to be the general situation. First of all, the Army, as I said earlier, has followed a policy of most fully manning early deploying divisions, while later-deploying units and many support units are less fully manned. The problem is that later-deploying units, by definition, are the units expected to be available for contingency operations, such as those in Somalia, Haiti, Bosnia, the Persian Gulf, and now Kosovo. In particular, later-deploying Army units include brigades deployed in Europe, where forces are expected not only to deploy to Bosnia and elsewhere, but also to be actively involved in engagement exercises with allies and others in the region.

When a Europe-based brigade sends part of its force into Bosnia, the units being deployed there have to be fully manned to carry out the mission. But this will further deplete a brigade that to begin with is manned at only 90% of total authorized strength. The problems become particularly acute because troop shortages are never evenly distributed. So if there is an Army-wide shortage at certain grades or in certain specialties, later-deploying units will be even shorter in those positions. Spending part of the force on a mission can virtually strip the remainder of the unit of key personnel. And because there is an Army-wide

policy of not fully manning certain support positions, including positions as important to mission support as intelligence and communications, shortages in some areas leave some units with virtually no capability on hand.

The General Accounting Office survey I referred to gave some dramatic examples of the effect:

At the 3rd Brigade of the 1st Armored Division, only 16 of 116 M1A1 tanks had full crews and were qualified, and in one of the Brigade's two armor battalions, 14 of 58 tanks had no crewmembers assigned because the personnel were deployed to Bosnia. In addition, at the Division's engineer brigade in Germany, 11 of 24 bridge teams had no personnel assigned.

[C]aptains and majors are in short supply Army-wide due to drawdown initiatives undertaken in recent years. The five later-deploying divisions had only 91 percent and 78 percent of the captains and majors authorized, respectively, but 138 percent of the lieutenants authorized. The result is that unit commanders must fill leadership positions in many units with less experienced officers than Army doctrine requires. For example, in the 1st Brigade of the 1st Infantry division, 65 percent of the key staff positions designated to be filled by captains were actually filled by lieutenants or captains that were not graduates of the Advanced Course.

There is also a significant shortage of the NCOs in the later-deploying divisions. Again, within the 1st Brigade, 226, or 17 percent of the 1,450, total NCO authorizations, were not filled at the time of our visit.

[T]o deploy an 800-soldier task force [to Bosnia] last year, the Commander of the 3rd Brigade Combat Team had to reassign 63 soldiers within the brigade to serve in infantry squads of the deploying unit, strip non-deploying infantry and armor units of maintenance personnel, and reassign NCOs and support personnel to the task force from throughout the brigade. These actions were detrimental to the readiness of the non-deploying units. For example, gunnery exercises for two armor battalions had to be canceled and 43 of 116 tank crews became unqualified on the weapon system.

Mr. Speaker, I know that other Members of the House have gone on their own fact-finding trips to Europe, and almost everyone comes back with the same story—that Army personnel would talk their ears off about shortfalls in personnel and the killing effect this has on the day-to-day operational tempo. These concerns come not mainly from forces actually deployed on missions, but from forces left behind to take up the slack. I am here to tell you that these are not just a few isolated cases—they reflect a very wide-spread situation in later-deploying Army units, because there just are not enough people to go around given the operational requirements.

To test that proposition, I asked the Army Legislative Liaison office to provide me with a rundown of the current personnel situation in each of the 10 active divisions. They did a good job of it—in particular I want to thank Lt. Col. Joe Guzowski and Lt. Col. Craig Deare for putting together very useful, well organized data very quickly. I am afraid I may have contributed a bit to the overwork problem I'm discussing here today, but, as usual, they came through.

The information they collected shows especially severe personnel shortfalls in units deployed in Europe, more isolated and less serious problems in some other later-deploying divisions, and generally good personnel levels in early-deploying divisions. Here are a few excerpts:

1st Infantry Division (Germany)

The Division is 94% assigned strength and 88% available strength and 86% deployable strength. Available senior grade is 88%. They have a shortage of 436 NCOs, 73% of their required Majors and 84% of required Captains, which continue to cause junior leaders to fill vacant positions.

The Division remains critical in maintenance supervisors, to include Aviation maintenance warrant examiners . . . which remain at 0% fill.

The Division's MI Military Intelligence battalion is below for the eleventh consecutive month and without extensive augmentation is not capable of performing sustained combat operations.

1st Armored Division (Germany) [Which will take on the KFOR mission in Kosovo]

[Due to] shortages of soldiers in critical division competencies resulting from deployment on contingency operations, the division cannot deploy to meet assigned . . . missions without augmentation and training time.

Personnel trained in critical division competencies are deployed on contingency operations. These training issues make the division unable to function effectively for division level operations without extensive assistance.

The continued downward trend in NCO strength (85%, short 724 NCOs) hinders the division's ability to provide adequate supervision and training.

4th Infantry Division (Fort Hood, Texas and Fort Carson, Colorado)

The division remains at borderline . . . Senior grade shortages continue to be primary concern. The [overall] personnel strength percentages continue to mask critical shortages.

Captains and Majors are short . . .

NCOs are short . . . [by] 450.

10th Infantry Division [Which is preparing to deploy to Bosnia]

The division's aggregate strength and infantry squad manning are at the highest levels in over 18 months and continue to improve. . . . NCO shortages were the primary reason for . . . failure.

The shortage of field artillery NCOs . . . is placing junior soldiers into critical positions that require a greater experience base to effectively lead gun crews. Of the 44 howitzers authorized, all are combat capable, but only 22 are fully manned and qualified.

[We] project [that] some subordinate units preparing to deploy will improve and units remaining on Fort Drum will decrease their overall C [readiness] ratings.

Mr. Speaker, the shortages in personnel in later deploying units and in many support positions is, in my view, seriously damaging the overall readiness of the Army. General Shinseki essentially acknowledged that in his confirmation hearing. The Army, he said, is currently able to meet its primary strategic mandate, which is to be prepared to prevail in two nearly simultaneous major theater wars. But the requirement to prevail in the second theater, he warned, could be accomplished only with ''high risk.''

In the vernacular of the military in the 1990s, Mr. Speaker, this is a carefully crafted way of saying that the situation is not acceptable. To say that the mission is ''high risk'' is to say at the very least that the Army would suffer unacceptably high casualties in the event of a conflict. Just as importantly, in my view, it is to say that the units involved are not able to attain the standards which the service has established. For the professional men and women who serve in the force, this is a terribly frustrating situation. It is reflected in complaints that units sent for exercises to the Army's combat training centers in California, Louisiana, and Germany are not as capable as they used to be because shortages have limited the extent and quality of preparatory training at their home bases. It is reflected in the difficulty the service has had in retaining its most highly skilled and accomplished personnel. It is reflected, as well, in evidence of increasing strains on military families caused by frequent and unplanned deployments and excessive workloads when people are at home.

Mr. Speaker, the Army has tried valiantly to adjust to the demands of the post-Cold War environment by managing shortfalls in personnel as best it could. The leadership of the Army has tried to ensure that first-to-fight units have what they need, and, for the rest, they have demonstrated remarkable creativity and flexibility in allocating personnel to fill urgent requirements created by contingency operations and other demands. They have done a good job. The U.S. Army remains the best in the world, and perhaps, the best Army ever in this country or elsewhere. When called upon to perform difficult and demanding missions, the Army has responded magnificently.

But this has come at a price. The continued high pace of operations, the continued turbulence in the force, the continued need to assign hundreds and even thousands of people to temporary duty, the need for others to work harder to make up for shortfalls—all of this is eroding the readiness of the force. The Army needs to work with Congress beginning today to fix the problem. We need to add enough personnel to the force to meet the demands of the post-Cold War world without wearing out so many of the wonderful men and women on whom our security depends. We are wearing them out, Mr. Speaker. It is up to Congress to correct the problem.

RETIREMENT SECURITY

The SPEAKER pro tempore (Mr. OSE). Under a previous order of the House, the gentleman from Ohio (Mr. PORTMAN) is recognized for 5 minutes.

Mr. PORTMAN. Mr. Speaker, I rise tonight to talk about retirement security. This Congress and the administration have I think appropriately made preserving Social Security a top priority for this year. But as this chart demonstrates, it is not enough to simply preserve Social Security. Our public Social Security system is only one part of our overall retirement security programs in this country. Specifically, I believe strongly that we need to take steps this year to significantly increase the availability of secure retirement savings by strengthening the private side, particularly the employer-provided pension side of our retirement system. This is a crucial issue for all Americans but particularly for baby

boomers who are nearing retirement. The problem we face is significant. Only about half of American workers have any kind of pension at all. This would include a 401(k), a traditional defined benefit plan, a profit-sharing plan and so on. About 80 percent of workers who are employed in smaller businesses that cannot afford because of the complexities of the current rules to offer plans do not have a plan, so about 20 percent have a pension plan. Studies show us that baby boomers right now are only saving about 40 percent of what they will need for their retirement needs. Finally, the personal savings rate in our country is at historic lows. In fact, the Commerce Department tells us that last month, the savings rate in the United States was minus 1.2 percent. Historically low. This is all the funds that are being saved in this country for retirement and other needs.

So how can people help themselves? How can people save more for their retirement? We have got a plan to do that. I have introduced a piece of legislation with the gentleman from Maryland (Mr. CARDIN) which increases that third leg of retirement security, which is again the private employer-based pension system, 401(k)s, 457s, 403(b) plans, defined benefit plans, profit-sharing plans and so on. The legislation is comprehensive and it is designed to correct all the deficiencies we see in our current system but, simply put, it lets workers save more for their own retirement. It makes it less costly and burdensome for employers, particularly small employers, to establish new pension plans or to improve their own plans they have already got.

Finally, we modernize the pension laws to make them more in tune with the current mobile workforce of the 21st century. How do we do this? We increase contribution limits. For instance, 401(k) contribution limits are increased from $10,000 per year to $15,000 per year, allowing workers to save more for their own retirement. We have catch-up contributions, allowing any worker age 50 or over to put an additional $5,000 aside for retirement. This will be particularly good for women who have been out of the workforce raising kids and then come back into the workforce and want to build up a nest egg for their retirement. We drastically increase portability, allowing people to roll over their pension savings from job to job, whether they are in the private sector, the government sector or the nonprofit sector. These are long overdue changes that are absolutely necessary again to respond to the much more mobile workforce of the next century. We also lower the vesting requirement for matching employer contributions from 5 years where it is now to 3 years to give more Americans the ability to get involved in pension plans.

