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House of Representatives

The House met at 9 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We are aware, O gracious God, that we are called to use our abilities in ways that serve people in their need. On this day we express our appreciation to those who have shown a commitment for public service, who seek to fulfill the biblical injunction to do justice, love mercy, and walk humbly with You. May the values of justice and mercy and humility continue to inspire and encourage people of goodwill to be good stewards of the resources of the Nation so that justice will flow down as waters and righteousness like an ever-flowing stream. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kansas (Mr. MORAN) come forward and lead the House in the Pledge of Allegiance.

Mr. MORAN of Kansas 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.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, May 7, 1998, the House declares the House in recess subject to the call of the Chair, to receive the former Members of Congress.

Accordingly (at 9 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The SPEAKER presided.

The SPEAKER. If the Chair might comment, on behalf of this chair and the Chamber, it is a high honor and distinct personal privilege to have the opportunity of welcoming so many former Members and colleagues as are present here for this occasion.

Those of us serving in this body today are engaged in a tiny piece of a great conversation about self-government that stretches back in time and place to Philadelphia, Pennsylvania, on the 5th day of September, 1774. Today's proceedings provide a unique opportunity to reflect upon that conversation and to recognize that we truly stand on the shoulders of giants.

Let me also mention, if I might, what a pleasure it is for me to be here as we pay tribute to the achievements of Senators Howard Baker and Nancy Kassebaum Baker and their service to this Nation. We all owe them a great deal of thanks, and I think it is quite appropriate that the Former Members Association has decided to honor them with the Distinguished Service Award here today.

Let me also recognize the Honorable Matt McHugh, Vice President of the Association, and ask him to come forward and take the Chair.

Mr. MCHUGH (presiding). Thank you very much, Mr. Speaker, for your welcome and your kind remarks. We very much appreciate your hosting us again.

The Chair directs the Clerk to call the roll of former Members of Congress.

The Clerk called the roll of the former Members of the Congress, and the following former Members answered to their names:

ROLLCALL OF FORMER MEMBERS OF CONGRESS ATTENDING 28TH ANNUAL SPRING MEETING, MAY 13, 1998

James Abdnor of South Dakota (R);
William V. (Bill) Alexander of Arkansas (D);
Howard H. Baker, Jr., of Tennessee (R);
Nancy Kassebaum Baker of Kansas (R);
Perkins Bass of New Hampshire (R);
J. Glenn Beall, Jr., of Maryland (R);
Berkeley Bedell of Iowa (D);
Daniel B. Brewster of Maryland (D);
Don G. Brotzman of Colorado (R);
Glen Browder of Alabama (D);
Clarence J. Brown of Ohio (R);
John Buchanan of Alabama (R);
Jack Buechner of Missouri (R);
Beverly B. Byron of Maryland (D);
Elford A. Cederberg of Michigan (R);
Rod Chandler of Washington (R);
James K. Coyne of Pennsylvania (R);
Neiman Craley, Jr., of Pennsylvania (D);
Robert W. Daniel, Jr., of Virginia (R);
John N. Erlenborn of Illinois (R);
Peter H.B. Frelinghuysen of New Jersey (R);
Louis Frey, Jr., of Florida (R);
Don Fuqua of Florida (D);
Robert N. Giaimo of Connecticut (D);
Sam M. Gibbons of Florida (D);
Robert P. Hanrahan of Illinois (R);
Dennis M. Hertel of Michigan (D);
Jack Hightower of Texas (D);
George J. Hochbrueckner of New York (D);
Lawrence J. Hogan of Maryland (R);
David S. King of Utah (D);
Herb Klein of New Jersey (D);
Ernest L. Konnyu of California (R);
Peter N. Kyros of Maine (D);
H. Martin Lancaster of North Carolina (D);
Lawrence P. (Larry) LaRocco of Idaho (D);
Norman Lent of New York (R);
Cathy Long of Louisiana (D);
Bill Lowery of California (R);
Manual Lujan of New Mexico (R);

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Charles ''Mac'' Mathias of Maryland (R);
Wiley Mayne of Iowa (R);
Romano L. Mazzoli of Kentucky (D);
John Y. McCollister of Nebraska (R);
Matthew F. McHugh of New York (D);
Robert H. Michel of Illinois (R);
Abner Mikva of Illinois (D);
John S. Monagan of Connecticut (D);
Carlos John Moorhead of California (R);
Frank E. Moss of Utah (D);
John T. Myers of Indiana (R);
Lucien N. Nedzi of Michigan (D);
Dick Nichols of Kansas (R);
Stan Parris of Virginia (R);
Shirley N. Pettis of California (R);
Howard W. Pollock of Alaska (R);
Jim Quigley of Pennsylvania (D);
Thomas F. Railsback of Illinois (R);
John J. Rhodes of Arizona (R);
John J. Rhodes, III, of Arizona (R);
Toby Roth of Wisconsin (R);
J. Roy Rowland of Georgia (D);
Marty Russo of Illinois (D);
Ronald D. Sarasin of Connecticut (R);
Bill Sarpalius of Texas (D);
Jim Scheuer of New York (D);
Richard T. Schulze of Pennsylvania (R);
Richard S. Schweiker of Pennsylvania (R);
Jim Slattery of Kansas (D);
Lawrence Jack Smith of Florida (D);
Don Sundquist of Tennessee (R);
James W. Symington of Missouri (D);
Harold L. Volkmer of Missouri (D);
Mike Ward of Kentucky (D);
Charles W. Whalen, Jr., of Ohio (R);
Larry Winn, Jr., of Kansas (R);
Lyle Williams of Ohio (R);
Harris Wofford of Pennsylvania (D);
Lester Wolff of New York (D);
James C. Wright, Jr., of Texas (D);
Samuel H. Young of Illinois (R).

□ 0915

Mr. MCHUGH (presiding). The Chair announces that 66 former Members of Congress have responded to their names.

The Chair now recognizes the gentleman from Maryland (Mr. HOYER) for remarks on behalf of the Democrats in the Congress.

Mr. HOYER. Speaker MCHUGH, for some of us, that sounds pretty good; I want you to know that. We are glad to have you back.

Speaker Wright, Speaker Michel, Mr. Speaker, I want you to know that, with all due respect, I said to the gentleman from Illinois (Mr. RAY LAHOOD), I said, Mr. LAHOOD, I will get you 207 votes if you will get 11, and we will make Bob Michel the Speaker. But he still has not come up with those 11 votes, Bob. I don't know what the problem is, but we are working on it.

I am very pleased to have the opportunity once again to be the designated hitter to welcome you back to the halls of Congress. One of my constituents from New Carrollton got an award this morning from the Small Business Administration, so I was down there. As I was driving back from the Grand Hyatt Hotel, I was thinking about welcoming this group back.

The thought occurred to me that it is so nice to have you back, the generation that had those raging deficits. We have balanced the budget, you know. It was your generation that gave us the unrestrained Cold War, and we are welcoming you back now that we have solved that problem.

But also I thought to myself, yours was the generation of unapologetic civility in the Congress of the United States. Those were the good old days, although I might observe, I am sure, that the civility is much greater in its recollection than it was in its experience, because I served with so many of you, and I know that there were acrimonious times even then.

We are very pleased to have you back, because you are part of the brotherhood and sisterhood of those who had the opportunity of serving the peoples' House.

I think all of us, and those who are in the Senate, I see three of my Senators are here, Senator Mathias, Senator Beall, and my patron, as all of you know, Senator Daniel Brewster, who employed me, and effectively made it possible for me to get through Georgetown Law School as a member of his staff. I will forever be thankful for his contribution to my success. We have two Republicans and a Democrat, great friends and great patriots all. We are pleased to have you back.

One of my predecessors is here, Congressman Larry Hogan, who had the experience of having his son run against me some 6 years ago; but we have remained friends, and I am pleased to see all of you back.

It is clear that this body and the body across the Capitol are perceived correctly by the world's population as being the repositories of how people get together in peaceful ways and resolve differences. So many of you have been heroes in that effort.

Senator Baker is mentioned most recently for his role in the crisis confronting a democracy that saw the Constitution of the United States work its will, and the people's will reflected in a peaceful transition of power. So I am pleased, because I know that so much of what we do from a good standpoint, we do and are enabled to do because of the contributions that so many of you made.

I had the privilege of coming to the House under Speaker Tip O'Neill, one of the beloved Speakers of this House. Then I had the great privilege of serving in what I perceived to be, and I know that that may not be a universal judgment, as the most productive Congress in which I served, the 100th Congress, under the leadership of Speaker Jim Wright. Speaker Wright, it is a privilege and pleasure to have served with you and to have you back, and recognize your great contribution to the history of this country and the history of this House.

I am so honored to be with all of you, and so honored to recognize your contributions to America's well-being, to its role not only in this country, for its own citizens, but around the world.

God bless you, good health, and I look forward to seeing you again, over and over. Thank you very much, and welcome.

Mr. MCHUGH. We thank our friend, the gentleman from Maryland, for those very thoughtful remarks.

At this time, the Chair recognizes the gentleman from Florida, the Honorable Louis Frey, Jr., who is the president of our association.

Mr. FREY. Thank you, Mr. Speaker. I want to thank the Speaker for those kind remarks. They are deeply appreciated.

Mr. Speaker, I am pleased and honored to have the opportunity once again to be in the Congress to present our 28th annual report to the Congress. We want to thank the Speaker, the gentleman from Georgia (Mr. NEWT GINGRICH) and the minority leader, the gentleman from Missouri (Mr. RICHARD GEPHARDT) and all Members of Congress for the opportunity to allow us to return to this place we dearly love.

We want to thank the gentleman from Maryland (Mr. HOYER) for his warm and generous greeting to us.

GENERAL LEAVE

Mr. FREY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks.

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

There was no objection.

Mr. FREY. Mr. Speaker, there are no term limits on public service. The reason we are here today and why we have approximately 600 Members is, each of us believes that serving our country is a lifetime job.

When we were sworn in, we did not take an oath to a political party, we took it to our country. Our nonpartisan organization has a budget of approximately three-quarters of a million dollars and is chartered, but not funded by the United States Congress. Its purpose is to promote the improved public understanding of the role of Congress as a unique institution, as well as the crucial importance of representative democracy as a system of government, both domestically and internationally.

We are not naive. We know that it is a continuing struggle, especially in today's cynical world, to try and get people to understand and appreciate the political institutions that have kept us free for over 200 years. We live in an age where bad news seems to dominate the airwaves, where a television talk show that highlights people verbally and physically abusing each other is the top-rated show.

Yet, underneath the cynicism and sensationalism, most Americans understand intuitively what we have inherited from our Founding Fathers, and if given the chance, want to believe and participate in our system. It is easy to

sit on the sidelines and just complain. It is a lot more difficult to be part of the process and work to make it better, but that is our commitment, to spend the rest of our lifetimes making it better.

The future of our country rests with our young people, yet 3 decades after massive student unrest, demonstrations on campuses, and the civil rights struggle, fueled by students, a record low number of college freshmen show much interest in politics.

The annual survey by UCLA for the Washington-based American Council on Education found just 27 percent of the Nation's 1.6 million freshmen believe that keeping up with political affairs is a very important life goal, less than half the percentage than in 1966. Fourteen percent said they frequently discuss politics, down from 30 percent in 1968.

The most important program of this association is our Congress to Campus program. We began teaching in colleges in 1976, and have reached more than 100,000 students across this country. However, we felt the program should be formalized and upgraded, with a goal of reaching 30 college communities a year.

We started in 1996 our Congress to Campus program, in conjunction with the Stennis Center for Public Service at Mississippi State University. This program sent teams of two Former Members, one Democrat, one Republican, to college communities to teach in colleges and high schools, spend 2½ days there, have formal and informal meetings with the students, morning, noon, and night, talk to the faculty, the community civic clubs, and just be part of that community.

The association arranges the participation of Members who contribute their time. The Stennis Center coordinates the trip, and the colleges and universities pay lodging and meals for the visitors. We have an advisory team of Members of Congress, the gentleman from California (Mr. STEPHEN HORN), the gentleman from Florida (Mr. CLAY SHAW), the gentlewoman from New York (Ms. LOUISE MCINTOSH SLAUGHTER) and the gentleman from Tennessee (Mr. JOHN TANNER), that we work with.

I now would like to yield to the gentleman from North Carolina, the Honorable Martin Lancaster, Treasurer of the association, and then the gentleman from Washington, the Honorable Rod Chandler, to discuss their personal visits to college campuses.

Martin?

Mr. LANCASTER. Thank you, Mr. Speaker. It was a great pleasure for me to have an opportunity to go with the gentleman to the University of New Mexico as a part of the Congress to Campus program.

With the success of our dinner last year, we are pleased that we will be able to expand from approximately 10 schools a year to perhaps as many as 30 schools a year in the future. It is a great opportunity for those of us who are Former Members to get out across the country and to share with the future leaders of our country, the current college students, what the democratic process is all about, since, unfortunately, many of them get a skewed idea of what Congress is about through the media.

Since Members of Congress rarely can spend more than an hour or so on a campus, having an opportunity for two Former Members, a Democrat and a Republican, to spend 2½ days on a campus is truly an outstanding opportunity for those students to get a better understanding of Congress.

As Lou has indicated, a full schedule of meetings is usually a part of the agenda, with students teaching in classes, doing civic club speeches in the community, and meeting informally, one-on-one, with students in their various meeting places across campus.

I would encourage all of you who have not done this, and for some of you who have to make repeat visits. But it is, with the expansion of our program dollars, going to be a challenge to get 30 Democrats and 30 Republican Former Members to participate in this program, so I hope that you will make yourself available. It will be something rewarding and worthwhile, and you will come back with a much better feel for the future, seeing the quality of young people who are now enrolled in our colleges. Thank you.

Mr. CHANDLER. Mr. Speaker, it has been my honor and pleasure to participate in the Congress to Campus program on three separate occasions. I have visited California State University at Monterey Bay, the University of Georgia and Florida State University, and, as President Frey pointed out in his remarks, these were all on a bipartisan basis.

At all three campuses I found students who were eager to learn more about their government. In political science classes, we talked about careers in public service and the personal rewards to be gained from a life of service. I recall well at a Florida State University law class my colleague from Michigan, Bill Ford, a former committee chairman, providing a lengthy but nevertheless fascinating lecture on the development of legislative intent for later interpretation by the courts.

At the University of Georgia, my Democratic colleague and I engaged in a very spirited debate over the future of Social Security, a rather perfect lesson of how adversaries can argue with conviction and passion, and yet remain friends.

We Former Members, when we go to campuses, meet with community groups, faculty members, and student government leaders. At the University of Georgia, I spent several hours with activists from the Young Republican group. At Florida State University, the elected student leaders invited us to a luncheon where we discussed campus elections, the limitations of the administration, and of course, Seminole football.

□ 0930

The U.S. Association of Former Members of Congress is assisted with our Congress to Campus program by the Stennis Center for Public Service of Mississippi. Since 1996, the Stennis Center has provided funding and logistical assistance for the program. Congress to Campus started in 1976 and since then 107 former Members have made 250 visits to 176 campuses in 49 States and the District of Columbia and over 100,000 students have participated.

Mr. Speaker, I suspect most of us who have had the honor to serve in Congress received important inspiration or encouragement from some public servant who went before us. In my case, it was governor Tom McCall of Oregon. All of us, believing in the concept that there are no term limits on public service, volunteer our time to meet with interested young people and share our experience with them. Who knows when one of us will interest, perhaps inspire the next TRENT LOTT, TOM DASCHLE, NEWT GINGRICH OR DICK GEPHARDT? Perhaps one of those students will prove to be a Franklin Roosevelt or Ronald Reagan. At the very least, we can hope that young men and women will take a greater interest in the very institutions our forefathers fought and died for.

If we inspire students to be informed and to vote, we accomplish a great deal.

Mr. FREY. The Congress on Campus program is not government funded. In order to help institutionalize the program, we held our first annual Statesmanship Award Dinner at the Willard Hotel on February 10, 1998. The dinner was highlighted by an award to the Secretary of Agriculture, Dan Glickman. Cokie Roberts served as MC. The dinner also featured a public and silent auction of presidential and congressional memorabilia. I would like the co-chairmen of this incredibly successful dinner, who did such a wonderful job, the gentleman from Kansas, Mr. Jim Slattery and the gentleman from Missouri, Jack Buechner, to discuss this dinner and next year's event, which is already scheduled for February 23 at the Columbia Club and East Hall at Union Station.

Mr. SLATTERY. The first thing I want to do is express my gratitude to you for the tremendous leadership you have provided this organization over the last year. Let us join in giving Lou Frey a great round of applause. You are absolutely super, Lou.

As someone who worked in the capacity with my friend from Missouri, Jack Buechner, in trying to raise a little bit of money in the project, I know that it would not have been possible without Lou Frey on the phone daily calling people all over the country. Lou, you are just a great inspiration to all of us. You shamed us into action.

It is great to see you all today and to have an opportunity to greet so many friends of longstanding. I do not want to say old friends anymore as my hair greys with every passing day, but it is great to see so many of you. I want to thank you all. So many of you did actively get involved in supporting this first effort, which I think is a very important project, this whole concept of trying to take the Congress to the campuses of America and try to help educate young people all across this country about the importance of our basic institutions of self-government.

The other day, one of the most distinguished and respected Members of this body currently serving, the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, said, and let me quote what was in the Washington Post, he said, ''People today don't understand how painful the development of self-government is. This is a great place,'' referring to the Congress, ''and people demean it. They do not realize what it cost to create it.''

It is this problem that I think the gentleman from Illinois (Mr. HYDE) was trying to identify that we are trying to correct with the Congress to Campus program. The land is full of cynicism and it is perhaps no deeper than on our college campuses. With the Congress to Campus program, we hope to be able to go out on a bipartisan basis, spend quality time with students and young leaders all across this country talking to them about self-government, talking to them about what really goes on in this, the people's House.

If we can do this successfully, hopefully as previous speakers have said, we will inspire a greater confidence in the basic institutions of our democracy. I happen to believe very strongly that the people's confidence in the institutions of our democracy is essential to the survival of this democracy. I think that is why we should be investing what time we have and the talent of all of you in trying to carry on this effort across this country. It was a pleasure to work with you, Jack, on this project, and I look forward to working with you next year on it.

Mr. BUECHNER. I thank the gentleman from Kansas. What I am trying to figure out is I have spent 16 years in elective office in my life, always in the minority. And when the Republicans get control of the House, I end up in the Democratic well. I guess I am just, it is forecasted that this is what is going to happen.

I do want to say that it is irrelevant which side of the well I am on, because what I want to talk about is the absolute success that we were able to enjoy with the dinner. We cannot talk about the nitty-gritty things about dollars and cents, but I will say that what we have been able to achieve takes what the Stennis Center has been able to give to us and leapfrogs us into a completely different dimension.

When we started on this effort, the old maxim was that if there is anybody cheaper than sitting Members of Congress, it is former Members of Congress. But throughout the efforts of so many people from all across the United States, and I want you to remember that Lou Frey was operating this out of Florida, and it was a real labor of love that he was contacting people that he had served with and getting them energized. And probably one of most amazing things that occurred was the accumulation of so many fine pieces of memorabilia that we were able to engage in the auction phase of it. I think a special word of thanks needs to go out to Jim Symington. Where are you, Jim? Jim donated a family piece that if you have read the materials it really did not adequately explain the impact of it, which was a letter from a constituent to his Member of Congress who was a unionist from Kentucky, asking that his grandson, excuse me, his nephew would be paroled from a union prison in Alton, Illinois because he was not really a reb, that his grandpa had forced him from Missouri to join the rebel army and that he would support the union, but he needed to be paroled out. And the Congressman had sent a letter to President Lincoln and President Lincoln had written on the bottom of the letter, Find the boy, have him take the pledge, parole him out, Abraham Lincoln.

That was an unbelievable gift from a great man and it set the tone for everybody to, if you didn't have Abraham Lincoln around, did you have Jim Wright, did you have Bob Michel, did you have Howard Baker. We are trying to get as many things for the next auction that are sitting in your closets that maybe you do not want to give to your grandkids because they do not really know much about politics, unfortunately, that is the way life is, but to have an opportunity to help this Congress to Campus program.

It was a great success. We are optimistic. We picked a bigger venue next time round. We want you to come back. We want you to share with your old colleagues a lot of old war stories but, more importantly, to help support this program because it is a great program. I want to tell you though that it does not always work the way you want it to. When Al Swift and I went down to Florida International, they thought we were recruits and they took us to every possible corner of the campus to show us the new boilers and the new classrooms. So you have to remind them you are there to instruct, not to be recruited. But I want to thank the gentleman from Kansas, he deserves an extraordinary amount of applause because he really did take the bull by the horns. And Missourians, we always follow our Kansas neighbors in basketball and some other things, but he did a great job. I would just like to thank you, Jim, and tell you it was a pleasure working with you.

Mr. SLATTERY. Thank you, Jack.

Mr. BUECHNER. And to exhort you all to be participants in the program next February.

Mr. FREY. Talking about the auction, Dick Schulze had the idea for it, the gentleman from Pennsylvania. It was his idea really about this and I would like to yield now to him. He co-chaired the auction along with Chris LaRocco, President of the Auxiliary. Dick?

Mr. SCHULZE. I feel like we have reached the point of redundancy here. The Congress to Campus program is a marvelous program. Those of you who have participated know and understand that. You have heard enough about it. So how do we support it? How do we enlarge it and how do we make it more successful? We have got to raise money to do it. Although Jack said that former Members are almost tighter than sitting Members, we have found a way to reach our hands in their pockets; that is, most of us do have boxes of what we might term as junk in the basement or in the attic, various memorabilia from the time when we served in Congress, items, they do not have to be quite as wonderful as that which Jim Symington gave to us, but I wanted to give you an idea. And by the way, let me tell you that we were very successful. We raised $18,000 from the auction and so even those little things that you may not think are very valuable, it all adds up.

I wanted to give you an idea of those who did help so that you can help next year. From David King, whose father was William King, United States Senator from Utah from 1916 to 1940 had, on a trip to the Soviet Union, had been given a set of dinnerware that either by the Czar or that had been used by the Czar that we auctioned off, which was a marvelous one of a kind. We got things from Jay Rhodes, from Jake Pickle, we had Lyndon Johnson's hat, Jake got from Lady Bird, Dan Brewster, Jerry Ford, a variety of people, Bob Dole, TRENT LOTT, from the former Senator from Louisiana, Russell Long gave us an autographed copy of the autobiography of Huey Long, a lot of those things that you or I may not think are extremely valuable but are of value to other people. So I urge you in this next couple of months, take time to look at those boxes in the basement. See if you can get us some letters, some autographed photographs, anything like that, send it over to Former Members headquarters, to Linda and we will put it to good use next year.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I want to thank my friend for his statement today for the work that he has done for the association and being such a pleasant traveling partner. The two of us went to the University of Maine in April and excellent, I urge all of my colleagues and I think the gentleman from Pennsylvania would agree, that that was a very wonderful couple of days we spent with our students, with the faculty, with the administration, talking about democracy, hopefully making a few of the

converts that may actually become part of this body at some point. I just want to thank the gentleman for all he did and for being, again, such a pleasant person for those two days.

Mr. SCHULZE. It was my pleasure and your contributions during that trip were outstanding. I assume you have received a couple of letters from the people we talked to. I have. Those of you who have done a little teaching understand what it is like to turn, maybe change a student's life. Those of us who have not are kind of thrilled by that. Some of the letters I have received just make me want to do it again.

I would urge all of you, if you have the opportunity to get involved with the Congress to Campus program, send us your cards and letters, memorabilia, photographs, hats, ties, whatever you have, send it to us and we will auction it off.

Mr. FREY. One of the things we have decided to do is hold a meeting each year in November in California alternating between Northern and Southern California. Our first California meeting in Northern California was hosted by a former member, Congressman Peter Smith, who is the founding President of California State University at Monterey Bay.

We used this opportunity to teach in at colleges and high schools. We went to something like 12 or 13 high schools all over and spent three or four hours there plus, of course, at the university. This year we are going to go to Southern California, the Palm Springs area, beginning in November 15, Shirley Pettis has agreed to have us at the house; Railsback is going to teach us golf. The college of the desert is going to be our host school so it should be a fun time to plan ahead.

One of the things we have tried to do is give Members the ability to travel overseas. We have had 16 study tours in the past throughout the world. Bill Peterson from Florida is the ambassador to Vietnam. Jay Rhodes, who is very close to him in the Congress, has talked with him and we are going over there this October to Vietnam. I would like to yield to the gentleman from Arizona, Jay Rhodes, to talk about this.

□ 0945

Mr. JOHN J. RHODES III. Thanks, Lou. Briefly, on the Congress to Campus, I have been there as well. It is a marvelous experience. I went to Denison University with Austin Murphy. I do not know if we had any impact on the kids, but Austin and I had a wonderful time.

None of us served here in times of budget surplus. Now it seems there is a budget surplus and our current colleagues are hell-bent to try to find a way to spend that money. Why do we not encourage them to spend some of it on the former Members of Congress and the Congress to Campus program. I think that is a wonderful way to spend a budget surplus.

I got a phone call shortly after the board of directors of this organization said we would like to go to Vietnam, a phone call from Lou. And Lou said, I understand you are a Vietnam veteran; and I said, I am. And he said, I understand you went back to Vietnam a few years ago with Pete Peterson; and I said, I did. And he said, I understand you are particularly close with Pete; and I said, I am. And he said, good, you are in charge of this trip; put it together. By the time I could say, what do I look like, a travel agent, the phone was dead. And this is the kind of leadership we get out of Frey, very effective leadership.

There is no saying, no, to Lou, so the answer is, we are going to Vietnam. Peterson wants us to come. Peterson would like us to come in October, if we can put it together.

I have been able to find an organization that actually does trips to Vietnam. They have done 15 trips to Vietnam. They start with getting the visas and they end with taking the luggage off the carousel when you get back in the United States.

We are looking at a trip that would include about 7 days in-country in Vietnam; 2 or 3 days in Hanoi, a couple days in Hue and ending up in Saigon. The possibility for some side trips.

We are in a relatively early planning stage. We should be able to get you some details about cost and so forth within probably 2 to 3 weeks. We would still like to make it in October. The organization that will be helping us is indicating that may be a little bit of a short fuse, but they are willing to try to get us there in October.

We have had preliminary expressions of indication from our membership of about 45 to 50 individuals who would like to go, depending of course on time and cost, and it could grow from that number.

I think it is a very exciting prospect, and I am very encouraged that we have been able to actually locate an organization that can do what Frey told me to do all by myself. And so I think that we will be organizing a trip that will go to Vietnam, hopefully in October of this year, and if not, then early next year.

So I would be happy to yield back to the unchallengeable leader of this organization, unchallengeable only because he hangs up on you before you have a chance to say, Lou, I do not know how to do that.

We will see you in Vietnam in October.

Mr. FREY. Jay, thanks for all that hard work.

I would like to yield now to the former president of the association, the gentleman from Missouri, the Honorable Jim Symington, to talk about the trip to Cuba, which Jim really put together, and the upcoming trip possibly to Cuba.

Before I do, there are two things I would like to say. Number one, just for the press, who is not always accurate, we pay for these; this is not government funded. We pay our own way over and pay our own way back and pay for everything on it.

And secondly, and Jim Slattery mentioned it before, but I think we should all give Jim a round of applause for what he did. He set the tone for this thing and that was an amazing gift that you gave. So, Jim, thank you so much.

Mr. SYMINGTON. Thank you, Lou, Mr. President, colleagues. President Lou, you led the breakthrough visit to Cuba a year ago December by a bipartisan delegation of former members and one sitting Member of Congress. The delegation which you and I cochaired consisted additionally of Toby Roth, Mike Barnes, Dennis DeConcini and the gentleman from Nebraska (Mr. JON CHRISTENSEN). Plus, of course, FMC's consultant, Walt Raymond, who did a lot to put it together.

We were both briefed and debriefed by the gentleman from New York (Mr. GILMAN), the gentleman from Indiana (Mr. HAMILTON), and other key members of the Committee on International Relations in the House and the Committee on Foreign Relations in the Senate. We also met senior officials in the State Department, the National Security Council, Stu Eizenstat, who was in Commerce at the time, but also our government's special emissary to Cuba.

In addition, we made a very concentrated effort to reach out and get the views and input of experts on Cuba, from think tanks, other private groups, including, of course, representatives of the Cuban-American community.

Our report's policy recommendations were entered in the CONGRESSIONAL RECORD February 26, 1997, pages E. 315 to 316. While acknowledging the unrepentant nature and indeterminate duration of Cuba's rigid political system under Fidel Castro, the unanimously signed report called for increased engagement, as preferable to the current policy of isolation, as a way to prepare for a peaceful transition toward democratic governance and free market principles.

Among the report's recommendations, which have resonated positively in the United States, are its emphasis on humanitarian aid and direct flights to relieve suffering and permit greater contact between ordinary citizens of our two countries. The recent visit to Cuba by Pope John Paul not only echoed these themes, but appears to have dramatically altered the religious, if not the political, landscape of the island.

We continue to monitor the situation, as you mentioned, Mr. President. If we determine that another trip could serve a useful purpose, we would certainly give it serious consideration. It would seem that this year, 1998, marking as it does the centennial of the Spanish-American War, calls us now to the colors of a new peace, beginning with the brush strokes of personal contact, family visits and grass-roots diplomacy.

Thank you.

Mr. FREY. Another one of our activities is that we are the secretary to the congressional study group in Germany composed of 130 sitting Members of the House. It is a bipartisan group and, obviously, it works on trying to understand better what is going on in Germany and the Germans understanding of what is going on here.

It is funded primarily by a grant from the German Marshall Fund of the United States to the association. We had a meeting of the study group in April in the district of the gentleman from Virginia (Mr. OWEN PICKETT). I would like the gentleman from Virginia, the Honorable Dennis Hertel, who attended the meeting, to discuss this event and explain the study group to us a little bit. Dennis.

Mr. HERTEL. Thanks, Mr. President. It is still Michigan. I still pay taxes there.

Mr. FREY. What did I say?

Mr. HERTEL. Virginia.

Mr. FREY. I apologize. I know better.

Mr. HERTEL. I will be brief. The 15th Annual Congress-Bundestag Seminar took place in Virginia Beach on April 6th through 9th, 1998. The main topics of discussion included current domestic, economic and political issues, bilateral trade relations, the Euro, NATO enlargement, and policies toward the Middle East.

The Members' discussion of issues arising out of the Middle East was particularly noteworthy. In discussing Turkey, its political situation, its role in NATO, and its relationship to the European Union, it was clear that Members on both sides would benefit from more attention to this important country.

Likewise, the issue of how to deal with Iran in a constructive and effective manner was discussed at some length, a discussion which benefited from the observations of a Bundestag member who recently visited Iran. Related to that discussion was one of U.S. sanctions legislation directed towards Iran, the effectiveness of it, and the fairness of its implementation.

What makes these discussions so useful is the friendship and underlying values that we share, which enable the Members to speak very openly and frankly about matters of common interest and concern. The discussion served to inform and clarify facts and positions on issues.

Disagreements are aired both within and between the delegation, sometimes passionately but always constructively. In fact, as are all of our programs, we have a bipartisan delegation, sometimes our arguments are more heated than they are with the foreign nations that we deal with.

We plan to follow up on these topics during the course of the year and we look forward to meeting our German colleagues at the 16th annual seminar to be held next year in Germany. This is the longest-standing program of our association, and it continues to be successful.

Mr. FREY. I thank the gentleman from Michigan for that.

We also have a program with the Japanese, where we do the same kind of thing, where we act as a secretariat. We had a trilateral meeting between members of the Bundestag, the Diet, and the U.S. Congress in West Virginia a few weeks ago, and it was in the district of the gentleman from West Virginia (Mr. BOB WISE).

I would like the vice president of the association, the gentleman from New York, the Honorable Matthew F. McHugh, to report on this event.

Mr. MCHUGH. Thank you very much, Lou. I would like to begin by seconding what Jim Slattery and others have said about Lou's extraordinary leadership over the last 2 years. As an officer who has served with him, I can attest that he has done an enormous job of bringing energy and broadening the programs of our association, which you have heard a great deal about already and will hear more. That is a reflection in large measure of Lou's leadership.

One of the programs that we have been developing over the past year would periodically bring together legislators from the Congress, the German Bundestag and the Japanese Diet. Given the importance of these three countries, which account for almost half the world's GNP, we think that more dialogue involving the three groups of parliamentarians together would be constructive.

We initially explored this idea with members of our congressional study groups on Germany and Japan; and as you know, these two study groups have been conducting bilateral meetings for some time, and those meetings will continue in any case. They expressed an interest in these proposed trilateral sessions and so, after an initial planning session, we convened our first group meeting of the three parliamentarian groups earlier this month in West Virginia.

It was hosted by the gentleman from West Virginia (Mr. BOB WISE) in whose district the meeting was held. Representatives from all three parliaments actively participated, as did representatives of our State Department and the German and Japanese embassies. Members of our association also participated, in most cases chairing the panels which took place during the program.

The subjects that we covered in these sessions reflected some of the common interests and challenges that all three of our countries face. One session, for example, covered international economic issues, including trade relations and the current crisis in East Asia.

A second session focused on the security issues common to us all, such as the different security arrangements that have been developed in Europe and Asia. The expansion of NATO and the emergence of China as a power in Asia were among the topics we discussed.

A third session dealt with environmental concerns, with significant time being spent on the Kyoto Conference and what action should or should not be taken to address the global warming question.

Another session considered some of the contrasting political dynamics in each country, such as the role of party discipline in the legislative process and the way in which political campaigns are financed in each of our countries.

A final session considered whether these tripartite meetings should be continued and, if so, how they might best be structured in the future. I think there was general agreement that the meetings are useful, but to be successful over time we have to identify a core group of parliamentarians who will assume continuing responsibility for the conferences, and that is a critical matter which will be pursued in each of the capitals over the next few months.

The tentative conclusion was that we would hold another conference next year, probably in Germany or Japan. In the meantime, the association will continue to work with the existing study groups on Germany and Japan, and subject to funding, will pursue our supportive role in putting together that second conference in 1999.

Thank you, Mr. President.

Mr. FREY. We have a program in the Ukraine where we train interns, which is a really very interesting program to work with their Rada, and we have had 565 interns so far that we have worked with and we have trained. I would like to yield to the gentleman from Michigan, the Honorable Lucien Nedzi, to talk about that.

Lucien, you have been over there and you speak the language, which helps also.

□ 1000

Mr. NEDZI. Mr. Speaker, what a thrill it is to see all of you. And it is also a great pleasure to add to the successes that have been reported on already this morning.

Ukraine is the fourth largest recipient of American assistance in the world; and it is in the strategic interest of this country to help the Ukraine, to help it achieve its potential as a secure, democratic, prosperous and self-confident state. And we all know from history and experience that a freely elected parliament is fundamental to a democracy.

We also know from experience that for a parliamentarian to be effective, adequate staff is absolutely essential. With this awareness, and after discussions between the Ukrainian parliamentary leadership and the association, a program has evolved, which is now in its fourth year, to develop and sustain a staff system in the parliament. This program is a highlight of association activities about which I would like to report.

During the past 3 years, we have supported a staff intern program in an overall total of 135 young Ukrainians. Primarily economists, lawyers, and social scientists have been competitively

selected and served as staff to the Rada for 1 year. This year, as the president mentioned, we are supporting 55 staff interns.

Our program has been funded from public and private sources, including the Charles Stewart Mott Foundation and the Eurasia Foundation, and we are negotiating with the U.S. Agency for International Development for additional support.

Interns in this program are given much more responsibility than most interns in the United States Congress. We will not talk about White House interns. Strike that. They serve as mainline staff, and their responsibilities include drafting legislation, analyzing and researching legal issues, writing briefing papers, and actively participating in committee debates. By thus strengthening the staff and providing a critical amount of research and analysis, the FMC program has responded to two vital needs for an effective parliament.

An important observation: To date, this program has been developed in direct negotiation with the parliamentary leadership, thereby enabling the young staffers to steer clear of the old-line, largely unreformed parliamentary secretariat, which maintains control over staff assignments and research activities.

Most intern staff assignments are negotiated directly with the committees, and therefore, committees which seek to develop reform legislation, particularly in the economic area, are able to secure critical staff assistance which would not otherwise be available.

Evidence of the success of this program is its increasing popularity. Our dedicated field representative, Cliff Downen, has done an outstanding job of keeping the program on track, balanced, and free of customary political heavy-handedness. And here we have to give some credit to Walt Raymond also, who oversees these operations from this side of the Atlantic. But Cliff Downen annually visits a large number of universities throughout Ukraine and briefs graduate students on the program.

As testimony to its popularity, over 700 Ukrainians, ages 21 to 29, and these are all well-educated individuals, applied for 55 internships in the 1997–98 term. Moreover, during the 10-month internship, a training seminar is maintained to further broaden the interns' experience. This is designed not only to better equip them for their parliamentary responsibilities, but also to help develop a strong cadre of future Ukrainian political leaders.

The political challenges in the Ukraine increase as it prepares for the 1999 presidential election and digests the results of the March 1998 parliamentary election. I am pleased to report that there is no evidence that the recent election will adversely impact the association's intern program.

There are major economic and political problems as this country, with old traditions and a new system, takes its place as a nation-state in post-Cold War Europe. We are convinced, and this view is shared incidentally by the U.S. ambassador to the Ukraine, that an intern program such as ours is the most cost-effective investment we can make for a successful Ukrainian future.

We have observed with considerable pride how many key positions many of the interns have been offered after completion of their internships. Some remained as permanent staff in the parliament. Others have been offered important positions in the government, the academic world, or private business. Several have or will run for public office. And two have already been elected to city councils.

We had the pleasure of having a luncheon only yesterday, attended by a very prominent reformed politician from Ukraine. The chairman of our Committee on Foreign Affairs, BEN GILMAN, also took the time to be present. And this politician said that this program is not training clerks but future competent politicians.

As a concluding comment, if any of our former Members of Congress are in Ukraine at any time, I can assure them that they will be more than welcome to participate in discussions with our interns.

Mr. FREY. I thank the gentleman. I appreciate it.

Our last speaker, I would like to yield to the gentleman from Wisconsin, Toby Roth, who was involved in the Marshall Center, which is over in Germany. And, Toby, will you tell us a little bit about that program briefly so we can move on to the main event.

Mr. ROTH. Thank you, Mr. President. I get the gist, make it short.

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

Mr. Speaker, it is wonderful to see all of you here today. Golly, you bring back so many memories when I look into your faces, and so many great anecdotes. I just want you to know how much I appreciate a day like today. Let me say thank you to the Former Members Association for the Congressional Study Group on Germany and programs that you make possible.

I served for 18 years on the Committee on International Relations, and I benefited a great deal from our Former Members and what they gave me that allowed me to do a better job. And I know that what you are doing, helping the present Members, is so extremely important. I know how important these programs are because I benefited from them, as I know you have too.

Let me just say that Lou Frey has had many accolades here today, and he deserves them because he has been a great president. But I also want to say, we have had a great executive director, Linda Reed, and I want to recognize her.

This week we have Dr. Ludolf von Wartenberg here, the executive director, and a delegation from BDI, the German Federation of Industries. And when we see what is happening, for example, at Daimler-Benz and Chrysler, we know how important these relationships are between Germany and the United States. They are going to become more and more important as we move more and more into that global economy.