Finally, we cut red tape. The increasing complexities of the laws governing pensions, both in the private sector and the nonprofit and public sector have discouraged the growth of pension plans. For small businesses in particular, the costs, the burdens and the liabilities associated with pensions are the main reason that companies are not offering these plans. This legislation takes steps to cut the unnecessary red tape that I think has put a real stranglehold on our pension system.

Who are these changes going to benefit the most? They benefit everybody. That is what is great about them. If we look at this chart, it will show us that at least 70 percent of current pension recipients, those who are retired and receiving pensions, make incomes of $50,000 or less. So this is something that is really going to help the people who need the help the most. The next chart will show us that among those people who are involved in pensions who are getting pension benefits right now, 77 percent are middle and lower income workers. Again, by taking actions today to expand our pension savings, we are going to help the people who need the most help in saving for their retirement.

This is a chance for this Congress to help all Americans do what people want to do, which is to provide for a retirement that is secure, to have increasing independence in retirement, to have more dignity in retirement. Imagine the impact we could have in this country if the 60 million Americans who currently do not have retirement savings through a pension of their own would be able to get that kind of retirement security. Again, Social Security reform is very important. I support preserving the Social Security system. But this is an opportunity this Congress ought to take today and ought to pass this year to enable all Americans to have dignity and independence and security in retirement.

□ 2350

TRIBUTE TO CHANCELLOR MICHAEL HOOKER OF THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

The SPEAKER pro tempore (Mr. OSE). Under a previous order of the House, the gentleman from North Carolina (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of North Carolina. Mr. Speaker, this week the University of North Carolina at Chapel Hill lost a bold leader when its eighth chancellor, Michael Hooker, died from complications of cancer. Memorial services will be held at 11 o'clock tomorrow morning on the UNC Chapel Hill campus.

During a short 4-year tenure Chancellor Hooker brought a great vision to the university, constantly pushing Carolina with the declared goal of making it the greatest public university in the Nation. His legacy will live in the university community and beyond, wherever the impact of his enthusiasm and his leadership were felt.

Mr. Speaker, Michael Hooker had an abiding love for Carolina. When he came to Chapel Hill to serve as Chancellor in 1995, he was returning to his school to which he had first come as a young man from the mountains of southwest Virginia and which he always felt had opened up the wider world to him. He graduated from Carolina in 1969, the first member of his family to graduate from college. He had a degree in philosophy. After earning graduate degrees in philosophy, he taught at Harvard, he held posts at Johns Hopkins University and then served as president of Bennington College in Vermont, the University of Maryland Baltimore County and the five campus University of Massachusetts system.

But Michael Hooker always wanted to return to Carolina. He brought to the job of Chancellor a spirit of innovation, seeking to build on the traditions of America's oldest public university. He believed that education is our greatest engine of opportunity, and he reached out to the entire State to share his belief. His administration's theme was: ''For the people,'' and he crisscrossed North Carolina visiting every county to promote his vision and to renew the university's connection to the State.

When students came to Chapel Hill, they knew they would be taught in a way that prepared them for the challenges of the 21st century. Hooker said, and I am quoting:

In the 21st century the only thing that will secure competitive advantage for our regional, State and national economies is the extent to which we have developed, nutured, fostered, cultivated, and deployed brain power.

Students will remember his active involvement in making their education reflect those values. He emphasized the need for increased access to computers and technology, made this a priority for UNC students, and he recruited and supported teachers who were willing to cross disciplinary boundaries and to innovate in their teaching methods.

North Carolinians who knew Michael Hooker will remember his energy for innovation and for effective teaching, his belief in the promise of a great public university and his passion for leading Carolina into the next century.

My wife and I are sad for the loss suffered by Michael's wife, Carmen, their family and our entire community. I deeply regret that Michael will not be with us to see his bold vision unfold. However, I am comforted in the knowledge that so many people are prepared to carry that vision forward, embracing the traditions that shaped Carolina and its late chancellor and shepherding the spirit of inventiveness and boldness that Michael Hooker embodied.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. GREEN) is recognized for 5 minutes.

(Mr. GREEN of Wisconsin addressed the House. His remarks will appear

hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

(Mr. PETERSON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

ENOUGH IS ENOUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, we often hear people stand up in front of this microphone and start out by saying, ''It is about,'' when they are going to talk about what it is about. Well, in fact in this body it is about taxes. No matter what else we say, no matter what else we do here, it is about taxes. It is the life blood that drives every other thing we do in this body, and the extent to which we can defend our country and incarcerate criminals and carry out all the other essential functions of government depends upon our ability to extract money from the population and pay for those services.

But when is enough enough? Is it enough, Mr. Speaker, to take 40 percent of the income of the average family in America today for taxes? Is it enough to take 20 percent of the gross domestic product of this country every year now in taxes? Is that enough, Mr. Speaker? I suggest it is not only enough, I suggest it is far too much. That is why today I have introduced the bill that we refer to here as the 10 top terrible tax act. This is a bill to actually eliminate, not just reduce certain taxes, but actually eliminate certain taxes so that they cannot grow back again. We want to pull them up by their roots.

Mr. Speaker, this is the only way that we can actually begin to reduce the size and scope of government. We talk about that here on this floor, and we talk about it in legislative bodies all over this country, reducing the size and scope of government. How many times have we heard that phrase? And yet nothing seems to actually accomplish the task of reducing the size and scope of government. There seems to be a commitment to that philosophy, but it does not work.

Mr. Speaker, one reason it does not work is because we do not put a constraint on the life blood of these legislative bodies, and that life blood, I repeat, are the tax dollars that we extract in the population. Well, this does begin to put that constraint on that life blood flow, and it does begin to reduce the size and scope of government and its intervention into our lives which has grown far too great.

Mr. Speaker, at 40 percent of the income of a family, I repeat 40 percent, and 20 percent of our gross domestic product it is too much. Something has to give, and if we just simply reduce the rate of taxation, it is far too easy to come back within a year or 2 years and simply increase it again. That is easy to do. But it is very difficult to actually come back and replace a tax that has been eliminated.

Mr. Speaker, that is why we have identified 10 taxes that are legitimate targets for us to attack as being able to be eliminated, gone, erased from the books, not there any more:

The estate tax, estate and gift tax, more commonly and appropriately referred to as the death tax; it is currently as high as 55 percent, and we want to phase that out over a 10 year period and completely repeal it by December 1, 2099. The E-rate universal tax; that is a euphemism, E-rate is a euphemism, for a tax. It is a tax that has been put on phone bills that did not even come through this body as an actual tax bill. It is a special friend, a special sort of tax of the Vice President. It is oftentimes referred to as the Gore tax, and appropriately so.

Next is the excise tax on telephones and other communication services. My friends, this is the 3 percent tax that was put on telephones when they were a luxury item in 1898 in order to fund the Spanish-American war. Let me tell my colleagues it is over, the war is over, and we do not need this tax any more.

The marriage penalty tax discrepancy in the Tax Code that results in a higher tax burden for married couples; let us get rid of it.

The capital gains tax, currently up to 20 percent of gain would be phased out over a 10 year period. Let us get rid of it.

The excise tax on vaccines, on vaccines. Do you hear me? Seventy-five cents per dose imposed on certain vaccines sold in the United States; this should be repealed by January 1, 2000. Why are we taxing vaccines, let me ask.

Excise tax on sport fishing equipment.

The 1993 income tax increase on Social Security benefits.

The double tax on interest and dividends.

The 1993 increase in motor fuels tax.

Mr. Speaker, all these should be gone, and they can be. We can live without it, believe it or not. We can live without this.

I want to enter into the RECORD, if I could, Mr. Speaker, the comments here from the Americans for Tax Reform and other organizations that have supported the bill, and I ask my colleagues to do so. It is enough.

AMERICANS FOR TAX REFORM,
Washington, DC, July 1, 1999.

Hon. TOM TANCREDO,
Washington, DC.

DEAR REPRESENTATIVE TANCREDO: On behalf of its 90,000 members and its 3,000 state and local taxpayer groups across the nation, Americans for Tax Reform strongly supports your ''Top Ten Terrible Tax Act of 1999.''

As you already know, American families already pay on average almost forty percent of their income on taxes, be it federal, state, or local. That is more than food, shelter, and clothing combined.

The Top Ten Terrible Tax Act of 1999 would eliminate excessive taxes and provide every American with tangible tax relief. By uprooting the death and gift taxes, the telephone universal service charge, the 3% telephone excise tax, the marriage penalty tax, the capital gains tax, the excise tax on vaccines, the excise tax on sport fishing equipment, the 1993 income tax increase on social security benefits, the double taxation on interest and dividends, and the 1993 motor fuel tax increase, taxpayers will be able to improve their quality of life and save more for education and retirement.

I thank you for your leadership in taking a step in the right direction to providing fundamental tax reform.

Sincerely,

GROVER G. NORQUIST.

CONGRESS SHOULD REFORM DEATH TAXES

At a Denver Business Journal Family Business conference earlier this year, Coors Brewing President Peter Coors made an interesting point about estate taxes.

These so-called death taxes make it much harder for corporations to pass ownership down from one generation to the next. They speed the demise of local businesses and the rise of cookie-cutter consolidations because the consolidators are able to use stock and cash to buy out family businesses and address the inheritance tax issue.

Congress is likely to take up the inheritance tax issue in the next session. Maybe they should hear from Peter Coors and people like him.

DECLARATION OF INDEPENDENCE FOR THE RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 1 minute.

Mr. SCHAFFER. Mr. Speaker, the House will adjourn in approximately 1 minute. In Washington, D.C., the Nation's Capital, 12 o'clock is midnight, is the time for us to finish. It would be, I think the House would be in remiss, if we were not to reflect upon the occasion for our recess over the next week. A remarkable story, 223 years in the making, the founding of our Nation, our Declaration of Independence, the 4th of July, recalls the memory and the scene of those brave individuals in Philadelphia who declared our independence.

I do not know, Mr. Speaker, that the Declaration of Independence has ever

been entered into our RECORD, but I would ask now that the Declaration be added to the CONGRESSIONAL RECORD:

THE DECLARATION OF INDEPENDENCE—A TRANSCRIPTION—IN CONGRESS, JULY 4, 1776

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden in Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at place unusual, uncomfortable, and distant from the depository of the public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected the render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

The 56-signatures on the Declaration appear in the positions indicated:

[COLUMN 1]

Georgia: Button Gwinnett, Lyman Hall, George Walton.

[COLUMN 2]

North Carolina: William Hooper, Joseph Hewes, John Penn.

South Carolina: Edward Rutledge, Thomas Heyward, Jr., Thomas Lynch, Jr., Arthur Middleton.

[COLUMN 3]

Massachusetts: John Hancock.

Maryland: Samuel Chase, William Paca, Thomas Stone, Charles Carroll of Carrollton.

Virginia: George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, Jr., Francis Lightfoot Lee, Carter Braxton.

[COLUMN 4]

Pennsylvania: Robert Morris, Benjamin rush, Benjamin Franklin, John Morton,

George Clymer, James Smith, George Taylor, James Wilson, George Ross.

Delaware: Caesar Rodney, George Read, Thomas McKean.

[COLUMN 5]

New York: William Floyd, Philip Livingston, Francis Lewis, Lewis Morris.

New Jersey: Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark.

[COLUMN 6]

New Hampshire: Josiah Bartlett, William Whipple.

Massachusetts: Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry.

Rhode Island: Stephen Hopkins, William Ellery.

Connecticut: Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott.

New Hampshire: Matthew Thornton.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FOSSELLA (at the request of Mr. ARMEY) for today and tomorrow on account of traveling abroad with a USO tour in support of American troops serving overseas.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Mr. PRICE of North Carolina, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. SCHAFFER) to revise and extend their remarks and include extraneous material:)

Mrs. JOHNSON of Connecticut, for 5 minutes, today.

Mr. PORTMAN, for 5 minutes, today.

Mr. GREEN of Wisconsin, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mr. SCHAFFER, for 5 minutes, today.

ADJOURNMENT

Mr. SCHAFFER. Mr. Speaker, pursuant to Senate Concurrent Resolution 43, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 43, 106th Congress, the House stands adjourned until 12:30 p.m. on Monday, July 12, 1999, for morning-hour debates.

Thereupon (at 12 o'clock midnight), pursuant to Senate Concurrent Resolution 43, the House adjourned until Monday, July 12, 1999, at 12:30 p.m. for morning-hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2817. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Recordkeeping—received June 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2818. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Economic and Public Interest Requirements for Contract Market Designation—received June 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2819. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Representations and Disclosures Required by Certain IBs, CPOs and CTAs—received June 3, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2820. A letter from the Under Secretary, Rural Development, Department of Agriculture, transmitting the Department's final rule—Community Programs Guaranteed Loans (RIN: 0575–AC17) received May 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2821. A letter from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting the Department's final rule—Group Risk Plan of Insurance (RIN: 0563–AB06) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2822. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Program to Assess Organic Certifying Agencies [Docket Number LS–99–04] (RIN: 0581–AB58) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2823. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize the transfer of certain resources to the Enhanced Structural Adjustment Facility/Heavily Indebted Poor Countries Trust Fund; to the Committee on Banking and Financial Services.

2824. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—National Flood Insurance Program (NFIP); Determining the Write-Your-Own Expense Allowance (RIN: 3067–AC92) received June 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2825. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule—Share Insurance and Appendix—received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2826. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Special Education—Training and Information for Parents of Children with Disabilities—received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2827. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—William D. Ford Federal Direct Loan Program (RIN: 1840–AC57) received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2828. A letter from the Acting Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Alternative Fuel Transportation Program; Biodiesel Fuel Use Credit [Docket No. EE-RM–99–BIOD] (RIN: 1904–AB–00) received June 1, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2829. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List Additions and Deletions—received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2830. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Expansion and Continuation of Thrift Savings Plan Eligibility; Death Benefits; Methods of Withdrawing Funds from the Thrift Savings Plan; and Miscellaneous Regulations—received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2831. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant Eriogonum apricum (inclusive of vars. apricum and prostratum) (Ione Buckwheat) and Threatened Status for the Plant Arctostaphylos myrtifolia (Ione Manzanita) (RIN: 1018–AE25) received May 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2832. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting; Withdrawal of Regulations Designed to Reduce the Mid-Continent Light Goose Population (RIN: 1018–AF05) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2833. A letter from the General Counsel, Department of Commerce, transmitting a draft of proposed legislation which would reauthorize and amend the National Marine Sanctuaries Act; to the Committee on Resources.

2834. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Bycatch Rate Standards for the Second Half of 1999 [Docket No. 961107312–7021–02; I.D. 052499E] received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2835. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 0423699A] received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2836. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 [Docket No. 990304062–9062–01; I.D. 060899C] received June

14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2837. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure for the Mothership Sector [Docket No. 981231333–9127–03; I.D. 052799E] received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2838. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area in the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 060499C] received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2839. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to amend the Foreign Agents Registration Act of 1938; to the Committee on the Judiciary.

2840. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation regarding the detention of criminal aliens; to the Committee on the Judiciary.

2841. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule—Correspondence: Return Address [BOP–1073–F] (RIN: 1120–AA69) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2842. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule—Federal Prison Industries (FPI) Inmate Work Programs: Eligibility [BOP–1062–F] (RAN: 1120–AA57) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2843. A letter from the Chief Financial Officer, Department of State, transmitting the Department's final rule—Visas: Documentation of Nonimmigrants—Passport and Visa Waivers; Deletion of Obsolete Visa Procedures and other Minor Corrections [Public Notice 3048] received May 19, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2844. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of VOR Federal Airways; Kahului, HI [Airspace Docket No. 97–AWP–35] (RIN: 2120–AA66) received June 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2845. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9 and C–9 (Military) Series Airplanes [Docket No. 98–NM–110–AD; Amendment 39–11177; AD 99–08–05 R1] (RIN: 2120–AA64) received June 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2846. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; International Aero Engines AG V2500–A1 and V2500–A5 Series Turbofan Engines [Docket No. 99–NE–37–AD; Amendment 39–11194; AD 99–13–01] (RIN: 2120–AA64) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2847. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) Airplanes [Docket No. 99–CE–22–AD; Amendment 39–11193; AD 99–12–02] (RIN: 2120–AA64) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2848. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–200C Series Airplanes [Docket No. 98–NM–273–AD; Amendment 39–11192; AD 99–12–08] (RIN: 2120–AA64) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2849. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Model 1900D Airplanes [Docket No. 98–CE–127–AD; Amendment 39–11191; AD 99–12–07] (RIN: 2120–AA64) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2850. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–31, PA–31–300, PA–31–325, PA–31–350, and PA–31P–350 Airplanes [Docket No. 97–CE–32–AD; Amendment 39–11189; AD 99–12–05] (RIN: 2120–AA64) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2851. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Alternate Compliance Program; Incorporations by Reference [USCG–1999–5004] (RIN: 2115–AF74) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2852. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AlliedSignal Inc. VN 411B Very High Frequency (VHF) Navigation Receivers [Docket No. 95–CE–91–AD; Amendment 39–11190; AD 99–12–06] (RIN: 2120–AA64) received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2853. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Flight Crewmember Flight Time Limitations and Rest Requirements—received June 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2854. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation relating to the management of non-excess property in the Department of Defense; jointly to the Committees on Armed Services and Government Reform.

2855. A letter from the Secretary of Commerce, Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled ''Voluntary Seafood Inspection Performance Based Organization Act of 1999''; jointly to the Committees on Agriculture, Commerce, Resources, and Government Reform.

2856. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation entitled ''Intercountry Adoption Act''; jointly to the Committees on International Relations, the Judiciary, Education and the Workforce, and Ways and Means.

2857. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation which would implement proposals in the President's FY 2000 Budget to offset discretionary spending; jointly to the Committees on Agriculture, Commerce, Resources, Transportation and Infrastructure, Education and the Workforce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COBLE: Committee on Judiciary. H.R. 1761. A bill to amend provisions of title 17, United States Code; with an amendment (Rept. 106–216). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Revised Suballocation of Budget Allocations for Fiscal Year 2000 (Rept. 106–217). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1413. A bill to reauthorize and amend the Coastal Barrier Resources Act; with an amendment (Rept. 106–218). Referred to the Committee of the Whole House on the State of the Union.

Mr. CANADY: Committee on the Judiciary. H.R. 1691. A bill to protect religious liberty; with an amendment (Rept. 106–219). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 1180. A bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes; (Rept. 106–220 Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER (for himself, Mr. GORDON, and Mrs. MORELLA):

H.R. 2413. A bill to amend the National Institute of Standards and Technology Act to enhance the ability of the National Institute of Standards and Technology to improve computer security, and for other purposes; to the Committee on Science.

By Mr. TANCREDO (for himself, Mr. SCHAFFER, Mr. BURTON of Indiana, and Mr. BARR of Georgia):

H.R. 2414. A bill to amend the Internal Revenue Code of 1986 to eliminate certain particularly unfair tax provisions, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself and Ms. MCKINNEY):

H.R. 2415. A bill to enhance security of United States missions and personnel overseas, to authorize appropriations for the Department of State for fiscal year 2000, and for other purposes; to the Committee on International Relations.

By Mr. WELLER (for himself and Ms. DUNN):

H.R. 2416. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the construction of public schools; to the Committee on Ways and Means.

By Mr. BARCIA (for himself and Mr. WU):

H.R. 2417. A bill to establish an educational technology extension service at colleges and universities; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS (for himself, Mr. GREEN of Texas, and Mr. PALLONE):

H.R. 2418. A bill to amend the Public Health Service Act to revise and extend programs relating to organ procurement and transplantation; to the Committee on Commerce.