So I wanted to thank you, the Former Members, for what you are doing for the present Members and for your country. Thank you very much.

Mr. FREY. As you can see, we have taken on a lot of tasks and have a great deal of involvement, e-mail, we are getting a chat room, and we are trying to catch up with the modern times.

I would like to recognize the Honorable Robert Whan, representing the Association of Former Members of the Parliament of Australia, accompanied by his wife Jill. They came all the way from Australia to be with us. Could you please stand up and be recognized?

And the Honorable Barry Turner, who is president of the Canadian Association of Former Parliamentarians. Barry has been with us three or four times. Barry, please.

Obviously, there are thanks to the officers and the counselors. I will not take the time to name everybody individually. But it was a great team effort. The auxiliary headed by Chris LaRocco has done a great job. We are pleased with the Caring Institute, who is our landlord; thanks to Frank Moss and Val Halamandaris, the president of it, who have been wonderful to work with. Senator, thank you very much for your help over there. And of course, we mentioned Linda Reed and Walt Raymond.

Now it is my sad duty to inform the House of those persons who have served in the Congress and passed away since our report last year; and, unfortunately, the list is somewhat long. I will read it.

Bella Abzug of New York; Sonny Bono of California; Walter Capps of California; Peter J. DeMuth of Pennsylvania; Samuel L. Devine of Ohio; Foster Furcolo of Massachusetts; Harold E. Hughes of Iowa; Robert E. Jones of Alabama; Edna Flannery Kelly of New York; Robert Leggett of California; D.R. (Billy) Mathews of my State, Florida; Robert C. McEwen of New York; Dale Milford of Texas; Newt V. Mills of Louisiana; John Moss of California; Joel Pritchard of Washington; Jennings Randolph of West Virginia; Terry Sanford of North Carolina; Steve Schiff of New Mexico; Garner Shriver of Kansas; Frank E. Smith of Mississippi; William B. Spong of Virginia; Winifred C. Stanley of New York; and John H. Ware, III, of Pennsylvania.

Mr. Speaker, I respectfully ask that all of us rise in a moment of silence in their memory.

May they rest in peace. Amen.

Now to the highlight of this meeting. Each year the Association presents a Distinguished Service Award to an outstanding public servant, and it rotates

between parties, as do our offices. Last year Bill Richardson was here to receive the award. This year the recipients are both Republicans, they are both Senators, and they are married. How is that? Thirty questions.

The recipients of the award are Senator Nancy Kassebaum Baker of Kansas and the former Republican leader of the Senate, Howard Baker of Tennessee. The plaque reads ''Presented by the U.S. Association of Former Members of Congress jointly to the Honorable Howard H. Baker, Jr., and the Honorable Nancy Kassebaum Baker, each of whom extended the family tradition of public service in the highest degree in many areas, including a total of four decades of exemplary leadership in the United States Senate where their country and colleagues benefited immeasurably from their intuition, their judgment, their humanity and their tireless dedication to the welfare of the Republic, Washington, D.C., May 13, 1998.''

Just very briefly, because everybody here and everybody listening knows their backgrounds. But what is really interesting, among other things, is both obviously came from a political family. Nancy Kassebaum's father was the former governor of Kansas and ran in 1936 for the Republican nomination. Senator Baker's mother and father both served in the House of Representatives. And his father-in-law, Senator Dirksen, was the majority leader in the United States Senate for some time. And of course, in the Senate, Senator Kassebaum Baker chaired the Committee on Labor and Human Resources, the Subcommittee on Africa of the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation Subcommittee on aviation, serving today on many nonprofit boards. And of course, Senator Baker was the first Republican ever popularly elected in Tennessee, won elections, served both as the minority leader and the leader in the Senate.

Everybody remembers Senator Baker as the vice chairman of the Watergate Committee, the keynote speaker at the Republican National Convention, candidate for President in 1980, received all sorts of awards and medals, which I will not go into because I think we would rather hear from both of you than read any more of it.

I would like you both to come up so I may present this plaque to you.

□ 1015

We also have a scrapbook of letters from many of your colleagues which we will add to along the line. Now we would be very privileged if we could hear some remarks from both of you.

Mr. BAKER. Mr. Speaker, and Lou Frey, ladies and gentlemen, as you can observe, Nancy always has the last word, and that is as it should be.

When I answered my name on the roll call this morning, that was the first word I had ever spoken on the floor of this chamber, notwithstanding, as you say, that I am a congressional brat and that I have been in and around this chamber since I was a very young man, a condition from which I have now fully recovered.

But as I approached the south side of the Capitol, I was reminded of the times when my father brought me here and how awestruck I was by the majesty of this place, of this institution, and the inspiration I took from not only his service but that of you and many others like you who preceded us, and then my chance to serve in the Senate of the United States and to say there were many days when I envied you the rules of this body, especially on the opportunity of leadership to challenge and limit the direction of debate and deliberation. It will always be the high point of my public career that I have had an opportunity to serve in the Congress.

I will not speak further except to say that I believe, as I think you believe, that our constitutional form of presidential government, of congressional government, and judicial oversight is unique in the world. It is very much a continuing process. As you have contributed to its unfolding development, so will our successors. I am greatly honored to be included in this award. I yield the floor to my senior partner.

Ms. KASSEBAUM-BAKER. Thank you. There is an old Russian political adage that says a rooster today, a feather duster tomorrow. There are a few of us here that I could say a hen today. But all of us as feather dusters who are gathered here were gathered, and I think the reason becomes such a unifying experience and pleasure, is because of the friendships formed when one serves in either the United States Senate or the United States House of Representatives. It cuts across party lines.

We may have debated, as it has been said before, against each other against the issues or for the issues, but always remaining friends. It is a tie that does bind.

Secondly, the tie that binds, I believe, is a respect for the institution in which we have served. It is a respect that we should continue to honor. I am so impressed with all that former colleagues are doing to continue that involvement.

So with Howard having said that we always wanted to be able to speak on the House floor, thank you for this opportunity and thank you for this honor.

Mr. FREY. Mr. Speaker, as I said when I began, it is our belief that there are no term limits in public service. Every time I have the privilege to step back on the floor, it is like getting recharged. I love this body. I am proud of my service in the Congress, as each and every one of us are.

We have served our country and we are continuing to serve our country. This is the greatest legislative body in the world. The country is lucky to have a Congress that has carried on for so many years great traditions and will continue to carry it on.

Mr. Speaker, this concludes our 28th annual report by the United States Association of Former Members of Congress.

Mr. Speaker, I yield back my time.

Mr. MCHUGH (presiding). Thank you. The Chair thanks the President and again wishes to thank all of the feather dusters, I mean former Members of Congress for their presence here today.

Before terminating these proceedings, the Chair would like to invite those former Members who did not respond when the roll was called to give their names to the reading clerks for inclusion on the roll.

Again, thank you all very much for being with us. It is great to see you, each and every one. And we wish you the very best of luck.

The House will stand in recess until 10:35 a.m.

Accordingly (at 10 o'clock and 20 minutes a.m.), the House continued in recess.

□ 1036

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CAMP) at 10 o'clock and 36 minutes p.m.

MESSAGE FROM THE SENATE

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

H.R. 1273. An act to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

The message also 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 House to the bill (S. 1150) ''An Act to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.''

The message also announced that the Senate passed a bill and a concurrent resolution of the following titles, in which concurrence of the House is requested:

S. 1618. An act to amend the Communications Act of 1934 to improve the protection of consumers against ''slamming'' by telecommunications carriers, and for other purposes.

S. Con. Res. 75. Concurrent resolution honoring the sesquicentennial of Wisconsin statehood.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. DREIER. Mr. Speaker, by direction of the Republican Conference, I

offer a privileged resolution (H. Res. 429) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 429

Resolved, That the following Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Education and the Workforce: Mr. PARKER.

Committee on Government Reform and Oversight: Mr. LEWIS of Kentucky.

Committee on International Relations: Mr. BURR of North Carolina.

Committee on the Judiciary: Mrs. BONO.

Committee on National Security: Mrs. BONO.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. There will be 15 one-minute speeches on each side.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that the proceedings held during the recess be printed in the RECORD and that all Members and former Members who spoke during the recess have the privilege of revising and extending their remarks.

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

There was no objection.

TRUE INTERNATIONAL JUSTICE SHOULD BEGIN AT HOME

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

Mr. HAYWORTH. Mr. Speaker, I would note for the record that less than one-half hour ago, among the former Members of this Congress stood the former Senator from Tennessee, Howard Baker, who was recognized for his distinguished service. I would ask all of us who serve in this chamber to remember the example of Howard Baker and put principle ahead of partisanship when we deal with awesome questions of constitutional authority.

Indeed, Mr. Speaker, I noted with great interest yesterday that the President held a ceremony dealing with international justice and the pursuit of international justice as our Nation's leading law enforcement officer.

Mr. Speaker, I would suggest that the President could allow his actions to speak louder than words if he and members of his party would seek the testimony of those over 90 individuals who have either taken the Fifth Amendment or fled the country, because, Mr. Speaker, if we want true international justice, it should begin there.

TIME TO TAKE A STAND ON HUMAN RIGHTS

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

Mr. STRICKLAND. Mr. Speaker, I rise in support of the bill of the gentleman from Virginia (Mr. WOLF), the Freedom from Religious Persecution bill, which this House will consider this week.

While in southern Ohio this past weekend, I had the unique opportunity of meeting and speaking with China's newly appointed ambassador to our country, Mr. Li Zhaoxing. I must admit that my concerns about religious persecution, both inside China's borders and around the world, have been significantly reinforced by my discussions with Ambassador Li.

I believe it is imperative that Congress convey unambiguously its resolve and to take action to defend the inalienable rights of self-expression and the pursuit of intellectual and religious freedom, which are fundamental human rights. They demand our attention and are in need of safeguarding.

If we choose not to act, China and many other nations around the world will continue with strong-arm tactics and repressive actions in an attempt to stifle free thinking. We owe it to the thousands of prisoners of conscience to take a stand on this issue.

If we do not, who will?

QUESTIONS IN NEED OF ANSWERS

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

Ms. DUNN. Mr. Speaker, I have some questions for the other side, some questions that I believe need to be asked, given that so many witnesses, 92 at last count, have either fled the country or taken the Fifth Amendment in order to avoid testifying to Congressional committees.

Does the other side really believe that the President is above the law?

Does the other side really believe that the White House should not have to tell the truth about how it ended up with 900 FBI files of Republicans?

Does the other side really believe that it does not matter whether or not the President lied under oath or encouraged others to lie under oath about a personal matter?

Does the other side really believe that how women are treated in the workplace is not relevant, if the economy is doing great and the Dow is over 9,000 points?

Does the other side really, truly, actually believe that how women are treated in the workplace matters only when it comes to Republicans?

I wonder.

A QUESTION OF NATIONAL SECURITY

(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, the White House slapped sanctions on India because India was conducting nuclear tests. Unbelievable. It is like Mike Tyson beating up Woody Allen for failing to fight.

India is not the problem, White House; China is the problem. And the White House policy with China is now not only stupid, Congress, it is dangerous.

China, with our tax dollars, is destabilizing and threatening the entire world, and we are putting sanctions on India for protecting themselves.

Beam me up. The truth of the matter is, this White House does not have the balsam to confront the real problem, which is China, so they kick India around.

I say it is time, Congress, to develop a sound strategy and show some anatomy. We should rescind MFN for China. It is not just about trade, Congress, it is about national security.

TAX FREEDOM DAY IN NEVADA

(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, this morning, when Nevadans head off to work, they are going to have a little extra spring in their step and little lighter burden on their shoulders, because this fine morning, not only is the sun starting to peak through the clouds, but working men and women in Nevada are finally going to work for themselves, their families, their futures, and not the government.

That is right, Mr. Speaker, today, May 13th, is Tax Freedom Day in Nevada. During 1998, so far Nevadans have worked 91 days, almost 3 months, to pay their Federal taxes, and an additional 41 days to pay their State and local taxes.

The fact that these hard working men and women in this country have to spend nearly one-half of the year working to pay the government ought to concern, if not outrage, all of us in this room. Surely, not even the most liberal of my colleagues on the other aisle can defend this tax level.

I call on my colleagues to join me in instituting common sense tax relief in this country. Let us begin by eliminating the marriage tax and the death tax as well. Let us start moving the process back, not forward.

HEAR NO EVIL, SEE NO EVIL

(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, in a way, the stonewalling done by the hear no evil, see no evil Members on the Committee on House Oversight is a good thing, but only in a political sense.

Hear no evil, see no evil Members refused to grant immunity to four key witnesses in the campaign finance investigations, even though the Justice Department does not oppose the granting of immunity to these four witnesses so that their testimony may be heard.

The behavior of the hear no evil, see no evil Members is an insult to millions of proud Democrats who do believe in the rule of law, who do believe that politicians should be held accountable for their behavior, and who do believe that truth matters more than polls, more than spin, more than political gain.

The truth will eventually come out, the truth about which Members sought the truth, and which Members did everything in their power to prevent the truth from ever seeing the light of day.

□ 1045

GREAT STONEWALL OF CONGRESS BY DEMOCRATS

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

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, as a young boy, I learned that the great wall of China was in China. But today, we learn that the Democrats in Congress have extended this great inpenetrable stone wall of China right through the White House and down the center aisle of Congress.

Let me rephrase that. These stonewallers of justice have been busy erecting a new world wonder: A total, air-tight, round-the-clock stonewall by refusing to grant immunity to 4 key witnesses so that they might testify about illegal campaign contributions to the Democrat party from Communist China. Those witnesses are Kent La, Irene Wu, Larry Wong and Nancy Lee, witnesses that President Clinton's own Justice Department does not oppose granting immunity to.

Let me repeat that again, Mr. Speaker. The same Democrats who deny they are stonewalling refuse to grant immunity to 4 key witnesses, even though the Justice Department does not oppose granting immunity to these 4 witnesses.

The same Democrats who defend convicted felon Susan McDougal's refusal to tell the truth are the same Democrats who are blocking these 4 key witnesses from coming forward to tell the truth. Mr. Speaker, the great wall of China has nothing over congressional Democrats, for their great stonewall of Congress is an even bigger spectacle.

CELEBRATING THE U.S. CONSTITUTION ON THE ONE DOLLAR BILL

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

Mr. BLILEY. Mr. Speaker, last week I introduced legislation to put an abbreviated version of the Constitution on the reverse side of the $1 bill.

The aim of this legislation is to celebrate the Constitution as a living American symbol and integrate it into our lives on a daily basis. Studies have consistently shown that Americans do not know all the rights and freedoms guaranteed to them by the Constitution.

Placing an abbreviated version of the Constitution on the $1 bill will serve as a daily reminder and teaching tool of the principles upon which the United States was founded. It will spread the philosophy of representative democracy and freedom around the world. It will allow Americans to take pride in this living document, the values for which it stands, and in their Nation.

It has been my pleasure to work with the students at Liberty Middle School in Hanover County, Virginia and their teacher, Randy Wright, on this bill. I commend them for their active participation in our government and am proud to sponsor this legislation on their behalf.

DESPITE EXCESSIVE SURPLUS, POSTAL SERVICE TO IMPOSE STAMP TAX

(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, I rise today to recall a tax imposed on our colonial forefathers by the British monarchy in the days before the birth of our Nation. Like the British monarchy, the United States Postal Service has imposed a Stamp Tax upon the American people. Despite recording a net operating surplus of more than $4.5 billion over the past 3 years and a surplus of over $1.3 billion already in 1998, the Postal Rate Commission has approved a 1 cent increase in the price of a stamp.

Mr. Speaker, I do not understand how the Postal Service can justify this tax increase on the working families of America, as the agency itself runs a record billion-dollar profit.

Our colonial forefathers would be ashamed of the Postal Service that is now imposing this unnecessary tax on its people.

FEDERAL GOVERNMENT LACKING IN ECONOMIC KNOW-HOW

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

Mr. DUNCAN. Mr. Speaker, a few days ago at a hearing of the Committee on Resources, the Inspector General of the Interior Department reported some shocking findings. He said that the National Park Service had built 19 employee houses at the Yosemite National Park at an average cost of $584,000. One of the homes cost $700,000.

Now, I know the Federal bureaucracy can rationalize or justify almost anything, and I know that because the national parks are so popular, the Park Service feels it is above criticism and can do just about anything it wants. However, Federal employees already have pay and pensions and hours that are far better than just about everyone except for movie stars and athletes. To build Park Service employees $584,000 homes on top of what they are already getting is ridiculous.

The really sad part, though, is that very few are shocked about this. We have just come to expect things like this from an agency that last year spent almost $400,000 on a fancy two-hole outhouse. Once again, Mr. Speaker, the Federal Government has proved that it cannot do anything in an economical manner.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

NORWEGIANS IN VIOLATION OF MORATORIUM ON COMMERCIAL WHALING

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

Mr. METCALF. Mr. Speaker, this year Norway plans to increase the hunting of whales by 30 percent. Yes, my colleagues heard me correctly. The Norwegians plan to kill 671 whales this year. This action will violate the moratorium imposed on commercial whaling in 1982 by the IWC, the International Whaling Commission.

At the 1997 meeting of the IWC, the U.S. administration supported a step backward toward the killing of whales.

Mr. Speaker, I have recently introduced House Resolution 425 to express opposition of the House toward commercial whaling. Last week the Senate unanimously approved legislation to express their opposition to commercial whaling.

Please contact my office to become a cosponsor and help send a signal to the IWC from this House of Representatives.

INDIA TESTS NUCLEAR DEVICE

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

Mr. BEREUTER. Mr. Speaker, as Chairman of the Subcommittee on Asia and the Pacific, this Member rises to express his deep regret and disappointment at the series of underground nuclear tests staged May 11 and 13 by India.

While offering assurances of their commitment to world peace, India's actions have quite possibly triggered a chain of events that could set back global efforts of nonproliferation and severely increase tensions throughout the region and the world. In Pakistan, public pressure is mounting on the government to proceed with similar nuclear testing. China also has expressed its concern about the tests, and there are some suggestions that Beijing may consider resuming its nuclear testing program.

This Member would note that the law is quite specific on this matter. If a non-nuclear State tests a nuclear device, sanctions must be imposed by our government. Failure to do so would render U.S. nonproliferation policy impotent.

The United States was required to impose the sanctions mandated by law on India. Mr. Speaker, this member calls upon the government of India to carefully reconsider and attempt to back away from what it has unleashed, and urges the government of Pakistan to exercise restraint in its response.

WITHOUT TRUTH, THERE IS NO JUSTICE

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

Mr. TIAHRT. Mr. Speaker, without truth, there is no justice.

I would like to address the vicious attacks made by the liberals on the Members of Congress who are tasked with finding out the truth about the allegations of crimes by the Clinton White House. These vicious attacks are remarkably similar to the mean and unfair attacks directed at Judge Starr, who is also charged with finding out the truth about the allegations of crimes by the White House.

We have heard this before directed at Senator THOMPSON, at Senator D'AMATO, also tasked with finding out the truth about the allegations of crimes at the White House. As before, these attacks on the gentleman from Indiana (Mr. BURTON), the chairman of the Committee on Government Reform and Oversight, are misleading and absurd.

The tapes released by the Chairman were not doctored, not a single bit. All the tapes were available to anyone in the press who would bother to listen to them. Transcripts which were made available to the press were not taken out of context. Indeed, we would be extremely pleased to hear the spin on Webster Hubbell's comment that he ''needs to roll over one more time.'' We would like to know what he really meant by that. But once again, it is a same old story: Attack the accuser and hide the truth.

RIDDING AMERICA OF DRUGS

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

Ms. GRANGER. Mr. Speaker, as a member of the Speaker's Task Force For a Drug-Free America, I am proud to support the Drug-Free Borders Week.

Our Nation's drug crisis is real and it is also rising, but I have always believed that what is wrong with America can be cured by what is right with America. That is why I am so pleased to be a member of this task force.

We believe the war on drugs is one that can be won, must be won, and will be won if only we have the courage to dream of a drug-free America.

Where can we begin? We can begin by bringing some order to our borders. Seventy percent of all illegal drugs found in the U.S. originally cross the U.S.-Mexican border. Eradicating drugs meanings interdicting them. Interdicting them means stopping them in Brownsville, El Paso and San Diego.

The Drug-Free Borders Act stiffens the penalties for those convicted of smuggling drugs over the border. The bill says to drug smugglers all over the world: If you bring drugs into this country, we will bring you to justice. This bill acknowledges that only when we close our borders to drugs can we open the doors of opportunity for our children. In short, by working together, we can save America from the scourge of drugs.

DETONATION OF NUCLEAR EXPLOSIVE DEVICE IN INDIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-250)

The SPEAKER pro tempore (Mr. CAMP) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 102(b)(1) of the Arms Export Control Act, I am hereby reporting that, in accordance with that section, I have determined that India, a non-nuclear-weapon state, detonated a nuclear explosive device on May 11, 1998. I have further directed the relevant agencies and instrumentalities of the United States Government to take the necessary actions to impose the sanctions described in section 102(b)(2) of that Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1998.*

PROVIDING FOR CONSIDERATION OF H.R. 3534, MANDATES INFORMATION ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 426 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 426

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 306 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by chairman and ranking minority member of the Committee on Rules. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment recommended by the Committee on Rules now printed in the bill shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment. The bill shall be considered as read. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. 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, as amended, to the House with such further amendments as may have been adopted. 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.

□ 1100

The SPEAKER pro tempore (Mr. CAMP). 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 my good friend, the gentleman from South Boston, Massachusetts (Mr. MOAKLEY), and pending that, I yield myself such time as I may consume. Mr. Speaker, all time yielded will be for purposes of debate only.

(Mr. DREIER asked and was given permission to revise and extend his remarks and to include extraneous material).

Mr. DREIER. Mr. Speaker, this rule makes in order H.R. 3534, the Mandates Information Act of 1998, under a completely open rule providing for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Rules. This is an appropriate rule, since the purpose of H.R. 3534 is to improve deliberation on proposed private sector mandates.

Mr. Speaker, in the first 2 years that the Unfunded Mandates Reform Act went into effect, Congress passed 13 bills with private sector mandates costing more than $100 million. In contrast, only one bill passed with intergovernmental mandates, costing more than $50 million.

To address the very clear bias against the private sector and the way we consider legislation containing Federal mandates, our colleagues, the gentleman from California (Mr. CONDIT), and the gentleman from Ohio (Mr. PORTMAN), introduced H.R. 3534, the Mandates Information Act of 1998. I want to commend them on a job well done.

H.R. 3534 is a revised version of an earlier bill introduced by the same sponsors. It contains necessary safeguards to ensure that the Unfunded Mandates Reform Act procedures cannot be abused. The bill was further improved in the Committee on Rules last week with an amendment providing an exception to the point of order procedure for legislation that results in an overall net reduction of tax or tariff revenue over a 5-year period, and provided that the bill does not include other non-revenue-related mandates that costs $100 million or more.

This change is needed to address a bias in our procedures against tax cuts, and against efforts to overhaul and simplify the tax code.

Mr. Speaker, the current Unfunded Mandates Reform Act does not go far enough to discourage Congress from imposing costly mandates on the private sector. Such mandates cost businesses, consumers, and workers about $700 million annually, or $7,000 per American household. That is more than one-third the size of the entire Federal budget.

These mandates are particularly burdensome on families attempting to climb the economic ladder, Mr. Speaker. Over the next 5 years, 3 million people will move from welfare to private sector payrolls. Small businesses will provide most of those jobs, yet the imposition of new mandates upon existing burdens will reduce the resources available to create those much needed jobs.

It is important to note that H.R. 3534 does nothing to roll back some of those unnecessary mandates, nor does it prevent the enactment of additional mandates. But it will make Congress more accountable by requiring more deliberation and more information when Federal mandates are proposed.

Likewise, Mr. Speaker, this rule would allow us to fully deliberate H.R. 3534, so I urge adoption of the rule and adoption of the bill.

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 will support the rule for consideration of H.R. 3534, the Unfunded Mandate Reform Act, because it is an open rule. It allows the Members to offer amendments.

I just wish I could give the same unqualified support to the bill we are about to consider. Unfortunately, there are some troubling things about the bill and about the way it moved through the committee and onto the floor.

My dear friend, the gentleman from California (Mr. DREIER) who is an expert on the rules, knows that I supported the unfunded mandate law we enacted just a little over 3 years ago. In fact, he and I worked together to fine tune the process, to make it more institutionally sound. So I have no quarrel with the purpose of the law, or the change which the gentleman from California (Mr. CONDIT) and the gentleman from Ohio (Mr. PORTMAN) proposed in this new bill. These changes are in order for Congress to do its job well.

We need to know the costs of proposed legislation on businesses and on individuals, just as we do on the costs of State and local governments. Mr. Speaker, I am very encouraged that we were already seeing a lot of information as a result of the 1995 bill. CBO's report on the financial modernization bill, which may be on the floor this week, contains 11 pages of detailed information on the cost to the private sector.

CBO's report on the religious persecution bill, which we will consider later this week, puts Members on notice that it, too, will impose costs on private business.

But my concern, Mr. Speaker, has always been with the point of order scheme developed in the original bill and continued in this one. It can be too easily abused and used for partisan political purposes. As we know, Mr. Speaker, it is not a true point of order. There is never a strict finding of fact.

All a Member has to do is to claim that an unfunded mandate exists. That claim is enough to trigger an automatic vote on whether the House wants to consider the issue. In other words, Mr. Speaker, a Member can block consideration of an issue, whether it involves an unfunded mandate or not.

I tried to stop the potential for abuse in 1995. Guess what? The very first time the point of order was raised it was used to avoid a politically charged question which did not include an unfunded mandate, but it was used in the most partisan possible way against the motion to recommit, which, as we well know, Mr. Speaker, is the only motion reserved solely for the minority in a House run and ruled by the majority.

Mr. Speaker, Members might imagine my doubts when we started to extend the point of order to private sector mandates. The Committee on Rules heard testimony a few months ago which highlighted some of the potential mischief which could occur under the bill which had been introduced. We worked on a bipartisan basis to improve the legislation. We worked informally through our staffs. We had a new proposal. We had another hearing. I thought we had made some progress.

Then, during the markup, just as my friend, the gentleman from California (Mr. DREIER) was preparing to read the motion and call for a vote, an amendment was dropped into my lap exempting certain tax revenues from the point of order.

Mr. Speaker, under the new language, a point of order would not apply to a bill that includes a tax increase if the revenue is used for tax breaks. This issue was never raised at our hearings, it was not raised in the time we spent working, trying to develop a mutually agreed-upon improvement. It seems, once again, that politics prevailed.

The Dreier amendment says that we have to know how the revenue is spent before we can judge whether a tax is a burden on private business. It bases the judgment on a simple-minded theory that every tax break is good and every government spending is bad.

Think about what that means for excise taxes, like gas and tobacco. If a measure increases gas taxes and requires that the money be spent on highway construction, it is subject to a point of order. But it is completely offset by a provision allowing billionaires to avoid Federal taxes. A point of order does not apply.

A tobacco bill that raises cigarette taxes and spends all of that money on programs to prevent teenaged smoking, health care costs for tobacco farmers, this will trigger a point of order. But if that revenue that is gained as a result of that bill is given away in tax breaks to the very wealthy, the point of order will not apply.

Mr. Speaker, I can only conclude that my Republican colleagues really have not thought through this one. Why would we subject the tobacco bill to a point of order if the money raised is used to stop kids from smoking? Why would we stop a highway bill that uses the money from the gas tax to build and repair our roads?

The answer, Mr. Speaker, is we should not. I will not oppose the rule because it does allow for the amendment process, but I will urge my colleagues to vote no on the bill if the Dreier amendment is not removed.

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

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Glens Falls, New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank my vice chairman of the Committee on Rules, a real leader in defending the economy of this country, for yielding me the time.

Mr. Speaker, I just have to say that I do not know whether I am shocked or not, but to hear my good friend, the gentleman from Massachusetts (Mr. MOAKLEY), and he is one of my best friends in this entire body, even though he is probably more liberal on the Democratic side, but he is a great congressman and I have a great respect for him, but I think I heard him say that

the Republican majority had not given this thought.

Mr. Speaker, I came here 2 years before Ronald Reagan, and then fought, along with others, to bring Ronald Reagan here so we could start the Reagan revolution. But I have been giving this thought for 20 years, because I was a small business man in upstate New York, had several businesses, as a matter of fact, all successful.

When I started out I did not have any money. We started from scratch, my wife and I and five children. I was working three different jobs. I can recall going to the bank, and the bank would not loan me $50,000 to get going. Then when I did get going, I saw all these regulations that were out there, both on local governments and on the private sector. I said to myself, one of these days, if I ever get to Congress, we are going to do something about that.

Four years ago, did we ever do something about it. I also served as a town supervisor, that is like a town mayor, for 5 years, and as a county legislator, and as a State legislator. Time after time after time we would see these Federal Government regulations piled on not only the public sector but the private sector. On the public sector, it just drove taxes skyrocketing, so people living on fixed incomes could not even live in their homes. They could not pay the taxes.

In the private sector, small business men like me had to take so much of whatever little cash we had, and we had to divert that from expanding our businesses into paying all these extra costs from these Federal regulations.

So 4 years ago, the gentleman from California (Mr. DAVID DREIER) and myself and others, we implemented the unfunded mandate legislation on the public sector. Now we are following through, after giving it a lot of thought and a lot of hearings, and listening to both sides. We have decided it is the right thing to do.

So here we have this legislation before us, and now, before this Congress ever effects any kind of legislation that is going to increase taxes on the American people, take more money out of their pockets, we are going to have a debate about that. We are going to have a debate on this floor set aside just to discuss what the fiscal ramifications are, not only on the public sector but on the private sector. That is what this debate is all about.

I would say to the gentleman from Massachusetts (Mr. MOAKLEY), we have given it 20 years of hard thought. Now is the time to go. Let us go. Let us pass the Dreier amendment and pass this legislation.

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

Mr. Speaker, it is always a pleasure to be with my chairman, and if he would listen for a moment, maybe I can show him the error of his ways.

I would say to the gentleman from New York (Mr. SOLOMON), I am ready, willing and able to vote for the unfunded mandate bill, but can the gentleman tell me why a point of order would lie against a bill that is going to spend money to stop kids from smoking, but yet if we use that same money to give it back to the very rich as a tax break, a point of order would not lie? Can the gentleman just explain that to me?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, with all due respect to the gentleman, any time we are going to raise taxes on the American people, there is going to be a net increase in taxes. The American people are already taxed too much. We ought to have that debate. Do not pick out these heartrending situations. Let us bring that up. If that were the case, then let us debate it on the floor, so all the American people know about it. That is all we are asking.

Mr. MOAKLEY. This is all we are trying to do about it is debate it on the floor. This amendment was dropped in at the last minute. I am ready to vote for the unfunded mandate bill, I think it is a good idea. But I cannot see why, if the money from the taxes is given back as tax rebates to the very rich, no point of order would lie against it, but if it is used to educate children, to stop children from smoking, a point of order lies.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding.

It is very clear that my friends on the other side of the aisle are very concerned about the idea of an overall tax cut, and in spending more time looking at the Dreier amendment, I think people have found that clearly, if we look at a question like capital gains, we have found within the past several weeks that reducing the top rate on capital gains has actually increased the flow of revenues to the Federal Treasury.

When we have a broad bill, a bill that is actually cutting taxes, if there is some adjustment in there, for example, if we were looking at tax simplification, which this Republican Congress is focusing attention on, the idea of a flat tax, the idea of a consumption tax, an overhaul of the present tax code, if we look at the grand scheme of things there, and there is some modification which would have the slightest increase in some area, and I know my friend, as is so often the case from the other side of the aisle, is perpetuating the class warfare of the poor versus the rich, us versus them, but the fact of the matter is that there is even a minor technical correction in there.

All we are saying is that the overall bill cuts taxes. Let us be in favor of reducing that burden on working people in this country. That is the reason we are going ahead with this amendment.

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

Mr. MOAKLEY. Mr. Speaker, as I said before, I have no problem with the bill. It is the amendment that will not allow monies derived from gas taxes to be spent on improving roads, the point of order lies against it; improving safety in the roads, a point of order lies against it, but it does not lie if the money is given back as a tax rebate. That is wrong.

Mr. DREIER. If my friend, the gentleman from Massachusetts, would further yield, I would simply say that clearly there is nothing in the Dreier amendment that prevents us from having a debate and having a discussion on this issue. We are doing that right now, and I think we will continue to.

The question really will come down to a very simple and basic point. My friends on the other side of the aisle support tax increases. Those on this side of the aisle are passionately committed to reducing that tax burden.

□ 1115

Mr. MOAKLEY. We can have the fight on taxes in another bill. But this amendment specifically says a point of order will lie against a bill if monies raised from tobacco, the sale of tobacco or cigarettes, if that money is spent to educate youth or to have stop-smoking programs, but yet if this money is sent back in the form of tax rebates, there is no point of order. Nobody is going to explain that problem to me. It cannot be explained away.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CONDIT), who was the originator of the basic bill, which is a good bill.

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

Mr. CONDIT. Mr. Speaker, I rise in support of the rule. I am going to encourage everyone to vote in favor of the rule. This is an open rule and for those Members who think that this is not perfection and they want to change the bill or have a suggestion that is a good idea, they ought to come to the floor and do that, and then we will have the opportunity to vote on their idea.

I do want to thank the chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON), for his leadership and his effort in bringing this to the floor. I would like as well to thank the gentleman from California (Mr. DREIER) for his efforts in the subcommittee for bringing this to the floor, and certainly I want to thank my colleague, the gentleman from Massachusetts (Mr. MOAKLEY), whom I respect and admire, for his leadership. I thank him very much for his help and, hopefully, we will take up his suggestion as it relates to the Dreier amendment a little bit later in the debate, either today or tomorrow.

I just want to say, the intent of this bill is about information. That is, to give the Members of this House more

information so they can make a better decision on public policy. It is about information. It is about accountability. I want to assure everyone, this will not stop unfunded mandates. It will simply require a debate when there is an unfunded mandated and a point of order is made. We then can make a decision by a vote whether or not we want to stop an unfunded mandate with the point of order process.

So really this is a pretty simple idea. It just requires us to get the information and then be held accountable for how we respond to that information.

I would encourage Members to vote for this rule, and if they have a suggestion on how we can improve this idea, this simple idea, come over here, present their ideas, and then we will vote it up or down.

With that, I want to thank my colleagues for giving us this opportunity. I would also like to thank the gentleman from Ohio (Mr. PORTMAN), who has been a leader in the unfunded mandates effort for his involvement, for his help and his assistance.

Mr. MOAKLEY. Mr. Speaker, I hope the rule passes. I think the gentleman from California (Mr. CONDIT) is exactly correct, that we should debate the amendments on the floor.

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

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Cincinnati, Ohio (Mr. PORTMAN), the lead author on this legislation.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman from California for yielding me the time.

Let me say, I appreciate the words from the gentleman from California (Mr. CONDIT), who is the lead sponsor; I am his cosponsor, on this. This thing is just common sense, good government.

I applaud the Committee on Rules for two reasons, one, for coming up with an open rule. I think it is as fair a rule as we are going to get. I think we will have a lively debate on a number of amendments that will be offered on the floor. We may have some debate on the legislation itself, the basic bill, one aspect of it, and that is healthy and that is good.

One of best things about this is it gives us an opportunity to talk about an important issue which is, how does this Congress go about determining whether to impose a mandate, in this case, on the private sector. We did this in the public sector 3 years ago; now it is time to talk about the private sector.

My view is that we ought to do it in a much more informed way, knowing what the costs are, having an honest debate about that and then, in the end, determining by a majority vote whether in fact to proceed with legislation that imposes new burdens, particularly on smaller businesses. Where the burden is on the business, it is on the workers whose job opportunities are reduced; and it is on the consumer, all of us whose pocketbooks are affected. So I want to applaud the Committee on Rules for the open rule and the full and open debate I am sure we are going to have on this.

Second, I want to commend them for working with us to perfect this legislation and, frankly, to move the legislation forward. There is a lot going on right now in this Congress despite what we might hear out there, and the agenda is busy. There are a lot of different items the Committee on Rules is taking up. This one is in their jurisdiction, and they were willing to put it, frankly, on the front burner and deal with it in an expeditious manner, I think again not only to move it forward, but to improve it.

I want to thank the gentleman from California (Mr. DREIER) and I want to thank the chairman, the gentleman from New York (Mr. SOLOMON), and the ranking member, the gentleman from Massachusetts (Mr. MOAKLEY) for moving this process forward. I look forward to the debate.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, Florida (Mr. GOSS), chairman of the Permanent Select Committee on Intelligence and the Subcommittee on Legislative and Budget Process of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank my friend, the distinguished gentleman from greater metropolitan San Dimas, and my equally good friend from the Commonwealth of Massachusetts for their graciousness in allowing me to speak this morning on this subject. Obviously, I think it is an important issue.

I think this is a good rule, an open rule. I congratulate the leadership for these open rules, especially on things like the Mandates Information Act of 1998.

I think this bill takes the next step on the issue of unfunded mandates that we need to take. It recognizes the need for greater accountability in this Congress for the impact that our actions have on the lives of real people outside the Beltway. Those are the people we work for.

In the 104th Congress, the new majority broke ground on this subject, implementing changes in our House rules to make sure that Members are aware of the fiscal impact on State and local governments of legislation when we pass it. At that time, we included illustrative provisions relating to so-called, quote, ''private sector mandates'' or ''Federal actions and requirements'' that impose significant costs on elements of the private sector.

Today we move that commitment on private sector mandates to a par with what we are already doing vis-a-vis the public sector. It makes sense. It is what we said we were going to do.

This legislation is technical, and it sounds a little complicated, but what it really boils down to is a straightforward concern to American businessmen, consumers, workers, taxpayers, that is, all of us across the country.

The Congress should take prudent steps and exercise due diligence in passing laws that impact upon the lives and pocketbooks of average citizens in reasonable ways only. Sometimes there are real costs associated with legislative changes, costs that may not always be obviously stated in the text of a bill or even realized. Sometimes, believe it or not, we have unintended negative consequences from some of our legislation.

This legislation sets up a process to force some added scrutiny and hopefully ensure that we minimize costly, unintended consequences. I have long supported this type of change because it strengthens accountability and promotes sunshine, two fundamental principles of government that should be the hallmark of everything we do.

Mr. DREIER. Mr. Speaker, as has been said probably most eloquently by the gentleman from South Boston, this is an open rule. For that reason, I urge my colleagues on both sides of the aisle to support the measure.

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 resolution was agreed to.

A motion to reconsider was laid on the table.

FINANCIAL SERVICES COMPETITION ACT OF 1997

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 428 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 428

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, 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 one hour, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Financial Services and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part 1 of the report of the Committee on Rules accompanying this resolution. 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 part 2 of the report of the Committee on Rules. 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 except as specified in the report, 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.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

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

Mr. Speaker, this legislation before us is a structured rule providing for the consideration of H.R. 10, the infamous H.R. 10. It is the Financial Services Modernization Act of 1998.