By Mr. BILIRAKIS (for himself, Mr. DEUTSCH, Mr. LATOURETTE, Mr. TAUZIN, Ms. BROWN of Florida, Mr. GREENWOOD, Mr. TOWNS, Mr. MCCOLLUM, Mr. CANADY of Florida, Mr. GILCHREST, Mr. KOLBE, Mr. BASS, Mrs. FOWLER, Mr. WALDEN of Oregon, and Mr. STEARNS):

H.R. 2419. A bill to amend title XVIII of the Social Security Act to reflect original Congressional intent by requiring that the new risk adjustment methodology for Medicare+Choice payment rates be implemented in a budget neutral manner, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAUZIN (for himself, Mr. DINGELL, Mr. OXLEY, Mr. BONIOR, Mr. LEWIS of Georgia, Mr. DEAL of Georgia, Mr. GRAHAM, Mr. BOUCHER, Mr. RUSH, Mr. SHIMKUS, Mr. NORWOOD, Mr. SESSIONS, Mr. FOSSELLA, Mr. DICKS, Mr. BARCIA, Mr. HILL of Montana, Mr. BLUNT, Mr. HAYES, Mr. WYNN, Mr. BARTON of Texas, Mr. ETHERIDGE, Mr. TERRY, Mr. GREENWOOD, Mr. GANSKE, Mr. BURR of North Carolina, Mr. GILLMOR, Mr. BRYANT, Mr. SHADEGG, Mr. BONILLA, Mr. REYNOLDS, Mr. SWEENEY, and Mrs. MYRICK):

H.R. 2420. A bill to deregulate the Internet and high speed data services, and for other purposes; to the Committee on Commerce.

By Mr. BLAGOJEVICH (for himself, Mr. WAXMAN, and Ms. NORTON):

H.R. 2421. A bill to amend chapter 44 of title 18, United States Code, to regulate the sale and manufacture of certain armor piercing ammunition and armor piercing incendiary ammunition, and to regulate laser sights under the National Firearms Act; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURTON of Indiana (for himself and Mr. GILMAN):

H.R. 2422. A bill to provide for the determination that Cuba is a major drug-transit country for purposes of section 490(h) of the Foreign Assistance Act of 1961; to the Committee on International Relations.

By Mr. CAMP (for himself and Mr. NEAL of Massachusetts):

H.R. 2423. A bill to amend the Internal Revenue Code of 1986 to repeal the motor fuel excise taxes on intercity buses; to the Committee on Ways and Means.

By Mr. JACKSON of Illinois (for himself, Mr. CAMPBELL, Mr. FRANK of Massachusetts, Mrs. MALONEY of New York, Mr. TRAFICANT, Mr. FROST, Ms. LEE, Ms. SCHAKOWSKY, Ms. PELOSI, Mr. LANTOS, Mr. DEFAZIO, Mrs. CLAYTON, Mrs. MINK of Hawaii, Mr. CLAY, Mr. CUMMINGS, Mr. GEJDENSON, Mr. BROWN of California, Mr. OWENS, Mr. HILLIARD, Mr. BRADY of Pennsylvania, Ms. KILPATRICK, Mr. RODRIGUEZ, Mr. PASTOR, Mrs. CHRISTENSEN, and Ms. MCKINNEY):

H.R. 2424. A bill to require the Board of Governors of the Federal Reserve System to post on its premises notices to employees regarding the applicable provisions of title VII of the Civil Rights Act of 1964; to the Committee on Banking and Financial Services, and in addition to the Committees on Education and the Workforce, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FARR of California (for himself, Mr. GREENWOOD, Ms. WOOLSEY, Mr. GILCHREST, Mr. BLUMENAUER, Mrs. CAPPS, Mrs. JOHNSON of Connecticut, Mrs. MORELLA, Mr. KENNEDY of Rhode Island, Ms. PELOSI, Mr. GEORGE MILLER of California, Mr. ABERCROMBIE, Mr. OLVER, Mrs. TAUSCHER, Mr. DEFAZIO, Mr. PALLONE, Mr. DELAHUNT, Mr. THOMPSON of California, Mr. ROMERO-BARCELO, Mrs. MINK of Hawaii, Ms. ESHOO, Mr. FALEOMAVAEGA, Mr. GUTIERREZ, Mr. UNDERWOOD, Mr. LANTOS, Mr. ORTIZ, Mr. PICKETT, Mr. BILBRAY, Mr. MEEHAN, Mr. MARKEY, Mr. BAIRD, Ms. HOOLEY of Oregon, Mr. HOUGHTON, Mrs. KELLY, Ms. LOFGREN, Ms. WATERS, Mr. KASICH, Mr. HOYER, Mr. MORAN of Virginia, and Ms. SCHAKOWSKY):

H.R. 2425. A bill to establish the Commission on Ocean Policy, and for other purposes; to the Committee on Resources.

By Mr. COSTELLO:

H.R. 2426. A bill to require truth-in-budgeting with respect to the on-budget trust funds; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX:

H.R. 2427. A bill to amend the Clean Air Act to remove a provision limiting States to proportionately less assistance than their respective populations and tax payments to the Federal government; to the Committee on Commerce.

By Mr. COYNE (for himself and Mr. HOLDEN):

H.R. 2428. A bill to suspend temporarily the duty on 11–Aminoundecanoic acid; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. MATSUI, Mr. HAYWORTH, and Mr. WATKINS):

H.R. 2429. A bill to amend the Internal Revenue Code of 1986 to establish a 5-year recovery period for petroleum storage facilities; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Ms. DUNN, and Mr. MCDERMOTT):

H.R. 2430. A bill to amend the Internal Revenue Code of 1986 to provide tax treatment for foreign investment through a United States regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mrs. JOHNSON of Connecticut, Mr. RAMSTAD, Mr. WELLER, Mr. PORTMAN, and Mr. SAM JOHNSON of Texas):

H.R. 2431. A bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies; to the Committee on Ways and Means.

By Mr. FILNER (for himself, Ms. MCKINNEY, and Mr. MATSUI):

H.R. 2432. A bill to prohibit insurers from canceling or refusing to renew fire insurance policies covering houses of worship and related support structures, and for other purposes; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODE (for himself, Mr. SISISKY, Mr. CONDIT, Mr. CRAMER, Mr. MORAN of Virginia, and Mr. SHOWS):

H.R. 2433. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of a refund for use by the Secretary of Health and Human Services in providing catastrophic health coverage to individuals who do not otherwise have health coverage; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLING (for himself, Mr. BALLENGER, Mr. BOEHNER, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. TALENT, Mr. GREENWOOD, Mr. GRAHAM, Mr. SOUDER, Mr. MCINTOSH, Mr. NORWOOD, Mr. SCHAFFER, Mr. DEAL of Georgia, Mr. HILLEARY, Mr. SALMON, Mr. TANCREDO, Mr. FLETCHER, Mr. DEMINT, and Mr. ISAKSON):

H.R. 2434. A bill to require labor organizations to secure prior, voluntary, written authorization as a condition of using any portion of dues or fees for activities not necessary to performing duties relating to the representation of employees in dealing with the employer on labor-management issues, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GOODLING:

H.R. 2435. A bill to expand the boundaries of the Gettysburg National Military Park to include the Wills House, and for other purposes; to the Committee on Resources.

By Mr. GRAHAM (for himself, Mr. SMITH of New Jersey, and Mr. CANADY of Florida):

H.R. 2436. A bill to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JONES of North Carolina:

H.R. 2437. A bill to provide an exception from the enforcement of an accessibility construction requirement of the Fair Housing Act for certain buildings constructed in compliance with a local building code; to the Committee on the Judiciary.

By Mr. KLINK:

H.R. 2438. A bill to require specific Congressional authorization for the Secretary of the Interior to authorize construction of any visitor's center or museum in the proximity of or within the boundaries of Gettysburg National Military Park; to the Committee on Resources.

By Mr. KUCINICH:

H.R. 2439. A bill to ensure the efficient allocation of telephone numbers; to the Committee on Commerce.

By Mr. LAZIO:

H.R. 2440. A bill to provide for commemoration of the victory of freedom in the Cold War; to the Committee on Armed Services.

By Mr. LAZIO (for himself, Mr. REYNOLDS, Mr. TOWNS, Mr. COOK, Mr. FORBES, Mr. BILBRAY, Mr. LARGENT, Mrs. KELLY, Mr. BAKER, Mr. SWEENEY, Mr. ENGEL, Mr. CROWLEY, Mr. SESSIONS, Mr. BARTON of Texas, Mr. SCHAFFER, Mr. DEAL of Georgia, Mr. RILEY, Mr. GILLMOR, Mrs. MALONEY of New York, Mr. BRYANT, Mr. DELAY, Mr. SHAYS, Mr. MEEKS of New York, Mr. PALLONE, Mr. BURR of North Carolina, Mr. ARMEY, Mr. TAUZIN, and Mr. HALL of Texas):

H.R. 2441. A bill to amend the Securities Exchange Act of 1934 to reduce fees on securities transactions; to the Committee on Commerce.

By Mr. LAZIO (for himself, Mr. ENGEL, Mrs. MORELLA, Ms. PELOSI, Mr. BAKER, Mr. BERMAN, Mr. BOEHLERT, Mr. BRADY of Pennsylvania, Mr. CAMPBELL, Mr. CROWLEY, Ms. DELAURO, Mr. FORBES, Mr. FOSSELLA, Mr. FRANKS of New Jersey, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINCHEY, Mrs. KELLY, Ms. KILPATRICK, Mr. KING, Mr. LAFALCE, Mr. LAMPSON, Mr. LIPINSKI, Mr. LOBIONDO, Ms. LOFGREN, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MALONEY of Connecticut, Mrs. MALONEY of New York, Mr. MARTINEZ, Mr. MASCARA, Ms. MCKINNEY, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. OLVER, Mr. OWENS, Mr. PASCRELL, Mr. PALLONE, Mr. ROTHMAN, Mr. TOWNS, Mr. TRAFICANT, Mr. UNDERWOOD, Mr. WU, Mr. FARR of California, Mr. BROWN of California, Mr. WEXLER, Ms. BERKLEY, Mr. NEAL of Massachusetts, Mr. MATSUI, Mr. BLAGOJEVICH, Mr. GILMAN, Mr. WAXMAN, Mr. DOYLE, Mrs. LOWEY, Mr. SMITH of New Jersey, Mr. WEINER, Mr. STUPAK, Mrs. MINK of Hawaii, Mr. DEUTSCH, and Mr. ACKERMAN):

H.R. 2442. A bill to provide for the preparation of a Government report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgement of such injustices by the President; to the Committee on the Judiciary.

By Mrs. LOWEY (for herself, Mrs. MCCARTHY of New York, Ms. DELAURO, Ms. JACKSON-LEE of Texas, Ms. SCHAKOWSKY, Mrs. MALONEY of New York, Mrs. NAPOLITANO, Ms. CARSON, Ms. NORTON, Ms. WOOLSEY, Ms. LOFGREN, Ms. MILLENDER-MCDONALD, Ms. LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MINK of Hawaii, and Mr. WEINER):

H.R. 2443. A bill to amend chapter 44 of title 18, United States Code, relating to the regulation of firearms dealers, and for other purposes; to the Committee on the Judiciary.

By Mrs. MALONEY of New York (for herself, Ms. PELOSI, Mr. UNDERWOOD, Mr. FILNER, Mr. OLVER, Mr. GREEN of Texas, Mr. RUSH, Mrs. CLAYTON, Mr. SHOWS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MEEKS of New York, Mr. BROWN of California, Ms. ROYBAL-ALLARD, Ms. SCHAKOWSKY, Mr. BENTSEN, and Ms. JACKSON-LEE of Texas):

H.R. 2444. A bill to provide for an interim census of Americans abroad, the data from which shall be used in deciding whether to count such individuals in future decennial censuses; to the Committee on Government Reform.

By Mrs. MALONEY of New York (for herself, Mr. GILMAN, Mr. ENGEL, Mr. TOWNS, Mrs. MCCARTHY of New York, Mr. MCNULTY, Mr. NADLER, Mr. SERRANO, Mr. MENENDEZ, Mr. ACKERMAN, and Mr. HINCHEY):

H.R. 2445. A bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to clarify the application of the mental health parity provisions to annual and lifetime visit or benefit limits, as well as dollar limits; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MATSUI (for himself, Mr. DOGGETT, Mr. BLUMENAUER, Mr. GEPHARDT, Mr. BONIOR, Mr. RANGEL, Mr. COYNE, Mr. LEVIN, Mr. CARDIN, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. JEFFERSON, Mrs. THURMAN, Mr. BECERRA, Mr. ALLEN, Ms. BALDWIN, Mr. BARRETT of Wisconsin, Mr. BERMAN, Ms. BROWN of Florida, Mr. BROWN of California, Mr. BROWN of Ohio, Mrs. CAPPS, Ms. CARSON, Mrs. CHRISTENSEN, Mr. CUMMINGS, Ms. DEGETTE, Ms. DELAURO, Mr. DIXON, Mr. DOOLEY of California, Mr. DOYLE, Mr. FARR of California, Mr. FATTAH, Mr. FROST, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOLT, Mr. LARSON, Mr. MALONEY of Connecticut, Mr. MEEHAN, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Ms. NORTON, Ms. PELOSI, Mr. SERRANO, Ms. SCHAKOWSKY, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mrs. JONES of Ohio, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. WAXMAN, Mr. WEYGAND, and Ms. WOOLSEY):

H.R. 2446. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to holders of Better America BONDS; to the Committee on Ways and Means.

By Mr. MCDERMOTT (for himself, Ms. DUNN, Mr. INSLEE, Mrs. THURMAN, Mr. STARK, Mr. DICKS, and Mr. SMITH of Washington):

H.R. 2447. A bill to amend title XVIII of the Social Security Act to include in the calculation of MedicareChoice payment rates under the Medicare program the costs attributable to medical services furnished to Medicare-eligible beneficiaries by medical facilities of the Department of Veterans Affairs and the Department of Defense; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MINK of Hawaii:

H.R. 2448. A bill to amend the Immigration and Nationality Act to assure that immigrants do not have to wait longer for an immigrant visa as a result of a reclassification from family second preference to family first preference because of the naturalization of a parent or spouse; to the Committee on the Judiciary.

By Mr. NORWOOD (for himself, Ms. DEGETTE, Ms. SCHAKOWSKY, Mr. ENGLISH, Ms. RIVERS, Mr. POMBO, Mr. MCINTOSH, Mr. SHOWS, Mr. REGULA, Mr. BARR of Georgia, Mr. CHAMBLISS, Mr. LINDER, Mr. KINGSTON, Mr. COLLINS, Mr. ISAKSON, Mr. DEAL of Georgia, and Mr. GRAHAM):

H.R. 2449. A bill to amend the Federal Water Pollution Control Act relating to Federal facilities pollution control; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR (for himself, Mr. WISE, Mr. TRAFICANT, Mr. DEFAZIO, Ms. NORTON, and Ms. MILLENDER-MCDONALD):

H.R. 2450. A bill to reform the safety practices of the railroad industry, to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. RAMSTAD:

H.R. 2451. A bill to amend the Internal Revenue Code of 1986 to classify certain franchise operation property as 15-year depreciable property; to the Committee on Ways and Means.

By Mr. ROYCE (for himself, Mr. KASICH, Mr. TIAHRT, Mr. SANFORD, Mr. PAUL, Mr. SUNUNU, Mr. ROHRABACHER, Mr. HOSTETTLER, Mr. RADANOVICH, Mr. COBURN, Mr. DOOLITTLE, Mr. EHRLICH, Mr. LARGENT, Mr. PITTS, and Mr. SALMON):

H.R. 2452. A bill to dismantle the Department of Commerce; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, Banking and Financial Services, International Relations, Armed Services, Ways and Means, Government Reform, the Judiciary, Science, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself and Mr. ARMEY):

H.R. 2453. A bill to require certain conditions to be met before the International Monetary Fund may sell gold; to the Committee on Banking and Financial Services.

By Mr. SAXTON (for himself, Mr. YOUNG of Alaska, Mr. DINGELL, Mr. CHAMBLISS, Mr. PETERSON of Minnesota, Mr. PICKERING, Mr. HUNTER, Mr. CUNNINGHAM, and Mr. TANNER):

H.R. 2454. A bill to assure the long-term conservation of mid-continent light geese and the biological diversity of the ecosystem upon which many North American migratory birds depend, by directing the Secretary of the Interior to implement rules to reduce the overabundant population of mid-continent light geese; to the Committee on Resources.

By Mr. SHAYS (for himself, Mr. HILLIARD, Mr. LATOURETTE, and Mr. MCHUGH):

H.R. 2455. A bill to establish Federal penalties for prohibited uses and disclosures of individually identifiable health information, to establish a right in an individual to inspect and copy their own health information, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIMPSON (for himself, Mr. WALDEN of Oregon, Mr. HASTINGS of

Washington, Mrs. CHENOWETH, Mr. SKEEN, and Mr. POMBO):

H.R. 2456. A bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regulate water, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SLAUGHTER (for herself, Mrs. LOWEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BOUCHER, Mr. DELAHUNT, Ms. DELAURO, Mr. FROST, Mr. GREEN of Texas, Mr. HINCHEY, Ms. MILLENDER-MCDONALD, Mr. MORAN of Virginia, Ms. NORTON, Mr. REGULA, Mr. ROMERO-BARCELO, Mr. SANDERS, Mr. SANDLIN, and Mr. SERRANO):

H.R. 2457. A bill to prohibit health insurance and employment discrimination against individuals and their family members on the basis of predictive genetic information or genetic services; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself and Mr. MARKEY):

H.R. 2458. A bill to amend the Internal Revenue Code of 1986 to provide a refundable caregivers tax credit; to the Committee on Ways and Means.

By Mrs. TAUSCHER (for herself, Mr. BONIOR, Mr. EDWARDS, Mr. FROST, Mr. HOYER, Mr. KENNEDY of Rhode Island, Mr. LARSON, Mr. MALONEY of Connecticut, Mr. ORTIZ, Mr. PICKETT, Mr. SISISKY, Mr. SKELTON, Mr. SPRATT, Mr. KING, Mr. THOMPSON of California, Mr. STENHOLM, Mr. JOHN, Mr. BOSWELL, Mr. ETHERIDGE, Ms. DELAURO, Mrs. THURMAN, Mr. CRAMER, Mr. DAVIS of Florida, Ms. PRYCE of Ohio, Mr. MARKEY, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. ALLEN, Mr. MOORE, Mr. TAYLOR of Mississippi, Mr. HINCHEY, Mr. HOLDEN, Mr. KLECZKA, Mr. LANTOS, Mr. WYNN, Mr. CLYBURN, Mr. LEWIS of Georgia, Mr. RANGEL, Mr. TANNER, Mr. CLEMENT, Mr. GORDON, Mr. WU, Mr. CLAY, Mr. HINOJOSA, Mr. FORD, Mr. EVANS, Mr. PAYNE, Ms. JACKSON-LEE of Texas, Mr. ROEMER, Mr. OBEY, Mr. CAPUANO, Mr. HILLIARD, Mr. VENTO, Mr. RODRIGUEZ, Mr. LUCAS of Kentucky, Mr. MATSUI, Mr. DIXON, Mr. TURNER, Mr. SANDLIN, Mr. KIND, Mr. ROTHMAN, Mr. OBERSTAR, Mr. HASTINGS of Florida, Mr. ENGEL, Mr. MEEKS of New York, Mr. LEVIN, Mr. HILL of Indiana, Mr. BALDACCI, Mr. HOEFFEL, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, Mr. WEYGAND, Mr. KLINK, Mr. STUPAK, Mr. FATTAH, Mr. BRADY of Pennsylvania, Mr. MENENDEZ, Mr. GUTIERREZ, Mr. DICKS, Ms. VELAZQUEZ, Mr. MCNULTY, Mr. BERRY, Mr. BISHOP, Mr. INSLEE, Mr. SCOTT, Ms. HOOLEY of Oregon, Mr. WATT of North Carolina, Mrs. CLAYTON, Mr. MORAN of Virginia, Mr. DOOLEY of California, Mr. SMITH of Washington, Mr. CONDIT, Mr. PHELPS, Mrs. LOWEY, Mr. CARDIN, Mr. BOYD, Mr. WEXLER, Mr. WEINER, Mr. LAMPSON, Mr. ANDREWS, Mr. BARRETT of Wisconsin, Mr. GEPHARDT, and Mr. BENTSEN):

H.R. 2459. A bill to authorize the President to award a gold medal on behalf of the Congress to General Wesley Clark and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Banking and Financial Services.

By Mr. TAYLOR of Mississippi (for himself, Mr. SHOWS, Mr. THOMPSON of Mississippi, Mr. WAMP, Mr. PICKERING, and Mr. WICKER):

H.R. 2460. A bill to designate the United States Post Office located at 125 Border Avenue West in Wiggins, Mississippi, as the ''Jay Hanna 'Dizzy' Dean Post Office''; to the Committee on Government Reform.

By Mr. TRAFICANT:

H.R. 2461. A bill to amend the Federal Election Campaign Act of 1971 to permit a corporation or labor organization to expend or donate funds for staging public debates between presidential candidates only if the organization staging the debate invites each candidate who is eligible for matching payments from the Presidential Election Campaign Fund and qualified for the ballot in a number of States such that the candidate is eligible to receive the minimum number of electoral votes necessary for election; to the Committee on House Administration.