This rule is balanced and fair to both supporters and opponents of the legislation. The rule allows for consideration of all of the major substantive issues in the realm of financial services reform dealing with banking, dealing with securities and dealing with the insurance industry, three of the most important industries in this Nation because, as their success goes, so goes the success of all of the other industries throughout our country.

Passage of the rule today is another step forward in the deliberative process in this Congress on this issue that has been going on now for more than a decade, and it is important that we take this stride here today.

Mr. Speaker, the rule provides for 1 hour of general debate, 30 minutes equally divided between the chairman and ranking member of the Committee on Banking and Financial Services.

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 which is printed in part 1 of the committee report and which shall be considered as an original bill for the purposes of amendment and shall be considered as read.

This text, which has been available to the House since March 30, is identical, and Members back in their offices or wherever they might be, this is very important, the text that is before us today is identical to the text the Committee on Rules made in order during an earlier rule for this bill, except the credit union title, which was dropped and passed by the House under suspension of the rules on April 1. So the legislation is identical, minus the credit union legislation.

In addition, for the further information of Members, the gentleman from Iowa (Mr. LEACH) printed this text in the CONGRESSIONAL RECORD on April 30 so, again, if they do not have a copy of the bill itself, if Members get the CONGRESSIONAL RECORD of April 30, it lays out the entire matter before us.

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

□ 1130

The rule further provides that no amendment shall be in order except those printed in the Committee on Rules report, which may be offered only in the order printed, which may be offered only by a Member designated in the report, which 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, and shall not be subject to amendment except as specified in the report.

The rule also waives all points of order except the amendments printed in the report. The rule allows the chairman of the Committee of the Whole to stack votes, and, finally, the rule provides for one motion to recommit with our without instructions.

Mr. Speaker, this rule allows for consideration of a total of 12 amendments and one bipartisan manager's amendment. There are 7 Republican amendments and there are 4 Democratic amendments. The rule, like the underlying legislation, enjoys bipartisan support, strong support from both sides of the aisle.

The manager's amendment, which includes important consumer protection provisions, agreed to by the chairman of the committee of jurisdiction and the ranking member of the Committee on Commerce, the gentleman from Michigan (Mr. DINGELL), one of the most respected Members of this body, and the most senior Member of this entire body, by the way, will be considered first after general debate.

The House will then proceed immediately, and this is important for Members to be listening to, the House will then proceed immediately to a major substantial proposal offered by the ranking member of the Committee on Banking and Financial Services, the gentleman from my home State of New York (Mr. LAFALCE), which allows for additional financial activities by a bank performed in an operating subsidiary structure, and revises section 104 of the bill governing insurance sales.

That is a very, very controversial issue, but it speaks to this divided House on the issue. And the amendment of the the gentleman from New York (Mr. LAFALCE) will speak very clearly to that.

In addition, I would point out that the gentleman from New York (Mr. LAFALCE) is the ranking member of the Committee on Banking and Financial Services and, therefore, he should have the first priority of offering that amendment dealing with operating subsidiaries. But in addition to that, the gentleman from Louisiana (Mr. BAKER), a Republican, who is a member of the Committee on Banking and Financial Services and a subcommittee chairman, also has a comprehensive amendment which makes several major changes in the bill, including operating subsidiaries.

So Members have two bites at the apple dealing with that very, very controversial issue. His amendment amends also the insurance title of the bill. It eliminates community reinvestment requirements for institutions with assets less than $100 million. And, finally, it contains an operating subsidiary proposal, as I just outlined.

These two amendments are debatable for 40 minutes each. And I would suggest that Members ought to come over here and they ought to listen to that debate in about an hour because it is very, very important to the final passage of the bill.

The rule also addresses the contentious issue of commercial baskets in an evenhanded manner as well. The gentlewoman from New Jersey (Mrs. ROUKEMA), who is chairman of a subcommittee of the Committee on Banking and Financial Services, will offer her amendment to increase the percent of the amount of annual gross revenue from which a financial holding company would be permitted to derive from commercial activities.

The bill, keep in mind, has a 5 percent basket in it, and the gentleman from Iowa (Mr. LEACH) will then offer an amendment to eliminate the commercial basket entirely. Each of the basket amendments are debatable for 30 minutes.

So the bill, containing a 5 percent basket, is then allowed to be amended by Members from both sides of the issue, one that would increase that basket and another that would decrease it to zero. That is fair and that is why Members should come over and vote for this rule.

The rule then allows for seven other amendments debatable for 10 minutes each, and that could be expanded by unanimous consent if need be, which address several issues in the insurance field, the thrift field, and the small bank areas, all of which Members have divided attention to. In this way, the rule allows significant financial services alternatives to be debated and

voted on this floor. Everybody will be heard.

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

Mr. Speaker, the rule continues the spirit of compromise surrounding this legislation. I have learned many things in my 20 years in this institution, but one of the best lessons I have learned was the value of compromise for the public good, and that is what we need to have here today to move this legislation forward.

In this regard, I wish to salute my friend, the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, and the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services, as well as the gentleman from Ohio (Mr. BOEHNER), chairman of the Republican Conference conference. These Members deserve great acclaim, as well as the gentleman from Michigan (Mr. DINGELL) and the gentleman from New York (Mr. LAFALCE) for their patient attention to this very, very important matter.

Mr. Speaker, many Members of Congress on both sides of the aisle have made substantial compromises in order to move this legislation forward. In addition, the affected industries have participated in good faith in these talks and made significant changes in their positions to accommodate the concerns of other stakeholders.

Mr. Speaker, the willingness to compromise among several major banks and the insurance industry and the securities industries have allowed this legislation to proceed to where it is today. Unfortunately, this spirit of compromise was not pervasive in the Washington-based banking trade associations, who have flatly rejected any compromise.

The letter that we received from the Business Bankers Roundtable, from the American Bankers Association, and the Independent Bankers Association had the mitigated gall to write a letter and say no matter what this Congress does on this floor, no matter what combination of amendments are adopted, that they oppose the bill. If my colleagues want to know why, it is because they want a free reign. I will get back to that in just a minute. This is so disappointing, given the strong support for this legislation among some of the country's most prominent financial institutions.

When I was 3 years old, the Glass-Steagall Act prohibiting affiliation with commercial banking and securities activities was passed. And that was 64 years ago. The pace of change in the world and in the marketplace has been absolutely stunning over time. Our financial services laws are, without question, obsolete for a modern global economy.

Mr. Speaker in, this new global environment it is imperative that the banking industry, the insurance industry and the securities industries of the United States be able to compete internationally, because our whole economy depends on it. Jobs in America depend on it. A healthy and competitive financial services sector of the economy leads to overall growth and stability in this country.

Mr. Speaker, the recent waive of mega-mergers and the resulting media attention to those activities only point out further the need for this legislation in the way that it is crafted today, and the way it will be crafted on this floor under a fair debate.

A bipartisan consensus has coalesced around the bank holding company structure as the prudent way to allow for increased financial activities, and the chairman of the Federal Reserve Board has weighed in in strong favor of this report. One of the most respected people in the United States. Any attempt to modernize our financial services law should clearly not toss out the lessons of history, and I will talk about that in just a minute.

Mr. Speaker, having served in the House during the S&L crisis, I can assure Members that financial services modernization should be crafted in a manner which does not jeopardize the interest of the investor, and that means not only people living on fixed incomes that have accumulated a little stock over their lives and now live on that income, it means the pension systems throughout this country, union pensions or the New York State retirement system, all investing in the stock market. These have to be protected. We cannot let the same thing happen to them that happened with the S&L crisis back in the early 1980s.

Mr. Speaker, the news in the last few weeks should be enough evidence for Members to be convinced the time has finally arrived to pass this bill, to get it over to the Senate, and then get it to conference so that the administration can weigh in as well as the Senate and as well as the House. Defeat of the bill today will prevent that from happening and could, my colleagues, result in chaos throughout the financial markets of not only the United States but the world itself.

The world market has changed right before our eyes and we are diminishing the credibility of this lawmaking body if we do not act here today.

Mr. Speaker, the Committee on Rules is presenting the House with a variety of alternatives on this financial services reform with this rule today. The House will have an opportunity to work its will, and that is the way that it should be.

Mr. Speaker, I believe that Members of Congress have a responsibility to lead and to legislate. If Congress does not act now, one day we will wake up and the world will suddenly be so completely different it will be unrecognizable and we will have done nothing to shape it, and every Member of this body can be ashamed of themselves.

Mr. Speaker, I would urge Members to move this process forward. We have studied these issues extensively in our committees for years now. More than 10 years. We now have an appropriate rule before the House. Let us pass the rule and then the bill and send it to the other body for their consideration.

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

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

Mr. Speaker, 7 weeks ago the House Republican leadership was forced to withdraw from consideration an unfair and ill-considered rule. Today the Republican leadership has recommended a rule which, while not perfect, is much more fair and one which allows the House to debate many of the issues related to modernizing the financial services industry in this country.

Most importantly, the ranking members of both the committees of jurisdiction have been given the opportunity to offer important amendments to the bill. Seven weeks ago, the Republican majority denied these Members the opportunity to offer these amendments and that action contributed to the eventual withdrawal of the rule.

Mr. Speaker, without a doubt, H.R. 10 is a controversial bill, but I think all Members will agree that financial modernization is essential to ensure that our financial services industry can remain competitive in today's global economy. More than ever, the ability of our financial institutions to compete globally is critical to maintaining our position of economic strength. There is little debate on that point. Moreover, the question of how we construct a financial modernization scheme is a subject of heated debate. This rule, unlike the rule brought up last month, allows for debate on some of the major points of contention in the whole question of financial services modernization.

First, Mr. Speaker, this rule allows for the House to choose between two structures for modernizing financial institutions and for eliminating the barriers between banking securities and insurance activities. As currently written, H.R. 10 allows for a direct affiliation of these activities through the creation of a new holding company structure which would be overseen by the Federal Reserve Board. Each affiliate, however, would be subject to regulation by its own functional regulator; in other words, banks by banking regulators, securities by the SEC, and insurance by State insurance regulators.

This rule, unlike its predecessor, allows the ranking member of the Committee on Banking and Financial Services the opportunity to offer an amendment to this key provision. The LaFalce-Vento amendment would allow banks to choose between the holding company concept or an operating subsidiary system, which would be subject to regulation by the office of Comptroller of the Currency. Without going into the details of the differences between those two regulatory schemes, suffice

it to say that this is a critical difference which deserves consideration and debate in the House.

In addition, Mr. Speaker, the rule includes as a manager's amendment, proposals first brought up by the ranking member of the Committee on Commerce. In the first rule proposed for consideration of H.R. 10, the Republican leadership excluded from debate the consumer protection amendments proposed by the gentleman from Michigan (Mr. DINGELL). However, in round two, the Dingell amendment has now become the Bliley-Dingell-Leach manager's amendment and will be the first amendment considered under the rule.

Allowing these amendments to be considered is not only fair, Mr. Speaker, it is necessary for the House to consider them if we are to truly debate the issue of modernizing banking laws that are from another age. Regardless of each Member's position of how to accomplish this long overdue change in our banking laws, it is important the House be able to examine this issue thoroughly, something that the Republican earlier had not tried to do. This is a much better rule and will allow for comprehensive debate on bringing our financial services industry into the 21st century.

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

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Finley, Ohio (Mr. OXLEY), one of the most respected Members of this body, who has contributed so much time to this issue as a subcommittee chairman of the Committee on Commerce.

Mr. OXLEY. Mr. Speaker, I thank the gentleman from New York for yielding me this time and congratulate him on an excellent product, this rule. Indeed, this does allow the House to work its will on several important issues dealing with H.R. 10, and I do rise in support of the rule for the Financial Services Act of 1997.

This is the 10th time that Congress has tried to repeal Glass-Steagall since 1979. In the absence of congressional action, regulators have stepped in and essentially usurped congressional authority to make national policy for financial services. I believe it is time now for Congress to consider this issue and for elected representatives to discharge their constitutional authority rather than unelected regulators. We are, indeed, responsible and answerable to our constituents, and that is the way it should be. Accountability is what this body is all about.

□ 1145

The rule makes in order a bipartisan manager's amendment dealing with important issues, including consumer protection, SEC backup authority, information sharing among the regulators, and provides for a study of community needs.

And indeed, I congratulate the gentleman from Michigan (Mr. DINGELL), our ranking member on the Committee on Commerce, working very closely with the gentleman from Virginia (Mr. BLILEY) and the gentleman from New York (Mr. MANTON), our ranking member on my subcommittee; as well as the Committee on Banking and Financial Services members, led by the gentleman from Iowa (Mr. LEACH) the gentleman from Minnesota (Mr. VENTO) and the gentleman from New York (Mr. LAFALCE) and others who were able to craft this very important manager's amendment that provides some reasonable consumer protection, but still allows the competitive nature of the enterprises to go forward.

In addition, the rule also eliminates the bulk of the thrift title, which has been of great concern to many thrifts throughout the country who understandably have not wanted to give up their charter. The legislation will now essentially leave all thrifts as they are under current law.

I look forward, Mr. Speaker, to an informed debate on these necessary changes to enhance the competitiveness of our financial services system. Let us hope that, after all these years, Congress can come together, pass a measured bill that breaks down a lot of these barriers to competition, allows for the affiliation between banks and insurance companies and securities companies to give the consumer the kind of savings that have been projected in the $15 billion and more range per year with the reduction of fees and the necessary advantages that come with these changes that are inherent in this bill.

So this is a fair rule. It is one that was carefully crafted to allow all sides in the debate to have their say and to have their vote, and I commend it to the membership.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. LAFALCE).

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

The bill does some good things with respect to the Glass-Steagall law with respect to bank holding company law. But it does some very bad things with respect to the totality of the national bank charter. It is primarily for those reasons and the adverse impact that those changes would have on consumers and the ability of any administration to effectuate bank policy and economic policy that virtually every consumer organization in America that I am aware of opposes H.R. 10, even with the passage of the manager's amendment, and that the administration a month ago, yesterday, and today has indicated that it would veto H.R. 10 in its present form even with the passage of the manager's amendment. That is the bill that we have, and we will address that later.

Now to the rule. The rule under consideration makes in order a number of thoughtful amendments which do frame some of the most difficult issues this House will face this Congress. The implications of mixing commerce and banking raise sensitive questions involving the safety and soundness of our federally insured banking system.

The viability of the traditional national bank charter and the issue of what we expect in return for the granting of these charters in the form of Bank Community Reinvestment Act obligations will be forcefully and passionately debated under this rule. That was not true of the rule a month or so ago. I commend the chairman of the Committee on Rules for permitting it under today's rule.

However, in speaking for the Democrats on the House Committee on Banking and Financial Services, I am not able to say that we are adequately satisfied with the rule. Simply stated, it is incomplete. The issue of financial modernization is one of the most complex bills we shall ever consider. We must try to anticipate the future and interject policy considerations into an intense marketplace struggle between industry giants.

Why must we consider such matters? Millions of our constituents use financial services daily and depend on the accuracy and dependability of these services. They demand to be protected against abusive business practices and insured against the loss of their savings.

The rule we have before us is incomplete. The managers of the Financial Services Act of 1998 have expended hundreds and hundreds of hours of work in the two major committees of the House that have considered this bill; and under the rule, we each will have but 15 minutes to present our views in general debate. I think that is inadequate.

Secondly, while there are a dozen amendments that have been made in order, most of them are either studies or peripheral issues to the key provisions of the legislation. They could have been accepted in large part in the manager's amendment.

On the other hand, 17 amendments were filed by Democratic members and not made in order. I do not say every one should have been made in order. But many of those amendments went to the heart of the bill's purpose.

For example, amendments were filed by the gentleman from Massachusetts (Mr. KENNEDY) that would condition the affiliation of financial giants on their compliance with fair housing and anti-redlining practices. The gentleman from New York (Mr. HINCHEY) filed amendments that dealt with ATM fees and the practice of consumers receiving unsolicited loan checks in the mail. The gentlewoman from California (Ms. WATERS) raised real questions about the commitments of financial institutions to their community needs. These amendments should also have been made in order.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Speaker, I rise in support of the rule, and I rise in support of the bill, and I rise in support of the manager's amendment.

This is a fair rule. It deserves the consideration and support of every Member of the House. The rule makes in order 12 amendments to be offered by Members of the majority and the minority. These amendments deal with the major issues that were raised during the committee consideration of this legislation, and they make possible full and fair and open debate on an important piece of legislation.

I am pleased to tell my colleagues that the process that has brought us to where we are at this moment is a fair, open, and bipartisan one. I want to thank my good friend, the gentleman from Virginia (Mr. BLILEY), of the Committee on Commerce and the gentleman from Iowa (Mr. LEACH) of the Committee on Banking and Financial Services for their leadership and for their courage and for their willingness to work with me to build reasonable consumer and investor protection into this bill.

I want to point out that the leadership of the majority has been fair in their actions on this matter and that we on this side should appreciate that fact. With the support of my good friend, the gentleman from California (Mr. FAZIO) and many other Members on both sides of this aisle, I am pleased to be joining the gentleman from Virginia (Mr. BLILEY) and the gentleman from Iowa (Mr. LEACH) in offering the manager's amendment, which is made in order under the rule.

That amendment includes the consumer and investor protections that I have sought throughout the process. It provides a safe and sound framework so that the financial services industry, which accounts for some 18 percent of the GNP of this Nation, can compete efficiently and effectively in the new global financial marketplace of the 21st century.

With recently announced mergers, including giant banks and other large financial institutions, a lot of fear has been raised over what the new financial marketplace will look like. The truth is that, without H.R. 10, the financial industry megamergers and consolidations will continue. The regulators will continue their turf wars. The new finance giants will overwhelm a regulatory patchwork process that lacks adequate authority. And U.S. taxpayers will probably face another savings and loan bailout situation and litigation will prevail. This time, however, it will be the banks.

On the other hand, if H.R. 10 is enacted, clear regulatory authority will be present, boundaries will be established within which financial services firms will be free to compete in a fair and open manner, and litigation, confusion, and taxpayer exposure will be reduced.

The choice, then, here before us is clear. I intend to vote for the rule on H.R. 10, and I intend to vote for the manager's amendment. I intend to vote against all other amendments, including amendments which would permit greatly expanded high-risk activities in bank operating subsidies, a real danger to our economic system, and greater mixing of banking and commerce activities than the bill allows.

I urge my colleagues to support the rule. I urge them to support the manager's amendment. And I urge my colleagues to oppose all those other amendments which I view as unwise.

This is a good rule. The bill, if crafted according to the language of the rule, will be a good bill. Let us pass the rule. Let us pass the bill. Let us support the manager's amendment. And let us resolve an issue that has plagued this country for a long time, in an honorable fashion, in a way which serves the interest of the country.

I want to again commend my colleagues who have made this possible, including my good friend, the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules.

The SPEAKER pro tempore (Mr. CAMP). The gentleman from New York (Mr. SOLOMON) has 14 minutes remaining, and the gentleman from Texas (Mr. FROST) has 18 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. Even though the time is not balanced yet, Mr. Speaker, I will yield some more time.

But I want to say to my good friend, the gentleman from Michigan (Mr. DINGELL), the senior Member of this entire body from either side of the aisle, he is one of the most respected Members on the other side of the aisle, and we appreciate his statement.

Let me just briefly take to task my good friend, the gentleman from New York (Mr. LAFALCE), because he has insinuated that we have discriminated against the minority in this rule; and let me just state for the record, and here is the record, that every single Democratic amendment that was offered dealing with policy was made in order in one form or another. That includes LAFALCE and VENTO and MARKEY and SANDERS and DINGELL and MORAN.

So the gentleman, if he had other issues in mind, other policies, he should have introduced them as amendments. And out of respect to him as the ranking member of the Committee on Banking and Financial Services, I would have made them in order without question.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA) one of the most distinguished Members of this body. She is the gentlewoman from the Fifth Congressional District in New Jersey, chairman of the Subcommittee on Financial Institutions and Consumer Credit.

Mrs. ROUKEMA. Mr. Speaker, I thank the chairman of the Committee on Rules.

Mr. Speaker, I rise in strong, strong support of this rule. We have to have this debate today. It is an essential debate, and it must move forward with approval of this rule. If we fail to act today, and I have got to stress this, I have been on this Committee on Banking and Financial Services for a long time, and I have seen lots of changes here, but I have got to stress that if we fail to act today, we are losing the opportunity to reform our financial system in a meaningful and rational way. In my opinion, it is now or never for this Congress.

I certainly appreciate the strong support of the ranking member of the Committee on Commerce, the gentleman from Michigan (Mr. DINGELL), who brings not only his own personal strong support but establishes bipartisan cooperation here.

I might stress to those who are not on the Committee that may have followed this, particularly our newer Members, we will lose the opportunity here to bring to conclusion the Depression era. We are talking about Depression era laws, 1930s, we have got to update them. The important thing is that if we do not do it here today, we will lose the opportunity to stop the regulators and the courts from doing the jobs that Members of Congress should be doing.

□ 1200

Congress must act now, not allow the regulators, in an ad hoc, piecemeal action and the courts to do what Congress is refusing to do with its statutory responsibility.

Technology and market forces have broken down the barriers between banking, securities, and insurance. Our current framework, our current law, however, is stuck in the 1930s, and it has limited our financial institutions' ability to compete in the marketplace, the global marketplace.

By not acting here today, we do not change what is transpiring around the world and here in our own domestic market with foreign bankers and securities people coming in. In the absence of our action here today, again, I want to repeat it, Federal agencies and the courts will find the loopholes and novel interpretations to allow financial institutions to adapt to the marketplace. It will be a blot on the reputation of this Congress.

We have had recent examples of the Comptroller's decision to allow national bank subsidiaries to engage in activities that they never should have been allowed to accept under new statutes. Congressional inaction has led to this piecemeal kind of regulatory reform, and honestly, Members do not want to go home and tell their people in a few years, when we have another savings and loan type debacle, that they voted against strong statutory reasons to redefine financial institutions.

Mr. Speaker, I do congratulate and concur with the Committee on Rules. They dealt with a very difficult subject, and they have provided for a fair and comprehensive debate under this rule with complexities here that it is hard to find a parallel to; but I think they have done it in a very fair way, 12 amendments with all the substance of the issues.

The rule for H.R. 10 makes in order 12 amendments, two of which are mine. The Rules Committee worked hard on this Rule, and Mr. SOLOMON and his Committee should be commended. The new Rule is an improvement over the rule from late March. Under the new Rule, members will get a chance to vote on many of the most contentious issues—insurance sales by bank, deference to the Comptroller, the National Bank Operating Subsidiary, CRA relief for small banks, and other provisions. Giving the members a chance to vote on the issues is a measure of our commitment to fair and comprehensive full debate on the complexities of modernization of financial institutions today's global financial network.

I am disappointed, however, that one amendment was not permitted. Mr. MCCOLLUM offered an amendment to the thrift title. His amendment was similar to provisions of the bill which were voted out of both the Banking and Commerce Committees. Regardless of your position on the issue, it should have been ruled in order. Members should have had an opportunity to vote on this issue.

Mr. Speaker, as with most things in life, things are not always perfect. I will support the Rule. I urge my colleagues to vote ''for'' the rule.

Mr. FROST. Mr. Speaker, I yield 4 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 with concern for this rule and significant concern for the outcome of this product, based on the amendments and status that exists.

We are really facing here a bill that was not written in the Committee on Banking and Financial Services, not written in the Committee on Commerce, a 400-page bill and a smorgasbord of amendments to it that, frankly, will tend to grow if, indeed, some of these amendments are added and as consumed could provide acute indigestion.

Mr. Speaker, I am for banking modernization; I am for deregulation. But the fact of the matter is that what has worked itself into this bill in a haphazard manner and a muddled manner is obviously, on one hand, we claim to be repealing Glass-Steagall, which, of course, the regulators have helped us along with over the years; and the fact is that there is a mixture today just in the very instruments of loans, of annuities, and securities which constitute our financial entities, so much so that they are almost a distinction without a difference.

I am for modernization, but the fact is that this bill is really, and it is still, in a state of denial. It is like finally we dropped somebody in the middle of the ocean; they admit they are in the water, but they have not got the ability to swim, or to take a boat for that matter. Maybe the boat they are taking here is referred to as the H.R. Titanic.

The fact is that this bill is still in denial. It is a grudging permission. In fact, what happens in this bill in the name of modernization is that we take the national bank charter, and it gets shredded. We shred it. That is what happens in this bill.

You permit States bank subsidiaries to do certain activities. You permit bank subsidiaries to do activities in foreign countries, but you will not let the banks subsidiaries function in the U.S. In this bill, incredibly, at a time of megamergers and acquisitions, we diminish the voice of consumers in terms of programs like CRA the Community Reinvestment Act. Some interests do not like CRA, but it is one of the only voices that we have for consumers. So there is a grudging reluctance.

I admit we have to face up and deal with this. The fact is, this bill is muddled. The administration does not support the bill in this form, and 49 of the 50 banking associations do not. Why? In the name of modernization, this bill is not worthy of its name because it takes away from financial institutions activities what they can do today, and then it calls it modernization. That does not make any sense.

That is why every bank in the country, practically, is in an uproar, other than those that need this fig leaf in order to accomplish their acquisition and merger activities.

That is where this Congress is at. I think we can do a lot better. I do not blame the Committee on Rules. This rule, they have done the best they could. They had a bill that was delivered to them, 400-plus pages, that in a sense is going to grow, that they did not have anything to do with; and I did not have very much to do with as one of the ranking members in the Committee on Banking and Financial Services. And that is what is being proposed to be moved. This is put together by people who really, in my judgment, do not want banking modernization. It is a grudging, limited approach that has bound them. It is a balkanized, a reregulation of the financnail institutions market.

Banks in this country, my friends, are the foundation of our economic growth. We ought to be wise enough and prudent enough in this body to admit that. Nobody may love banks, I guess, but the fact is that they are essential to our economic development and growth. We are writing them off in this bill. That is what we are doing. The national bank charter is being shredded; it is being written off in this bill.

We can make some changes, modifications by adopting the good amendment that the gentleman from New York (Mr. LAFALCE) and myself have offered, but that is about the only hope we have to come through this process and keep this process moving.

Frankly, this bill is a mess. I suggest, even if we pass it today, it is going to go to the Senate. It is not going to fare very well unless it gets substantially changed. I think most of us have a good deal of reticence about trusting that the Senate will straighten everything out, as my colleagues might agree, and of course the administration strong opposition and veto threat persists. I think it is time to sit down and work out what needs to be done and really do true modernization.

It should be noted that the basic text of this, some 400 page, measure is a curious product, claimed to be derived from the Banking and Commerce Committee products, but frankly many provisions and specifics were in neither of the committee products. That is why, I am strongly opposed to the underlying text of H.R. 10. The manager's amendment made in order under this rule does next to nothing to address the serious concerns I have about the overall industry balance of this bill. No doubt many Members have heard from consumer groups, community groups, bankers, and state groups alike, that this bill is flawed. I hope we can make some substantial improvements. And therefore be able to move forward with this measure with some hope of a workable measure and better policy.

I would argue that on an issue of such importance, the future of our financial services industries in our country, Members may need more than an hour of general debate. While the amendments made in order have done a better job of making time to address the key issues on this bill, there actually are some issues that are not addressed clearly, among them, the thrift charter issues. Fortunately the credit union measure, H.R. 1151, is not clouding the issue, as in the March 30 version which was pulled from consideration.

The rule importantly does make in order the key amendment, that is, the LaFalce-Vento amendment to preserve the national bank charter. This amendment makes some balancing changes in the insurance provisions, assures stronger consumer laws apply when there are both federal and state laws, clarifies the matter of deference to the federal banking regulator, reinstates important study and report provisions previously in the bill, and restores a financially viable and safe operating subsidiary for national banks so that national bank subs can engaged in all activities that are financial in nature except insurance underwriting and real estate development and investment. This national bank amendment raises issues of great import to the overall issue of financial modernization, to the Members of the Banking Committee and the Administration. Its passage will be critical to the future of H.R. 10.

The Baker amendment that was made in order in my judgment a troublesome amendment made in order by this rule. It attempts to address several issues and has some positive points. However, it does bring in this bill the issue of even further exempting banks from the Community Reinvestment Act. Under the Baker amendment, banks with less than $100 million in assets will be exempt from CRA.

That is not modernization. If we are to bring extraneous issues into this bill, I would suggest that we should have looked to amendments that helped consumers, like banning live loan checks, instead of those that hurt consumers and communities.

It should be noted that the new text of H.R. 10 in an era of mega-merger and acquisition across financial entities lines shrinks the opportunities for consumers and communities to have a voice through CRA.

Further, the Baker amendment muddies the water with regard to what would be an appropriate financial operating subsidiary of national banks. Make no mistake Mr. Baker's operating subsidiary is not workable or fair has been rejected by the Administration, or for others who want to see a strong and viable national bank with real strength for the federal bank regulator, for communities and for consumers. Furthermore this amendment further seriously undermines the community reinvestment act. Having the Federal Reserve Board define what the OCC's banks' subsidiaries can do is the fox guarding the hen house, a hollow subsidiary for symbolic purposes isn't the answer to avoid concentration, promote competition and serve our communities.

Mr. Speaker, I have worked long and hard and in good faith on a financial services modernization bill for many years as have most of my colleagues on the Banking and Financial Services Committee. This bill jeopardizes the appropriate balance and marginalizes the deliberate consideration and contributions of many Members. While this rule is not egregious as the rule was in March, the process leaves must to be desired. Without passage of key amendments, H.R. 10 will not have my support. With passage of certain amendments, H.R. 10 will not have my support.

The rule today is apparently as good as it gets in the House this Congress, hopefully we will be able to work the will of the House and made a good judgment on the final product. This measure H.R. 10 in its current form even with amendments is not a product which I would take any pride we could and should have done much better.

Mr. FROST. Mr. Speaker, how much time is remaining on each side.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Texas (Mr. FROST) has 14 minutes remaining. The gentleman from New York (Mr. SOLOMON) has 10 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise in strong opposition to this rule, and I think that it is important that we recognize that, while all of us are focused on the whole issue of how this bill is going to affect the biggest and most powerful institutions in this country, and perhaps now, in the world, with the new speed of mergers and acquisitions taking place, we are creating ever larger, ever more powerful banks and insurance companies and securities firms.

We are allowing them to gobble up one another in a situation that makes a Pacman machine look, itself, like child's play. But the fact of the matter is, that nowhere in this legislation is there a word printed about how this bill is going to affect the poor. Nowhere in these long pages do we see any indication of whether or not small business lending is going to increase.

Every major study shows that once this legislation passes, we will see the number of branch offices shrink. We will see the number of employees that are going to be working for these institutions shrink. We are going to see, much more importantly, the amount of coverage under the Community Reinvestment Act dramatically reduced. We are going to see the tremendous engine of growth that we have seen in our urban areas dry up as a result of the shrinkage of the Community Reinvestment Act.

Yet, even the Fair Housing Act, the Fair Housing Act, which just says that the biggest banks and the insurance companies and the real estate firms in this country cannot discriminate based on race, color, or creed, when the Justice Department has entered into consent decrees with various banks and insurance companies in the United States of America, we are still going to allow them, without any hindrance, to go out and merge and acquire one another.

We ought to say, fine, it is great. I think it is wonderful that we are going to allow our biggest companies to get bigger and to be able to compete with other nations' large institutions. There is nothing wrong with growing big institutions. But what we ought to make certain of, if we are going to grow those big institutions, is that they look out for the little people. That is what this bill misses.

There is nothing in this bill that makes certain that people are no longer discriminated against because of the color of their skin. Believe me, in the financial institutions of this country, we have rampant discrimination. You go in and try to look at how many minorities get home mortgage loans, get small business loans, compared to whites coming from the same neighborhoods with the same income levels. It is atrocious.

Look at how insurance companies discriminate against people around America. We do not do anything, and we are going to allow them to gobble one another up, to protect the poorest people in America. Come on, this ''chamber of deputies'' of America. Come on and stand up as parliamentarians for the people that in the United States need you.

The big banks and insurance companies do not need us. It is the working families of America that need their representatives. Stand up against the insurance. Stand up against the securities. Stand up against the banks. Stand for the working families of America.

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

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

Mr. Speaker, I have some very serious objections to the bill in chief, but I want to focus my remarks at this particular moment on the rule.

Although this rule, as has been noted, is a better rule and a more open rule than the one which was originally advanced for this bill some time ago, it is still, nevertheless, seriously deficient in that it is still too closed and not open enough.

This particular bill, H.R. 10, is the most substantial and significant piece of financial legislation to come before this House in a very long time. I dare say that there will be few Members presently serving here who will vote on more significant legislation, even if they stay as long as the dean of the House, our revered friend, the gentleman from Michigan (Mr. DINGELL), some 30 years. This bill is critically important and is far-reaching.

Let me just talk a little bit about the issue of fees and how this rule refused to address the issue of bank fees. Customers of banks find themselves increasingly paying more and more and more in fees.

This bill fails to address that problem, and the rule objected to our introducing an amendment which would have limited ATM fees. This is an amendment which had the support of the very respected gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Nevertheless, the Committee on Rules decided that they should not allow an amendment on this floor which would restrict or prevent banks from charging their customers at ATM machines. There are 90 percent of the banks across the country now charging at ATM machines, and those fees are going up. They were $1 in most instances. Now they are going up to $1.50. How long will it be before they are $2 and $2.50 and $5? The banks are insatiable in this regard. This rule does nothing to prevent them from continuing to fleece the American public by charging them higher and higher fees.

Furthermore, there is a broad, sweeping provision in this bill. It is section 104(b)(1), which preempts State legislative bodies in a very broad, sweeping way from enacting protections for customers, consumers across this country.

So even if this Congress is not prepared to protect the banking customers, to protect financial consumers, the bill goes beyond that and makes it difficult, if not impossible, for State legislative bodies to enact fair, reasonable consumer protection laws.

This is an outrageous position, and it is an outrageous position on the part of the Committee on Rules to prevent an amendment which was suggested and offered by the gentleman from Ohio (Mr. KUCINICH), which would have preempted this particular sweeping provision of the bill.

These are just some of the reasons why this outrageous, tight, wrong rule ought to be defeated.

Mr. SOLOMON. Mr. Speaker, I yield myself 1 minute to take exception to

the previous speaker and to my good friend, the gentleman from Massachusetts (Mr. KENNEDY), as well.

Mr. Speaker, in this legislation, everyone knows that Jerry Solomon is proinsurance and has been for many years. The very fact that I am up here supporting this rule and supporting this bill is because the insurance industry is protected. State regulation is protected in this bill; and do not think it is not, or I would not be standing here supporting it.

As far as the gentleman from Massachusetts (Mr. KENNEDY) is concerned, you know, we are talking about bank modernization and how to protect the investor. We are not talking about redlining districts. We are not talking about fair housing authorities. That is a subject from a different committee, from the Committee on the Judiciary. It ought it be brought to the floor under those jurisdictions, not under this banking bill.

□ 1215

We ought to be concentrating on this, because it is so terribly important, and I will tell you why in a minute.

Mr. Speaker, I yield one minute to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I want to make several points on the consumer protection and CRA protection issue. In several ways, CRA is expanded in this bill. One is all subsidiary depository institutions will have to have a satisfactory CRA rating to take on any new powers. That is the first extension of CRA in this regard.

Secondly, for the first time, CRA is partially placed on the securities industry and the so-called wholesale financial institutions. Those are expansions, not contractions, of CRA.

The third point I would like to stress is that we are looking at expanding in addition the antitrust authorities of the United States of America. If the managers amendment is adopted, we will have stronger antitrust laws. We will move in the direction of greater oversight, not less, of the antitrust laws of the United States, as applied to financial institutions.

These are very important consumer provisions, and I think that one should be very cautious about reaching judgments to the contrary.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker. I want to thank my good friend for yielding me time.

Mr. Speaker, I just would like to respond by pointing out that the chairman of the Committee on Banking and Financial Services knows full well that under the legislation that is before us there will be a dramatic shrinking of the amount of money that goes into the communities across this country under the Community Reinvestment Act, by virtue of the fact that the subsidiaries will now be pushed out of the bank and into these various affiliates and will no longer be covered under CRA.

I know that the chairman is about to make the point to me that he has an amendment, which I think most people do not believe is going to pass, or the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO) have an amendment which we believe is going to have a very difficult time getting through, because of the fact that it stands up for the consumer.

I would like to get back to the point of the gentleman from New York (Mr. SOLOMON). The gentleman indicates that this bill is about looking out after the stockholders and the shareholders of the banks of America. That is almost directly what the gentleman said.

I cannot believe that that is what in fact we view our job in the Congress of the United States to be. It is not to look out after the stockholders and shareholders of these institutions; it is to look out after the people whose taxes back up the Federal Deposit Insurance, the BIF, the SAIF, and all of the basic protections, to make certain that people are not discriminated against.

To say we are not going to stand idly by as banks suck the deposits out of a local community, as insurance companies refuse to write insurance policies to particular sections of communities, as insurance companies refuse to invest their huge deposit base into whole sections of America, those are the protections that we are missing in this bill. Those are the protections that should be foremost on the minds of the people that make up the Congress of the United States.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would point out that one of the Dingell-LaFalce amendments, which was offered on March 30th, which was supposed to have been in order, would have provided an expansion of CRA to some of the other financial entities. That is conspicuously absent from consideration of what is being considered on today. I would just point out that that is conspicuously absent from the managers amendment today.

I intend to support the managers amendment. I think it is good, as far as it goes. I think the concern is that, in and of itself, it does not go far enough to address the concerns of consumers and the community.

I appreciate the antitrust provisions, as our chairman, the gentleman from Iowa (Mr. LEACH) and I together had written and worked on those and put them in the bill and are now included in the managers amendment. It is one good thing we brought back that was not in the March 30 configuration. But the fundamental issue is that there is a shrinkage of CRA that goes on, will be adverse, and gives less voice to consumers than what they have in today's marketplace.

Mr. KENNEDY of Massachusetts. Mr. Speaker, reclaiming my time, I would also point out that while the committee of the gentleman from Iowa (Mr. LEACH) incorporated an amendment to handle the Federal Housing Administration, the discrimination in housing when it went to the Committee on Rules, when the banking bill went to the Committee on Rules that amendment was conspicuously dropped, which is one of the reasons I am opposing the bill, despite being one of the few Democrats that supported the bill of the gentleman from Iowa (Mr. LEACH) in the committee.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to respond to my very good friend, the gentleman from Massachusetts (Mr. KENNEDY), who is retiring, and this body is going to miss him because he brings a lot to the body.

I want to just clarify what the gentleman was trying to quote me as saying. I said, ''This Financial Services Modernization Act should be crafted in a manner which does not jeopardize the interests of the investor or the depositor.''

Who are those investors and who are those depositors? Are they all these rich moguls all over this country and the world? I am going to tell you who they are. They are all of your constituents, who are investing their lifetime savings.

I am going to sum up when we get done here and tell you what happened in the S&L crisis, where the investors lost their money, the depositors lost their money and the taxpayers lost their money, and that is why we ought to be dealing with this legislation today.

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

Mr. LEACH. Mr. Speaker, just briefly to respond to the gentleman from Massachusetts (Mr. KENNEDY), whose perspective I think we should listen to very carefully, this bill does advance low cost banking accounts as obligations of certain kinds of banking institutions, which is a very powerful step forward to protect low income people.