By Mr. UNDERWOOD (for himself, Mr. YOUNG of Alaska, and Mr. GEORGE MILLER of California):

H.R. 2462. A bill to amend the Organic Act of Guam, and for other purposes; to the Committee on Resources.

By Mr. WATKINS (for himself and Mr. HINCHEY):

H.R. 2463. A bill to amend section 2007 of the Social Security Act to provide grant funding for additional Empowerment Zones, Enterprise Communities, and Strategic Planning Communities, and for other purposes; to the Committee on Ways and Means.

By Mr. WATKINS (for himself, Mr. MATSUI, Mr. CRANE, Mr. HERGER, and Mr. TRAFICANT):

H.R. 2464. A bill to amend the Internal Revenue Code of 1986 to provide that certain amounts received by electric energy, gas, or steam utilities shall be excluded from gross income as contributions to capital; to the Committee on Ways and Means.

By Mr. MICA (for himself, Mr. TRAFICANT, Mr. GILMAN, Mr. MCCOLLUM, Mr. PORTMAN, Mr. SESSIONS, Mr. SOUDER, Mr. BARR of Georgia, Mr. PITTS, Mr. STEARNS, Mr. KINGSTON, and Mr. OSE):

H.J. Res. 61. A joint resolution calling upon the Government of Mexico to undertake greater and more effective counterdrug measures, and for other purposes; to the Committee on International Relations.

By Mr. BONILLA (for himself, Mr. ADERHOLT, Mr. ARMEY, Mr. BAKER, Mr. BARR of Georgia, Mr. BARTON of Texas, Mr. BLUNT, Mr. BOEHNER, Mr. BRADY of Texas, Mr. BRYANT, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMPBELL, Mr. CANADY of Florida, Mr. CANNON, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. COBURN, Mr. COLLINS, Mr. COMBEST, Mr. COX, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DICKEY, Mr. DOOLITTLE, Mr. EHLERS, Mrs. EMERSON, Mr. FORBES, Mr. GRAHAM, Ms. GRANGER, Mr. HASTINGS of Washington, Mr. HEFLEY, Mr. HOSTETTLER, Mr. HUTCHINSON, Mr. ISTOOK, Mr. SAM JOHNSON of Texas, Mr. KINGSTON, Mr. KNOLLENBERG, Mr. LATHAM, Mr. LINDER, Mr. LUCAS of Oklahoma, Mr. MCINTOSH, Mr. METCALF, Mr. GARY MILLER of California, Mrs. MYRICK, Mr. NETHERCUTT, Mrs. NORTHUP, Mr. NORWOOD, Mr. PACKARD, Mr. PAUL, Mr. PICKERING, Mr. POMBO, Ms. PRYCE of Ohio, Mr. RADANOVICH, Mr. ROHRABACHER, Mr. ROGAN, Mr. SCARBOROUGH, Mr. SCHAFFER, Mr. SESSIONS, Mr. SHADEGG, Mr. SKEEN, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. SUNUNU, Mr. TANCREDO, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. TIAHRT, Mr. UPTON, Mr. WAMP, Mr. WATTS of Oklahoma, and Mr. WICKER):

H. Con. Res. 148. Concurrent resolution expressing the sense of the Congress that the Internal Revenue Code of 1986 must be replaced with a new, low, single-rate system that is simple and fair, allowing the Internal Revenue Service, as we know it, to be abolished; to the Committee on Ways and Means.

By Ms. STABENOW:

H. Con. Res. 149. Concurrent resolution expressing the sense of Congress that access to affordable prescription drugs is critical to the quality of life of older Americans and that coverage for prescription drugs should be included in the Medicare Program as soon as possible, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H. Con. Res. 150. Concurrent resolution to require the posting of the Ten Commandments in the House and Senate chambers; to the Committee on House Administration.

By Mr. BLILEY (for himself and Mr. OBERSTAR):

H. Res. 238. A resolution permitting payments to be made by employing authorities of the House of Representatives to reimburse Members, officers, and employees for qualified adoption expenses; to the Committee on House Administration.

By Mr. GARY MILLER of California (for himself, Mr. PITTS, Mr. HUTCHINSON, Mr. SCHAFFER, Mr. PICKERING, Mr. DELAY, Mr. ADERHOLT, Mr. GOODE, Mr. WATTS of Oklahoma, Mr. DEMINT, and Mr. ENGLISH):

H. Res. 239. A resolution expressing the sense of the House of Representatives with regard to obscenity and sexual objectification in the United States; to the Committee on the Judiciary.

By Mr. RANGEL:

H. Res. 240. A resolution providing for consideration of the bill (H.R. 1660) to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools and to provide tax incentives for corporations to participate in cooperative agreements with public schools in distressed areas; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. BARTLETT of Maryland, Mr. BARR of Georgia, Mr. RYAN of Wisconsin, Mr. SHADEGG, Mr. GILMAN, Mr. HORN, Mr. OXLEY, Mr. NORWOOD, Mrs. ROUKEMA, Mrs. KELLY, Mr. KLINK, Mr. SMITH of Texas, Mr. KING, Mr. ISTOOK, and Mr. WELDON of Pennsylvania.

H.R. 21: Mr. MCINTYRE.

H.R. 25: Mr. SAXTON.

H.R. 73: Mr. PETERSON of Minnesota and Mr. BARTLETT of Maryland.

H.R. 110: Mr. WEXLER.

H.R. 125: Mr. WYNN.

H.R. 175: Mr. SHERWOOD, Mr. BONIOR, Mr. BLUNT, Mr. LATOURETTE, Mr. GOODE, and Ms. BROWN of Florida.

H.R. 202: Mr. CAMPBELL and Mr. MCINTOSH.
H.R. 254: Mr. LEWIS of California.
H.R. 265: Mr. FOLEY.
H.R. 306: Mr. MOLLOHAN.
H.R. 329: Mr. PASTOR and Mr. WAXMAN.
H.R. 347: Mr. PICKETT and Mr. SIMPSON.
H.R. 355: Mr. OXLEY.
H.R. 371: Mr. SAWYER, Mr. MCNULTY, Ms. STABENOW, Mr. PITTS, Mr. CAPUANO, Mr. FORBES, and Mrs. JONES of Ohio.
H.R. 383: Mr. TAYLOR of North Carolina and Mr. SHAYS.
H.R. 393: Mr. BONIOR and Mr. DAVIS of Illinois.
H.R. 405: Mr. BAKER and Mr. KINGSTON.
H.R. 406: Mr. RYAN of Wisconsin.
H.R. 453: Mrs. LOWEY, Mr. ACKERMAN, Mr. FARR of California, Mr. BOEHNER, Mr. CASTLE, and Mr. WU.
H.R. 475: Mr. FILNER.
H.R. 530: Mr. KOLBE.
H.R. 557: Mrs. KELLY and Mr. VISCLOSKY.
H.R. 568: Mr. BROWN of California.
H.R. 580: Mr. PORTMAN.
H.R. 583: Mr. WU and Mr. GONZALEZ.
H.R. 605: Mr. MCINTOSH.
H.R. 612: Mr. COSTELLO and Mr. CONYERS.
H.R. 615: Mr. WELLER and Mr. BALLENGER.
H.R. 616: Mr. WELLER.
H.R. 637: Mr. TOWNS.
H.R. 692: Mr. SANFORD.
H.R. 701: Mr. SAWYER, Mr. ACKERMAN, Mr. SKELTON, Mr. MOLLOHAN, Ms. STABENOW, and Mr. GREEN of Texas.
H.R. 710: Mr. RYAN of Wisconsin, Mr. DELAY, Mr. THOMPSON of California, and Mr. RAHALL.
H.R. 716: Mr. TALENT.
H.R. 721: Ms. BALDWIN, Mr. BARRETT of Wisconsin, and Ms. MCCARTHY of Missouri.
H.R. 728: Mr. NORWOOD, Mr. BEREUTER, and Mrs. EMERSON.
H.R. 731: Mr. VENTO.
H.R. 735: Mr. TAUZIN.
H.R. 736: Mr. BARTLETT of Maryland.
H.R. 750: Mr. GILMAN.
H.R. 765: Mr. DEAL of Georgia.
H.R. 773: Mr. STRICKLAND.
H.R. 783: Mr. PASTOR.
H.R. 784: Mr. TANCREDO.
H.R. 789: Mrs. THURMAN, Mr. HOLDEN, and Mr. GREEN of Texas.
H.R. 804: Mr. ROGAN.
H.R. 809: Mr. MARTINEZ.
H.R. 827: Mrs. THURMAN, Mr. SANDLIN, and Mr. GONZALEZ.
H.R. 828: Mr. DAVIS of Illinois.
H.R. 844: Mr. LOBIONDO, Mr. PALLONE, Mr. CHABOT, Mr. MANZULLO, Mr. SANDLIN, Mrs. EMERSON, Mr. WALSH, Mr. GREEN of Wisconsin, Mr. NUSSLE, Mr. HOLT, Mr. WAMP, Mr. REYNOLDS, Mr. PACKARD, Mr. EHRLICH, Mr. LAZIO, Mr. DAVIS of Virginia, and Mr. BENTSEN.
H.R. 846: Mr. BONIOR and Mr. BERRY.
H.R. 864: Mr. WATTS of Oklahoma, Mr. LARGENT, Mr. LATOURETTE, Mr. HASTINGS of Washington, Mr. HALL of Ohio, Mr. SHERWOOD, Mrs. CUBIN, Mr. WYNN, and Mr. TAUZIN.
H.R. 865: Mr. CANADY of Florida, Mr. BILBRAY, and Mr. BUYER.
H.R. 896: Mr. DUNCAN.
H.R. 903: Mr. HILL of Indiana and Mr. GEJDENSON.
H.R. 904: Mr. WU.
H.R. 922: Mr. SHOWS and Mr. EWING.
H.R. 933: Mr. SHERMAN.
H.R. 953: Ms. SANCHEZ.
H.R. 961: Mr. KUCINICH, Mr. MASCARA, and Ms. KAPTUR.
H.R. 976: Mr. BAIRD and Mr. GREEN of Texas.
H.R. 987: Mr. SPENCE and Mr. THORNBERRY.
H.R. 1001: Mr. RANGEL.
H.R. 1032: Mr. BLILEY.
H.R. 1044: Mr. PETERSON of Pennsylvania.
H.R. 1054: Mr. FORBES.
H.R. 1070: Mr. WELLER.
H.R. 1082: Mrs. BIGGERT.
H.R. 1083: Mr. SAM JOHNSON of Texas, Mr. SIMPSON, Mr. KUYKENDALL, and Mr. TAUZIN.
H.R. 1093: Mr. MOAKLEY, Mr. UDALL of Colorado, Mr. THOMPSON of Mississippi, Ms. DANNER, Mr. MEEKS OF NEW YORK, Mr. NADLER, Mr. MOORE, Mr. KANJORSKI, and Ms. VELÁZQUEZ.
H.R. 1102: Mr. LATOURETTE, Mr. KANJORSKI, Mr. PICKETT, Mr. DICKS, and Ms. BERKLEY.
H.R. 1108: Mr. DAVIS of Illinois.
H.R. 1112: Mr. DAVIS of Illinois.
H.R. 1115: Mr. SAWYER, Mr. THOMPSON of Mississippi, Mr. SHAW, Mrs. MEEK of Florida, and Mr. SAXTON.
H.R. 1122: Mr. SHAW, Mr. PACKARD, Mr. DOYLE, Mr. HYDE, Mr. CAMPBELL, Mr. OBERSTAR, Mr. PAUL, Mr. BASS, Mr. MOAKLEY, Mr. DEAL of Georgia, Mr. NUSSLE, Ms. LOFGREN, Mr. ISAKSON, Mr. DEMINT, and Mr. PETERSON of Minnesota.
H.R. 1123: Ms. LEE.
H.R. 1142: Mr. CUNNINGHAM, Mr. TANCREDO, Mr. BALLENGER, Mr. LUCAS of Oklahoma, Mr. GARY MILLER of California, Mr. HUNTER, Mr. HAYES, Mr. MCINNIS, Mr. SOUDER, Mr. PACKARD, and Mr. SWEENEY.
H.R. 1168: Mr. SHOWS.
H.R. 1172: Mr. HALL of Ohio, Mr. BOUCHER, Mr. DOYLE, Mr. DOOLEY of California, Mr. ROGERS, Mr. CAPUANO, Mr. MCNULTY, Mr. ROGAN, Mr. CUMMINGS, Mr. MOLLOHAN, Mr. ACKERMAN, Mr. FLETCHER, Mr. MATSUI, Mr. RAMSTAD, Mr. GREENWOOD, and Ms. BALDWIN.
H.R. 1180: Mr. KING, Mr. PHELPS, and Mr. GIBBONS.
H.R. 1187: Mr. WEXLER and Mr. BLUNT.
H.R. 1194: Mr. GEJDENSON and Mr. WATKINS.
H.R. 1221: Mr. DEUTSCH and Mrs. MCCARTHY of New York.
H.R. 1248: Mr. REYES and Mr. DEUTSCH.
H.R. 1261: Mr. GRAHAM and Mr. ISAKSON.
H.R. 1291: Mr. ROGERS and Mr. HYDE.
H.R. 1300: Mr. HOUGHTON, Mr. SAXTON, Mr. LAZIO, and Mr. UPTON.
H.R. 1301: Mr. LAZIO, Mr. JENKINS, Mr. MURTHA, Mr. BEREUTER, Mr. LEACH, Mr. PHELPS, and Mr. COSTELLO.
H.R. 1303: Mr. THORNBERRY and Mr. BOUCHER.
H.R. 1304: Mr. KIND, Ms. KAPTUR, and Mr. WICKER.
H.R. 1310: Mrs. NORTHUP, Mr. CLAY, Mr. ROMERO-BARCELO, Mr. FARR of California, Mrs. JOHNSON of Connecticut, Ms. DUNN, Mr. HOUGHTON, Mr. LEACH, Mr. SOUDER, Mrs. EMERSON, Mr. SMITH of Michigan, Mr. FOLEY, Mr. CALLAHAN, and Mr. VENTO.
H.R. 1311: Mr. GALLEGLY, Mr. EVANS, Mr. OLVER, Mr. LIPINSKI, Mr. EWING, Mr. BACHUS, Mr. LAHOOD, Mrs. JOHNSON of Connecticut, Mr. HYDE, Mr. LEACH, Mr. MANZULLO, Mr. COSTELLO, Mr. DAVIS of Illinois, Mr. HOUGHTON, Mr. WALSH, Mrs. MORELLA, Mr. PICKETT, Mr. BLAGOJEVICH, Mrs. BIGGERT, Mr. BOYD, Mr. MCHUGH, Mr. COYNE, Mr. WELLER, Mr. BENTSEN, Mr. FRANK of Massachusetts, and Mr. VENTO.
H.R. 1322: Mr. WYNN.
H.R. 1333: Mr. HOUGHTON, Mr. MARTINEZ, Mr. THOMPSON of Mississippi, Mrs. MEEK of Florida, and Mr. CAPUANO.
H.R. 1336: Mr. CAMPBELL.
H.R. 1337: Mr. HUNTER and Mr. RYAN of Wisconsin.
H.R. 1334: Mr. KINGSTON.
H.R. 1354: Mr. HILL of Montana, Mr. BURTON of Indiana, Mr. NUSSLE, and Mr. RYAN of Wisconsin.
H.R. 1355: Mr. PALLONE.
H.R. 1356: Mr. GUTIERREZ and Mr. GREENWOOD.
H.R. 1358: Mr. WATKINS and Mr. GILMAN.
H.R. 1360: Mr. HOBSON.
H.R. 1388: Mr. DELAHUNT and Mr. OLVER.
H.R. 1392: Mr. SANDLIN and Mr. FROST.
H.R. 1443: Mr. WATT of North Carolina.
H.R. 1477: Mr. CRAMER and Mr. ROTHMAN.
H.R. 1495: Mr. OLVER.
H.R. 1505: Mr. MCINTOSH and Mr. EHRLICH.
H.R. 1507: Mr. STARK.
H.R. 1511: Mr. BACHUS.
H.R. 1544: Mr. SANDLIN.
H.R. 1547: Mr. SHOWS, Mr. CUNNINGHAM, Mr. BARCIA, Mr. SMITH of Washington, and Mr. RAHALL.
H.R. 1579: Mr. OXLEY, Mr. MANZULLO, Mr. SAWYER, Mr. CRAMER, Mr. CUNNINGHAM, Mr. SISISKY, Mr. DICKS, Mr. DIAZ-BALART, Mrs. EMERSON, Mr. SCHAFER, and Mr. PICKETT.
H.R. 1592: Mrs. CHENOWETH.
H.R. 1594: Mr. ORTIZ, Mr. REYES, Mr. HINOJOSA, Mr. RODRIGUEZ, Ms. SANCHEZ, Mr. SERRANO, Mr. MALONEY of Connecticut, Mr. MASCARA, Mr. RAHALL, Mr. KILDEE, and Mr. VENTO.
H.R. 1598: Mr. MCCRERY and Mr. SHAYS.
H.R. 1599: Mr. MCINTOSH.
H.R. 1601: Mr. EVANS, Ms. NORTON, Mr. DEAL of Georgia, Mr. ADERHOLT, Mr. LUTHER, and Mr. MARKEY.
H.R. 1621: Mr. BOUCHER.
H.R. 1624: Ms. ROYBAL-ALLARD, Ms. VELÁZQUEZ, Mr. FROST, Mr. PASTOR, Mr. KUCINICH, Mr. MARTINEZ, and Mr. WEYGAND.
H.R. 1630: Mr. DINGELL.
H.R. 1644: Mr. PICKETT.
H.R. 1645: Mr. DAVIS of Illinois.
H.R. 1646: Mr. SANDLIN.
H.R. 1682: Mr. CROWLEY, Mr. HOLT, Ms. HOOLEY of Oregon, Mr. FROST, and Mr. MORAN of Virginia.
H.R. 1685: Mr. MEEHAN, Mr. SKEEN, Mr. DICKS, Mr. RODRIGUEZ, Mr. THORNBERRY, Mr. CAPUANO, Mr. TALENT, Mr. OLVER, and Mr. MCGOVERN.
H.R. 1693: Mr. PALLONE and Mr. BENTSEN.
H.R. 1736: Mr. VENTO.
H.R. 1750: Ms. HOOLEY of Oregon.
H.R. 1760: Mr. MORAN of Kansas and Mr. BALDACCI.
H.R. 1776: Mr. HAYWORTH, Mr. HOLDEN, Mr. HOUGHTON, Mr. WAMP, Mr. HERGER, Mr. REYNOLDS, Mr. PASTOR, Mr. HAYES, Mr. DAVIS of Illinois, Mr. RYAN of Wisconsin, Mr. PETRI, Mrs. JOHNSON of Connecticut, and Mr. KUYKENDALL.
H.R. 1777: Mr. BALDACCI and Ms. BERKLEY.
H.R. 1788: Mr. BOYD, Mr. FOLEY, Mrs. THURMAN, and Mr. MCINTOSH.
H.R. 1810: Mr. EWING, Mr. EVANS, and Mr. PHELPS.
H.R. 1811: Mr. FRANK of Massachusetts.
H.R. 1812: Mr. TANCREDO.
H.R. 1816: Mr. MATSUI, Mrs. MINK of Hawaii, Mr. FROST, Mr. GREEN of Texas, Mr. SERRANO, and Mr. ROMERO-BARCELO.
H.R. 1821: Mr. CLYBURN, Ms. MCKINNEY, Ms. JACKSON-LEE of Texas, Mr. FARR of California, Ms. NORTON, Mr. BISHOP, Mr. WYNN, Ms. BALDWIN, Mr. TRAFICANT, Ms. WOOLSEY, Ms. MILLENDER-MCDONALD, Mrs. CHRISTENSEN, and Ms. SCHAKOWSKY.
H.R. 1827: Mr. SAM JOHNSON of Texas, Mr. KNOLLENBERG, Mr. GILMAN, Mr. RYAN of Wisconsin, and Mr. METCALF.
H.R. 1839: Mr. FILNER.
H.R. 1840: Mr. WICKER.
H.R. 1849: Mr. BERMAN.
H.R. 1862: Mr. MCCARTHY of New York.
H.R. 1863: Mr. WALDEN of Oregon.
H.R. 1868: Mr. KIND and Mr. TANNER.
H.R. 1884: Mr. CLAY.
H.R. 1885: Ms. KILPATRICK, Mr. KUCINICH, Mr. ALLEN, Mr. HINCHEY, and Mr. DEFAZIO.
H.R. 1899: Mr. INSLEE, Mr. OWENS, Mr. KING, Ms. HOOLEY of Oregon, Mr. UDALL of New Mexico, Mr. SANDLIN, and Mr. SERRANO.
H.R. 1916: Mr. STENHOLM, Mr. BENTSEN, Mr. GREEN of Texas, Mr. EDWARDS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HINOJOSA, Mr. GONZALEZ, Mr. ORTIZ, Mr. COLLINS, Mr. YOUNG of Alaska, Mr. GEORGE MILLER of California, Mr. UDALL of New Mexico, Mr. JOHN, and Mr. BOYD.