Secondly, in terms of protecting smaller institutions, this bill allows community institutions of a smaller size to tap into the Federal Home Loan Bank system, which is a government-sponsored enterprise, to be able then to marshal low cost loans for farmers and for small businesses. This is a new power designed for small institutions, basically to serve smaller communities. These are very extraordinary new powers.

Finally, let me just conclude by saying all of us are concerned about some of the trends in finance today. The question is not whether the trends are all wrong, but whether this bill applies

more humanity and more reasonableness in controlling and constraining those trends. I believe it does.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, Mr. BENTSEN.

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

Mr. BENTSEN. Mr. Speaker, first of all I want to say I have the greatest respect for the chairman of the banking committee, as well as the ranking member of the Committee on Commerce, but I am opposed to this rule.

This bill, first of all, will not greatly, if at all, in my opinion, affect the announced mergers that are going on. A lot are going to occur regardless, and others, like the Citigroup merger, really are not affected by this bill. They have other fish to fry down the road.

This bill is not about size, it is about powers and who has what powers. This bill has changed as it left the Committee on Banking and Financial Services from Glass-Steagell reform to a balkanization of the Nation's financial services structure. It is no longer about financial modernization in the whole; it is about who gets to protect what powers, and that is unfortunate. Maybe we want to do that, but we ought to be honest about what we are doing here.

With all due respect to the chairman of the Committee on Rules, and granted, I am new, I am only in my second term, but the fact we are only going to spend one hour of general debate on a 400 page bill dealing with the bank laws that was filed in the CONGRESSIONAL RECORD a week and a half ago, is absurd to me.

In the business the gentleman was in before and the business I was in before, we would be subject to violations of not having proper disclosure, because we clearly are not disclosing what is going on in this bill today.

If one is concerned about protecting Members from voting against various amendments so they are not voting against particular interest groups that are affected by this bill, you just not are going to be able to do that and deal with the issues. This bill is fraught with peril for Members trying to hide from various interest groups.

Now, I am for modernization, probably for more modernization than some of my colleagues on the other side of the aisle and colleagues on this side of the aisle. But this bill, unfortunately, will not have the Congress moving the banking laws and the financial laws to where the marketplace is today. In effect, I think it will have us moving backwards.

There are some amendments that we can address, that we can try and adopt. The LaFalce-Vento amendment and the Bliley-Dingell-Leach amendment are good amendments and they ought to be adopted. But, otherwise, if they are not, I think to argue that this is our last chance to pass this bill in this Congress really reminds me of what my mother would say. My mother would say, you should have thought about that before you decided to spend most of the Congress in recess, instead of staying here and doing your work.

We could have tried to work on this earlier. We could have brought the parties together, instead of having three or four people put the bill together in a back room. We could have tried to pass it. We can always change it. That is what we are elected to do. But we chose not to do so.

So, unfortunately, and with all due respect for the chairman, I am going to have to oppose the rule. I think this bill in its current form is a real step backward. It may be good for the Congress, but the marketplace is going to run circles around it.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume just briefly to say to the gentleman, the gentleman is new here, but he was a cosponsor of an amendment dealing with the operating subsidiaries. We made both of those amendments in order in LaFalce and we made in order the gentleman from Louisiana's amendment.

But let me say, if the gentleman had other amendments, the gentleman should have offered them, and perhaps we could have looked on them kindly.

Let me just point to the fact that the gentleman said there is only one hour of general debate. I want the gentleman to come back here at 11:30 tonight and tell me that there is only one hour of debate on this issue. We will still be on this floor debating this issue at 11:30 tonight, and the gentleman should pay attention to the clock.

Mr. Speaker, I yield one minute to my very good friend, the gentleman from Des Moines, Iowa, (Mr. GANSKE) a member of the Committee on Commerce.

Mr. GANSKE. Mr. Speaker, I rise in support of the rule and the bill.

Mr. Speaker, let me speak about consumers. This bill utilizes the holding company structure to build safe fire walls to separate insured bank liabilities from uninsured liabilities of other financial obligations. I think the holding company approach is safer for consumers than having insurance and security subsidiaries. Functional regulation is a consumer safeguard.

Mr. Speaker, this bill ensures that banks which become holding companies will provide low cost basic banking accounts to consumers, that there is full disclosure on which bank products are and are not insured, that loan applications cannot be conditioned on the purchase of insurance, that complaints can be referred to the appropriate regulator and that a new source of low cost credit through the Federal Home Loan Bank system is available to farmers, small businesses and persons involved in community development.

Most importantly, Mr. Speaker, modernizing these depression-era laws as we enter this next century will allow greater competition in the financial services industry and result in lower prices and better services. This could save $15 billion each year.

Support the bill and the rule.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, with all due respect to the chairman, actually the gentleman did not make my amendment in order. It was the Vento-Bentsen amendment. It was a narrow operating subsidiary amendment, which was not made in order, just for the record.

But with respect to being here at 11:30, I am happy to be here at 11:30. That is what we get paid to do. I guess my point is, why do we have to do it all in one day? If it is such an important bill, let us spend a lot of time on it. I think that is what the American people would want us to do.

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

Mr. Speaker, let me just say to the gentleman that we could make all of these amendments in order. We could spend four days on this. But, there are things like ISTEA, which deal with roads and bridges and construction in this country, there are things like campaign finance reform, all of which have to get done before the time that we go home for the break.

Mr. Speaker, I yield one minute to my good friend, the gentleman from Ohio (Mr. GILLMOR).

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

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

Mr. Speaker, I am happy to rise in support of this rule, and I am also happy that the bill includes an amendment that I offered which has been called Fed Lite.

Earlier versions of this legislation would have created an umbrella-like regulatory framework subjecting many financial entities to excessive and conflicting regulatory requirements. No clear argument had been made to authorize Federal Reserve umbrella regulation over securities and insurance entities that had functioned effectively without Federal Reserve supervision. That is why I offered an amendment in the Committee on Commerce to scale back this broad expansion of unwarranted regulatory authority and emphasize true functional regulation.

My amendment, which was passed unanimously in the Committee on Commerce, is commonly known as Fed Lite because it scales back much of the unnecessary authority of the Federal Reserve to require reports and conduct examinations in nonbank subsidiaries of a holding company.

Essentially, Fed Lite eliminates most duplicative and burdensome regulations.

□ 1230

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, I think that what we are hearing on the floor here at the moment is that this bill is designed to expand the powers and the capabilities of the major financial institutions of this country. While I support that and while I was one of 10 Democrats on the Committee on Banking and Financial Services that voted for this bill, 9 of them are now off of it.

The reason why is because when the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services, a few moments ago referred to lifeline banking and the fact that that is contained in the bill, something happened between the lifeline banking we passed in the Committee on Banking and Financial Services and the lifeline banking portion of this bill that is on the House floor today; and that is that it no longer has any teeth. It no longer is a requirement. It is now something that a bank might opt to do; they might not opt to do it, as well. They do not do it now, so I do not know why they would opt in.

The fact is that what we see here is a grab by the powerful interests of America without even an acknowledgment of the base of the financial institutions.

I wish we were not all done, Mr. Speaker. We have more to say, but not enough time to say it.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Texas (Mr. FROST) has 30 seconds remaining.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard the sharp differences on this piece of legislation. We should move to consideration of the bill, and I urge adoption of the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Let me come over on this side and talk to some of my good friends for a minute.

Mr. Speaker, my good friend from Massachusetts just said it is a power grab by the strong interests of America. That is exactly what we are trying to prevent here.

Mr. Speaker, the administration does not want a bill. They do not want a bill under any circumstances. Why? It is a turf war where the Government of the United States wants to control all of this stuff. Well, that is a shame. Alan Greenspan, the Federal Reserve Board Chairman, one of the most respected people in the country, wants this bill. Arthur Levitt, who is the Chairman of the Securities and Exchange Commission, wants this bill, because they want to make sure we are going to protect the investors and depositors and taxpayers of this Nation.

Mr. Speaker, anyone who comes over here and votes against this rule, I say to my colleagues, in my opinion, is voting to protect their own backsides. My colleagues do not want to have to cast the tough votes. They do not want to debate this issue on the floor.

Let me just say one more thing. I was here in 1980; I came here in 1978. In 1980 a little, small, innocuous bill came on the floor. What it did, among other things, was raise the guarantee on deposits from $25,000 up to $100,000 and it said to Jerry Solomon, who had just sold all of his businesses and had come to Washington, you can invest all of your money in all of these new start-up banks that are going to risk your investments; but it is going to be protected by the FDIC, every single $100,000 account that I invest in.

Well, guess what happened? That brought on the S&L crisis. And then what happened? In a lot of cases, people lost their money. In other cases, the Federal Government came in with the taxpayers' money and bailed them out.

I say to my colleagues, we have seen nothing like what is going to happen in the years down the pike if we have to come in and bail out all of these megamergers. We let all of this happen with no controls out there. My colleagues had better be responsible and vote for this legislation.

Let us go to the Senate, and then let us sit down and negotiate with the White House about making sure that the Federal Reserve Board and the Securities and Exchange Commission and others outside this government are going to have a say, because we all know how we politicians are sometimes. We do not always look out for the best interests of the people. Sometimes we are looking out for our own backsides. Let us do not do it today.

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. FROST. 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 311, nays 105, not voting 16, as follows:

[Roll No. 142]

YEAS—311

Abercrombie
Ackerman
Allen
Andrews
Archer
Armey
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Boyd
Brady
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Clayton
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Cox
Coyne
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Deal
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Livingston
LoBiondo
Lofgren
Lucas
Maloney (NY)
Manton
Manzullo
Markey
Mascara
McCarthy (NY)
McCrery
McDade
McGovern
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meeks (NY)
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Towns
Traficant
Upton
Velazquez
Visclosky
Walsh
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—105

Aderholt
Bachus
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Borski
Boswell
Brown (CA)
Brown (FL)
Cardin
Carson
Clyburn
Coburn
Conyers
Costello
Cramer
Danner
Davis (IL)
Davis (VA)
DeFazio
Delahunt
Dickey
Dicks
Dixon
Duncan
Evans
Everett
Farr
Fattah
Filner

Frank (MA)	Luther	Sandlin
Gephardt	Maloney (CT)	Sawyer
Goode	Martinez	Schumer
Gutierrez	Matsui	Scott
Hastings (FL)	McCarthy (MO)	Serrano
Hefley	McCollum	Sherman
Hilleary	McDermott	Skelton
Hinchey	McHale	Slaughter
Hoyer	McIntyre	Smith, Adam
Istook	Meehan	Stokes
Jackson (IL)	Meek (FL)	Taylor (MS)
Johnson (WI)	Menendez	Thompson
Jones	Millender-McDonald	Thune
Kanjorski	Miller (CA)	Tiahrt
Kennedy (MA)	Obey	Tierney
Kucinich	Olver	Torres
LaFalce	Owens	Turner
LaHood	Payne	Vento
Lampson	Pelosi	Wamp
Lantos	Poshard	Waters
Lee	Price (NC)	Watt (NC)
Lewis (GA)	Riley	Waxman
Lewis (KY)	Rothman	Yates
Lipinski	Roybal-Allard	
Lowey		

NOT VOTING—16

Bateman	Gonzalez	Mink
Christensen	Hall (OH)	Radanovich
Clay	Harman	Riggs
Ewing	Hefner	Skaggs
Gekas	Hilliard	
Gilchrest	Kilpatrick	

□ 1254

Messrs. WAMP, LEWIS of Kentucky, EVERETT, HASTINGS of Florida, DICKEY, DELAHUNT, WAXMAN, STOKES, and CRAMER changed their vote from ''yea'' to ''nay.''

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.

The SPEAKER pro tempore (Mr. HANSEN). Pursuant to House Resolution 428 and rule XXIII, 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.

□ 1255

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 15 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.)

Mr. LEACH. Madam Chairman, we come to the Congress today to deal with truly historic legislation. Everybody knows there are massive changes underway in the financial landscape. Not all of us like all of these changes. In fact, I would suspect the majority of the country and the majority of this body have serious doubts. But the bill we are bringing before the Congress is about the question of whether we want to have a government of laws or of men, whether we want to have laws shaped and constrained to defend the financial system for the benefit of the public.

What we really have before us as we deal with issues of this nature are differences between and within industrial groupings, differences between and within regulatory bodies, and questions of the public interest.

In my view, the principal issue is the latter, what is in the public interest. What we have in the bill that is being brought before us is a bill designed to be pro-competitive. In its broadest outlines, there is enormous support in the administration, both sides of Congress, both committees for the principle that we ought to have more competition within financial services; banks being allowed to offer more securities and insurance services, insurance companies more banking and securities products, securities firms more insurance and banking products. That is a pro-competitive circumstance.

Now, there are many differences of judgment on the subtleties: who regulates, who gets what powers relative to what other institutions. My view is very simple. We ought to put a great emphasis on antitrust, we ought to put a great emphasis and decide as many issues as possible on what is the most pro-competitive option, and we ought to be, most of all, concerned for small individuals and small institutions.

□ 1300

Here let me just stress from the perspective of a Midwesterner, for the first time we have historic new powers granted to community banks to allow them to offer lower-cost services for small business and for agriculture based on access to capital from a government-sponsored enterprise, the Federal Home Loan Bank system. We also have the capacity of the consumers to get services from more sources in a single moment, what is called one-stop shopping. That is the framework of the bill. I think it makes sense.

There are different subtleties that we will get into and certainly an amendment that I will be offering that I feel is of enormous consequence. Having said that, let me turn for a moment to the regulatory situation.

What this bill does is establish functional regulation with a bit of a tilt to the Federal Reserve Board. The Department of the Treasury has some objection to this tilt.

I would only say for Members of this body that the Federal Reserve Board is the only institution of the United States Government that has significant experience in the holding company regulatory area, which is what we are really getting into with this legislation.

It is also the only institution that has resources available in a time of emergency, absolutely extraordinary and stunning resources that can be brought to bear in an instantaneous time period. It also has the greatest reputation for being a nonpoliticized institution of the government.

These are reasons that this Congress has historically tilted, not just this legislative body, but historically tilted to the Fed. My own view is, the Department of the Treasury has some reasonable positions that this Congress is going to have to take into consideration. The gentleman from New York (Mr. LAFALCE) will offer an amendment tilting in that direction, I think, fractionally too far, but in any regard, tilting in that direction.

Certainly, whatever happens on this floor, if this bill passes, if we go to conference, I would expect the Treasury to have a seat at the table, and we will certainly take into consideration their views. But I would simply say to my friends and colleagues that have listened to the Department of the Treasury about certain concerns, I would hope that the Department of the Treasury would recognize that the major issue is what is in the public interest, not what is in the parochial interests of any particular institution of government.

We have to be enormously cautious as we proceed that, as new powers are undertaken, as new changes occur in the marketplace, that we have a credible regulatory framework set in place. That is what I believe this bill in its final measure accomplishes. Certainly, there are nuanced changes that can occur without great damage to that structure, but I would hope very much that the administration and the other side would recognize that these are honest differences of opinion that this body will have to deal with over time.

Madam Chairman, In this context, H.R. 10, the Financial Services Act, references a historic effort to modernize the basic laws governing the financial services sector of the economy so that our banks, securities and insurance firms can better serve customers in the United States and remain world leaders as financial services providers.

The Glass-Steagall Act, which has separated commercial banking from investment banking, turns 65 years old this year. During these past six decades, financial services has proved to be one of the fastest evolving sectors of the economy, yet it continues to be governed by legislation that is antiquated.

H.R. 10 has been several years in the making, and has involved negotiations and compromises: between 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.

But it should be remembered that while the work of Congress inevitably involves adjudicating regulatory turf battles and refereeing industrial groups fighting for their piece of the pie, the principal work of Congress in 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 threatened by institutions that take unacceptable risks; that institutions are able to compete against their international rivals, which far outweigh even our largest financial services groups.

The trick in crafting financial services legislation that works to the public interest is to enhance competitiveness abroad, while advancing competition here at home. In this contest, H.R. 10 strengthens the competitive position of America's financial services sector internationally and at some time empowers community banks and small financial institutions to ensure competition and consumer choice.

We address this legislation, of course, in the shadow of large mergers that have been announced in the financial services sector. Many of us have concerns about certain trends in finances. The key, whether one likes or dislikes what is happening in the market place, is to ensure that appropriate regulation is in place—anti-trust, consumer, and perhaps, most critically regulation related to derivatives always and other complex financial products. In this regard, this bill opts for functional regulations and for the primary of non-politicized Federal Reverse supervision.

Here it deserves stressing that amid all the publicity about large financial institutions, the true beneficiaries of this legislation are small community banks and the ordinary citizens and small businesses they serve. This bill is opposed by many of the largest banks in the country, because they can already take part in most of the activities the bill permits.

Americans have long held concerns about bigness in the economy. As we have seen in other countries, concentration of economic power does not lead to increased competition, innovation or customer service.

But the solution to the problem of concentration of economic power is not to deny small banks the new powers included in H.R. 10. It is to empower them 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.

In order to compete against large regional institutions or new technologies like Internet banking, community based institutions need new powers like the ones granted in H.R. 10. Banks which stick with offering the same old accounts and services in the same old ways will find their viability threatened.

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. In a David versus Goliath circumstance, H.R. 10 is the small banks' slingshot.

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.

First, H.R. 10 gives community banks the ability to offer ''one stop shopping,'' so that they can attract new individual and business customers and retain customers who might otherwise feel they have outgrown a community institution. 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 creation of the unitary thrift holding company which large institutions—commercial as well as financial—have turned to.

Second, H.R. 10 gives community banks access to low cost federal funds through the Home Loan Bank System, letting small banks compete against the Farm Credit System in providing credit for agricultural and rural development projects. Not only will community banks benefit from this provision, but increased competition in rural lending will lower costs to farmers.

Third, H.R. 10 prohibits what are called ''deposit production offices''—that is, offices which are designed to gather up deposits in communities without lending out money to people in these communities. This provision helps ensure that deposits made by members of a community stay in the community, thereby creating economic growth and opportunity.

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.

It should be our goal to approve a bill that first of all gives greater choice and lowers prices to the consumers of financial services; second, protects the taxpayer; and third, is balanced between the various industrial and commercial interests.

As we all know, there are complex issues involved in this legislation, and there will be differing judgments on major issues 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, not the regulators and the courts, 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 no 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 such time as I may consume.

First of all, I want to acknowledge the fact that it has been a pleasure to work with the chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH), and the chairman of the Committee on Commerce and the ranking Democrat, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Michigan (Mr. DINGELL).

We have some differences of opinion. There are some very good provisions within the most recent iteration of H.R. 10, but in my judgment there are some very, very bad provisions that take significant steps backward. The issue is, how do we best advance the cause of the American consumer? How do we best protect the cause of the American consumer?

Every consumer group in America that I am aware of opposes H.R. 10, even with the manager's amendment. The administration opposes it, even with the manager's amendment, to such an extent that the Secretary of the Treasury had a press conference yesterday, appeared before Congress today, and indicated that he would strongly recommend a veto of it because it is not in the public interest.

I side with all of these consumer organizations. I side with the administration. I also side on these issues with the State banking regulators and the chairman of the FDIC, the insurance fund.

Now, in its current form, unfortunately, this bill reduces competition; it does not enhance competition. It fuels concentration. I think that is why most of the bigger banks and bigger insurance companies and bigger securities firms are for it, but the smaller banks of America, for example, and the consumers are opposed to it. It leaves smaller and medium-size banks at a serious competitive disadvantage, and it flatly discriminates against national banks as providers of new financial services.

Perhaps most importantly, the bill requires national banks to move assets out of institutions covered by the Community Reinvestment Act in order to offer new products and services.

We Democrats have worked hard for years to ensure that banks actively invest in the communities from which they draw their funds. No such requirements apply to the new conglomerates that will be created as the result of this bill. Only banks are covered by the CRA, and traditional banking institutions are put at a competitive disadvantage under this bill.

The strength of CRA is substantially dependent on the strength of the national bank system. This bill undermines both. For this and a number of other reasons, consumer and community groups generally oppose this legislation.

The creation of large, diversified financial institutions that can compete in global markets must be a part of financial modernization, but there must be room in this country and in this bill for the community-based institutions that we so heavily rely on to provide credit to consumers and local businesses and to fuel community development.

Many Members have also asked me whether this bill is good for consumers and good for their communities. Consumers benefit from innovation and

competition. Communities benefit from investment in their citizens and businesses that can spur economic development. This bill, unfortunately, would impede innovation by preventing national banks from offering new products and services within their existing structure. It would reduce competition by eliminating the historical tension between different bank charters and different bank regulators, forcing all institutions into one mold governed by one regulator. For those who fear the power of the Federal Reserve Board, this is not a slight tilt in the Federal Reserve Board's direction; this is a massive shift.

It virtually compels smaller banks to become part of a larger-scale conglomerate in order to compete. It forces assets out of banks and, therefore, out of the reach of the CRA. I cannot honestly say that any one of these things is good for either consumers or communities.

The gentleman from Minnesota (Mr. VENTO) and I will be offering an amendment to cure many of these defects. I would urge Members' strong support of our amendment to cure so many of these defects.

If our amendment should not pass, I would be constrained to oppose the bill as the consumer groups of America do, as this administration does.

Madam Chairman, I reserve the balance of my time.

Mr. BLILEY. Madam Chairman, I yield myself such time as I may consume.

I would like to begin by thanking my good friend and ranking Democratic member on the Committee on Commerce, the gentleman from Michigan (Mr. DINGELL), as well as the gentleman from Ohio (Mr. OXLEY), the gentleman from New York (Mr. MANTON), the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Iowa (Mr. LEACH), who have spent hundreds of hours in meetings and negotiations working on a bipartisan basis to create our best opportunity in 65 years to modernize our financial system.

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 better compete but have one hand tied behind their backs by the archaic Glass-Steagall restrictions that current law imposes. And we heard from the Federal and State financial regulators who expressed concern about the safety and soundness of the financial system and their consumer protections as we enter into the 21st century if we do not enact reform.

It is a testament to the will of the American people that we have heard your concerns and are here today to pass legislation to protect your future and that of your children.

I have a grandson who is almost 2 years old, Thomas J. Bliley, the 4th. When our committee heard from the OCC bank regulator that they considered critical securities and insurance consumer protection regulations to be only guidelines that banks may or may not have to comply with, I worried about his future. This bill protects us.

Last year, the citizens of Illinois encouraged their legislature to sign a comprehensive law governing bank insurance sales. It was a bipartisan consensus, worked out with the support of all the affected industries. We have taken this great compromise from Illinois and made it one of the central keys to this legislation. We have protected or safe-harbored any State consumer protection law which is no more restrictive than the Illinois consensus.

This means that if my grandson, TJ, goes into a bank in New York, the New York law guaranteeing consumers information that their choice of insurance providers will not affect the loan application will be a requirement, not a guideline. It means if he goes into a financial institution in Florida, that that State's laws providing disclosures will be requirements, not guidelines. And if he goes to Louisiana, which has a law protecting the confidentiality of a consumer's insurance history, something very important to all of us, that such privacy protections will be a requirement that banks have to follow, not just a guideline. But even if those State laws are protected, how much competition will be left by the time he grows up?

Our committee has been inundated with letters and calls by consumers worried about the ongoing megamergers, such as First Union bank's purchase of CoreStates Bank in Pennsylvania, which included plans to cut 4,400 jobs, close 172 bank branches and turn Philadelphia into the top 10 market most dominated by a single bank at an amazing 53 percent of the market. If we do not remove the government restrictions preventing new competition in the banking industry, consumers will continue to face higher fees and increased charges into the future.

This bill immediately triples the number of providers that can potentially offer competing products and will ensure new competition to reduce prices and surcharges.

And banks are not the only ones abusing the protectionist loopholes in the current system. Our committee has investigated extensive fraud by insurance agents who have swindled consumers out of huge premiums for little to no extra policy benefits. H.R. 10 would not only let insurance companies bring competition into the banking industry, but it also allows banks the ability to offer competing insurance products in every branch and location and at a huge potential savings for customers.

I happen to be a friend of both my local bank and my insurance agent. Both are honest and hard-working individuals. But would I like to see them compete to see who can offer me the lowest price for my business? Absolutely. Do I want American consumers to have the same savings? Yes, absolutely yes.

Last month we all heard about the Travelers-Citibank merger which created the biggest corporation in the Nation. I am told that they cannot do this under current law, that we have restrictions in place against this sort of thing, but they did it and more companies will do it, and we do not have the framework in place to regulate it. This bill creates that framework.

With H.R. 10 we create a standard for protecting consumer laws and the safety of our country's finances. Without H.R. 10, we are diving into a river of uncertainty at night hoping what somehow we will make it to the opposite shore in one piece.

I have heard from the administration and the Treasury Department that they oppose this bill because it hurts the national bank charter. Do not be fooled. They are simply losing a turf battle between two agencies, the OCC and the Federal Reserve, over who gets control over these megamergers.

If I have to choose between a Federal Reserve Board that has kept inflation at a long-term low, made the American dollar the envy of the world and strengthened our financial payment system into the best shape it has ever been in versus the OCC bureaucrats that go around threatening to preempt State consumer protection laws and then join political fund-raisers to solicit campaign money from the affected institutions, then I choose the Federal Reserve.

□ 1315

If we do not care more about protecting the American people than protecting a bank charter, then we should turn in our election certificates and find someone who can better represent our country.

Vote ''yes'' on H.R. 10 to ensure that my grandson TJ and millions of other Americans do not lose the protection of our securities and insurance laws. Vote ''yes'' on H.R. 10 because it opens up competition and protects consumers from these mega-mergers. Vote ''yes'' because, after all, there are millions of industry lobbying dollars spent to defeat this bill every year. Our country needs reform, and they are depending on us to do the right thing.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. Without objection, the gentleman from New York (Mr. MANTON) will control the time.

There was no objection.

Mr. MANTON. Madam Chairman, I yield myself 2 minutes.

Today we have before us legislation involving the reform of our financial services marketplace. As the ranking member of the Subcomittee on Finance and Hazardous Materials of the Committee on Commerce, and having seen this particular financial services bill

die and resurrect itself several times over the last year, I fully appreciate that simply getting this far is quite a feat.

This legislation is very complex and will dramatically affect both financial and nonfinancial companies in the way they do business in the future. There is little disagreement as to the need for reform, the problem is just how to go about it. I believe the package we have before us today, while not perfect, is an excellent step in the right direction and will significantly move this process forward.

This legislation repeals the anti-affiliation provisions of the Glass-Steagall Act that have kept various financial industries from affiliating with one another for the last 65 years. While this restriction may have been a good idea in the 1930's, the landscape has so significantly changed since that time that maintaining such a limitation no longer makes sense.

With an increasingly global marketplace, and consolidation within the industry, the need for this regulation legislation is abundantly clear. Within the last year alone we have witnessed the merging of large financial institutions at an unprecedented rate, especially banks buying up securities firms, while the same securities firms are unable to acquire banks. Rapdily evolving banking laws have allowed for such combinations, while potential competitors are still stuck under the restrictions of Glass-Steagall.

I believe this legislation will create competitive parity and thereby level the playing field between banks and other financial providers. The ultimate beneficiaries of this increased competition will be consumers; who will have a greater number of products and services to choose from, in a more convenient forum, and at lower prices.

I would like to to take a moment to thank the chairman of the Committee on Commerce, the gentleman from Virginia (Mr. BLILEY), and the full committee ranking member, the gentleman from Michigan (Mr. DINGELL) for all of their hard work and diligence in ensuring that adequate consumer and investor protection provisions be built into the manager's amendment which we will consider later today.

The manager's amendment ensures that consumers will be true beneficiaries of the increased competition this legislation seeks to promote. I believe this overall package is a good one, and I urge my colleagues to support it.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAZIO), our distinguished colleague and close friend.

Mr. LAZIO of New York. Madam Chairman, I thank the gentleman for yielding me this time, and I want to begin by complimenting the chairman, the gentleman from Iowa (Mr. LEACH), the chairman, the gentleman from Virginia (Mr. BLILEY), the chairman, the gentleman from Ohio (Mr. OXLEY), and the chairman, the gentleman from New York (Mr. MANTON) for their extraordinary work in moving this forward. This was never inevitable. Only because of the hard work and the consensus building that they were able to achieve are we here today.

Let us go back to the early 1930's, Madam Chairman, and the movie the ''Wizard of Oz''. The stock market collapsed. The Securities and Exchange Commission did not exist and few securities laws were enacted. Between 1930 and 1933, 8,000 banks with $5 billion of deposits, an enormous sum at the time, went bankrupt. American families suffered. Their life's savings, money for food and shelter was lost.

To restore American confidence in our banks, Glass-Steagall erected a wall between commercial banks and investment banks. Deposit insurance was created so American families knew their financial nest egg was safe. In the fragile days of the Great Depression, Glass-Steagall made sense.

Years ago, families kept the bulk of their savings in banks, earning low rates of interest. Today, families invest in the stock market. In the last 7 years stock ownership has doubled. Now, 43 percent of adults' own them. Americans are seeking higher returns.

Consumer behavior changed because stocks and mutual funds achieved superior long-term results. People began managing their own retirement funds. In short, Americans are no longer hiding their savings in their mattresses.

Today, we stand at the center of an electronic revolution; computer banking, cash management accounts, online mutual fund investing, moving money to Tokyo and back again in an instant. We can pay our bills through TV, and a customer can see and speak to a teller via the Internet. We simply no longer live in the depression era that gave birth to Glass-Steagall.

Madam Chairman, this bill rids us of the inefficiencies of the financial services system. American families and small businesses should have the same investment and borrowing choices that have been enjoyed for years by large businesses, foreigners and millionaires.

Each year we spend $300 billion for brokerage, insurance and banking services. Some of that money belongs in the pockets of folks living in places like Bayshore, Long Island.

Families go to one place to open a checking account, to another to invest in a mutual fund, then to a third to get an annuity for their retirement. At each of these stops a transaction fee, or a cost, is charged.

Mr. BLILEY. Madam Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAZIO).

Mr. LAZIO of New York. Madam Chairman, I thank the distinguished gentleman for yielding me this time.

While millionaires have been getting the best service at the best price, one-stop shopping is still not available to working families. Financial modernization will give families greater choices where and how to invest their hard-earned savings. Make no mistake, the positive impact of this bill will stretch from Wall Street to Main Street to M Street, from the cradle to the wedding to retirement.

This bill breaks the chains of Glass-Steagall that no longer serve the interests of American families without sweeping us away in the tide of economic euphoria. This bill sustains us as the caretakers of senior citizens' nest eggs and ensures that the life savings of working families are not lost in economic downturns.

We, as legislators, do not know what financial products and services will be demanded by the public in the future, but we should break down barriers and encourage competition creating environments for more innovative products and better prices. A vibrant financial base is at the core of a healthy economy.

Without this bill, ominous news is in store for some American financial institutions and thousands of their workers. We risk trapping some of them by barring them from competition. The United States should make its destiny. We should not stand on the sidelines while foreign banks take over America's oldest securities firms.

Madam Chairman, the Congress has tried time and time again to modernize our financial services laws. I am not certain that we will get another chance, and we certainly cannot afford to standstill. I urge my colleagues, Republican and Democrat, to let American finance step into the future. Support this fine bill, because it will be a positive, constructive part of America's financial services history.

Mr. LAFALCE. Madam Chairman, I yield 4 minutes to the gentleman from Minnesota (Mr. VENTO), the distinguished ranking Democrat on the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services.

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

Mr. VENTO. Madam Chairman, I rise in opposition to H.R. 10. This rule that has structured our consideration of this bill will, hopefully, make improvements to the bill, but for now I am opposed to the substance of this so-called modernization bill.

As I stated earlier, I do not believe it is worthy of its name. This is sort of a one-size-fits-all bill, forcing, or trying to superimpose upon the dynamic U.S. marketplace in our economy, probably the most advanced economy that the world has ever seen, this sort of convoluted regulatory structure. As I said in the consideration of the rule, our banks provide the foundation of this dynamic economy.

A bill worthy of the name modernization ought to, in fact, eliminate some of the barriers. The fact is these barriers have never been black and white

with regard to the Glass-Steagall laws. There have been many gray areas. Banks have been involved in insurance, banks have been involved in the sale of insurance, they have been involved in the sale of securities.

We have seen the regulators move banking financial institutions forward to try and address the reality of the marketplace. And rather than try and get out in front of that and rationalize that process in this bill, as my colleague from Texas (Mr. BENTSEN) pointed out, this bill moves to balkanize those issues and to limit financial institutions, especially the national banks, in terms of the exercise of those responsibilities and such powers.

The bill in its current form is a step backwards. It denies the benefits of financial modernization not just to the medium and small banks that we are talking about but also to the communities that, after all, are the true beneficiaries, and stacks the deck against these financial institutions by forcing them to give up profitable, existing, valid and workable lines of business for no compelling public policy reasons.

Our national banks have been and remain a source of economic strength and a solid foundation on which to construct an economic framework for growth. This bill changes the balance between national and State bank charters. It will likely result in some charters flipping. If it is all right for a State bank to conduct an activity in an operating subsidiary, and it is appropriate for an international U.S. bank to function in an operating subsidiary, why do we then limit national banks in that very function and corporate structure, within the national U.S. economy.

This so-called modernization bill should, in fact, restore competitive balance, but this bill, at every turn in the policy decision, fences in activities and tries to protect and insulate and balkanize what is becoming apparent to all of us, and that is that the lines of business of insurance, the line of business of securitization of banking loans is something that has, in fact, greatly changed. These financial instruments have become a distinction but they really look and perform no different.

These new limits and proposed law comes with few, if any, competitive gain for a small or medium sized bank. I hope we can correct that with the LaFalce-Vento amendment and help consumers and help institutions.

Furthermore, Madam Chairman, the commercial basket in this bill which again discriminates against banks. I think that a reasonable, a level playing field with regards to commercial basket should be included. And I am pleased to have joined in sponsorship of an amendment with the gentlewoman from New Jersey (Mrs. ROUKEMA), the chairwoman of the subcommittee, in sponsoring such amendments to this measure.

The bill has any number of flaws that need to be corrected. Clearly, I think reading the litany of groups against this bill, I think, would astound the Members, looking at the banking institutions, the consumer groups, Acorn, many of the other groups that are against the bill. The fact is, who is for it also tells us or suggests what this bill does. Obviously, those that need to be for this measure are the Citibanks and Travelers that have basically entered into agreements which are not permitted under current law. Therefore, the bill is a must pass measure for such institutions.

As we see the bill grow, we should also put in place the safeguards that are absolutely necessary so that the consumer and so that the economy and the government and the deposit insurance programs are protected.

Madam Chairman, I rise in opposition to H.R. 10. The rule that structured our consideration of this bill will hopefully help make improvements to the bill, but for now I am opposed to the substance of this so-called ''modernization'' bill.

I would like to be making a statement in strong support of financial services modernization legislation this afternoon. Our laws 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 written today, H.R. 10 would force banks to move financial innovation out of the bank, a loss of diversity that is disadvantageous for many reasons. Structurally, banks would fundamentally be forced to choose a holding company structure in order to participate in a meaningful way in the 21st Century financial services landscape. This is essentially a business decision that should be made on a business basis, not because options have been closed down by this ''modernization'' bill.

The bill in its current form is a step backwards because it denies the benefits of financial modernization to communities and consumers, and stacks the deck against many financial institutions by forcing them to give up profitable existing, valid and workable lines of business for no compelling public policy reasons.

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 changes the balance between the national bank and state bank charters and may push banks to charter flip to state banks where flexibility will remain.

True financial reform need not play off one segment of the financial services industry against another. Rather it should provide competitive balance. H.R. 10 plainly discriminates against national banks by taking away existing powers and creating uncertainty in the conduct of their business. These limits come with few, if any, competitive gains for small- or medium-sized national banks which today ironically have more options and exercise more powers than they would under this H.R. 10.

The commercial basket in this bill is not level between banks and other financial services companies as the bill envisions a limited 5% basket for financial service holding companies affiliated with banks and a 15% basket for securities and insurance firms that become financial holding companies. There is no reason for the competitive inequity for banks other than it fits with the entire bill in its antagonism towards banks and their future options.

Furthermore, H.R. 10 would undermine the Community Reinvestment Act (CRA) by requiring that new financial products and services be offered outside of banks and their subsidiaries and only in holding company affiliates. Of course, these concerns could be remedied by adopting the LaFalce-Vento operating subsidiary amendment and the Roukema-Vento-Baker-McCollum-LaFalce basket amendment. At this point, however, their success is not preordained.

This bill has a number of other flaws. It will undermine our federal banking regulator in the courts by altering the deference standard. If H.R. 10 were to pass as written now, the precedent could be detrimental to other areas of law as well. The complex provisions regarding the interface of state and federal law on insurance have become confusing at best. I would prefer that the bill return to the Banking Committee's balanced provision in Section 104 that would have clarified that no state, by statute, regulation, or order, could prevent or restrict affiliations between financial companies, nor prevent or restrict activities authorized under this Act. H.R. 10 now only serves to confuse the issue and could no doubt send everyone back to the courts for decades to come.

Financial services modernization must do far more than just pave the road with a Congressional stamp of approval on the acquisition and merger phenomena. As I said in the Banking Committee hearing on bank mergers a couple of weeks ago, we need to be vigilant and the regulators need to be vigorous in applying the laws we have today. I do not find heartening, for example, the Federal Reserve Board's current laissez faire attitude with regard to the Citicorp/Travelers merger. In fact, I find it less than comforting that the Fed is coming out so strong in support of the holding company model (as opposed to an op sub option) when they seem sanguine about this premodernization merger.

Nonetheless, these are not mere matters of turf. They are not just matters of committee jurisdiction. Our nation and economy demands a strong national bank charter today and tomorrow. Without changes in this bill to ensure strong national banks, this ''modernization'' initiative will atrophy bank powers that are being employed today. It will not be worthy of its name or the positive support of Congress.

Madam Chairman, while some of the laws governing the financial services sector are overdue for reform, we should not be replacing old law with bad law. Moving the process forward is not enough for this Member because I cannot logically defend this bill as it is not written. There must be some reason, some fair rationale.

Financial services modernization for the future should be balanced; should enhance competition, and should not foster industry concentration and corporate restructuring at the expense of consumers and communities. Mr. Chairman, the Administration has made their concerns known throughout this process. Unfortunately, their input has been largely ignored and this has resulted in a veto threat for

this bill. I urge Members to keep these fundamentals in mind as we move to the amendments on H.R. 10 and to oppose this bill without passage of LaFalce-Vento and other parity amendments.

Mr. BLILEY. Madam Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. OXLEY), the very able chairman of the subcommittee.

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

Mr. OXLEY. Madam Chairman, first I would like to thank the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY), as well as the ranking member, the gentleman from Michigan (Mr. DINGELL), and my good friend the gentleman from New York (Mr. MANTON), the ranking member of our subcommittee, for their good work in bringing this bill to the floor today.

We have reached a critical watershed in the evolution of the financial services industry. Congress has been trying for 63 years to modernize our financial markets; trying for 63 years to allow banks to diversify their portfolios, to protect the solvency of the banking industry, to provide our American companies with some abilities that their foreign competitors already have, and to provide a fair and comprehensive system of functional regulation to protect consumers and the American taxpayer.

When my subcommittee began work on H.R. 10, we focused on three fundamental goals: Protect consumers, increase competition and maintain the safety and soundness of our Nation's financial system. This legislation, H.R. 10, achieves those goals.

H.R. 10 establishes full functional regulation of financial activities, balancing Federal and State regulations to ensure maximum protection to consumers. It repeals the depression era 1930's restrictions on competition so that banks will no longer be forced to make riskier and riskier investments to hang on to a dwindling share of consumer savings. And it brings our American financial industry into the 21st century on an even footing with our foreign competitors with full competition and consumer choice.

When H.R. 10 came to our committee, it was opposed by almost every regulator and industry group. Now, after months of hard work by Republican and Democrat bipartisan committee staff, we have a bill that has the support of the Federal Reserve and Chairman Greenspan, Securities and Exchange Commission, Chairman Arthur Levitt, Consumers First, the National Association of Home Builders, insurance agents, insurance underwriters, securities firms, mutual funds and banks representing a quarter of their market.

Most importantly, this bill helps advance the interests of consumers. Consumers want to be able to go to a financial planner or investment adviser and take care of all their financial needs. They want to be able to have the opportunity to choose from a variety of hybrid products without artificial limits placed on their choices. And they want to take advantage of the $15 billion per year in consumer savings that would result from repealing the inefficient and archaic Glass-Steagall bill.

□ 1330

The Washington lobbyists and the media have panned this bill from day one. They said it could not be done. They said the Congress will not have the will to buck the tide and pass a bill that does not have the unanimous support of all segments of the financial industry. Each step of the way we have proved them wrong. We are going to prove them wrong again today.

Congress will not be paralyzed by lobbyists who get paid to stop good legislation. At the beginning of this year, the gentleman from Ohio (Mr. BOEHNER) and I decided to go around the lobbyists and convened a meeting with top CEOs of the financial industry for their commitment to getting financial reform.

Some lawyers are continuing to try to pick apart our efforts. Some companies do not want to face increased competition and are afraid of H.R. 10's brave new financial world that forces them to be more responsive to their consumers. But the leaders of American business know this bill is good for their shareholders and good for their country. Eventually they came to us and said, we will support your efforts.

Let us support H.R. 10. It is a well-balanced and well-crafted piece of legislation.

Mr. MANTON. Madam Chairman, I yield 2 minutes to the gentlewoman from Colorado (Ms. DeGette).

Ms. DEGETTE. Madam Chairman, I thank the gentleman for yielding.

I rise in support of H.R. 10, the Financial Services Competitiveness Act. We have an opportunity today to modernize financial laws that have not changed since the 1930s. This legislation takes some important steps to modernize Depression-era banking laws that no longer reflect the reality of today's marketplace.

I know there are fears about the complexity of this legislation. I know that those changes make everybody nervous. But this is a complex issue and it demands a complex solution. The good news is the bill has the potential to foster free-market competition and protect the interests of the public with the consumer protections included in the managers' amendment.

Supporters of this bill have heralded how much it will benefit consumers. And it will if we pass the managers' amendment, which includes the very important Bliley-Dingell consumer protection language.

There is an additional consumer protection that is included in the underlying bill and deserves recognition. Buried in H.R. 10 is the first-ever Federal protection aimed at preventing property, casualty and life insurers from discriminating against survivors of domestic violence.

I first raised this issue last October during the Committee on Commerce consideration of H.R. 10. Many of my colleagues on both sides of the aisle were stunned to learn that insurers routinely use domestic violence as an underwriting criterion. Many insurers treat a person's history of abuse as if it were a life-style choice like skydiving or car racing. Domestic violence is indeed dangerous, but it is in no way a life-style choice.

During the intense and often acrimonious negotiations over this legislation, the chairman and ranking member of the Committee on Commerce did not lose sight of the importance of this issue. I am grateful to the gentleman from Virginia (Mr. BLILEY), the gentleman from Ohio (Mr. OXLEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from New York (Mr. MANTON) for their steadfast commitment to including these important protections in the underlying bill.

I would also like to thank the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Vermont (Mr. SANDERS), who are the original sponsors of the legislation upon which the amendment was built and whose leadership has been instrumental in pushing this issue to the forefront of debate.

While 23 States have passed this protection, H.R. 10 will help all victims of domestic abuse. It will also help consumers. I urge support of the managers' amendment. I urge support of the legislation.

Mr. LEACH. Madam Chairman, I yield 3 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA), distinguished chairman of the Subcommittee on Financial Institutions and Consumer Credit.

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Madam Chairman, I rise in strong support of this legislation.

I base my support for this bill on some very fundamental principles. One, it must preserve the safety and soundness of our Federal deposit system and the rest of the Federal safety net and protect the taxpayers. This bill does that. It must protect against concentration of economic power. And I believe that H.R. 10 maintains both these fundamental principles.

The bill permits banks, security firms, and insurance companies to affiliate under one holding company, and the bill grants bank holding companies the authority to engage in virtually any activity financial in nature. It grants holding companies the authority it make modest amounts of investment in commercial activities. And the bill grants authority to banks to deal in insurance activities while assuring, and I stress that, assuring that the consumers will be protected.

But the bill does not permit underwriting of insurance and real estate investments in the holding company. The bill sets up a nuclear regulatory structure. And, my colleagues, this is fundamental to understanding why I support this bill. We are adopting functional regulation here. While banks, security firms, and insurance companies will be permitted to affiliate, the banking securities and insurance regulators will continue to regulate and supervise these entities. This will provide the so-called level playing field, and it will be level for all participants in a particular area of financial services regardless of what that corporate structure may be.

But here I want to get to the safety and soundness question and I want to stress that the affiliation will not undermine safety and soundness. The bill protects the Federal deposit system so that it will not be used to bail out securities or insurance affiliates of the banks. The transaction with affiliates' ''restrictions'' found in sections 23(a) and 23(b) will continue to apply to insurance and securities affiliates in this holding company structure. I stress, these types of fire walls are absolutely essential to protect the consumers and the taxpayers.

I would like to tangentially make the point that I oppose the operating subsidiary amendments which will be offered later, but we will debate that at the appropriate time.

This legislation is also necessary, absolutely necessary, to keep us competitive with our foreign competition. Outdated laws need to be updated, and this bill does that; but as well as protecting us in world markets, it also protects us here at home.

I want, in conclusion, to say that we need this legislation to set a statutory framework to direct the regulators who have, I am afraid, in the absence of congressional action, taken arbitrary and ad hoc actions and have rewritten the rules. But they are not directly accountable to the voters, my colleagues. I want to repeat that. The regulators are not accountable to the voters and the taxpayers. We are.

Today we must take action, act now, and take this away from those regulators who have been acting in the absence of our action.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Florida (Mr. MCCOLLUM).

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

Mr. MCCOLLUM. Madam Chairman, today I very reluctantly rise in opposition to the bill in its present form. Like every other member, I think, of the Committee on Banking and Financial Services, on both sides of the aisle, I want very badly to see modernization. But I do not believe that this bill fulfills the flexibility test that I wish that it did. And unless we amend it in significant ways that I do not expect today, I am going to have to vote against it.

I am afraid that it will destroy flexibility in the banking system and will not allow the innovation that we need to have going into the 21st century. I am worried that it increases the amount of regulation, rather than decreasing it, on our financial services system. I am concerned that the bill does not provide, as the committee bills did out of both Banking and Commerce, for the merger of the bank and thrift insurance funds, which very much needs to be done for safety and soundness; and frankly, it is very disappointing we are not doing that here today. And I am fearful that we will invite more litigation because of the vague standards that are in this bill. For those reasons, I am opposed to the bill.

I am not speaking to it for any other reason than to lay out the predicate for it today. It is a sad moment for me to be here opposing my chairman on this issue. I respect him a great deal. I respect all of the people who worked hard on this bill. And I truly hope that we get to a flexible, innovative financial services modernization piece of legislation.

Mr. BLILEY. Madam Chairman, I reserve the balance of my time.

Mr. MANTON. Madam Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, I thank the gentleman from New York for yielding me the time, and I want to congratulate him and the gentleman from Ohio (Mr. OXLEY) along with the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY) and the ranking Democrat for the full committee, the gentleman from Michigan (Mr. DINGELL) for their excellent work on this bill; and all the other members, the gentleman from New York (Mr. LAFALCE) and the gentleman from Iowa (Mr. LEACH) and everyone else who has worked on this bill.

Banking, insurance, securities. Now, to the ordinary person listening to this debate, it sounds like a struggle between the very rich and the extremely wealthy. ''What is my stake in this debate?'' the ordinary person says. Well, it is really a debate about investors and depositors and businesses and consumers. And, in fact, it is a debate about a fundamental change being proposed in the capital formation system in the United States that is the very engine which drives capitalism in the United States.

Now, back in 1933, when Glass-Steagall was put on the books, it was in the aftermath of a great economic collapse in the United States, and there was great concern about the mixture of investment banking with ordinary banking.

Now many people argue times have changed. And they have. But something has not changed. That is human nature. It is still the same. And the very same forces of greed and fear which existed in 1929, 1930, 1931, and 1932, throughout the 1930s, still exists today.

Now, tearing down Glass-Steagall is a good idea if we build in the proper safeguards, fire walls to protect investors and depositors and taxpayers. If we do not, it is a disaster for this country and it would be a great mistake for us to pass legislation here today.

We have tried to pass legislation for the last 15 years or so in this area. But like the character created by Albert Camus in his famous novel, ''The Myth of Sisyphus,'' in 1942, Congress has pretty much engaged in an exercise where we gain great satisfaction from just trying to get the boulder up to the top of the mountain but never successfully making it. And in fact, that is how this whole exercise may actually end. But it is worth the effort.

Over the years, however, it has foundered because, while banks have wanted the extra powers that would come with repealing Glass-Steagall, they have always wanted to do so without the requisite safeguards being put into place so that we do not repeat the past.

The bill before us now has good and bad and ugly, like that old Clint Eastwood spaghetti western. The good is that we keep out Op-subs. We will keep hearing that. It will be defined to us as an operating subsidiary. What Op-sub really stands for is ''ordinary people subsidizing'' banks. That is what Op-sub means, spreading the Federal protection for banking activities over into securities, over into insurance areas. Ordinary people subsidizing risky business, that is bad. It is not in the bill.

However there are some things in the bill which are bad and ugly. The Leach amendment seeks to deal with the mixture of commerce and banking. I support that amendment. It is a good amendment. The Bliley-Dingell amendment seeks to deal with the deficiencies which exist in the protections for depositors and investors, and I support that amendment. They should both be adopted if our goal is to form a more perfect version of what this legislation should be so that we can move to a future without Glass-Steagall, but at the same time give the protections to investors, to depositors, to taxpayers which they deserve.

□ 1345

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE), my distinguished friend and colleague, the subcommittee chairman.

Mr. CASTLE. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I, too, like most of the other speakers here, rise in support of the repeal of Glass-Steagall and the modernization of financial institutions across the United States of America. I think this is very, very important to do.

I will submit a fuller statement for the RECORD, but I would just like to take the little bit of time I have, to first of all, thank all those who put

this together, there is too many to mention in 2 minutes, and to state that the most important reason for supporting this legislation that I can find and I hope others can find 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 that protect consumers as they shop for these products.

The 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, which is good for all of us on a level playing field.

It will expand the products that these financial services can offer to their customers while maintaining adequate regulation to preserve the safety and soundness of the system. That is what it is all about.

We needed to find a piece of legislation after 60 years, and Glass-Steagall was questioned almost on the day it passed, I might add, but we needed to find something which we had proper regulation, good capital requirements, the fire walls that we are concerned about in order to move it forward.

In my judgment, this piece of legislation does that. H.R. 10 meets those standards. I am supportive of a number of the amendments which are going to come up, because I feel it should be tilted a little bit one way or the other, as others may feel, too. But in the long run, I intend to support this legislation regardless of how these amendments may come out.

I must say I have a sense of deja vu about all this. My State went through this in the 1980s. We liberalized our banking laws a great deal. Our banks were among the first in the country which were allowed to do a number of things that are being talked about in this legislation when the States were allowed to regulate it.

I cannot tell my colleagues how well it has worked. We have regulated well. We have been careful about what they could do. We have made sure the capital requirements were high. Delaware has prospered mightily as a part of all of this.

I would also say that there are many banks who are opposed to this legislation, and I think we will find in the long run, when we are through in the House and the Senate, that they will be pleased. So support the legislation.

Madam Chairman, I rise in support of H.R. 10, the Financial Services Competition Act. This legislation is long-overdue to modernize our Nation's banking, securities and insurance laws. While the bill before us is not perfect, it does represent a fair compromise on important issues. As is the case with any compromise, not every group is happy. Banking is very important to my State of Delaware and our banks are split over the bill. I will support several of the key amendments to the bill, in an effort to improve some provisions, but regardless of what happens on those amendments, I believe this legislation is a step forward and should be passed today.

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. It has been a difficult struggle to update our laws to keep pace with and manage what is happening in the market place, while seeking to balance the competing interests of the banking, securities and insurance industries.

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, in my view the provisions in this legislation regarding banking and insurance are not perfect. I believe the language that was contained in the Banking Committee's version of H.R. 10 is superior. The improved compromise language is adequate in protecting the right of national banks to participate in the insurance business, but it has been asserted that section 104 could leave some chance that a State could attempt to treat banks less fairly than other providers of insurance. We should continue to work to further clarify this provision in a potential conference on the bill before it becomes law. I am committed to working toward that goal.

Finally, Madam Chairman, I say to my colleagues that this is historic legislation that has been a long-time in coming and it has been an extremely difficult effort to balance all the competing interests affected by H.R. 10. As I noted, I am not entirely happy with every provision in this bill, and I will work to improve those provisions before it becomes law. But 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. I urge my colleagues to keep this effort alive and pass H.R. 10 today.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

(Ms. WATERS asked and was given permission to revise and extend her remarks.)

Ms. WATERS. Madam Chairman, I rise in opposition to the Financial Services Act of 1998. I am not opposed to the reform of our banking laws. However, I oppose this bill because it sacrifices the needs of the American consumer and underserved communities in order to benefit our Nation's huge banking securities and insurance industries.

H.R. 10 undermines the Community Reinvestment Act. Many of us inside and outside of Congress have struggled to make financial institutions more accountable to the communities they serve. This bill weakens the CRA by allowing banks to shift assets to affiliates with no CRA obligation.

H.R. 10 does not adequately protect consumers. The bill permits the unprecedented preemption of stronger State consumer protection laws. State banking laws that prohibit ATM surcharges or require the provision of low-cost bank accounts would be subject to Federal preemption.

H.R. 10 allows the dangerous mixing of banking and commerce. H.R. 10 permits banks to merge with retail and manufacturing companies. This would undermine the critical role of banks as the impartial providers of credit and concentrate economic power in the hands of just a few institutions.

None of the national consumer organizations support this bill, and neither do I. I urge my colleagues to vote against H.R. 10.

Mr. BLILEY. Madam Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Republican Conference.

Mr. BOEHNER. Madam Chairman, let me first begin by congratulating the Members from both the Committee on Banking and Financial Services and the Committee on Commerce from the Democrat and Republican side of the aisles for their outstanding work in bringing this piece of legislation to this floor today.

Once again, I think that Congress is about to make history. Despite countless changes in our economy, there has been no significant reform of America's financial service laws since the Great Depression, but we have never been closer to making these changes than we are now. There is today a broad bipartisan consensus that the time to move forward has finally come.

We have worked hard for a consensus bill that ensures that every American is a winner: consumers, bankers, insurers, brokers. American consumers deserve the freedom of one-stop shopping for inspection services which we believe will mean about $15 billion savings directly passed to themselves and to their families. But we should not forget that the financial sector of our economy is also the foundation of our country and the foundation of our economy today.

Madam Chairman, America cannot meet the challenges of the 21st Century with financial service laws that are designed for the 1930s. Financial services reform is not about politics. It is about what is good for America. We are hopeful that the White House would join Chairman Greenspan, Republicans, Democrats together in this bipartisan reform of these financial service laws.

Mr. MANTON. Madam Chairman, we have only one speaker left on our side, and we would inquire of the Chair who has the right to close.

The CHAIRMAN. The gentleman from Iowa (Mr. LEACH) has the right to close. The gentleman from New York (Mr. MANTON) has 7 minutes remaining.

Mr. MANTON. Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 1 minute to the distinguished gentlewoman from New York (Mrs. KELLY).

(Mrs. KELLY asked and was given permission to revise and extend her remarks.)

Mrs. KELLY. Madam Chairman, one of the most important aspects of H.R. 10 is that it is designed to enhance functional regulation of holding companies. As such, it is my understanding that insurance companies within the holding company structure will be regulated by the State insurance regulators, and securities firms will be regulated by the SCC and the State securities regulators.

While the Federal Reserve Board will remain the umbrella supervisor, H.R. 10 will assure that firms within the holding company such as insurance companies will be able to continue to operate in the manner in which they operate today.

Madam Chairman, I simply want to confirm with the gentleman from Iowa (Mr. LEACH) that this is his understanding of the bill as well.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, the gentlewoman has precisely and correctly laid out the circumstances of the bill. This bill is designed to enhance functional regulation as she has described.

Mrs. KELLY. Madam Chairman, I ask unanimous consent to incorporate a further explanation of this aspect of the bill after consultation with Chairman LEACH.

The CHAIRMAN. A colloquy may not be inserted into the official RECORD.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I thank the gentleman for yielding, and, again, I would reiterate my opposition. I think this bill, frankly, for many of us simply reregulates rather than unregulates what is portrayed as being a modernization bill.

It is grudging in a sense to the point of fencing in many activities and not being responsive to the market. It tries to superimpose on the market something that will not work that will continue to frustrate the efforts of financial institutions to respond to the market.

The opposition from the Clinton administration is very strong. It is not about turf. It is not about committee jurisdiction. It is about trying to write laws that make common sense that respond to today's marketplace and let these capital flows move forward, which, in the end, serve all the vital purposes of our economy.

National banks functioning under the 1862 bank law which created the national bank charter, have been a great success and has led to and provided the economic foundation for today's economy. This bill, frankly, reneges on that. Again, I would reiterate the importance of acting on the LaFalce-Vento amendment in the amendment process to safeguard and preserve the national bank charter.

Mr. BLILEY. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has 2¼ minutes remaining.

Mr. BLILEY. Madam Chairman, I yield myself the balance of the time.

Madam Chairman, I rise in strong support of this bill. The gentleman from Ohio (Mr. BOEHNER) who previously spoke in the well met with the banking industry this week and said, what is your bottom line? What do you want? The bottom line is they want no bill. Why do they want no bill? Because the OCC is giving them everything they want. Guess what. The OCC is leaving. Guess where the OCC is going. It is going to work for Banker's Trust in New York. Isn't that a surprise. And we will get a new one.

If we defeat this bill, this issue will be dead in the House and in the Congress this year. When the Congress goes out this fall for the elections, and the new Congress between that time and the time the new Congress comes in, it is this gentleman's prediction that more authority will be given to the banks. Perhaps they will be allowed into real estate sales, and then try to move the legislation.

My friends, there is never a perfect time. There is never such a thing as a perfect piece of legislation as complex as this issue. But the time is now. For 10 separate Congresses, we have wrestled with this issue to no avail. Today, we are further along then we have ever been.

We hear that the other body will not take it up. We hear that the White House might veto it. We will never know until we send it to them. So let us do our duty. Let us send it to them.

I say to those interested who feel that everything in this bill is not to their liking, go next-door. Make your case. Perhaps you will be successful. When we get to the conference, which I hope we will, as the gentleman from Iowa has so ably pointed out, the administration will have a seat at the table, and we will attempt to address their concerns. But the most important thing today is to pass this bill and send it to the other body.

Mr. MANTON. Madam Chairman, we continue our reservation of time.

Mr. LEACH. Madam Chairman, I would be happy to close, but were there other speakers that wish to speak to the subject?

Mr. LAFALCE. Madam Chairman, I respect the gentleman's right to close, and I believe I have a right to speak immediately preceding him. Therefore, if there are going to be any other speakers from either the side of the gentleman from Virginia (Mr. BLILEY) or the gentleman from New York (Mr. MANTON), they should precede me.

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has no more time remaining. The gentleman from New York (Mr. MANTON) has 7 minutes remaining.

Mr. MANTON. Madam Chairman, does the gentleman from New York have any speakers besides himself?

Mr. LAFALCE. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) has 2 minutes remaining.

Mr. LAFALCE. Madam Chairman, I will be using that 2 minutes.

Mr. MANTON. Madam Chairman, I yield as much time as he may consume 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. Madam Chairman, this is a remarkable day. I never thought I would live long enough to see us discuss this issue with such harmony on the House floor. We have a bipartisan bill. We have a bipartisan managers' amendment, and we have a result which is going to be in the public interest.

I urge my colleagues to support the managers' amendment. I urge them to support the bill. This will resolve an issue which has cursed this Congress for better than 20 years, and it will do it on terms which meet the public interest.

H.R. 10 provides a safe and sound framework for the financial services industries of this country. It does so in a way which protects consumers, which protects investors, and which protects the economy of this Nation.

It also sees to it that the new global economy of the world is going to have

active, vigorous, capable American participants in it. The legislation will not spur megamergers. Passing it will mean that we will assure that, if such occurs, there will be reasonable protection for investors and for consumers.

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H.R. 10 draws a clear line between bank activities, those which are going to be insured and subsidized by the taxpayers, and far riskier exercises, such as the sale of securities and other activities of that sort.

H.R. 10, along with the managers' amendment, protects the consumer. Just last week NationsBank paid a large fine because their employees sold risky uninsured derivative securities to elderly holders of securities of deposit, telling them that their money was as safe as the Capitol of the United States.

H.R. 10, along with the managers' amendment, protects the investor. It says you are not going to sell stocks or bonds or other instruments under conditions which are going to hurt the consumers, and you are going to have to make, if you do so, the same disclosures and satisfy the same regulatory requirements as everyone else in the business.

It also says some other things which are important. With the managers' amendment, it will protect the taxpayer. It prevents FDIC insurance, which is paid for by the taxpayer, from being extended to cover the losses that might come from risky, speculative activities.

I would remind my colleagues that not long back we passed legislation which unleashed the savings & loan industry, and that led to the problem which was called the savings & loan debacle, which cost the taxpayers of this country better than $500 billion. This will protect against that kind of exercise by bank management.

It promotes fair competition. Banks have lower costs of capital. Why? Because they are taxpayer insured. That is an effective taxpayer subsidy. In fact, it might even be called corporate welfare. But, if it is, and if banks are going to function, they should see to it that that kind of exercise is kept separate from their other activities, so that they cannot use taxpayer subsidies to compete with others in the financial services industry, and also to see to it, as the Congress acted back in the thirties, to assure that banks do not put at risk Federal taxpayer financed insurance of their activities.

H.R. 10, with the managers' amendment, will prevent an Asian banking crisis from spreading like Asian flu to the United States, by putting intelligent limits on the mixing of banking and commerce.

Finally, H.R. 10, with the managers' amendment, does nothing to hurt the banks. It expands the range of allowable bank activities. Any bank can engage in any financial activity, so long as it sets up a separate affiliate. It creates, insofar as humanly possible, a fair, two-way street for all players. And it does something else: It sees to it that when bankers are engaged in these kinds of activities, they play by the same rules that everybody else does.

It does not undermine the Community Reinvestment Act. That is left as it is. I would urge my colleagues to recognize that that is a good thing.

The choice is clear. I intend to vote for the managers' amendment; I intend to vote against other amendments. I intend to try and see to it that we do not expand high risk activities of banks. I intend to try to see that we do not include operating subsidies inside the banks which can pervert the purposes of the managers' amendment or indeed to put at risk taxpayers' guarantees of bank deposits.

I urge my colleagues to support the managers' amendment and to oppose other amendments.

Madam Chairman, this is good legislation. With the managers' amendment, it is an excellent piece of legislation. It resolves the problems which banks complain about. To the degree that it is proper to do so, it protects competition inside the financial services industry. It protects investors, it protects consumers.

I would point out that the bankers have said they are going to oppose this legislation, regardless of how amended, whether the amendment offered by my dear friend the gentleman from New York (Mr. LAFALCE) is included or not. I would point out that the consumers of this country, through the Consumers Union, have said that they support the managers' amendment.

I would urge my colleagues to vote for the bipartisan legislation and the bipartisan amendment. It is an opportunity to resolve a long-standing problem in honorable, effective, decent, public serving, and public interest ways.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the gentleman from Michigan (Mr. DINGELL) said that today is a remarkable day, and I concur with him. The gentleman comes before us today and he advocates repeal of Glass-Stegall and significant changes in the Bank Holding Company Act. You think that is remarkable, and I concur with him.

This is something I have fought for for 20 years. But, unfortunately, the bill makes not only those changes; the bill makes significant other changes. It is those other changes that I am concerned about.

Now, the managers' amendment will add consumer protections that the gentleman from Michigan (Mr. DINGELL) and I were fighting for a month or so ago as part of the Dingell-LaFalce amendment, but there are significant other provisions that I wanted addressed that are not addressed, and that is the way in which the bill undermines the national bank charter.

National banks have existed within the United States for over 100 years. They have always been controversial. But, thankfully, we have always been able to preserve their vitality and their viability, and I think it has been the vitality of our national bank system that has contributed to the economic growth of the United States of America.

Every administration has wanted to preserve that economic viability of our national bank system. In our most recent tenure, whether it is the Carter administration, or the Reagan administration, or the Bush administration, or now the Clinton administration, they have said do not undermine the national bank charter; do not undermine the regulator of the national banks.

This bill does that. It undermines the national bank regulator, it undermines the national bank charter. That is the principal reason that the administration says they would veto the bill in its present form, unless the LaFalce-Vento amendment passes.

The by-product of that, the fact that so many assets would potentially be removed from the jurisdiction of the Community Reinvestment Act, is why every consumer group that I am aware of, in any event, opposes the bill also, or at least the principal reason.

I will offer an amendment to cure these defects. If it goes down, I will also offer a motion to recommit that would continue the essence of the bill, the repeal of Glass-Stegall and the changes in the Bank Holding Company Act and the consumer protections that we all want, but would not deal with this undermining of the national bank charter.

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first I would like to thank my good friend the gentleman from Virginia (Mr. BLILEY) for his leadership, and also the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. MANTON), and my distinguished friend in dissent, the gentleman from New York (Mr. LAFALCE).

To my colleagues who oppose the bill because they are concerned about consumers, I ask you, what happens if the bill does not pass? This bill contains new Federal consumer and CRA protections that are not now the law of the land. Inaction is anti-consumer.

To my colleagues who object to megamerger trends, I ask, what happens if the bill does not pass? The mergers will continue, but under a regulatory regime with undefined cracks and competitive bureaucratic instincts to regulate weakly. Inaction is simply imprudent.

To my colleagues who, like myself, worry about rural community banks, I ask what happens if the bill does not pass? Small banks will be saddled with competition from mega-businesses likely to sweep money from small communities, unless small institutions are given new powers, such as access to the

Federal Home Loan Bank for small business and agricultural lending, and new restraints on the so-called unitary thrifts that merge so ignobly commerce and banking.

Simply put, inaction is the friend of the big, not the small. Inaction puts the taxpayer at grave risk. That is why we need this bill at this time, and I would urge sympathetic consideration by my colleagues.

Mr. HASTINGS of Washington. Madam Chairman, I appreciate the opportunity to share my views on this legislation.

As my colleagues know, this legislation has supporters and detractors. Several hundred of my own constituents have contacted me on this issue over the past several months. And while many support our efforts here today, others, particularly small banks in my district, are concerned that the legislation does not do enough to assist their industry.

In particular, I strongly share their concerns about the lack of relief from the burdensome Community Reinvestment Act. Let me share a few statistics.

The CRA, first passed in 1977, took only two pages of bill language when first authored by former Senator William Proxmire. Yet our federal regulators have now promulgated more than 275 pages of regulations—in microscopic government type, mind you—governing this provision. As a result, what was meant to be a community based, largely voluntary program to infuse private capital into struggling areas has now become a massive, burdensome, and counterproductive federal mandate.

According to one study, our financial community spends more than $1 billion each year, and 15 million man hours, complying with the CRA. The impact is particularly hard on smaller banks, which incur three times the compliance costs of larger institutions.

Some had suggested that CRA requirements be reformed to bring them back in line with the original intent of the 1977 law. One proposal would have provided relief for all banks smaller than $100 million in assets, and for rural banks with assets of under $250 million. This would have gone a long way towards relieving this tremendous financial and paperwork burden on the small community banks in my district. Unfortunately, the bill does not include this common sense reform.

While I am very disappointed with this result, I nonetheless believe that we must take action to reform our depression era banking statutes. In addition, many of my constituents have contacted me to urge their support of this legislation. As a result, I will support this bill today in an effort to keep the reform effort alive. But I will work during the next few months to ensure that critical reforms, like CRA reform, are included in any final package approved by both the House and the Senate and sent to the President.

Mr. STENHOLM. Madam Chairman, the legislation pending before the House, H.R. 10, the Financial Services Competition Act, contains numerous provisions that cause concern. Specifically, I'd like to bring to the attention of the Members of this body the section of the bill that proposes to broadly expand the mission of the Federal Home Loan Bank (FHLB) System. The authorities of the FHLB System would be expanded to provide advances to commercial banks for a variety of purposes, including agricultural lending.

I am concerned that this proposal could actually limit credit availability by adversely affecting the two government sponsored enterprises chartered to serve rural markets: the Farm Credit System (FCS) and the Federal Agricultural Mortgage Corporation (FarmerMac). Expanding the Federal Home Loan Bank mission will convert every commercial bank with assets of less than $500 million into a retail GSE.

As the ranking Democrat on the Agriculture Committee, I have had a keen interest in rural credit availability for many years. Credit is quite literally the lifeblood of our nation's agricultural producers. As a result, I am very interested in new ways to provide additional credit to farmers and rural communities. However, I am concerned that we have not had ample time to fully consider the serious policy implications of expanding the FHLB System's mission.

While I support an appropriate expansion of credit for rural Americans, doing so through the FHLB System, without making important changes in the lending charter of the Farm Credit System, could potentially disrupt the competitive balance that exists in rural markets today. Currently, commercial banks, the Farm Credit System and FarmerMac work to provide competitively priced credit to those who live and work in rural America. We all have an interest in seeing that that competitive balance continues.

The Agriculture Committee is aware of efforts by all participants in the rural credit markets to expand their lending authority. I am convinced that if we proceed down the path of expanding authorities, then we must consider all players that provide rural credit.

Mr. DAVIS of Illinois. Madam Chairman, I rise today in strong opposition to H.R. 10, the ''Financial Services Competition Act.''

I rise in opposition not because the laws governing our financial system are immune to change * * * just the opposite, in our rapidly changing world our financial system is undergoing a veritable transformation and our legal framework must change to correspond to the new realities. However, let us remember that many of our financial laws and regulations grew out of our great failures of the past in protecting the interests of the great masses of Americans. In addressing the need for change we must also learn from our history.

H.R. 10 weakens the Community Reinvestment Act, a critical tool for low-income communities to develop housing, small business and financial services. CRA should be extended to all bank affiliates: insurance companies, securities firms and mortgage companies. Instead, H.R. 10 encourages the movement of bank assets beyond the reach of the CRA and, indeed, beyond the bank charter.

H.R. 10 does not address insurance redlining, still a major problem in many communities and one which I recently called upon the Attorney General to investigate in my district as regards to auto insurance.

H.R. 10 should prohibit insurance companies from merging with banks until the company is in full compliance with the Fair Housing Act and other relevant legislation.

H.R. 10 breaks down the final protective barriers between banks and commercial firms and adds a new level of risk to our financial stability, one we have not seen in our country in generations, but which we can all see in Southeast Asia today.

H.R. 10 sharply reduces community input, giving automatic approvals FHCs whose banks have Satisfactory or Outstanding CRA ratings. This means that 98% of financial institutions will be beyond community input. It continues a trend brought into sharp national focus with the publication of William Greider's book Secrets of the Temple in 1987.

Secrets brought to the attention of the nation how the Federal Reserve had been given greater command over many issues over the years and how many of the decisions entrusted to them, regardless of how wrong they might be, were made without public input or control.

H.R. 10 ignores history, ignores the lessons of other nations, ignores the interests of poor and working Americans, ignores consumer interests, ignores community reinvestment protections and ignores increased risk to our financial infrastructure.

Madam Chairman, I urge a vote against this legislation.

Mr. HYDE. Madam Chairman, I rise in support of H.R. 10, the ''Financial Services Competition Act of 1998.'' 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.

Now I know that some of the players in this debate have problems with this bill. That is always the case with major deregulation bills. But we cannot ignore the future. 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.

Do 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? Sure, 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 all financial firms will offer.

Just think about the progress we have made in the past 10 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 about this bill 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. 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 nonbank 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 managers' amendment has language that embodies that principle. 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 managers' amendment does not change that, but it does clarify that the bank prohibition does not extend to any other nonbank 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.

I think that we all agree on this principle both with respect to the mergers and the other laws, but the specific language may require some further refinement in conference. For that reason, I will be requesting Judiciary Committee conferees on this narrow part of the bill, and I look forward to continuing to work with my Banking Committee and Commerce Committee colleagues in this area.

I also want to announce that the Judiciary Committee will hold a hearing on bank mergers on June 3, and I am hopeful that this hearing will help us determine whether we need to make any further revisions to this language

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.

Mr. STRICKLAND. Madam Chairman, today's financial services marketplace is an increasingly complex web of interconnecting products and service providers. In the 1990's, consumers are going to their bank not just to deposit money in a traditional passbook savings account, but also, increasingly, to purchase insurance products. They visit their insurance broker not only for simple, term life insurance, but also for insurance products that include a long-term investment component. Consumers are no longer content with the choices of the past, but are demanding more advanced financial products and often want the convenience of ''one stop shopping.'' At the same time, financial institutions are consolidating at an increasing rate—banks are merging with other banks and insurance and securities dealers are combining forces—leading to new types of financial entities.

These changes are enhancing the success of U.S. financial markets. They stimulate the economy and provide consumers with more savings and investment options. Unfortunately, the Depression era laws that regulate our financial markets have not kept pace with these market forces, leaving American consumers faced with a ''catch 22''. Consumers have access to more advanced, enhanced financial products, but are not adequately protected from fraud and abuse by the laws that currently regulate their financial investments and savings. As a result, the regulatory agencies responsible for enforcing those laws are forced to deal with new entities using old formulas that fail to fully appreciate the complexities of the evolving marketplace.

The world recently witnessed in Asia that unregulated financial markets can lead to corruption and weakened economic conditions. With America's financial markets slowly evolving in the same direction as those in Asia, it is crucial that our country learns from Asia's misfortune and take the initiative to develop appropriate measures that will deter similar negative repercussions in our own financial markets.

In the House of Representatives, the House Committees on Commerce and Banking have worked to develop a legislative response to these changes for the past year and a half. We recently reached a critical juncture in the legislative process—the Committees have devised a plan that lays the groundwork for carrying our financial markets safely and soundly into the 21st century. As a member of the House Commerce Committee, I support initiatives that address our antiquated laws and am committed to ensuring that the legislative process continues unhindered by powerful special interest groups.

H.R. 10, the Financial Services Act, permits financial entities, such as banks, insurance and securities groups, to merge, affiliate and associate activities. One of the most pivotal components of H.R. 10 is the concept of functional regulation. Functional regulation would certify that all financial providers would be regulated according to the services which they provide. For example, a financial holding company that has an insurance entity as an operating subsidiary would be regulated by both the state insurance commission (insurance activities) and the Office of the Comptroller of the Currency and the Federal Reserve (banking activities). As a result, financial activities would be regulated by experts in that respective financial field.

The House leadership has reached an agreement on a financial package that I believe is fair to all industries and best serves the public interest. The compromise on H.R. 10 will create a modernized financial system that will allow our country to be financially competitive into the next century. However, H.R. 10 can still be improved with the adoption of a package of consumer protection amendments which will be offered by commerce Committee Chairman TOM BLILEY (R–VA) and Ranking Member JOHN DINGELL (D–MI). This amendment will provide the necessary safeguards for consumers while providing enough freedoms to financial providers to compete globally on a level playing field.

Congress has waited long enough to enact legislation to guarantee the solvency of American financial markets. Congress must move the process forward and provide the necessary consumer protections and regulations to guarantee that all players, big and small, private and public, benefit from the financial prosperity of a developing and growing financial market in the U.S.

Mr. FAZIO of California. Mr. Speaker, the Financial Services Act of 1998 revolutionizes American financial institutions and it ensures the United States continued cutting edge success in the world market.

The rules and regulations of the Great Depression aren't enough to maintain a healthy and increasingly globalized interdependent U.S. economy.

The rules have changed and H.R. 10 recognizes these changes.

In the old days, banking, insurance and security institutions each provided a distinct, clear financial service. But in the modern financial marketplace, financial innovations and globalization have increasingly blurred these institution's activities.

H.R. 10 reflects the dynamic changes occurring in the marketplace.

Republicans and Democrats have crafted a balanced bill that fosters open, fair competition, protects consumers and promotes U.S. financial services' competitiveness in the world economy.

Our financial sector contributes over 18 percent to our GNP—this is an economic force that can't be ignored any longer.

Today, my colleagues from both sides of the aisle have the opportunity to enhance competition in the financial services and maintain U.S. prominence in the international economic arena.

I strongly encourage both Republicans and Democrats to vote ''yes'' for fair competition and ''yes'' for a prosperous, strong American economy that will take us safely into the 21st Century.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in part 1 of House Report 105–531 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:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Services Act of 1998''.

(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 provide for appropriate functional regulation of insurance activities.

(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. Certain State laws preempted.
Sec. 105. Mutual bank holding companies authorized.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.
Sec. 108. Amendments relating to limited purpose banks.

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.

Subtitle C—Subsidiaries of National Banks

Sec. 121. Permissible activities for subsidiaries of national banks.
Sec. 122. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 123. 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—Streamlining Antitrust Review of Bank Acquisitions and Mergers

Sec. 141. Amendments to the Bank Holding Company Act of 1956.
Sec. 142. Amendments to the Federal Deposit Insurance Act to vest in the Attorney General sole responsibility for antitrust review of depository institution mergers.
Sec. 143. Information filed by depository institutions; interagency data sharing.
Sec. 144. Applicability of antitrust laws.
Sec. 145. Clarification of status of subsidiaries and affiliates.
Sec. 146. Effective date.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

Sec. 151. Applying the principles of national treatment and equality of competitive opportunity to foreign banks that are financial holding companies.
Sec. 152. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions that are wholesale financial institutions.

Subtitle G—Federal Home Loan Bank System

Sec. 161. Federal home loan banks–
Sec. 162. Membership and collateral.
Sec. 163. The Office of Finance.
Sec. 164. Management of banks.
Sec. 165. Advances to nonmember borrowers.
Sec. 166. Powers and duties of banks.
Sec. 167. Mergers and consolidations of Federal home loan banks.
Sec. 168. Technical amendments.
Sec. 169. Definitions.
Sec. 170. Resolution funding corporation
Sec. 171. Capital structure of the Federal home loan banks.
Sec. 172. Investments.
Sec. 173. Federal Housing Finance Board.