H.R. 1932: Mr. SWEENEY.

H.R. 1935: Mr. WYNN, Mr. GUTIERREZ, Ms. LOFGREN, and Ms. BALDWIN.

H.R. 1939. Mr. BONIOR, Mr. LANTOS, Mr. LATHAM, Mr. MCGOVERN, Mr. DAVIS of Illinois, and Mrs. THURMAN.

H.R. 1966: Mrs. THURMAN.

H.R. 1975: Mr. SANDLIN.

H.R. 1976: Mr. BOEHLERT, Mr. GILMAN, and Mr. HORN.

H.R. 1977: Mr. MORAN of Kansas.

H.R. 1983: Ms. KAPTUR.

H.R. 1992: Mr. CRAMER, Mr. BURR of North Carolina, Mr. KILDEE, and Mr. WICKER.

H.R. 1994: Mr. RYAN of Wisconsin.

H.R. 1995: Mr. PETERSON of Pennsylvania, Mr. BALLENGER, Mr. ROYCE, Mrs. MYRICK, Mr. SOUDER, Mr. PETRI, Mr. UPTON, Mr. EHLERS, Mr. HALL of Texas, Mr. GREENWOOD, Mrs. ROUKEMA, Mr. RADANOVICH, and Mr. HERGER.

H.R. 1996: Mrs. MEEK of Florida, Mr. MEEHAN, Mr. DAVIS of Illinois, Mr. BONIOR, Mr. GUTIERREZ, and Mr. ENGLISH.

H.R. 1998: Mr. LUTHER.

H.R. 1999: Mr. SABO.

H.R. 2000: Mr. PASTOR, Mr. JEFFERSON, Mr. FOLEY, Mr. INSLEE, Mr. WU, Mr. ISAKSON, and Ms. WOOLSEY.

H.R. 2004: Mr. TANCREDO.

H.R. 2018: Mr. RAMSTAD.

H.R. 2028: Mr. MANZULLO.

H.R. 2030: Mr. CAMP.

H.R. 2031: Mr. BALDACCI, Mr. LUCAS of Oklahoma, Mr. BOYD, Mr. GRAHAM, Mr. HOEKSTRA, Mr. LIPINSKI, and Mr. BONIOR.

H.R. 2039: Mr. KUCINICH.

H.R. 2056: Mr. TOWNS.

H.R. 2088: Mr. FLETCHER.

H.R. 2102: Mr. FOLEY, Mr. MOAKLEY, Ms. DUNN, and Mrs. EMERSON.

H.R. 2116: Mr. MCINTOSH.

H.R. 2125: Mr. BLAGOJEVICH, Mr. WYNN, Ms. ROS-LEHTINEN, Mr. DIAZ-BALART, Mrs. MALONEY of New York, Mr. WEXLER, and Mr. MATSUI.

H.R. 2136: Mrs. THURMAN.

H.R. 2137: Ms. DUNN.

H.R. 2138: Ms. DUNN.

H.R. 2139: Mr. MCCRERY.

H.R. 2166: Mr. MARTINEZ, Mr. PRICE of North Carolina, and Ms. SCHAKOWSKY.

H.R. 2193: Mr. THOMPSON of Mississippi, Mr. KUCINICH, and Mr. RUSH.

H.R. 2202: Mrs. TAUSCHER, Mr. INSLEE, Mr. SNYDER, Ms. SANCHEZ, and Ms. PELOSI.

H.R. 2221: Mr. COBURN.

H.R. 2227: Mr. KLECZKA.

H.R. 2241: Mr. CLAY, Ms. DANNER, and Mr. MCCOLLUM.

H.R. 2245: Mr. TERRY, Mr. RYAN of Wisconsin, Mr. TANCREDO, Mrs. BIGGERT, Mr. DEMINT, Mr. FLETCHER, Mr. GREEN of Wisconsin, Mr. HAYES, Mr. ISAKSON, Mr. KUYKENDALL, Mr. SIMPSON, Mr. SWEENY, Mr. VITTER, Mr. TOOMEY, Mr. WALDEN of Oregon, Mr. REYNOLDS, Mr. SHERWOOD, and Mr. OSE.

H.R. 2246: Mr. MOORE, Mr. BAKER, and Mr. BALDACCI.

H.R. 2247: Mr. ENGLISH.

H.R. 2252: Mr. THORNBERRY.

H.R. 2260: Mr. OXLEY, Mr. WOLF, Mr. MCINNIS, Mr. LIPINSKI, Mr. PEASE, Mr. RYUN of Kansas, Mr. JENKINS, Mr. HILL of Montana, Mr. COSTELLO, Mr. SUNUNU, Mr. CAMP, Mr. MASCARA, Mr. WICKER, Mr. WATKINS, Mr. FORBES, Mr. HALL of Ohio, Mr. PETRI, Mr. MCINTOSH, Mr. TAYLOR of North Carolina, and Mr. CHAMBLISS.

H.R. 2282: Mr. GREEN of Wisconsin, Mr. PAUL, Mr. ROEMER, Mr. PICKETT, and Mrs. KELLY.

H.R. 2283: Mr. PETERSON of Minnesota.

H.R. 2287: Ms. SCHAKOWSKY and Ms. WOOLSEY.

H.R. 2300: Mr. LUCAS of Oklahoma, Mrs. WILSON, Mr. THORNBERRY, and Mr. WICKER.

H.R. 2303: Mr. COYNE and Mr. HYDE.

H.R. 2305: Mr. MEEKS of New York.

H.R. 2306: Mrs. THURMAN.

H.R. 2308: Mr. MANZULLO, Mr. WATKINS, Mr. ENGLISH, Ms. DUNN, Mr. HULSHOF, and Mr. HERGER.

H.R. 2337: Ms. LOFGREN.

H.R. 2344: Mr. PRICE of North Carolina.

H.R. 2345: Ms. WOOLSEY.

H.R. 2372: Mr. SCARBOROUGH and Mr. PETRI.

H.R. 2377: Mr. BRADY of Pennsylvania and Mr. FATTAH.

H.R. 2381: Mr. NORWOOD.

H.R. 2389: Mr. GOODLATTE, Mr. STUPAK, Mr. RADANOVICH, Mr. SHOWS, Mrs. CHENOWETH, Mr. OBERSTAR, Mr. NETHERCUTT, Mr. TAYLOR of North Carolina, and Mr. WALDEN of Oregon.

H.J. Res. 55: Mr. DUNCAN, Mr. HUNTER, Mr. HOEKSTRA, Mr. HILL of Montana, Mr. SCHAFFER, and Mr. BARTON of Texas.

H. Con. Res. 57: Mr. PICKETT.

H. Con. Res. 60: Mr. WYNN, Mr. BURTON of Indiana, Mr. PORTER, Mr. ROYCE, and Mr. HALL of Ohio.

H. Con. Res. 62: Mr. MINGE and Mr. KLECZKA.

H. Con. Res. 64: Mr. SESSIONS.

H. Con. Res. 100: Mr. FRANK of Massachusetts, Mr. MARTINEZ, Mr. FILNER, Mr. ROGAN, Mr. VISCLOSKY, and Mr. WAXMAN.

H. Con. Res. 116: Mr. PASTOR.

H. Con. Res. 121: Mr. SMITH of New Jersey and Mr. WOLF.

H. Con. Res. 124: Mr. GREEN of Texas, Mr. CAPUANO, and Mr. RANGEL.

H. Con. Res. 128: Mr. LATOURETTE and Mr. BENTSEN.

H. Con. Res. 129: Mr. SHOWS, Mr. MANZULLO, Mr. DAVIS of Illinois, Ms. NORTON, and Mr. ARCHER.

H. Con. Res. 134: Ms. LOFGREN.

H. Con. Res. 140: Mr. GEJDENSON, Mr. TOWNS, Ms. MILLENDER-MCDONALD, Mr. SANFORD, Mr. ENGEL, and Mr. PAYNE.

H. Con. Res. 141: Mr. LAMPSON, Mr. HINOJOSA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BECERRA, Mr. OWENS, Ms. SCHAKOWSKY, Mrs. MEEK of Florida, Mr. BARRETT of Wisconsin, Mr. GEJDENSON, Mr. PASCRELL, Ms. DELAURO, Mr. BRADY of Pennsylvania, Mrs. CHRISTENSEN, Mr. BROWN of California, Mr. DEUTSCH, Mr. HUTCHINSON, Ms. BERKLEY, and Mr. WAXMAN.

H. Con. Res. 145: Mrs. THURMAN, Mr. ENGLISH, and Mr. WAXMAN.

H. Con. Res. 147: Mr. CUMMINGS.

H. Res. 89: Ms. NORTON, Mr. ADERHOLT, and Mr. WU.

H. Res. 107: Mr. DIXON, Mr. STARK, and Mr. MEEHAN.

H. Res. 164: Mr. BERRY, Mr. MINGE, and Mr. SANDLIN.

H. Res. 203: Mr. WELDON of Pennsylvania, Mr. METCALF, Mr. WYNN, Mr. FRANK of Massachusetts, Mr. ROMERO-BARCELO, Mrs. CAPPS, Mr. TIAHRT, Mr. BARCIA, Mr. LAHOOD, Mr. FRANKS of New Jersey, Mr. HALL of Ohio, Mr. GILMAN, Mr. MCNULTY, Mr. CASTLE, Mr. LOBIONDO, Mr. HOLDEN, Mr. GALLEGLY, Mr. SCHAFFER, and Mr. GREEN of Texas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1300: Mr. FROST.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petitions were filed:

Petition 3, June 23, 1999, by Mr. DINGELL on House Resolution 197, was signed by the following Member: Robert C. Scott.