Subtitle H—Direct Activities of Banks

Sec. 181. Authority of national banks to underwrite certain municipal bonds

Subtitle I—Effective Date of Title

Sec. 191. 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. Sales practices and complaint procedures.
Sec. 205. Information sharing.
Sec. 206. Definition and treatment of banking products.
Sec. 207. Derivative instrument and qualified investor defined.
Sec. 208. Government securities defined.
Sec. 209. Effective date.

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.
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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 (12 U.S.C. 377) of the Banking Act of 1933 (commonly referred to as the ''Glass-Steagall Act'') is repealed.

(b) SECTION 32 REPEALED.—Section 32 (12 U.S.C. 78) of the Banking Act of 1933 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 under this paragraph as of the day before the date of the enactment of the Financial Services Act of 1998, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation, 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 1998.''.

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 under the Community Reinvestment Act of 1977.

''(D) All of the subsidiary insured depository institutions of the bank holding company (other than any such depository institution which does not, in the ordinary course of the business of the depository institution, offer consumer transaction accounts to the general public) offer and maintain low-cost basic banking accounts.

''(E) 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) through (D).

''(2) FOREIGN BANKS AND COMPANIES.—For purposes of paragraph (1), the Board shall establish and apply comparable capital 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.—

''(A) IN GENERAL.—If the requirements of subparagraph (B) are met, any depository institution acquired by a bank holding company during the 24-month period preceding the submission of a declaration under paragraph (1)(E) and any depository institution acquired after the submission of such declaration may be excluded for purposes of paragraph (1)(C) until the later of—

''(i) the end of the 24-month period beginning on the date the acquisition of the depository institution by such company is consummated; or

''(ii) the date of completion of the 1st examination of such depository institution under the Community Reinvestment Act of 1977 which is conducted after the date of the acquisition of the depository institution.

''(B) REQUIREMENTS.—The requirements of this subparagraph are met with respect to any bank holding company referred to in subparagraph (A) if—

''(i) 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 under the Community Reinvestment Act of 1977; and

''(ii) the plan has been approved by such agency.

''(c) ENGAGING IN ACTIVITIES FINANCIAL IN NATURE.—

''(1) IN GENERAL.—Notwithstanding section 4(a), a financial holding company and a wholesale financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, which the Board has determined (by regulation or order) to be financial in nature or incidental to such financial activities.

''(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 1998;

''(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 1998, 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 1998) 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 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 subsidiary of a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by a securities affiliate or an affiliate thereof as part of a bona fide underwriting or merchant 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);

''(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) ACTIONS REQUIRED.—The Board shall, by regulation or order, 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 and a wholesale 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, a financial holding company and a wholesale 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.

''(d) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If the Board finds 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) BOARD MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected, 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.

''(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 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

''(3) the holding company complies with this section.

''(f) NONFINANCIAL ACTIVITIES.—

''(1) IN GENERAL.—Notwithstanding section 4(a), a financial holding company may engage in activities which are not (or have not been determined to be) financial in nature or incidental to activities which are financial in nature, or acquire and retain ownership and control of the shares of a company engaged in such activities, if—

''(A) the aggregate annual gross revenues derived from all such activities and all such companies does not exceed the lesser of—

''(i) 5 percent of the consolidated annual gross revenues of the financial holding company; or

''(ii) $500,000,000;

''(B) the consolidated total assets of any company the shares of which are acquired by the financial holding company pursuant to this paragraph are less than $750,000,000 at the time the shares are acquired by the holding company; and

''(C) the holding company provides notice to the Board within 30 days of commencing the activity or acquiring the ownership or control.

''(2) INCLUSION OF GRANDFATHERED ACTIVITIES.—For purposes of determining the limits contained in paragraph (1)(A), the gross revenues derived from all activities conducted, and companies the shares of which are held, under subsection (g) shall be considered to be derived or held under this subsection.

''(3) FOREIGN BANKS.—In lieu of the limitation contained in paragraph (1)(A) in the case of a foreign bank or a company that owns or controls a foreign bank which engages in any activity or acquires or retains ownership or control of shares of any company pursuant to paragraph (1), the aggregate annual gross revenues derived from all such activities and all such companies in the United States shall not exceed the lesser of—

''(A) 5 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6; or

''(B) $500,000,000.

''(4) INDEXING REVENUE TEST.—After December 31, 1998, the Board shall annually adjust the dollar amount contained in paragraphs (1)(A) and (3) by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

''(5) NONAPPLICABILITY OF OTHER EXEMPTION.—Any foreign bank or company that owns or controls a foreign bank which engages in any activity or acquires or retains ownership or control of shares of any company pursuant to this subsection shall not be eligible for any exception described in section 2(h).

''(g) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

''(1) IN GENERAL.—Notwithstanding subsection (f)(1) and 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 1998 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, as of the day before the company becomes a financial holding company, the annual gross revenues derived by the holding company and all subsidiaries of the holding company, 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.

''(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, subsection (f), 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.—An insured 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 this subsection, subsection (f), or subparagraph (H) or (I) of subsection (c)(3).

''(h) DEVELOPING ACTIVITIES.—A financial holding company and a wholesale 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) the Board has not determined that the activity is not financial in nature or incidental to financial activities under subsection (c); and

''(6) 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.''.

SEC. 104. CERTAIN STATE LAWS PREEMPTED.

(a) AFFILIATIONS.—No State may by statute, regulation, order, interpretation, or otherwise, prevent or restrict an insured depository institution or a wholesale financial institution from being affiliated with an entity (including an entity engaged in insurance activities) as authorized by this Act or any other provision of Federal law.

(b) ACTIVITIES—.

(1) Except as provided in paragraphs (2) and (3) and subject to section 18(c) of the Securities Act of 1933, no State may by statute, regulation, order, interpretation, or otherwise, prevent or restrict an insured depository institution or a wholesale financial institution from engaging, directly or indirectly or in conjunction with an affiliate, in any activity authorized under this Act or any other provision of Federal law.÷

(2) As stated by the United States Supreme Court in *Barnett Bank of Marion County, N.A.* v. *Nelson*, 116 S.Ct. 1103 (1996), no State may, by statute, regulation, order, interpretation, or otherwise, prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage, directly or indirectly, or in conjunction with an affiliate, in any insurance sales or solicitation activity, except that—

(A) State statutes and regulations governing insurance sales and solicitations which are no more restrictive than provisions in the Illinois ''Act Authorizing and Regulating the Sale of Insurance by Financial Institutions, Public Act 90–41'' (215 ILCS 5/1400–1416), as in effect on October 1, 1997, shall not be deemed to prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage, directly or indirectly, or in conjunction with an affiliate, in any insurance sales or solicitation activity; and

(B) subparagraph (A) shall not create any inference regarding State statutes, and regulations governing insurance sales and solicitations which are more restrictive than any provision in the Illinois ''Act Authorizing and Regulating the Sale of Insurance by Financial Institutions'', (Public Act 90–41; 215 ILCS 5/1400–1416), as in effect on October 1, 1997.

(3) State statutes, regulations, orders, and interpretations which are applicable to and are applied in the same manner with respect to insurance underwriting activities of an affiliate of an insured depository institution or a wholesale financial institution as they are applicable to and are applied to an insurance underwriter which is not affiliated with an insured depository institution or a wholesale financial institution shall not be preempted under paragraph (1).

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

(a) IN GENERAL.—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. 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 1998,'' 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.

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, activities in which institutions described in section 2(c)(2)(F) 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; or

''(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.

''(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.''.

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 its subsidiary depository institution 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, 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;

''(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company; or

''(III) 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.

''(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 or registered investment adviser by or on behalf of the Securities and Exchange Commission;

''(ii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

''(iii) 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; or

''(ii) is registered as an investment adviser under the Investment Advisers Act of 1940.

''(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 activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

''(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 relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies; and

''(B) the relevant State insurance authorities 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.''.

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)(E) 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 bank's primary supervisor, 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.

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 if—

''(A) such funds or assets are to be provided by—

''(i) a bank holding company that is an insurance company or is a broker or dealer registered under the Securities Exchange Act of 1934; or

''(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under such Act; and

''(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, 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 or dealer, 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 or dealer 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 or the Securities and Exchange Commission, 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 such paragraph, the Board may order the bank holding company to divest the insured depository institution within 180 days of receiving 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.''.

SEC. 114. PRUDENTIAL SAFEGUARDS.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by inserting after subsection (g) (as added by section 113 of this subtitle) the following new subsection:

''(h) PRUDENTIAL SAFEGUARDS.—

''(1) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution) which the Board finds is consistent with the public interest, the purposes of this Act, the Financial Services Act of 1998, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies and the standards in paragraph (2).

''(2) STANDARDS.—The Board 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 depository institutions.

''(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 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.''.

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—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.

(2) PROHIBITION ON BANKING AGENCIES.—A Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company.

(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 meaning given to such term 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 meaning given to such term 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.

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 under the Investment Advisers Act of 1940, 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 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.''.

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 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 AGENCY ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—A national bank may control a company that engages in agency activities that have been determined to be financial in nature or incidental to such financial activities pursuant to and in accordance with section 6(c) of the Bank Holding Company Act of 1956 if—

''(A) the company engages in such activities solely as agent and not directly or indirectly as principal,

''(B) the national bank is well capitalized and well managed, and has achieved a rating of satisfactory or better at the most recent examination of the bank under the Community Reinvestment Act of 1977;

''(C) all depository institution affiliates of the national bank are well capitalized and well managed, and have achieved a rating of satisfactory or better at the most recent examination of each such depository institution under the Community Reinvestment Act of 1977; and

''(D) the bank has received the approval of the Comptroller of the Currency.

''(3) DEFINITIONS.—

''(A) COMPANY; CONTROL; SUBSIDIARY.—The terms 'company', 'control', and 'subsidiary' have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956.

''(B) 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.

''(C) WELL MANAGED.—The term 'well managed' means—

''(i) in the case of a bank that has been examined, unless otherwise determined in writing by the Comptroller—

''(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 bank; and

''(II) at least a rating of 2 for management, if that rating is given; or

''(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

''(b) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 24-month period preceding the submission of an application to acquire a subsidiary under subsection (a)(2), and any depository institution which becomes so affiliated after the approval of such application, may be excluded for purposes of subsection (a)(2)(B) during the 24-month period beginning on the date of such acquisition if—

''(1) the depository institution has submitted an affirmative plan to the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

''(2) the plan has been approved by the appropriate Federal banking agency.''.

(b) LIMITATION ON CERTAIN ACTIVITIES IN SUBSIDIARIES.—Section 21(a)(1) of the Banking Act of 1933 (12 U.S.C. 378(a)(1)) is amended—

(1) by inserting '', or to be a subsidiary of any person, firm, corporation, association, business trust, or similar organization engaged (unless such subsidiary (A) was engaged in such securities activities as of September 15, 1997, or (B) is a nondepository subsidiary of a foreign bank and is not also a subsidiary of a domestic depository institution),'' after ''to engage at the same time''; and

(2) by inserting ''or any subsidiary of such bank, company, or institution'' after ''or private bankers''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) 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 as an agent pursuant to section 5136A(a)(2) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''.

(2) SECTION 23B.—Section 23B(a) of the Federal Reserve Act (12 U.S.C. 371c–1(a)) is amended by adding at the end the following new paragraph:

''(4) SUBSIDIARY OF NATIONAL BANK.—For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be an affiliate of the national bank and not a subsidiary of the bank.''

(d) 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. Financial subsidiaries of national banks.''.

SEC. 122. 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 1 year, or both.

''(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' with respect to a subsidiary or affiliate has the same meaning as in section 3 except references to an insured depository institution shall be deemed to be references 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. 123. 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.

(a) DEFINITION AND SUPERVISION.—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(g)(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)(C)(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) 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.

''(vi) 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) AUTHORITY FOR LIMITED AMOUNTS OF NEW ACTIVITIES AND INVESTMENTS.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company may engage in activities which are not (or have not been determined to be) financial in nature or incidental to activities which are financial in nature, or acquire and retain ownership and control of the shares of a company engaged in such activities if—

''(i) the aggregate annual gross revenues derived from all such activities and of all such companies does not exceed 5 percent of the consolidated annual gross revenues of the wholesale financial holding company or, in the case of a foreign bank or any company that owns or controls a foreign bank, the aggregate annual gross revenues derived from any such activities in the United States does not exceed 5 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6 or this subsection;

''(ii) the consolidated total assets of any company the shares of which are acquired pursuant to this subsection are less than $750,000,000 at the time the shares are acquired by the wholesale financial holding company; and

''(iii) such company provides notice to the Board within 30 days of commencing the activity or acquiring the ownership or control.

''(B) INCLUSION OF GRANDFATHERED ACTIVITIES.—For purposes of determining compliance with the limits contained in subparagraph (A), the gross revenues derived from all activities conducted and companies the shares of which are held under paragraph (2) shall be considered to be derived or held under this paragraph.

''(C) REPORT.—No later than 5 years after the date of enactment of the Financial Services Act of 1998, the Board shall submit to the Congress a report regarding the activities conducted and companies held pursuant to this paragraph and the effect, if any, that affiliations permitted under this paragraph have had on affiliated depository institutions. The report shall include recommendations regarding the appropriateness of retaining, increasing, or decreasing the limits contained in those provisions.

''(2) GRANDFATHERED ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding paragraph (1)(A) and 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 1998, 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 1998, 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) or (g) of section 6 may engage in any activity or own any shares pursuant to this paragraph or paragraph (1).

''(3) 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.—Notwithstanding paragraph (1)(A)(i), 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.

''(4) CROSS MARKETING RESTRICTIONS.—A wholesale financial holding company shall not permit—

''(A) any company whose shares it owns or controls pursuant to paragraph (1), (2), or (3) 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—

''(A) 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; and

''(B) owns, controls, or is affiliated with a security affiliate that engages in underwriting corporate equity securities,

may request a determination from the Board that such bank or company be treated as a wholesale financial holding company for purposes of subsection (c).

''(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 pursuant to subsection (d) 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 subsection (c)(4) of this section and 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) NONAPPLICABILITY OF OTHER EXEMPTION.—Any foreign bank or company which is treated as a wholesale financial holding company under this subsection shall not be eligible for any exception described in section 2(h).

''(5) 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 for purposes of subsection (c), except that such bank or company shall be subject to the restrictions of paragraphs (2)(A), (3), and (4) of this subsection.

''(6) 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.

''(7) 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.''.

(b) UNINSURED STATE BANKS.—Section 9 of the Federal Reserve Act (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. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) FEDERAL RESERVE ACT.—The last sentence of the 8th 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.—

(1) Section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(7)) is amended—

(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) Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412(e)) is amended 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. 1842) is amended by adding at the end the following new subsections:

''(p) WHOLESALE FINANCIAL INSTITUTION.—The term 'wholesale financial institution' means a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(q) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

''(r) 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 as authorized pursuant 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.

''(d) EXAMINATION REPORTS.—The Comptroller of the Currency shall, to the fullest extent possible, use the report of examinations made by the Board of Governors of the Federal Reserve System of a wholesale financial institution.''.

(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) STATE 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 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, 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; and

''(B) all references to the appropriate Federal banking agency or to the Corporation in that section shall be deemed to be references to the Board.

''(3) ENFORCEMENT AUTHORITY.—Subsections (j) and (k) of section 7, subsections (b) through (n), (s), 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 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.

''(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 the Board and, in the case of a State-chartered wholesale financial institution, with the approval of the Board, and, in the case of a national bank wholesale financial institution, with the approval of the Comptroller of the Currency.

''(7) ACTIVITIES OF OUT-OF-STATE BRANCHES OF WHOLESALE FINANCIAL INSTITUTIONS.—

''(A) GENERAL.—A State-chartered wholesale financial institution shall be deemed a State bank and an insured State bank and a national wholesale financial institution shall be deemed a national bank for purposes of paragraphs (1), (2), and (3) of section 24(j) of the Federal Deposit Insurance Act.

''(B) DEFINITIONS.—The following definitions shall apply solely for purposes of applying paragraph (1):

''(i) HOME STATE.—The term 'home State' means—

''(I) with respect to a national wholesale financial institution, the State in which the main office of the institution is located; and

''(II) with respect to a State-chartered wholesale financial institution, the State by which the institution is chartered.

''(ii) HOST STATE.—The term 'host State' means a State, other than the home State of the wholesale financial institution, in which the institution maintains, or seeks to establish and maintain, a branch.

''(iii) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a wholesale financial institution whose home State is another State.

''(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.—No deposits held by a wholesale financial institution shall be insured deposits under the Federal Deposit Insurance Act.

''(C) ADVERTISING AND DISCLOSURE.—The Board shall prescribe 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 not inconsistent 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 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.—Within 45 days 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 within 180 days after 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 and subject to such extension of time as may be granted in the Board's discretion, 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) CONSERVATORSHIP AUTHORITY.—

''(1) IN GENERAL.—The Board may appoint a conservator 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 for a national bank under section 203 of the Bank Conservation Act, and the conservator shall exercise the same powers, functions, and duties, subject to the same limitations, as are provided under such Act for conservators of national banks.

''(2) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator appointed under paragraph (1) and the wholesale financial institution for which such conservator has been appointed as the Comptroller of the Currency has under the Bank Conservation Act with respect to a conservator appointed under such Act and a national bank for which the conservator has been appointed.

''(f) 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 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 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''.

Subtitle E—Streamlining Antitrust Review of Bank Acquisitions and Mergers

SEC. 141. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.

(a) AMENDMENTS TO SECTION 3 TO REQUIRE FILING OF APPLICATION COPIES WITH ANTITRUST AGENCIES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) in subsection (b) by inserting after paragraph (2) the following new paragraph:

''(3) REQUIREMENT TO FILE INFORMATION WITH ANTITRUST AGENCIES.—Any applicant seeking prior approval of the Board to engage in an acquisition transaction under this section must file simultaneously with the Attorney General and, if the transaction also involves an acquisition under section 4 or 6, the Federal Trade Commission copies of any documents regarding the proposed transaction required by the Board.''; and

(2) in subsection (c)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(b) AMENDMENTS TO SECTION 11 TO MODIFY JUSTICE DEPARTMENT NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.—Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1849) is amended—

(1) in subsection (b)(1)—

(A) by striking '', if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors,'';

(B) by striking ''as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval.'' and inserting ''as may be prescribed by the appropriate antitrust agency.''; and

(C) by striking the 3d to last sentence and the penultimate sentence; and

(2) by striking subsections (c) and (e) and redesignating subsections (d) and (f) as subsections (c) and (d), respectively.

(c) DEFINITIONS.—Section 2(o) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)) is amended by adding at the end the following new paragraphs:

''(8) ANTITRUST AGENCIES.—The term 'antitrust agencies' means the Attorney General and the Federal Trade Commission.

''(9) APPROPRIATE ANTITRUST AGENCY.—With respect to a particular transaction, the term 'appropriate antitrust agency' means the antitrust agency engaged in reviewing the competitive effects of such transaction.''.

SEC. 142. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT TO VEST IN THE ATTORNEY GENERAL SOLE RESPONSIBILITY FOR ANTITRUST REVIEW OF DEPOSITORY INSTITUTION MERGERS.

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) in paragraph (3)(C) by striking ''during a period at least as long as the period allowed for furnishing reports under paragraph (4) of this subsection'';

(2) by striking paragraph (4) and inserting the following new paragraph:

''(4) FACTORS TO BE CONSIDERED.—In determining whether to approve a transaction, the responsible agency shall in every case take into consideration the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served.'';

(3) by striking paragraph (5) and inserting the following new paragraph:

''(5) NOTICE TO ATTORNEY GENERAL.—The responsible agency shall immediately notify the Attorney General of any approval by it pursuant to this subsection of a proposed merger transaction. If the responsible agency has found that it must act immediately in order to prevent the probable failure of one of the banks involved, the transaction may be consummated immediately upon approval by the agency. If the responsible agency has notified the other Federal banking agencies referred to in this section of the existence of an emergency requiring expeditious action and has required the submission of views and recommendations within 10 days, the transaction may not be consummated before the 5th calendar day after the date of approval of the responsible agency. In all other cases, the transaction may not be consummated before the 30th calendar day after the date of approval by the agency, or such shorter period of time as may be prescribed by the Attorney General.'';

(4) by striking paragraph (6) and redesignating paragraphs (7) through (11) as paragraphs (6) through (10), respectively;

(5) in subparagraph (A) of paragraph (6) (as so redesignated by paragraph (4) of this section)—

(A) by striking ''(5)'' and inserting ''(4)''; and

(B) by striking ''(6)'' and inserting ''(5)'';

(C) by striking ''In any such action, the court shall review de novo the issues presented.'';

(6) in paragraph (6) (as so redesignated by paragraph (4) of this section)—

(A) by striking subparagraphs (B) and (D); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(7) in paragraph (8) (as so redesignated by paragraph (4) of this section)—

(A) by inserting ''and'' after the semicolon at the end of subparagraph (A):

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(8) by inserting after paragraph (10) (as so redesignated by paragraph (4) of this section) the following new paragraph:

''(11) REQUIREMENT TO FILE INFORMATION WITH ATTORNEY GENERAL.—Any applicant seeking prior written approval of the responsible Federal banking agency to engage in a merger transaction under this subsection shall file simultaneously with the Attorney General copies of any documents regarding the proposed transaction required by the Federal banking agency.''.

SEC. 143. INFORMATION FILED BY DEPOSITORY INSTITUTIONS; INTERAGENCY DATA SHARING.

(a) FORMAT OF NOTICE.—

(1) IN GENERAL.—Notice of any proposed transaction for which approval is required under section 3 of the Bank Holding Company Act of 1956 or section 18(c) of the Federal Deposit Insurance Act shall be in a format designated and required by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) and shall contain a section on the likely competitive effects of the proposed transaction.

(2) DESIGNATION BY AGENCY.—The appropriate Federal banking agency, with the concurrence of the antitrust agencies, shall designate and require the form and content of the competitive effects section.

(3) NOTICE OF SUSPENSION.—Upon notification by the appropriate antitrust agency that the competitive effects section of an application is incomplete, the appropriate Federal banking agency shall notify the applicant that the agency will suspend processing of the application until the appropriate antitrust agency notifies the agency that the application is complete.

(4) EMERGENCY ACTION.—This provision shall not affect the appropriate Federal banking agency's authority to act immediately—

(A) to prevent the probable failure of 1 of the banks involved; or

(B) to reduce or eliminate a post approval waiting period in case of an emergency requiring expeditious action.

(5) EXEMPTION FOR CERTAIN FILINGS.—With the concurrence of the antitrust agencies, the appropriate Federal banking agency may exempt classes of persons, acquisitions, or transactions that are not likely to violate the antitrust laws from the requirement that applicants file a competitive effects section.

(b) INTERAGENCY DATA SHARING REQUIREMENT.—

(1) IN GENERAL.—To the extent not prohibited by other law, the Federal banking agencies shall make available to the antitrust agencies any data in their possession that

the antitrust agencies deem necessary for antitrust reviews of transactions requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 18(c) of the Federal Deposit Insurance Act.

(2) CONTINUATION OF DATA COLLECTION AND ANALYSIS.—The Federal banking agencies shall continue to provide market analysis, deposit share information, and other relevant information for determining market competition as needed by the Attorney General in the same manner such agencies provided analysis and information under section 18(c) of the Federal Deposit Insurance Act and 3(c) of the Bank Holding Company Act of 1956 (as such sections were in effect on the day before the date of the enactment of this Act) and shall continue to collect information necessary or useful for such analysis.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ANTITRUST AGENCIES.—The term ''antitrust agencies'' means the Attorney General and the Federal Trade Commission.

(2) APPROPRIATE ANTITRUST AGENCY.—With respect to a particular transaction, the term ''appropriate antitrust agency'' means the antitrust agency engaged in reviewing the competitive effects of such transaction.

SEC. 144. APPLICABILITY OF ANTITRUST LAWS.

No provision of this subtitle shall be construed as affecting—

(1) the applicability of antitrust laws (as defined in section 11(d) of the Bank Holding Company Act of 1956; as so redesignated pursuant to this subtitle); or

(2) the applicability, if any, of any State law which is similar to the antitrust laws.

SEC. 145. 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.

SEC. 146. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date of enactment of this Act.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

SEC. 151. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO 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)(E) or which 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 1998, 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 5(h) of the Bank Holding Company Act of 1956.''.

SEC. 152. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO 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.''.

Subtitle G—Federal Home Loan Bank System

SEC. 161. FEDERAL HOME LOAN BANKS–

The 1st sentence of section 3 of the Federal Home Loan Bank Act (12 U.S.C. 1423) is amended—

(1) by striking ''the continental United States'' and all that follows through the ''eight''; and

(2) by inserting ''the States into not less than 1'' before ''nor''.

SEC. 162. MEMBERSHIP AND COLLATERAL.

(a) Subsection (f) of section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended to read as follows:

''(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—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, beginning January 1, 1999.''.

(b) Section 10(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)(5)) is amended—

(1) in the 2d sentence, by striking ''and the Board''; and

(2) in the 3d sentence, by striking ''Board'' and inserting ''Bank''.

(c) Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) in the 2d sentence, by striking ''All long-term advances'' and inserting ''Except as provided in the succeeding sentence, all long-term advances'';

(2) by inserting after the 2d sentence, the following sentence: ''Notwithstanding the preceding sentence, long-term advances may be made to members insured by the Federal Deposit Insurance Corporation which have less than $500,000,000 in total assets for the purpose of funding small businesses, agriculture, rural development, or low-income community development (as defined by the Board).''; and

(3) by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) In the case of any member insured by the Federal Deposit Insurance Corporation which has total assets of less than $500,000,000, secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans.''.

(d) Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended by adding at the end the following new paragraph:

''(3) ELIGIBILITY REQUIREMENTS FOR COMMUNITY FINANCIAL INSTITUTIONS.—The requirements of paragraph (2) (other than subparagraph (B) of such paragraph) shall not apply to any insured depository institution which has total assets of less than $500,000,000.

(e) Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by striking the 1st of the 2 subsections designated as subsection (e) (relating to qualified thrift lender status).

SEC. 163. THE OFFICE OF FINANCE.

The Federal Home Loan Bank Act (12 U.S.C. 1421) is amended by inserting after section 4 the following new section:

''SEC. 5. THE OFFICE OF FINANCE.

''(a) OPERATION.—The Federal home loan banks shall operate jointly an office of finance (hereafter in this section referred to as the 'Office') to issue the notes, bonds, and debentures of the Federal home loan banks in accordance with this Act.

''(b) POWERS.—Subject to the other provisions of this Act and such safety and soundness regulations as the Finance Board may prescribe, the Office shall be authorized by the Federal home loan banks to act as the agent of such banks to issue Federal home loan bank notes, bonds and debentures pursuant to section 11 of this Act on behalf of the banks.

''(c) CENTRAL BOARD OF DIRECTORS.—

''(1) ESTABLISHMENT.—The Federal home loan banks shall establish a central board of directors of the Office to administer the affairs of the Office in accordance with the provisions of this Act.

''(2) COMPOSITION OF BOARD.—Each Federal home loan bank shall annually select 1 individual who, as of the time of the election, is an officer or director of such bank to serve as a member of the central board of directors of the Office.

''(d) STATUS.—Except to the extent expressly provided in this Act, the Office shall be treated as a Federal home loan bank for purposes of any law.''.

SEC. 164. MANAGEMENT OF BANKS.

(a) Subsections (a) and (b) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(a) and (b)) are amended to read as follows:

''(a) The management of each Federal home loan bank shall be vested in a board of 15 directors, 9 of whom shall be elected by the members in accordance with this section, 6 of whom shall be appointed by the Board referred to in section 2A, and all of whom shall be citizens of the United States and bona fide residents of the district in which such bank is located. At least 2 of the Federal home loan bank directors who are appointed by the Board shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer

protections. No Federal home loan bank director who is appointed pursuant to this subsection may, during such bank director's term of office, serve as an officer of any Federal home loan bank or a director or officer of any member of a bank, or hold shares, or any other financial interest in, any member of a bank.

''(b) The elective directors shall be divided into three classes, designated as classes A, B, and C, as nearly equal in number as possible. Each directorship shall be filled by a person who is an officer or director of a member located in that bank's district. Each class shall represent members of similar asset size, and the Board shall, to the maximum extent possible, seek to achieve geographic diversity. The Finance Board shall establish the minimum and maximum asset size for each class. Any member shall be entitled to nominate and elect eligible persons for its class of directorship; such offices shall be filled from such nominees by a plurality of the votes which members of each class may cast for nominees in their corresponding class of directors in an election held for the purpose of filling such offices. Each member shall be permitted to cast one vote for each share of Federal home loan bank stock owned by that member. No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director. As used in this subsection, the term ''member'' means a member of a Federal home loan bank which was a member of such Bank as of a record date established by the Bank.''.

(b) Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) by striking subsections (c) and (h); and

(2) by redesignating subsections (d), (e), (f), (g), (i), (j), and (k) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively.

(c) Subsection (c) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) (as so redesignated by subsection (b) of this section) is amended by striking the 1st and 2d sentences and inserting the following 2 new sentences: ''The term of each position of director shall be 3 years. No director serving for 3 consecutive terms, nor any other officer, director or that member or any affiliated depository institution, shall be eligible for another term earlier than 3 years after the expiration of the last expiring of said 3-year terms. 3 elected directors of different classes as specified by the Finance Board shall be elected by ballot annually.''.

(d) Subsection (d) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(e)) (as so redesignated by subsection (b) of this section) is amended to read as follows:

''(d) TRANSITION PROVISION.—In the 1st election after the date of the enactment of the Financial Services Act of 1998, 3 directors shall be elected in each of the 3 classes of elective directorship. The Finance Board may, in the 1st election after such date of enactment, designate the terms of each elected director in each class, not to exceed 3 years, to assure that, in each subsequent election, 3 directors from different classes of elective directorships are elected each year.''.

(e) Subsection (g) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) (as so redesignated by subsection (b) of this section) is amended by striking ''subject to the approval of the board''.

SEC. 165. ADVANCES TO NONMEMBER BORROWERS.

Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in subsection (a), by striking ''(a) IN GENERAL.—'';

(2) by striking the 4th sentence of subsection (a), and inserting ''Notwithstanding the preceding sentence, if an advance is made for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, the advance may be collateralized as provided in section 10(a) of this Act.''; and

(3) by striking subsection (b).

SEC. 166. POWERS AND DUTIES OF BANKS.

(a) Subsection (a) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(a)) is amended—

(1) by inserting ''through the Office of Finance'' after ''to issue'';

(2) by striking ''Board'' after ''upon such terms and conditions as the'' and inserting ''board of directors of the bank''.

(b) Subsection (b) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(b)) is amended to read as follows:

''(b) ISSUANCE OF FEDERAL HOME LOAN BANK CONSOLIDATED BONDS.—

''(1) IN GENERAL.— The Office of Finance may issue consolidated Federal home loan bank bonds and other consolidated obligations on behalf of the banks.

''(2) JOINT AND SEVERAL OBLIGATION; TERMS AND CONDITIONS.—Consolidated obligations issued by the Office of Finance under paragraph (1) shall—

''(A) be the joint and several obligations of all the Federal home loan banks; and

''(B) shall be issued upon such terms and conditions as shall be established by the Office of Finance subject to such rules and regulations as the Finance Board may prescribe.''.

(c) Section 11(f) of the Federal Home Loan Bank Act (12 U.S.C. 1430(f) (as designated before the redesignation by subsection (e) of this section) is amended by striking both commas immediately following ''permit'' and inserting ''or''.

(d) Subsection (i) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(i)) is amended by striking the 2d undesignated paragraph.

(e) Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (k) as subsections (c) through (j), respectively.

SEC. 167. MERGERS AND CONSOLIDATIONS OF FEDERAL HOME LOAN BANKS.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended by designating the current paragraph as ''(a)'' and adding the following new sections:

''(b) Nothing in this section shall preclude voluntary mergers, combinations or consolidation by or among the Federal home loan banks pursuant to such regulations as the Finance Board may prescribe.

''(c) NUMBER OF ELECTED DIRECTORS OF RESULTING BANK.— Subject to section 7 of this Act, any bank resulting from a merger, combination, or consolidation pursuant to this section may have a number of elected directors equal to or less than the total number of elected directors of all the banks which participated in such transaction (as determined immediately before such transaction).

''(d) NUMBER OF APPOINTED DIRECTORS OF RESULTING BANK.—The number of appointed directors of any bank resulting from a merger, combination, or consolidation pursuant to this section shall be a number that is three less than the number of elected directors.

''(e) ADJUSTMENT OF DISTRICT BOUNDARIES.—After consummation of any merger, combination, or consolidation of 2 or more Federal home loan banks, the Finance Board shall adjust the districts established in section 3 of this Act to reflect such merger, combination, or consolidation.''.

SEC. 168. TECHNICAL AMENDMENTS.

(a) 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).

(b) SECTION 12.—

(1) Section 12(a) of the Federal Home Loan Bank Act (12 U.S.C. 1432(a)) is amended—

(A) by striking ''subject to the approval of the Board'' immediately following ''transaction of its business''; and

(B) by striking ''and, by its Board of directors, to prescribe, amend, and repeal by-laws, rules, and regulations governing the manner in which its affairs may be administered; and the powers granted to it by law may be exercised and enjoyed subject to the approval of the Board. The president of a Federal Home Loan Bank may also be a member of the Board of directors thereof, but no other officer, employee, attorney, or 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 statute and regulation, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank''.

(2) Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended by inserting after subsection (b) the following new subsection:

''(c) PROHIBITION ON EXCESSIVE COMPENSATION.—

''(1) IN GENERAL.—The Finance Board shall prohibit the Federal home loan banks from providing compensation to any officer, director, or employee that is not reasonable and comparable with the compensation for employment in other similar businesses involving similar duties and responsibilities. However, the Finance Board may not prescribe or set a specific level or range of compensation for any officer, director, or employee.

''(2) REGULATIONS.—The Finance Board, by regulation, may provide for the requirements of paragraph (1) to be phased-in over a period not to exceed 3 years.

''(3) EXCEPTION FOR EXISTING CONTRACTS.—Paragraph (1) shall not apply to any contract entered into before June 1, 1997.''.

(c) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) Subsection (a)(1) of section 2B of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)(1)) is amended by striking the period at the end of the sentence and inserting ''; and to have the same powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and the senior officers and directors of such banks as the Office of Federal Housing Enterprise Oversight has over the Federal housing enterprises and the senior officers and directors of such enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.''.

(2) Subsection (b) of section 2B of the Federal Home Loan Bank Act (12 U.S.C. 1422b(b)) is amended—

(A) by striking ''(1) BOARD STAFF.—'';

(B) by striking ''function to any employee, administrative unit'' and inserting ''function to any employee or administrative unit'';

(C) by striking the 2d sentence in paragraph (1); and

(D) by striking paragraph (2).

(3) Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking ''Federal Home Loan Bank Board'' and inserting ''Federal Housing Finance Board''.

(d) 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 second sentence, by striking ''with the approval of the Board''; and

(B) in the third sentence, by striking '', subject to the approval of the Board,''.

(2) SECTION 10.—

(A) Subsection (a) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended in paragraph (3), by striking ''Deposits'' and inserting ''Cash or deposits''.

(B) Subsection (c) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(c)) is amended—

(i) in the 1st sentence by striking ''Board'' and inserting ''Federal home loan bank''; and

(ii) by striking the 2d sentence.

(C) Subsection (d) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(d)) is amended—

(i) in the 1st sentence, by striking ''and the approval of the Board'';

(ii) in the last sentence, by striking ''Subject to the approval of the Board, any'' and inserting ''Any''.

(D) Section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)) is amended—

(i) in the 1st sentence of paragraph (1) by striking ''to subsidize the interest rate on advances'' and inserting ''to provide subsidies, including subsidized interest rates on advances'';

(ii) in paragraphs (2), (3), (4), (5), (9), (11), and (12) by striking ''advances'' and ''subsidized advances'' each place such terms appear and inserting ''subsidies, including subsidized advances'';

(iii) in paragraph (1), by inserting ''(A)'' before the 1st sentence, and inserting the following at the end of the paragraph:

''(B) 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.'';

(iv) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph:

''(B) finance the purchase, construction or rehabilitation of rental housing if, for a period of at least 15 years, either 20 percent or more of the units in such housing are occupied by and affordable for households whose income is 50 percent or less of area median income (as determined by the Secretary of Housing and Urban Development, and as adjusted for family size); or 40 percent or more of the units in such housing are occupied by and affordable for households whose income is 60 percent or less of area median income (as determined by the Secretary of Housing and Urban Development, and as adjusted for family size).'';

(v) in paragraph (5)—

(I) by striking the colon after ''Affordable Housing Program'';

(II) by striking subparagraphs (A) and (B); and

(III) by striking ''(C) In 1995, and subsequent years,'';

(vi) in paragraph (11)—

(I) by inserting '', pursuant to a nomination process that is as broad and as participatory as possible, and giving consideration to the size of the District and the diversity of low- and moderate-income housing needs and activities within the District,'' after ''Advisory Council of 7 to 15 persons'';

(II) by inserting ''a diverse range of'' before ''community and nonprofit organizations''; and

(III) by inserting after the 1st sentence, the following new sentence: ''Representatives of no one group shall constitute an undue proportion of the membership of the Advisory Council.''; and

(vii) in paragraph (13), by striking subparagraph (D) and inserting the following new subparagraph:

''(D) AFFORDABLE.—For purposes of paragraph (2)(B), the term ''affordable'' means that the rent with respect to a unit shall not exceed 30 percent of the income limitation under paragraph (2)(B) applicable to occupants of such unit.''.

(e) SECTION 16.—Subsection (a) of section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended in the 3d sentence by striking ''net earnings'' and inserting ''previously retained earnings or current net earnings''; by striking '', and then only with the approval of the Federal Housing Finance Board''; and by striking the 4th sentence.

(f) SECTION 18.—Subsection (b) of section 18 of the Federal Home Loan Bank Act (12 U.S.C. 1438) is amended by striking paragraph (4).

(g) SECTION 11.—Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by inserting after subsection (j) (as so redesignated by section 166(e) of this subtitle) the following subsection:

''(k) PROHIBITION ON OTHER ACTIVITIES.—

''(1) A Federal home loan bank may not engage in any activity other than the activities authorized under this Act and activities incidental to such authorized activities.

''(2) All activities specified in paragraph (1) are subject to Finance Board approval.''.

SEC. 169. DEFINITIONS.

Paragraph (3) of section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(3)) is amended to read as follows:

''(3) 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.''

SEC. 170. 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.—To the extent 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 each calendar year 20.75 percent of the net earnings of such bank (after deducting expenses relating to subsection (j) of section 10 and operating expenses).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1999.

SEC. 171. CAPITAL STRUCTURE OF THE FEDERAL HOME LOAN BANKS.

(a) IN GENERAL.—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) CAPITAL STRUCTURE PLAN.—On or before January 1, 1999, 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 which—

''(1) the board of directors determines is the best suited for the condition and operation of the bank and the interests of the shareholders of the bank;

''(2) meets the requirements of subsection (b); and

''(3) meets the minimum capital standards and requirements established under subsection (c) and any regulations prescribed by the Finance Board pursuant to such subsection.

''(b) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall meet the following requirements:

''(1) STOCK PURCHASE REQUIREMENTS.—

''(A) IN GENERAL.—Each capital structure plan of a Federal home loan bank shall require the shareholders of the bank to maintain an investment in the stock of the bank in amount not less than—

''(i) a minimum percentage of the total assets of the shareholder; and

''(ii) a minimum percentage of the outstanding advances from the bank to the shareholder.

''(B) MINIMUM PERCENTAGE LEVELS.—The minimum percentages established pursuant to subparagraph (A) shall be set at levels sufficient to meet the bank's minimum capital requirements established by the Finance Board under subsection (c).

''(C) MAXIMUM ASSET BASED CAPITAL REQUIREMENT.—The asset-based capital requirement applicable to any shareholder of a Federal home loan bank in any year shall not exceed the lesser of—

''(i) 0.6 percent of a shareholder's total assets at the close of the preceding year; or

''(ii) $300,000,000.

''(D) MAXIMUM ADVANCE-BASED REQUIREMENT.—The advance-based capital requirement applicable to any shareholder of a Federal home loan bank shall not exceed 6 percent of the total outstanding advances from the bank to the shareholder.

''(E) MINIMUM STOCK PURCHASE REQUIREMENT AUTHORIZED.—A capital structure plan may establish a minimum dollar amount of stock of a Federal home loan bank in which a shareholder shall be required to invest.

''(2) ADJUSTMENTS TO STOCK PURCHASE REQUIREMENTS.—The capital structure plan adopted by each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust as necessary member stock purchase requirements in order to ensure that the bank remains in compliance with applicable minimum capital levels established by the Finance Board.

''(3) TRANSITION RULE FOR STOCK PURCHASE REQUIREMENTS.—

''(A) IN GENERAL.—A capital structure plan may allow shareholders who were members of a Federal home loan bank on the date of the enactment of the Financial Services Act of 1998 to come into compliance with the asset-based stock purchase requirement established under paragraph (1) during a transition period established under the plan of not more than 3 years, if such requirement exceeds the asset-based stock purchase requirement in effect on such date of enactment.

''(B) INTERIM PURCHASE REQUIREMENTS.—A capital structure plan may establish interim asset-based stock purchase requirements applicable to members referred to in subparagraph (A) during a transition period established under subparagraph (A).

''(4) CLASSES OF STOCK.—

''(A) IN GENERAL.—Each capital structure plan shall afford each shareholder of a Federal home loan bank the option of meeting the shareholder's stock purchase requirements through the purchase of any combination of Class A or Class B stock.

''(B) CLASS A STOCK.—Class A stock shall be stock of a Federal home loan bank that shall be redeemed in cash and at par by the bank no later than 12 months following submission of a written notice by a shareholder of the shareholder's intention to divest all shares of stock in the bank.

''(C) CLASS B STOCK.—Class B stock shall be stock of a Federal home loan bank that shall be redeemed in cash and at par by the bank no later than 5 years following submission of a written notice by a shareholder of the shareholder's intention to divest all shares of stock in the bank.

''(D) RIGHTS REQUIREMENT.—The Class B stock of a Federal home loan bank may receive a dividend premium over that paid on Class A stock, and may have preferential

voting rights in the election of Federal home loan bank directors.

''(E) LOWER STOCK PURCHASE REQUIREMENTS FOR CLASS B STOCK.—A capital structure plan may provide for lower stock purchase requirements with respect to those shareholder's that elect to purchase Class B stock in a manner that is consistent with meeting the bank's own minimum capital requirements as established by the Finance Board.

''(F) NO OTHER CLASSES OF STOCK PERMITTED.—No class of stock other than the Class A and Class B stock described in subparagraphs (B) and (C) may be issued by a Federal home loan bank.

''(5) LIMITED TRANSFERABILITY OF STOCK.—Each capital structure plan shall provide that any equity securities issued by the bank shall be available only to, held only by, and tradable only among shareholders of the bank.

''(c) CAPITAL STANDARDS.—

''(1) IN GENERAL.—The Finance Board shall prescribe, by regulation, uniform capital standards applicable to each Federal home loan bank which shall include—

''(A) a leverage limit in accordance with paragraph (2); and

''(B) a risk-based capital requirement in accordance with paragraph (3).

''(2) MINIMUM LEVERAGE LIMIT.—The leverage limit established by the Finance Board shall require each Federal home loan bank to maintain total capital in an amount not less than 5 percent of the total assets of the bank. In determining compliance with the minimum leverage ratio, the amount of retained earnings and the paid-in value of Class B stock, if any, shall be multiplied by 1.5 and such higher amount shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio.

''(3) RISK-BASED CAPITAL STANDARD.—The risk-based capital requirement shall be composed of the following components:

''(A) Capital sufficient to meet the credit risk to which a Federal home loan bank is subject, based on an amount which is not less than the amount of tier 1, risk-based capital required by regulations prescribed, or guidelines issued under section 38 of the Federal Deposit Insurance Act for a well capitalized insured depository institution.

''(B) Capital sufficient to meet the interest rate risk to which a Federal home loan bank is subject, based on an interest rate stress test applied by the Finance Board that rigorously tests for changes in interest rates, rate volatility, and changes in the shape of the yield curve.

''(d) REDEMPTION OF CAPITAL.—

''(1) IN GENERAL.—Any shareholder of a Federal home loan bank shall have the right to withdraw the shareholder's membership from a Federal home loan bank and to redeem the shareholder's stock in accordance with the redemption rights associated with the class of stock the shareholder holds, if—

''(A) such shareholder has filed a written notice of an intention to redeem all such shares; and

''(B) the shareholder has no outstanding advances from any Federal home loan bank at the time of such redemption.

''(2) PARTIAL REDEMPTION.—A shareholder who files notice of intention to redeem all shares of stock in a Federal home loan bank may redeem not more than 1/2 of all such shares, in cash and at par, 6 months before the date by which the bank is required to redeem such stock pursuant to subparagraph (B) or (C) of subsection (b)(4).

''(3) DIVESTITURE.—The board of directors of any Federal home loan bank may, after a hearing, order the divestiture by any shareholder of all ownership interests of such shareholder in the bank, if—

''(A) in the opinion of the board of directors, such shareholder has failed to comply with a provision of this Act or any regulation prescribed under this Act; or

''(B) the shareholder 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 such shareholder.

''(4) RETIREMENT OF EXCESS STOCK.—Any shareholder may—

''(A) retire shares of Class A stock or, at the option of the shareholder, shares of Class B stock, or any combination of Class A and Class B stock, that are excess to the minimum stock purchase requirements applicable to the shareholder; and

''(B) receive from the Federal home loan bank a prompt payment in cash equal to the par value of such stock.

''(5) IMPAIRMENT OF CAPITAL.—If the Finance Board or the board of directors of a Federal home loan bank determines that the paid-in capital of the bank is, or is likely to be, impaired as a result of losses in or depreciation of the assets of the bank, the Federal home loan bank shall withhold that portion of the amount due any shareholder with respect to any redemption or retirement of any class of stock which bears the same ratio to the total of such amount as the amount of the impaired capital bears to the total amount of capital allocable to such class of stock.

''(6) POLICIES.—Subject to the requirements of this section, the board of directors of each Federal home loan bank shall promptly establish policies, consistent with this Act, governing the capital stock of such bank and other provisions of this section.''.

SEC. 172. INVESTMENTS.

Subsection (j) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) (as so redesignated by section 166(e) of this subtitle) is amended to read as follows:

''(j) INVESTMENTS.—Each bank shall reduce its investments to those necessary for liquidity purposes, for safe and sound operation of the banks, or for housing finance, as administered by the Finance Board.''.

SEC. 173. FEDERAL HOUSING FINANCE BOARD.

Section 2A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1422(b)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(2) by inserting before subparagraph (B) (as so redesignated by paragraph (1) of this section) the following new subparagraph:

''(A) The Secretary of the Treasury (or the Secretary of the Treasury's designee), who shall serve without additional compensation.''; and

(3) in subparagraph (C) (as so redesignated by paragraph (1) of this section) by striking ''Four'' and inserting ''3''.

Subtitle H—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 banking association is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).''.

Subtitle I—Effective Date of Title

SEC. 191. 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 270-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 of the following activities under the conditions described:

''(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other 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 contractual or other 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 contractual or other 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 range of investment vehicles available from the bank and the broker or dealer under the contractual or other arrangement;

''(VI) bank employees do not directly 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 in a customary custodian or trustee capacity; 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—

''(I) effects transactions in a trustee capacity and is primarily compensated based on an annual fee (payable on a monthly, quarterly, or other basis) or percentage of assets under management, or both; or

''(II) effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards and—

''(aa) is primarily compensated on the basis of either an annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or both, and does not receive brokerage commissions or other similar remuneration based on effecting transactions in securities, other than the cost incurred by the bank in connection with executing securities transactions for fiduciary customers; and

''(bb) does not publicly 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) IN GENERAL.—The bank effects transactions, as part of its transfer agency activities, in—

''(aa) 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 subsidiaries, if 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 securities of an issuer as part of that issuer's dividend reinvestment plan, if the bank does not—

''(AA) solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

''(BB) net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; or

''(cc) the securities of an issuer as part of a plan or program 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 of administration fees, or flat or capped per order processing fees, or both, plus the cost incurred by the bank in connection with executing securities transactions resulting from such plan or program.

''(II) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) 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 1998; 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 bank 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 of the bank (as defined in section 2 of the Bank Holding Company Act of 1956) 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 one year after the date of enactment of the Financial Services Act of 1998, is not affiliated with a broker or dealer that has been registered for more than one year; 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.

''(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) 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) BANKING PRODUCTS.—The bank effects transactions in traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

''(x) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (ix), 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 or broker 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) NO EFFECT OF BANK EXEMPTIONS ON OTHER COMMISSION AUTHORITY.—The exception to being considered a broker for a bank engaged in activities described in subparagraphs (B) and (C) shall not affect the commission's authority under any other provision of this Act or any other securities law.

''(E) 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 1998, subject to section 15(e); 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 otherwise, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations predominantly originated by the bank, or a syndicate of banks of which the bank is a member, or an affiliate of any such bank other than a broker or dealer.

''(iv) BANKING PRODUCTS.—The bank buys or sells traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

''(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative instrument to which the bank is a party—

''(I) to or from a corporation, limited liability company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments, or 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. 78*o*–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. SALES PRACTICES AND COMPLAINT PROCEDURES.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

''(s) SALES PRACTICES AND COMPLAINT PROCEDURES WITH RESPECT TO BANK SECURITIES ACTIVITIES.—

''(1) REGULATIONS REQUIRED.—Each Federal banking agency shall prescribe and publish in final form, not later than 6 months after the date of enactment of the Financial Services Act of 1998, regulations which apply to retail transactions, solicitations, advertising, or offers of any security by any insured depository institution or any affiliate thereof other than a registered broker or dealer or an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. Such regulations shall include—

''(A) requirements that sales practices comply with just and equitable principles of trade that are substantially similar to the Rules of Fair Practice of the National Association of Securities Dealers; and

''(B) requirements prohibiting (i) conditioning an extension of credit on the purchase or sale of a security; and (ii) any conduct leading a customer to believe that an extension of credit is conditioned upon the purchase or sale of a security.

''(2) PROCEDURES REQUIRED.—The appropriate Federal banking agencies shall jointly establish procedures and facilities for receiving and expeditiously processing complaints against any bank or employee of a bank arising in connection with the purchase or sale of a security by a customer, including a complaint alleging a violation of the regulations prescribed under paragraph (1), but excluding a complaint involving an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. The use of any such procedures and facilities by such a customer shall be at the election of the customer. Such procedures shall include provisions to refer a complaint alleging fraud to the Securities and Exchange Commission and appropriate State securities commissions.

''(3) REQUIRED ACTIONS.—The actions required by the Federal banking agencies under paragraph (2) shall include the following:

''(A) establishing a group, unit, or bureau within each such agency to receive such complaints;

''(B) developing and establishing procedures for investigating, and permitting customers to investigate, such complaints;

''(C) developing and establishing procedures for informing customers of the rights they may have in connection with such complaints;

''(D) developing and establishing procedures that allow customers a period of at least 6 years to make complaints and that do not require customers to pay the costs of the proceeding; and

''(E) developing and establishing procedures for resolving such complaints, including procedures for the recovery of losses to the extent appropriate.

''(4) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraphs (1) and (2), after consultation with the Securities and Exchange Commission.

''(5) PROCEDURES IN ADDITION TO OTHER REMEDIES.—The procedures and remedies provided under this subsection shall be in addition to, and not in lieu of, any other remedies available under law.

''(6) DEFINITION.—As used in this subsection—

''(A) the term 'security' has the meaning provided in section 3(a)(10) of the Securities Exchange Act of 1934;

''(B) the term 'registered broker or dealer' has the meaning provided in section 3(a)(48) of such Act; and

''(C) the term 'associated person' has the meaning provided in section 3(a)(18) of such Act.''.

SEC. 205. 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. 206. DEFINITION AND TREATMENT OF BANKING PRODUCTS.

(a) DEFINITION OF TRADITIONAL BANKING PRODUCT.—

(1) IN GENERAL.—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 'traditional banking product' means—

(A) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(B) a banker's acceptance;

(C) a letter of credit issued or loan made by a bank;

(D) a debit account at a bank arising from a credit card or similar arrangement;

(E) 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—

(i) to qualified investors; or

(ii) 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

(F) any derivative instrument, whether or not individually negotiated, involving or relating to—

(i) foreign currencies, except options on foreign currencies that trade on a national securities exchange;

(ii) interest rates, except interest rate derivative instruments (I) that are based on a security; or (II) that provide for the delivery of one or more securities; or

(iii) commodities, other rates, indices, or other assets, except derivative instruments that are securities or that provide for the delivery of one or more securities.

(2) CLASSIFICATION LIMITED.—Classification of a particular product as a traditional banking product pursuant to this subsection shall not be construed as finding or implying that such product is oris 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.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term ''bank'' has the meaning provided in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6);

(B) the term ''qualified investor'' has the meaning provided in section 3(a)(55) of such Act; and

(C) the term ''Federal banking agency'' has the meaning provided in section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)).

(b) TREATMENT OF NEW BANKING PRODUCTS FOR PURPOSES OF BROKER/DEALER REQUIREMENTS.—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 BANKING 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 banking 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 banking product unless the Commission determines that—

''(A) the new banking 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) NEW BANKING PRODUCT.—For purposes of this subsection, the term 'new banking 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 a traditional banking product, as such term is defined in section 206(a) of the Financial Services Act of 1998.

''(4) CONSULTATION.—In promulgating rules under this subsection, the Commission shall consult with and consider the views of the appropriate regulatory agencies concerning the proposed rule and the impact on the banking industry.''.

SEC. 207. DERIVATIVE INSTRUMENT AND QUALIFIED INVESTOR DEFINED.

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 a traditional banking product, as defined in section 206(a) of the Financial Services Act of 1998.

''(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 and section 206(a)(1)(E) of the Financial Services Act of 1998, 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 and loan 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; or

''(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

''(B) ADDITIONAL QUALIFICATIONS DEFINED.—For purposes of paragraphs (4)(B)(vii) and (5)(C)(iii) of this subsection, and section 206(a)(1)(E) of the Financial Services Act of 1998, the term 'qualified investor' also means—

''(i) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(ii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(iii) 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

''(iv) any multinational or supranational entity or any agency or instrumentality thereof.

''(C) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, other than a natural person, taking into consideration such factors as the person's financial sophistication, 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 section 15C as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes.''.

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.

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 2d, 3d, 4th, and 5th 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 meaning given to such terms 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 as in 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 as 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) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)) is amended in subparagraph (A), 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 as in 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 as in 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, any of 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 provision of law.

''(c) DEFINITION.—For purposes of this section, the term 'appropriate Federal banking agency' shall have the same meaning as 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. 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. 224. 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. 225. 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 (l); and

(2) by inserting after subsection (h) the following new subsections:

''(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 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', and 'savings association' have the meanings given to those terms in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

''(D) The term 'insured bank' has the meaning given to that term in section 3 of the Federal Deposit Insurance Act.

''(E) The term 'foreign bank' has the meaning given to that term 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' means 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 subparagraphs:

''(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—Study

SEC. 241. STUDY OF METHODS TO INFORM INVESTORS AND CONSUMERS OF UNINSURED PRODUCTS.

Within one 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 efficacy, costs, and benefits of requiring that any depository institution that accepts federally insured deposits and that, directly or through a contractual or other arrangement with a broker, dealer, or agent, buys from, sells to, or effects transactions for retail investors in securities or consumers of insurance to inform such investors and consumers through the use of a logo or seal that the security or insurance is not insured by the Federal Deposit Insurance Corporation.

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 or entity shall provide insurance in a State as principal or agent unless such person or entity is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to section 104 of this Act.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.

The insurance sales activity of any person or entity shall be functionally regulated by the States, subject to section 104 of this Act.

SEC. 304. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) IN GENERAL.—Except as provided in section 306, 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, 1997, 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, 1997, 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, 1997, 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, as amended; 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, as amended, if the bank were subject to tax as an insurance company under section 831 of such 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, as amended.

SEC. 305. NEW BANK AGENCY ACTIVITIES ONLY THROUGH ACQUISITION OF EXISTING LICENSED AGENTS.

If a national bank or a subsidiary of a national bank is not providing insurance as agent in a State as of the date of the enactment of this Act, the national bank and the subsidiary of the national bank may provide insurance (which such bank or subsidiary is otherwise authorized to provide) as agent in such State after such date only by acquiring a company which has been licensed by the appropriate State regulator to provide insurance as agent in such State for not less than 2 years before such acquisition.

SEC. 306. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or any other law, no national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting or sale of title insurance other than title insurance activities in which such national bank or subsidiary was actively and lawfully engaged 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 any activity involving the underwriting or sale 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 which provides insurance as principal and is not a subsidiary, the national bank may not engage in any activity involving the underwriting or sale of title insurance pursuant to paragraph (1).

(4) AFFILIATE AND SUBSIDIARY DEFINED.—For purposes of this section, the terms ''affiliate'' and ''subsidiary'' have the meaning given such terms in section 2 of the Bank Holding Company Act of 1956.

(b) PARITY EXCEPTION.—Notwithstanding subsection (a), in the case of any State in which banks organized under the laws of such State were authorized to sell title insurance as agent as of January 1, 1997, a national bank and a subsidiary of a national bank may sell title insurance as agent in such State in the same manner and to the same extent such State banks are authorized to sell title insurance as agent in such State.

SEC. 307. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FINANCIAL REGULATORS.

(a) FILING IN COURT OF APPEAL.—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 paragraph (1) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiori 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 United States Supreme Court as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No action may be filed under this section challenging an order, ruling, determination, or other action of a Federal financial regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date the first public notice is made of such order, ruling, or determination in its final form; or

(2) the end of the 6-month period beginning on the date such order, ruling, or determination takes effect.

(e) STANDARD OF REVIEW.—The court shall decide an action 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. 308. CONSUMER PROTECTION REGULATIONS.

(a) REGULATIONS REQUIRED.—

(1) IN GENERAL.—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. 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 this Act, consumer protection regulations (which the agencies jointly determine to be appropriate) that—

''(A) apply to retail sales, 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 subsidiaries; 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'.

''(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 and the making of loans is kept, to the extent practicable, physically segregated from insurance product activity.

''(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following requirements:

''(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, or making loans to, 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) 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 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.

''(f) 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.

''(g) EFFECT ON OTHER AUTHORITY.—

''(1) 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) any authority of any State insurance commissioner or other State authority under any State law.

''(2) 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.

''(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. 309. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

No State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or restrict any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), from becoming a financial holding company or acquiring 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, restrict, 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.

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 or entity 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 or entity 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 enactment of this Act.

Subtitle C—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 by the end of the 3-year period beginning on the date of the 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 such producer is permitted to sell or solicit the purchase of insurance in its State, 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,

if the producer's home State also awards such licenses on such a reciprocal basis.

(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 within 2 years, 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.

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 and be presumed to have the status of an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 unless the Secretary of the Treasury determines that the Association does not meet the requirements of such section;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agency or establishment 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'') and shall not be an agency or an instrumentality of the United States Government.

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 preceding the date 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 the 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 National Association of Insurance Commissioners 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) 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 paragraph.

(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.—Within 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 within 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 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 may 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 (B)(ii), 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 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, and not renewed (hereafter in this section referred to as a ''disciplinary action''), the Association shall bring specific charges, notify such member of such charges and 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.—

(A) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(i) determine whether the action should be taken;

(ii) affirm, modify, or rescind the disciplinary sanction; or

(iii) remand to the Association for further proceedings.

(B) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(i) the specific grounds on which the action is based exist in fact;

(ii) the action is in accordance with applicable rules and regulations; and

(iii) such rules and regulations are, and were, applied in a manner consistent with the purposes of this Act.

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 it 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) The NAIC may make such examinations and inspections of the Association and require the Association to furnish it with 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) 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 after 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) and (b) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328, the NAIC 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—

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the United States 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 part a of this section take effect, then the National Association of Insurance Commissioners shall have 60 days to provide a list of recommended candidates to the President. If the National Association of Insurance Commissioners 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 United States Senate, make the requisite appointments without considering the views of the NAIC.

(B) SUBSEQUENT APPOINTMENTS.—After the initial appointments, the National Association of Insurance Commissioners 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 National Association of Insurance Commissioners 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.

(d) ANNUAL REPORT.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to 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 actions purporting to regulate insurance producers shall be preempted in the following instances:

(1) No State shall 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) No State shall 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) No State shall 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 than 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.

(4) No State shall 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.

(b) SAVINGS PROVISION.—Except as provided in subsection (a), no provision of this section shall be construed as altering or affecting the continuing effectiveness of 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, but not limited to, 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 must 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) INSURANCE.—The term ''insurance'' means any product defined or regulated as insurance by the appropriate State insurance regulatory authority.

(2) 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.

(3) 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.

(4) STATE.—The term ''State'' includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) 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.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. TERMINATION OF EXPANDED POWERS FOR NEW UNITARY S&L 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 S&L HOLDING COMPANY.—

''(A) IN GENERAL.—Subject to subparagraph (B), paragraph (3) shall not apply with respect to any company that becomes a savings and loan holding company pursuant to an application filed after March 31, 1998.

''(B) EXISTING UNITARY S&L 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 before April 1, 1998; or

''(II) became a savings and loan holding company by acquiring ownership or control of the company described in subclause (I); and

''(ii) continues to control the savings associations referred to in clause (i)(I) or the successor to any such savings association.''.

(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''.

The CHAIRMAN. No amendment to that amendment in the nature of a substitute is in order unless printed in part 2 of that report. 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, shall be considered 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 Chair 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 part 2 of House Report 105–531.

AMENDMENT NO. 1 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. 1 printed in part 2 of House Report 105–531 offered by Mr. BLILEY:

[1. CUSTOMER FEE DISCLOSURE]

At the end of title II of the Amendment in the Nature of a Substitute, insert the following new subtitle (and conform the table of contents accordingly):

Subtitle E—Disclosure of Customer Costs of Acquiring Financial Products

SEC. 251. 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, markups, 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.

[2. SEC BACKUP AUTHORITY]

In section 17(i)(6) of the Securities Exchange Act of 1934, as amended by section 231(a) of the Amendment in the Nature of a Substitute, after ''For purposes of this subsection'' insert ''and subsection (j)''.

In section 17 of the Securities Exchange Act of 1934, as amended by section 231(a) of the Amendment in the Nature of a Substitute, redesignate subsection (j) as subsection (k) and before such redesignated subsection (k) insert the following new subsection:

''(j) COMMISSION BACKUP AUTHORITY.—

''(1) AUTHORITY.—The Commission may make inspections of any wholesale financial holding company that—

''(A) controls a wholesale financial institution,

''(B) is not a foreign bank, and

''(C) does not control an insured bank (other than an institution permitted under 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,

and any affiliate of such company, for the purpose of monitoring and enforcing compliance by the wholesale financial holding company with the Federal securities laws.

''(2) LIMITATION.—The Commission shall limit the focus and scope of any inspection under paragraph (1) to those transactions, policies, procedures, or records that are reasonably necessary to monitor and enforce compliance by the wholesale financial holding company or any affiliate with the Federal securities laws.

''(3) DEFERENCE TO EXAMINATIONS.—To the fullest extent possible, the Commission shall use, for the purposes of this subsection, the reports of examinations—

''(A) made by the Board of Governors of the Federal Reserve System of any wholesale financial holding company that is supervised by the Board;

''(B) made by or on behalf of any State regulatory agency responsible for the supervision of an insurance company of any licensed insurance company; and

''(C) made by any Federal or State banking agency of any bank or 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.

''(4) NOTICE.—To the fullest extent possible, the Commission shall notify the appropriate regulatory agency prior to conducting an inspection of a wholesale financial institution or 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.

[3. SAVINGS CLAUSE FOR CFTC]

At the end of subtitle A of title II of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

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.).

[4. CONSUMER PROTECTION]

In subparagraph (A) of section 45(a)(1) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert ''practices'' after ''retail sales''.

In paragraph (1) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike ''(1) No provision'' and insert ''(1) IN GENERAL.—No provision''.

In paragraph (1)(B) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert ''except as provided in paragraph (2),'' after ''(B)''.

In paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike ''(2) Regulations'' and insert '''(2) COORDINATION WITH STATE LAW.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), regulations''.

At the end of paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, add the following new subparagraph:

(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.

[5. LIFELINE BANKING]

In paragraph (1) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike ''or (C)'' and insert ''(C), or (D)''.

In paragraph (4)(D) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike ''or (C)'' and insert ''(C), or (D)''.

[6. STATE SECURITIES AND INSURANCE]

In section 104(a)(1) of the Amendment in the Nature of a Substitute, strike ''restrict'' and insert ''significantly interfere with the ability of''.

In section 104(a)(1) of the Amendment in the Nature of a Substitute, strike ''from being'' and insert ''to be''.

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike ''paragraphs (2) and (3) and subject to section 18(c) of the Securities Act of 1933'' and insert ''paragraphs (2), (3), and (4)''.

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike ''restrict'' and insert ''significantly interfere with the ability of''.

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike ''from engaging,'' and insert ''to engage,''.

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike ''As stated by the United States Supreme Court'' and insert ''In accordance with the decision of the Supreme Court of the United States''.

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike subparagraph (B) and insert the following new subparagraph:

(B) subparagraph (A) shall not create any inference regarding State statutes and regulations governing insurance sales and solicitations other than State statutes and regulations described in subparagraph (A).

In section 104(b) of the Amendment in the Nature of a Substitute, strike paragraph (3) and insert the following new paragraph:

(3) State statutes, regulations, orders, and interpretations or otherwise shall not be preempted under paragraph (1) if they—

(A) relate to, or are enacted or issued for the purpose of regulating, the business of insurance in accordance with the McCarran-Ferguson Act;

(B) apply only to entities that are not insured depository institutions or wholesale financial institutions but which are engaged in the business of insurance;

(C) do not relate to, and are not enacted or issued for the purpose of regulating—

(i) cross-marketing; or

(ii) activities, including cross-marketing, which are subject to paragraph (2);

(D) are applicable to and are applied in the same manner with respect to an affiliate of an insured depository institution or a wholesale financial institution as they are applicable to and are applied to those entities that are not affiliated with an insured depository institution or a wholesale financial institution; and

(E) do not prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage in activities authorized for such institution under this Act or any other provision of Federal law.

In section 104(b) of the Amendment in the Nature of a Substitute, after paragraph (3) insert the following new paragraph:

(4) Paragraphs (1) and (2) shall not be construed as affecting the jurisdiction of the securities commission (or any agency or office performing like functions) of any State, under the laws of such State, 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.

After section 116 of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 117. 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'' shall 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'' shall have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike ''restrict'' and insert ''significantly interfere with the ability of''.

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike ''from becoming'' and insert ''to become''.

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike ''from acquiring'' and insert ''to acquire''.

In paragraph (3) of section 309 of the Amendment in the Nature of a Substitute, strike ''restrict'' and insert ''significantly interfere with''.

[7. BROKERAGE COMMISSIONS]

In section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by section 201 of the Amendment in the Nature of a Substitute, strike clause (ii) (relating to trust activities) and insert the following:

''(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards, and (in either case)—

''(I) is primarily compensated 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, or any combination of such fees, but does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions for trustee or fiduciary customers; and

''(II) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

In section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by section 201 of the Amendment in the Nature of a Substitute, strike clause (iv) (relating to certain stock purchase plans) and insert the following:

''(iv) CERTAIN STOCK PURCHASE PLANS.—

''(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as part of its transfer agency activities, 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 subsidiaries, 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 of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (I).

''(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as part of its transfer agency activities, 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 of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (II).

''(III) ISSUER PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of a plan or program 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 of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (III).

''(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 1998; or

''(bb) otherwise permitted by the Commission.

[8. ANTITRUST]

Strike subtitle E of title I of the Amendment in the Nature of a Substitute and insert the following new subtitle (and conform the table of contents accordingly):

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 1st 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 AMENDMENT.—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 thereof the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) requires notice under section 6 of the Bank Holding Company Act of 1956; and (B) does not require approval under section 3 or 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.

[9. DERIVATIVE INSTRUMENTS]

In section 206(a)(1)(F) of the Amendment in the Nature of a Substitute, strike clauses (ii) and (iii), and insert the following:

(ii) interest rates, except interest rate derivative instruments (I) that 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) that provide for the delivery of one or more securities (other than government securities); or (III) that trade on a national securities exchange; or

(iii) commodities, other rates, indices, or other assets, except derivative instruments (I) that 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) that provide for the delivery of one or more securities (other than government securities); or (III) that trade on a national securities exchange.

In section 206(a)(3) of the Amendment in the Nature of a Substitute, strike ''and'' at the end of subparagraph (B); redesignate subparagraph (C) as subparagraph (D); and after subparagraph (B), insert the following new subparagraph:

(C) the term 'government securities' has the meaning provided in section 3(a)(42) of such Act, and, for purposes of this subsection, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities; and

[10. QUALIFIED INVESTOR]

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, strike ''or'' at the end of clause (viii).

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, strike the period at the end of clause (ix) and insert ''; or''.

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, insert the following new clause after clause (ix):

''(x) the government of any foreign country.

[11. COMMUNITY NEEDS]

At the end of subtitle A of title I of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 109. 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) and the Securities and Exchange Commission, 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 and the Securities and Exchange Commission, 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.

[12. PRIVACY STUDY]

After section 109 (as so added) of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 110. REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.

With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit to the Congress an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, at the conclusion of each stage of such study and a final report at the conclusion of the study.

[13. TECHNICAL CORRECTION]

In section 322(b) of the Amendment in the Nature of a Substitute, strike paragraph (1) and insert the following:

(1) be a nonprofit corporation;

The CHAIRMAN. Is the gentleman from Virginia (Mr. BLILEY) the designee of the gentleman from Iowa (Mr. LEACH)?

Mr. LEACH. Yes, Madam Chairman, he certainly is. With great pride I designate him such.

The CHAIRMAN. Under the rule, the gentleman from Virginia (Mr. BLILEY) does offer the amendment in his own right.

Pursuant to House Resolution 428, the gentleman from Virginia (Mr. BLILEY) and a Member opposed each will control 15 minutes.

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

Mr. BLILEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in strong support of the managers' amendment, which represents a bipartisan, bi-committee agreement that will significantly improve H.R. 10.

I thank my good friend and ranking Member, JOHN DINGELL, and Committee on Banking and Financial Services chairman, the gentleman from Iowa (Mr. LEACH), for their commitment to this legislation. They deserve a great deal of credit for being able to roll up their sleeves and make reasonable compromises. The result is one every Member can be proud to support, for it promotes good public policy for American consumers and American businesses.

The managers' amendment will strengthen investor and consumer protection, clarify regulations for the businesses that have to comply with them, and make regulatory standards more consistent for all parties in the insurance business, including banks. The agreement accomplishes all this without imposing any needless regulatory burdens.

The managers' amendment improves upon investor and consumer protection by providing for SEC regulatory authority over securities activities of wholesale financial institutions. It charges Federal regulators to review the adequacy of the disclosure of fees charged by financial institutions, but requires those regulators to consider the sufficiency of existing regulations when making that determination.

Consumers have a rate to understand the fees they are charged by their financial institutions. This amendment will help ensure they get or continue to get the disclosure they need.

The amendment preserves the authorities of State insurance and securities regulators. The amendment also makes the applicability of the Barnett ''significant interference'' test more uniform throughout the bill to prevent State insurance regulations from unfairly interfering with the insurance activities of banks.

The amendment ensures that banks can enter the brave new world of affiliations and continue to provide and be paid for trust and other securities-related services.

The managers' amendment also reserve the application of Hart-Scott-Rodino, the act that requires certain filings with the Justice Department when big companies merge. The act does not eliminate any exemption that currently applies under that act. Rather, it preserves current law as it would apply once H.R. 10 were signed into law.

The managers' amendment enjoys the strong support of Federal Reserve Board Chairman Greenspan, SEC Chairman Levitt, State securities and insurance regulators and a wide array of financial service providers.

This amendment will benefit every participant in our Nation's financial markets, from businesses to consumers. I urge every Member of this body to support this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. LaFALCE. Madam Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

Mr. LAFALCE. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, the bill before us today is extremely complex and controversial. It would usher in a new era and a new structure for financial services, one in which banking, investment, insurance and other services would be merged, and enormous financial resources could be concentrated in huge financial conglomerates.

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I wish to commend the authors of the manager's amendment, therefore, for offering a number of important changes in H.R. 10 that I believe are essential if this legislation is to serve the needs and interests of consumers and investors.

The amendment would correct a provision relating to consumer protections in bank sales of insurance products that would otherwise have permitted any related State statute or regulation to preempt and nullify the consumer protections in Federal law and regulation.

The manager's amendment clarifies that the stronger Federal or State standard in terms of these specific protections provided to consumers will prevail. We had this in the Committee on Banking and Financial Services product; it is absolutely essential. I am delighted it is in the manager's amendment.

This change relates to specific consumer protection rules for insurance sales which, as I said, were in the original Committee on Banking and Financial Services product. A number of colleagues have related concerns which I share about how the broader preemption language in section 104 will affect and possibly preempt other State consumer statutes. Regrettably, the manager's amendment does not address this issue.

The amendment corrects a serious shortcoming of the bill relating to a provision originally sponsored by the gentlewoman from California (Ms. WATERS) that now requires financial services holding companies to offer and maintain low-cost, basic banking accounts for lower-income consumers, but provides for no enforcement authority. The amendment, the manager's amendment, provides this needed authority to assure ongoing compliance with this important requirement.

The manager's amendment also addresses the problem of potential new and undisclosed charges to consumers in the cross-marketing of financial products by banks. It gives the financial regulators authority to issue new or revised rules that will improve the disclosure of information about fees, commissions and other costs to consumers.

The manager's amendment also makes other important changes to enhance SEC authority, to protect individual investors, to preserve the FTC's

authority to review the antitrust implications of bank mergers and to require expanded studies of consumer privacy issues and CRA compliance by banks.

Madam Speaker, financial modernization presents enormous potential benefits to consumers in terms of new products, greater convenience and lower cost. But if we permit this process to undermine consumer rights and rob their pocketbooks, we have achieved neither reform nor modernization.

The manager's amendment makes a number of needed changes in H.R. 10 that can help assure that the consumer will benefit. It does not go far enough, but what it does do it does in the right direction, and therefore, I would urge adoption of the manager's amendment.

Madam Chairman, I reserve the balance of my time.

Mr. BLILEY. Madam Chairman, I yield 6 minutes to the gentleman from Michigan (Mr. DINGELL) and I ask unanimous consent that he may control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

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

Mr. DINGELL. Madam Chairman, I want to thank my good friend, the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce. I yield myself 3 minutes.

Last month, Madam Chairman, USA Today carried an editorial with a title, ''Protecting Consumers Is a Big Part of Reforming Bank Laws.'' With this amendment, the House will say resoundingly, ''We agree.'' I would note to my colleagues that we have heard no condemnation nor criticism of the amendment.

Consumers Union today submitted a letter urging Members to vote for the manager's amendment, and I will insert that letter, and an explanation of the manager's amendment, following my remarks.

Breaking down the barriers between financial services industries raises serious risks to consumers. USA Today raised some of these.

Rip-off risks. The big promise to consumers from merging banking, securities and insurance firms is one-stop shopping. But that opens consumers up to enormous pressure to absorb all of the services that the banks can give. Clearly, a person badly in need of a loan is going to be extremely responsive to that, hardly a situation which we want. The manager's amendment protects against that.

Uninsured risks is another. Will bank customers be misled about which products are insured and which are not? Bank deposits are FDIC insured; if the bank goes under, taxpayers pony up to cover the deposits, as we had to do on savings and loans. Stock funds and other investment vehicles are not. Consumer groups complain that it will be too easy for banks to woo customers into higher-risk, higher-paying investments with consumers thinking that their assets are protected. Clear guidelines are a must, says USA Today. Our amendment provides them.

Taxpayers' risks. Taxpayers are also facing heightened risks. Banks might be tempted to use insured deposits as leverage to make riskier investments, knowing that if the investments turn sour, taxpayers will bail them out. That is what happened to the savings and loans in the bailouts of the late 1980s. It cost taxpayers hundreds of billions of dollars.

These are things against which the manager's amendment protects. The manager's amendment will also protect customers and consumers with strong protections against risks and abuses as banks move into other financial fields.

Madam Chairman, I would urge my colleagues to support this amendment, and at this time I will include for the RECORD the previously referred to materials.

PROTECTING CONSUMERS IS BIG PART OF REFORMING BANK LAWS

For many, many years, overhauling the banking industry has been one of Congress' favorite pastimes. Just promise to change the nation's Depression-era banking laws, and a host of competing industries starts flooding campaign coffers with cash in an effort to protest their interests. The trick for lawmakers was to not actually pass anything.

This week's announcement of an $83 billion merger of Citicorp and Travelers Group could bring that game to a halt. The marriage will likely prompt other banks to start courting insurance and securities firms. All of which will put intense pressure on lawmakers to get off the dime and kill the 1933 law that sought to minimize risks to depositors by preventing banks from underwriting securities or insurance products. But breaking down the financial service industry's firewalls also raises serious risks to consumers.

Rip-off risks. The big promise to consumers from merging banking, securities and insurance firms is one-stop shopping. But will those looking for a mortgage be pressured into buying other services from the lender? Or will banks offer package deals that seem appealing but are far more expensive than if each were bought separately? Some consumer-protection ground rules are needed here.

Uninsured risks. Will bank customers be misled about which products are insured and which aren't? Bank deposits are FDIC insured—if the bank goes under, taxpayers pony up to cover the deposits. Stock funds and other investment vehicles aren't. Consumer groups complain that it will be too easy for banks to woo customers to riskier, higher-paying investments, with customers thinking their assets are protected. Clear guidelines are a must.

Taxpayer risks. Taxpayers also face heightened risks. Banks might be tempted to use insured deposits as leverage to make riskier investments, knowing that if the investments turn sour, taxpayers will bail them out. That's what happened in the S&L bailout of the late '80s. It cost taxpayers hundreds of billions of dollars. Firms also might be tempted to loan that money to struggling subsidiaries—again boosting taxpayer risk. Strong safeguards against this ''moral hazard'' problem have to be in place.

It is nevertheless clear that banking laws designed for an economy 65 years ago don't work as well now. The goal of the 1933 Glass-Steagall Act was to keep banks separate from insurance and securities firms as a way to protect banks.

But the law has weakened banks. They've lost ground at home and abroad to more flexible foreign financial firms.

Responding to this concern, the Federal Reserve Board over the past decade used its authority as regulatory of bank holding companies to chip away slowly at the Glass-Steagall wall, giving banks more leeway to set up securities subsidiaries. The Fed has gone about as far as it can under the law. Congress has to tear down the rest of the wall.

As lawmakers remove obstacles to the brave new world of finance, they must take care not to leave the consumer behind.

CONSUMERS UNION,
Washington, DC, May 13, 1998.

VOTE FOR PRO-CONSUMER AMENDMENTS TO H.R. 10

DEAR REPRESENTATIVE: We are writing to urge you to vote for amendments to H.R. 10 that make substantial improvements for consumers. If these amendments are not adopted, we urge you to oppose the bill. The following amendments will help make the bill better for consumers.

Restoration of Consumer Protections, Basic Banking Enforcement and Fee Disclosure—Bliley-Dingell-Leach Amendment: H.R. 10 includes a package of consumer safeguards against deceptive and misleading bank insurance sales practices. Section 308(g)(2) would undo these safeguards by allowing states to preempt them with laws that are ''contrary or inconsistent'' to the protections provided. The amendment would fix the standard to conform with other consumer banking laws, ensuring state laws that provide greater protection than the federal regulations would not be preempted.

The amendment also mandates ongoing commonplace with H.R. 10's requirement that all depository institutions affiliated with financial services holding companies provide low-cost, basic banking accounts. In addition, the amendment requires improved fee and commission disclosures to enhance comparison shopping; deletes sections relating to antitrust authority that would limit the ability of regulators to assess certain competition problems associated with mergers; preserves the authority of antitrust regulators; and closes further certain loopholes in the securities laws as they apply to banks. We urge you to vote for the amendment.

We strongly urge you to oppose the Baker amendment that would rollback consumer safeguards for retail sales activities and eliminate Community Reinvestment Act (CRA) requirements for institutions with less than $100 million in assets.

Elimination of Banking and Consumer Provisions—Leach-Bereuter-Campbell Amendment: The longstanding barrier between banking and commerce is still needed to prevent our taxpayer-backed banking system from being exposed to the kinds of risks that have plagued Asian neighbors. H.R. 10 currently allows holding companies to derive 5% of their revenues from commercial activities, with some dollar limits. Some argue that this is small enough to avoid risks but many large firms may still come under that limit and the commercial firm can grow once in financial services holding company. The amendment would delete the 5% basket. On the other hand, we urge you to oppose the Roukema-Vento-Baker-McCollum-LaFalce amendment that would increase the basket to 10% or, in some cases, 15% and thereby create more risks to taxpayers.

Even with the adoption of these pro-consumer amendments that substantially improve the bill, we are extremely concerned about language that would place at risk state consumer laws that are critical in this increasingly complicated marketplace. Section 104(b)(1) would extend a sweeping preemption standard to any activity authorized not only under H.R. 10 but also under ''any other provision of Federal law.'' Although this section was designed to address regulatory turf disagreements between insurance, securities and banking interests, this language places at risk a host of state consumer laws that protect consumers from excessive fees and otherwise protect consumers and has a chilling effect on state legislators. The Kucinich amendment, that would have addressed this problem, was not ruled in order. Because consumers are still at risk under this bill, Consumers Union cannot support the bill.

Sincerely,

MARY GRIFFIN.

EXPLANATION OF MANAGER'S AMENDMENT

The Bliley-Dingell-Leach manager's amendment consists in the main of the investor and consumer protections originally contained in the Dingell amendment. It addresses concerns raised by the Federal and State regulators and consumer groups, and incorporates the historical positions of the Commerce Committee on matters within its securities and insurance jurisdiction under the rules of the House. This statement is offered as clarification of the meaning of those provisions and shall constitute the legislative history. I am pleased to have been able to contribute to this important effort.

1. Customer Fee Disclosure. Section 251 directs the Federal financial regulators to review the adequacy of existing disclosures of fees, commissions, markups, and other costs, and, using existing authorities, to consider improving their accuracy, simplicity, completeness, and consistency. It is the intent of this provision that the regulators, prior to adopting any new rules or rule amendments pursuant to section 251, would first consult with each other, and with the appropriate State financial regulators, in determining whether any new rules or rule amendments are appropriate, necessary, and in the public interest. It is the intent of Congress that the Securities and Exchange Commission (SEC) should take the lead in setting disclosure standards with respect to securities, and that the Federal bank regulators should apply the same standards as those adopted by the SEC with respect to securities sold by banks. It is the intent of Congress that disclosure for consumers and investors be improved so that they can make informed decisions. The Congress intends to give the financial regulators flexibility to achieve this goal through any effective means, including increasing the disclosure of prices for debt securities.

2. SEC Backup Authority. Section 231(a) adds a new subsection (j) to section 17 of the Securities Exchange Act to give the SEC explicit securities inspection backup authority over wholesale financial holding companies and other bank affiliates for the purpose of monitoring and enforcing compliance with the Federal securities laws. In the same manner as bank regulators are required to rely on the SEC's oversight before inspecting registered broker-dealer affiliates of banks, the SEC is required, to the fullest extent possible, to defer to the reports of examinations of banks made by bank regulators and of insurance companies made by insurance regulators and to provide notice to the appropriate regulatory agency. Reasonable limits are imposed on the scope of any inspection under this subsection. It is the intent of Congress that this Act maintain the SEC's ability to enforce the Federal securities laws vigorously for the protection of investors.

3. Saving Clause For CFTC: By letter dated March 19, 1998, the Commodity Futures Trading Commission (CFTC) complained that the bill designates many CFTC-regulated products as ''traditional banking products,'' thereby creating a misconception that banks dealing in certain defined derivatives might need only comply with Federal banking laws and not the Commodity Exchange Act (CEA). This is not the intent of the Congress. This bill and this amendment do not address the scope of the CFTC's jurisdiction under the CEA. Accordingly, section 210 explicitly preserves the current extent of the authority of the CFTC under the CEA.

4. Consumer Protection. Section 308 of the bill adds a new section 45 of the Federal Deposit Insurance Act directing the Federal banking agencies to prescribe consumer protection regulations for insurance sales by insured depository institutions and wholesale financial institutions. The regulations cover retail sales practices, disclosures and advertising (especially with respect to uninsured status, investment risk, and coercion), prohibition on misrepresentations and domestic violence discrimination, separation of some activities, and the establishment of a consumer grievance mechanism. The amendment responds to concerns of consumer groups and banks with the effect of this provision on other laws. It provides that the regulations prescribed under section 45 will preempt State law only if the Federal Reserve, Comptroller of the Currency, and FDIC jointly determine that the joint Federal regulations provide consumers with greater protection. It is not the intention of Congress that this preemption provision shall override or be read in a manner inconsistent with section 104 of this Act.

5. Lifeline Banking. Section 103 of the bill adds new section 6 to the Bank Holding Company Act. Section 6(b) establishes eligibility criteria for forming a financial holding company and engaging in its expanded activities. One of the requirements is that the subsidiary insured depository institutions of such company offer and maintain low-cost basic banking accounts. The amendment provides for ongoing compliance as is the case with the other requirements. The provision does not affect banks who choose not to form financial holding companies.

6. State Securities and Insurance. Section 104 of the bill would preempt all State laws, including State securities law and State insurance solvency laws, not specifically preserved with regard to affiliations and activities authorized by this Act or any other provision of Federal law. The amendment adds a new paragraph (4) to section 104(b) to preserve State regulation of securities. State regulation of insurance underwriting is preserved under a new paragraph (3) that sets forth five tests that must be met. The amendment makes clear that the U.S. Supreme Court Barnett Bank decision's ''prevent or significantly interfere'' standard will be applicable to both affiliations and activities with respect to allowable State regulation of bank insurance sales. Federal banking and State insurance regulators are directed to share information (consistent with applicable confidentiality and other privileges) regarding financial holding companies that own insurance companies, and Federal banking agencies shall consult with the appropriate State insurance regulator before making any determination regarding initial or continued affiliations with insurance companies. It is the intent of Congress that these regulators cooperate in order to enhance the safety and soundness of the financial system and the protection of consumers.

7. Brokerage Commission. Title II of the bill requires the functional regulation of bank securities activities. Subtitle A amends the Securities Exchange Act of 1934 to eliminate the outdated blanket exceptions for banks from the definitions of ''broker'' and ''dealer.'' The bill preserves specific exceptions for some existing bank securities activities based on the limited nature of those activities. In general, the fifteen exceptions reflect our intent to exclude certain existing banking activities while ensuring that activities that require securities regulation are subject to the securities laws. These exceptions are designed to assure that activities that most need to be subject to securities regulation in an era of financial modernization and increasing competition do not escape that regulation.

It is the intent of Congress that banks that act like brokerage firms must be regulated as brokerage firms unless these activities are limited in nature, narrowly constrained, and subject to limits to preclude the concerns that require broker-dealer oversight. To that end, the amendment makes clear that a bank will not be considered a ''broker'' only when it effects transactions in a trustee capacity, or in a fiduciary capacity in its trust department, subject to key limitations, or when, acting in its transfer agent capacity, it conducts brokerage transactions for: (1) employee benefit plans, (2) dividend reinvestment plans, and (3) open enrollment plans, as long as the bank does not solicit transactions, or provide investment advice concerning the purchase and sale of securities, or receive brokerage commissions exceeding the bank's execution costs. To take advantage of this exception, these excepted bank activities must be regularly examined by bank examiners for compliance with fiduciary principles and standards. It is the intent of Congress that such examinations be specifically focused on these activities and rigorous in nature. The amendment also spells out that banks that use these exceptions may be primarily compensated by an administration or annual fee, a percentage of assets under management, a flat or capped per order processing fee, or any combination of such fees. Such fees must not be structured in such a way that they give rise to the sales incentives inherent in brokerage commissions.

8. Antitrust. The bill substantially streamlines antitrust review of bank acquisitions and mergers under the Federal Reserve. The amendment strikes that language and replaces it with language preserving the authority of the appropriate antitrust regulators, the Attorney General and the Federal Trade Commission. It provides for interagency data sharing to facilitate antitrust reviews and requires a GAO report on market concentration in the financial services industry and its impact on consumers. It is the intent of Congress that the ongoing consolidation and merger activity in the financial services industry undergo complete and rigorous review in order to preserve competition and protect consumers.

9. Derivative Instruments. The bill preserves the ability of the SEC to determine what is a ''security,'' and when new bank products are ''securities,'' by providing a definition of ''traditional banking product'' as a stand-alone statute—not in the Federal securities laws or in the banking laws. The definition includes such things as deposit accounts, letters of credit, credit card debit accounts, certain loan participations, and certain derivative instruments that traditionally have not been regulated as securities. If banks sell products within the scope of this definition, they are not required to register as a broker or a dealer.

Derivatives involving or relating to foreign currencies, interest rates, commodities, other rates, indices or other assets, except instruments that are (1) based on a security including a group or index of securities, (2) that provide for the delivery of one or more securities, or (3) that trade on a national securities exchange, are defined as traditional banking products. If a derivative other than an interest rate swap or a foreign currency swap is a security, it would not qualify as a traditional banking product unless it was based on a government security, commercial paper, banker's acceptance or commercial bill or a group or index of one of more of these products. The amendment makes technical and clarifying changes to this provision to ensure that the SEC maintains jurisdiction over derivatives that are securities.

The bill includes a new provision that establishes a process by which the SEC shall decide whether banks that sell ''new banking products'' that are securities must register with the SEC as brokers, dealers, or both. Specifically, the SEC must engage in a rulemaking proceeding and must determine (1) that the new product is a security and (2) that imposing a registration requirement on a bank to sell the new product is necessary or appropriate in the public interest and for the protection of investors. Under this provision, during the rulemaking process, the SEC is also required to consult with and consider the views of the appropriate banking agencies concerning the proposed rules and the impact of those rules on the banking industry.

10. Qualified Investors. The amendment expands the bill's definition of ''qualified investor'' to include the governments of foreign countries.

11. Community Needs. The amendment responds to the concerns of consumer and community groups about the impact of this bill and the recent megamergers on the cost and availability of financial services to communities and persons of modest means. The amendment requires the Treasury Department, in consultation with the Federal banking regulators and the SEC, to study the impact of the changes affected by this Act on Community Reinvestment Act obligations and performance, and to submit a report to Congress with any appropriate recommendations based on the results of that study.

12. Privacy Study. The amendment requires the Federal Trade Commission to submit to Congress an interim report on its ongoing study of consumer privacy issues together with recommendations for legislative and administrative action. This responds to growing concerns about the use and sharing of confidential customer information for cross-marketing and other purposes.

Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Chairman, on Court TV we always hear ''order in the court'' as one of the calling cries of that popular show. I think this manager's amendment brings order to the financial services structure that is so much needed by the consumers.

It particularly regulates and protects the consumers as they come into the banking institution needing a variety of services, maybe needing only one and winding up buying or going away with two or three, because it is attractive to come in and buy a variety of services. I think there is a great need for that. It certainly protects and regulates the whole question of dealing with what is insured and what is not insured, and provides that kind of security for the consumer that uses these services. It brings a sense of balance between our insurance entities and, as well, our banking entities; and I would say, Madam Chairman, that it helps us understand this merging market and brings protection there as well.

I simply say that we are going in the right direction, but I would also argue very vigorously against the Baker amendment that seeks to eliminate the Community Reinvestment Act. We can protect small banks, but we need to protect small business owners and minority communities who have yet to participate in the financial structure of this Nation.

The Community Reinvestment Act has for long years provided investment in the inner cities, rebuilding homes and businesses. How dare we go to move to eliminate an act that has just begun? We may need some tinkering, but we do not need any elimination.

I stand on behalf of the women business owners in inner-city communities, minorities, Hispanics, African Americans and Asians who are seeking to rebuild their communities, the innovative American community who is just beginning to use the Community Reinvestment Act and having banking institutions that are supportive.

The Baker amendment is wrong-directed in eliminating the Community Reinvestment Act. The manager's amendment does attack the problem from a consumer's perspective and brings the right kind of balancing to this industry. I thank the ranking member, and as well the chairman of this committee for this legislation.

Mr. BLILEY. Madam Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, I thank my distinguished friend for yielding to me.

I rise also in support of this manager's amendment. The amendment before us was negotiated on a bipartisan, multiple-committee basis. It contains changes requested by the Committee on Agriculture, the Committee on the Judiciary, and the Committee on Ways and Means. The most significant changes are the insurance provisions and the provisions relating to antitrust.

The revisions contained in the amendment relating to the insurance provisions are intended to help strike an appropriate balance between the need of the States to regulate insurance activities in banks and the ability of national banks to engage in insurance activities without being subject to State laws that prevent or significantly interfere with that activity.

This House has been a firm supporter of States' rights and, in particular, leaving the regulation of insurance to the States. However, this House also believes that States should not regulate the manner which has, either directly or indirectly, the effect of preventing or significantly interfering with the ability of a bank to engage in activities that it is properly authorized to do by Federal law. The manager's amendment addresses this issue by clarifying these relationships.

Second, the manager's amendment at my request strengthens the antitrust laws in a number of ways. It restores the Federal Reserve's ability to consider anticompetitive issues in reviewing the acquisition of banks; it bolsters the Federal Trade Commission's antitrust authority, and it assures that financial affiliations that will be permissible under this bill will receive appropriate antitrust review by the Department of Justice and the FTC.

Other provisions of the manager's amendment incorporate amendments that were filed by the gentleman from Michigan (Mr. DINGELL), the gentleman from Massachusetts (Mr. MARKEY), the gentleman from New York (Mr. LAFALCE), and the gentleman from Minnesota (Mr. VENTO) last month and during the most recent consideration of the bill.

Finally, the manager's amendment includes a number of subtleties as well as a number of studies and consumer provisions. I believe it is well-balanced and thoughtful, protects the consumer, as well as establishes a clear guideline for certain competition in financial services. I think it deserves the support of this body.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I intend to enter into a colloquy with the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services.

Madam Chairman, I would ask the gentleman to clarify that it is our mutual understanding that the soon-to-be created electronic accounts, ETA accounts, would be one way to satisfy the low-cost, basic banking provisions in the bill and the requirement that banks help meet the credit needs of local communities under the Community Reinvestment Act. The ETA accounts are those that are required to be established for Americans to receive Federal benefits or payments by the Debt Collection Improvement Act of 1996 (Chapter 10, Public Law 104–134).

Mr. LEACH. Madam Chairman will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, that is precisely my understanding, and I would like to compliment the gentleman for his work in this field as well as for his articulation of a very common-sense approach.

Mr. VENTO. Madam Chairman, reclaiming my time, I want to thank the

chairman for his clarification, and I would urge Members to support this amendment, and I intend to speak on it further myself.

Mr. BLILEY. Madam Chairman, could I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY), has 4 minutes, the gentleman from Michigan (Mr. DINGELL) has 3 minutes, and the gentleman from New York (Mr. LAFALCE) has 8½ minutes.

Mr. BLILEY. Madam Chairman, do I have the right to close?

The CHAIRMAN. The gentleman is correct.

Mr. BLILEY. Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

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

Mr. BENTSEN. Madam Chairman, this is an amendment on which I am in profound agreement with my colleague from Michigan (Mr. DINGELL) and the two managers of the bill, the gentleman from Virginia (Mr. BLILEY), and the gentleman from Iowa (Mr. LEACH).

When H.R. 10 left the Committee on Banking and Financial Services last year, it included an amendment that I and our colleague, the gentleman from North Carolina (Mr. WATT), had drafted which would provide for securities sales in banks to be under the auspices of the National Association of Security Dealers. I think that the idea of increasing SEC regulatory oversight of Bank Securities sales that is in the manager's amendment is a step in the right direction. I commend the gentleman for offering it.

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I think we should have functional regulation, and I think we have to have market modernization, but I think we also need to ensure that consumers are protected, and that the playing field is equal between both in-bank and out-of-bank securities sales. This amendment moves in that direction.

I would encourage my colleagues to vote for the manager's amendment. We obviously have profound disagreements on other issues, but this is, I think, a good amendment. As the gentleman mentioned the issue of proper regulation of bank mutual fund sales has come up, and we know that the Federal bank regulators have had difficulties in their ability to properly regulate the sales of these instruments and protect investors. This amendment should go a long way toward correcting this matter.

I appreciate the gentleman for offering it, and I intend to support it.

Mr. LAFALCE. Madam Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I rise in support of this manager's amendment, which include the Vento amendment antitrust provisions with respect to the required ongoing GAO annual reports, the different cultures that exist within the financial entities, insurance, securities, and banking. I am very concerned what this may do in terms of venture capital and the other capacities.

The consumer protection provisions with regard to this, I think there are some concerns that banks have even with this manager's amendment concerning what happens with insurance sales. Obviously, the banks are not satisfied even with the LaFalce-Vento amendment, but I think we are willing to accept that and move forward; such provisions represent progress.

I appreciate the lifeline provisions and note the CRA study provisions and question the focus. What is conspicuously absent from this, of course, is the good work in terms of extending CRA that was actually initiated in a previous March 30 Dingell-LaFalce amendment.

I would also like to comment on SEC enforcement, and the National Association of Securities Dealers, enforcement they do very important regulatory work. My colleague from the Committee on Banking and Financial Services just pointed out the important work in terms of having functional regulation.

In 1996, as an example, the Securities and Exchange Commission, under its authority, actually imposed over $325 million worth of assessments reflected in terms of illegal profits, and $67 million worth of civil penalties. The S.E.C. in 1996 noted 180 civil actions, 239 administrative proceedings and 32 civil and criminal contempt proceedings.

It has been pointed out repeatedly here that Nations Securities, NationsBank's Nations Securities, has had a penalty most recently reported in the paper derived from a 1994 incident. Incidentally, it was not just Nations Securities, it was Dean Witter and Nation's Bank who jointly owned Nation's Securities. Dean Witter, of course, is a securities firm, but other firms have also had some problems. It was, of course, functional regulation that, in that instance, actually penalized Nations Securities. That is not changed in this measure or in the LaFalce-Vento amendment.

But other firms also have had some very significant fines in 1996, and I realize it is very important we see this type of discipline, this regulatory enforcement. A securities firm Lazard along with Merrill Lynch had a $10 million fine in 1996. PaineWebber was fined in a number of instances, as were many others. I could go through the entire list and point out the violations of securities firms—mistakes have been made and penalties exacted.

Suffice it to say that the Securities and Exchange Commission is doing its job. I commend them for that. I commend them for the work they did with Nations Bank and Dean Witter, the owners of Nations Securities. It is interesting to note that, but functional regulation would not change under this bill, under the operating subsidiary, any different from what actually happened in the recent penalty that is being highlighted by my colleagues. It is exactly this type of rigorous regulation and rigorous exercise by the regulators that will prevent the type of abuses that occurred with the S&L crisis. Without rigorous regulation no corporate structure will suffice. The law must provide for enforcement and a willing watch dog.

We worked mightily in 1989 and 1991 to pass new regulations on banks and S&Ls to prevent any repeat of that type of crisis. We hope that law works. We have not seen the ups and downs in the economy to demonstrate that it will work, I will admit freely, but I think we have some pretty sound law in place to deal with that, forged in the heat of a red hot furnace catastrophe, the S&L crisis.

I think what is proved or demonstrated by the reports that we have had here with regard to Nations Bank/Dean Witter role with NationsSecurities, is that the operating subsidiary, when functionally regulated, can be adequately controlled and penalized, just as we control securities firms when indeed they do run afoul of the law, as we did in 1996 with $325 million worth payback and $67 million in fines.

Mr. DINGELL. Madam Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. MANTON), the ranking member of the subcommittee.

Mr. MANTON. Madam Chairman, I rise in strong support of the manager's amendment. By voting for the manager's amendment, we ensure the most important goal of this legislation is realized.

This amendment will make certain that consumers and investors receive clear and meaningful fee disclosure when buying products from a financial institution. Simply stated, this means that when someone buys a product from a bank, they will be provided with information on all of the costs associated with that purchase.

This amendment also considers how the Community Reinvestment Act should be incorporated under this new holding company structure, where financial holding companies or their subsidiaries can potentially hold the assets of a bank.

This amendment requires that a study be conducted on whether adequate services are being provided to low- and moderate-income neighborhoods. Because the new holding company regime will allow for greater flexibility in how financial institutions are structured and financed, how CRA will be affected should certainly be examined by the regulators that oversee them.

These are just a few of the consumer and investors' protections built into the manager's amendment. I believe H.R. 10 is improved significantly by

this amendment, and I urge all of my colleagues to support it.

Mr. DINGELL. Madam Chairman, I yield 1 minute to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I am in strong support of the manager's amendment, primarily because of the numerous consumer protection provisions that it contains. I am particularly concerned about preservation of the community services that are intended by the Community Reinvestment Act.

The Community Reinvestment Act is vitally important to many, many areas in this country. In my district in Denver, for example, the Community Reinvestment Act has been used to revitalize our local urban economy.

I was concerned in the underlying bill that because of the structuring, that the Community Reinvestment Act would be undermined. I retain those concerns, but I feel that the 2-year review period contained in the manager's amendment will give us ample time to see the effect of H.R. 10 on the CRA.

I hope and I urge that Congress, at the end of this 2-year period, will take a strong look as if the CRA is being preserved and expanded, and take quick legislative action if it is not, so our urban communities, our small women- and minority-owned businesses, can be preserved, while at the same time we have financial expansion and modernization.

Mr. DINGELL. Madam Chairman, I yield 1 minute to my distinguished friend, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, I thank the gentleman for yielding me the time, and I want to congratulate him and the gentleman from Virginia (Mr. BLILEY) and the gentleman from New York (Mr. LAFALCE), and all those that worked to put together this bipartisan manager's amendment, because it really does help to close up a lot of the problem areas that had developed in the drafting of the legislation with regard to how investors and depositors were going to be protected in the legislation.

Specifically, I speak here as the ranking Democrat on the Subcommittee on Telecommunications, Trade, and Consumer Protection. We had real questions about whether or not the Federal Trade Commission was going to have the authority to be able to follow these antitrust questions, as banks affiliated with insurance or with financial institutions, securities institutions, or even with nonfinancial institutions.

In this amendment, we clarify that the Federal Trade Commission has the antitrust authority to be able to look at these transactions, and that the Hart-Scott-Rodino antitrust review is retained in a way that covers these bank mergers with financial and nonfinancial institutions. I thank the gentleman for making that possible.

The CHAIRMAN. All time of the gentleman from Michigan (Mr. DINGELL) has expired.

The gentleman from New York (Mr. LAFALCE) has 4 minutes remaining.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am delighted that everyone who has spoken has spoken in support of this manager's amendment, because the objectives that it would effectuate are certainly in the public interest.

There are still, however, even after we pass this manager's amendment, a number of deficiencies. One of them has not been mentioned very much, and I would like to address that now. That is the issue of the redomestication of mutual insurance companies. I am very concerned about that.

It is my understanding that there are approximately 70 million Americans who have ownership in mutual insurance companies. It is my understanding that this bill has a provision within it that would allow State law to preempt Federal law, not when the State law gives greater consumer protection, but when the State law gives lesser consumer protection. Further, I understand that this State law then could become the operative national law for these mutual insurance holding companies.

This is very worrisome to me, because there are a good many States that want to protect the rights of individuals who own a stake in mutual insurance companies. This Federal legislation will permit certain State legislatures to enact legislation which would then entice the transfer of the corporate headquarters to their State, and enable them to operate on a national basis on the basis of the lowest common denominator. The manager's amendment does not deal with this issue.

The other big provision, of course, is the Community Reinvestment Act. This is very fundamental. The manager's amendment does nothing about the mandate in the bill that if they want to engage in new, innovative products and services, they must, they must move their activities into an affiliate that is not subject to the Community Reinvestment Act; that is, if they want to remain a national bank.

So they have the option of either becoming a financial services holding company, which most small national banks would not want to do, or they have the option of converting from the national bank charter to a State bank charter, because most State banks would permit them to conduct these activities in operating subsidiaries, where the regulators have said that you have as much safety and soundness as you would in the affiliate. So it would permit the undermining of the Community Reinvestment Act, the undermining of the national bank system.

The manager's amendment does not deal with that. So vote yes on the manager's amendment, but that is not enough to turn a bad bill into a good bill.

Mr. BLILEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this has been a good debate. It is now coming to a close, and we will shortly have a vote. This amendment is a good amendment. It represents the House at its best: two committees, two parties working side by side in the interests of the Nation. That is the way it should be more often. Sadly, unfortunately, it is not. But this is a good amendment. We are going to have a long day, so let us have the question.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BLILEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 407, noes 11, not voting 14, as follows:

[Roll No. 143]

AYES—407

Abercrombie	Campbell	Dunn
Ackerman	Canady	Edwards
Aderholt	Cannon	Ehlers
Allen	Capps	Ehrlich
Andrews	Cardin	Emerson
Archer	Carson	Engel
Armey	Castle	English
Baesler	Chabot	Ensign
Baker	Chambliss	Eshoo
Baldacci	Chenoweth	Etheridge
Ballenger	Clayton	Evans
Barcia	Clement	Everett
Barr	Clyburn	Ewing
Barrett (NE)	Coble	Farr
Barrett (WI)	Coburn	Fawell
Bartlett	Collins	Fazio
Barton	Combest	Filner
Bass	Condit	Foley
Becerra	Conyers	Forbes
Bentsen	Cook	Ford
Bereuter	Cooksey	Fossella
Berman	Costello	Fowler
Berry	Cox	Fox
Bilbray	Coyne	Frank (MA)
Bilirakis	Cramer	Franks (NJ)
Bishop	Crane	Frelinghuysen
Blagojevich	Crapo	Frost
Bliley	Cubin	Furse
Blumenauer	Cummings	Gallegly
Blunt	Cunningham	Ganske
Boehlert	Danner	Gejdenson
Boehner	Davis (FL)	Gekas
Bonilla	Davis (IL)	Gephardt
Bonior	Davis (VA)	Gillmor
Bono	Deal	Gilman
Borski	DeFazio	Goodlatte
Boswell	DeGette	Goodling
Boucher	Delahunt	Gordon
Boyd	DeLauro	Goss
Brady	DeLay	Graham
Brown (CA)	Deutsch	Granger
Brown (FL)	Diaz-Balart	Green
Brown (OH)	Dickey	Greenwood
Bryant	Dicks	Gutierrez
Bunning	Dingell	Gutknecht
Burr	Dixon	Hall (OH)
Burton	Doggett	Hall (TX)
Buyer	Dooley	Hamilton
Callahan	Doolittle	Hansen
Calvert	Doyle	Hastert
Camp	Duncan	Hastings (FL)

Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—11

Bachus
Dreier
Goode
Johnson, Sam
LaHood
McCollum
Riley
Scarborough
Schaffer, Bob
Thune
Tiahrt

NOT VOTING—14

Bateman
Christensen
Clay
Fattah
Gibbons
Gilchrest
Gonzalez
Harman
Hefner
Hilliard
Kilpatrick
Radanovich
Skaggs
White

□ 1503

Mr. BACHUS changed his vote from ''aye'' to ''no.''

Mr. HEFLEY and Mr. BOSWELL changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. DICKEY). It is now in order to consider amendment No. 2 printed in part 2 of House Report 105–531.

AMENDMENT NO. 2 OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2, Amendment No. 2, printed in House Report 105–531 offered by Mr. LAFALCE:

[1. INSURANCE]

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike ''As stated by the United States Supreme Court'' and insert ''In accordance with the decision of the Supreme Court of the United States''.

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike ''to engage'' each place such term appears and insert '', or any subsidiary or other affiliate thereof, from engaging''.

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike subparagraph (B) and insert the following new subparagraph:

(B) subparagraph (A) shall not apply after the end of the 5-year period beginning on the date of the enactment of this Act.

In section 104(b)(3) of the Amendment in the Nature of a Substitute, insert ''not relating to crossmarketing activities subject to paragraph (2)'' after ''orders, and interpretations''.

In section 104(b)(3) of the Amendment in the Nature of a Substitute, insert ''to the extent that such statutes, regulations, orders, and interpretations do not have a disparate impact on insurance underwriters affiliated with an insured depository institution or wholesale financial institution'' before the period at the end.

[2. OP-SUBS]

Strike the heading for subtitle C of title I of the Amendment in the Nature of a Substitute and insert the following new heading:

Subtitle C—Subsidiaries of Insured Depository Institutions

Strike section 121 of the Amendment in the Nature of a Substitute and insert the following new sections (and redesignate subsequent sections and amend the table of contents accordingly):

SEC. 121. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.

(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. FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.

''(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

''(1) IN GENERAL.—A subsidiary of a national bank may engage in an activity that is not permissible for a national bank to engage in directly, but only if—

''(A) the activity is a financial activity (as defined in paragraph (4));

''(B) the national bank is well capitalized, well managed, and achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of the bank;

''(C) all depository institution affiliates of such national bank are well capitalized, well managed, and have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution; and

''(D) the bank has received the approval of the Comptroller of the Currency.

''(2) NO EFFECT ON EDGE ACT OR AGREEMENT CORPORATIONS.—Paragraph (1) shall not apply with respect to any subsidiary which is a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act.

''(3) OTHER SUBSIDIARIES PROHIBITED.—A national bank may not control any subsidiary other than a subsidiary—

''(A) which engages solely in activities that are permissible for a national bank to engage in directly or are authorized under paragraph (1); or

''(B) which a national bank may control pursuant to section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Act that expressly by its terms authorizes national banks to control subsidiaries.

''(4) FINANCIAL ACTIVITY DEFINED.—For purposes of this section and subject to paragraph (5), the term 'financial activity' means any 1 or more of the following:

''(A) Receiving money subject to a deposit or other repayment obligation.

''(B) Lending, exchanging, transferring, investing, or safeguarding money or other financial assets.

''(C) Providing any device or other instrumentality for transferring money or other financial assets.

''(D) Acting as agent or broker in the placement of annuities contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death.

''(E) Providing financial, investment, or economic advisory or information services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

''(F) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

''(G) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities that the financial subsidiary 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 a securities affiliate or an affiliate thereof as part of a bona fide underwriting or merchant 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 financial subsidiary 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) Underwriting, dealing in, or making a market in securities.

''(J) Engaging in any activity that was, by regulation or order, permissible for a bank holding company pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 (as in effect on the day before the date of enactment of the Financial Services Act of 1998).

''(K) 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 of Governors of the Federal Reserve System determined, under regulations issued pursuant to section 4(c)(13) of the Bank Holding Company Act of 1956 (as in effect on the day before the date of enactment of the Financial Services Act of 1998) to be usual in connection with the transaction of banking or other financial operations abroad;

''(L) Owning shares of a company to the extent permissible under section 4(c)(7) of the Bank Holding Company Act of 1956 (as in effect on the day before the date of enactment of the Financial Services Act of 1998).

''(M) Engaging in any activity that the Comptroller of the Currency determines by regulation or order is the functional equivalent of any activity described in 1 or more of subparagraphs (A) through (K).

''(N) Engaging in any activity that the Comptroller of the Currency determines by regulation or order to be financial, or related to a financial activity, having taken into account—

''(i) the purposes of this title and the Financial Services Act of 1998;

''(ii) changes or reasonably expected changes in the market in which bank subsidiaries compete;

''(iii) changes or reasonable expected changes in the technology delivering financial services; and

''(iv) 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.

''(5) OTHER DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which—

''(i) is a subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

''(ii) is engaged in a financial activity pursuant to paragraph (1) that is not a permissible activity for a national bank to engage in directly.

''(B) SUBSIDIARY.—The term 'subsidiary' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

''(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 bank that has been examined, unless otherwise determined in writing by the Comptroller, the achievement of—

''(I) 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 bank; and

''(II) at least a rating of 2 for management, if that rating is given; or

''(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

''(6) INSURANCE UNDERWRITING AND DIRECT INVESTMENT.—Except as provided in title III of the Financial Services Act of 1998, no subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act) may underwrite noncredit-related insurance or engage in real estate investment or development activities (except to the extent a national bank is specifically authorized by statute to engage in any such activity directly).

''(7) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 12-month period preceding the submission of an application to acquire a financial subsidiary and any depository institution which becomes so affiliated after the approval of such application may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

''(A) the national bank has submitted an affirmative plan to the Comptroller of the Currency to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, during the most next examination of the institution; and

''(B) the plan has been accepted by the Comptroller.

''(b) CAPITAL DEDUCTION REQUIRED.—

''(1) IN GENERAL.—In determining compliance with applicable capital standards—

''(A) the amount of a national bank's equity investment in a financial subsidiary shall be deducted from the national bank's assets and tangible equity; and

''(B) the financial subsidiary's assets and liabilities shall not be consolidated with those of the national bank.

''(2) REGULATIONS REQUIRED.—The Comptroller shall prescribe regulations implementing this subsection.

''(c) SAFEGUARDS FOR THE BANK.—A national bank that establishes or maintains a financial subsidiary shall assure that—

''(1) the bank's procedures for identifying and managing financial and operational risks within the bank and financial subsidiaries of the bank adequately protect the bank from such risks;

''(2) the bank has, for the protection of the bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the bank and subsidiaries of the bank; and

''(3) the bank complies with this section.

''(d) NATIONAL BANKS WHICH DO NOT COMPLY WITH REQUIREMENTS OF THIS SECTION.—

''(1) IN GENERAL.—If the Comptroller determines that a national bank which controls a financial subsidiary, or a depository institution affiliate of such national bank, does not continue to meet the requirements of subsection (a), the Comptroller shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

''(A) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a depository institution of a notice given under paragraph (1) (or such additional period as the Comptroller may permit), the depository institution failing to meet the requirements of subsection (a) shall execute an agreement with the appropriate Federal banking agency for such institution to correct the conditions described in the notice.

''(B) COMPTROLLER MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the Comptroller may impose such limitations on the conduct of the business of the national bank or subsidiary of such bank as the Comptroller determines to be appropriate under the circumstances.

''(3) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the Comptroller may require, under such terms and conditions as may be imposed by the Comptroller and subject to such extensions of time as may be granted in the discretion of the Comptroller—

(A) the national bank to divest control of each subsidiary engaged in an activity that is not permissible for the bank to engage in directly; or

''(B) each subsidiary of the national bank to cease any activity that is not permissible for the bank to engage in directly.''.

(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. Financial subsidiaries of national banks.''.

SEC. 122. ACTIVITIES OF SUBSIDIARIES OF INSURED STATE BANKS.

Section 24(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(d)) is amended—

(1) by adding at the end the following new paragraphs:

''(3) CONDITIONS ON CERTAIN ACTIVITIES.—

''(A) IN GENERAL.—Subject to the approval of the appropriate Federal banking agency, a subsidiary of a State bank may engage in an activity in which a subsidiary of a national bank may engage as principal pursuant to subsection (a)(1) of section 5136A of the Revised Statutes of the United States but only if the State bank meets the same requirements which are applicable to national banks under subparagraphs (B) and (C) of such subsection and subsections (b) and (c) of such section.

''(B) APPLICATION OF SECTION 5136A OF REVISED STATUTES.—For purposes of applying section 5136A of the Revised Statutes of the United States with regard to the activities of a subsidiary of a State bank, all references in such section to the Comptroller of the Currency, or regulations and orders of the Comptroller, shall be deemed to be references to the appropriate Federal banking agency with respect to such State bank, and regulations and orders of such agency.

''(4) STATE BANKS WHICH FAIL TO COMPLY WITH PARAGRAPH (3) CONDITIONS.—

''(A) IN GENERAL.—If the appropriate Federal banking agency determines that a State

bank that controls a subsidiary which is engaged as principal in financial activities pursuant to paragraph (3) does not meet the requirements of subparagraph (A) of such paragraph, the appropriate Federal banking agency shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

''(A) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

''(i) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a bank of a notice given under paragraph (1) (or such additional period as the appropriate Federal banking agency for such bank may permit), the bank failing to meet the requirements of paragraph (3)(A) shall execute an agreement with the appropriate Federal banking agency for such bank to correct the conditions described in the notice.

''(B) AGENCY MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the appropriate Federal banking agency for the State bank may impose such limitations on the conduct of the business of the bank or a subsidiary of the bank as the agency determines to be appropriate under the circumstances.

''(C) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the appropriate Federal banking agency for the State may require, under such terms and conditions as may be imposed by such agency and subject to such extensions of time as may be granted in the discretion of the agency—

''(i) the bank to divest control of each subsidiary engaged in an activity as principal that is not permissible for the bank to engage in directly; or

''(ii) each subsidiary of the bank to cease any activity as principal that is not permissible for the bank to engage in directly.''.

SEC. 123. RULES APPLICABLE TO FINANCIAL SUBSIDIARIES.

(a) 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—

''(A) is a subsidiary of a bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

''(B) is engaged in a financial activity (as defined in section 5136A(a)(4)) that is not a permissible activity for a national bank to engage in directly.

''(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.

''(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.''.

(b) TREATMENT OF FINANCIAL SUBSIDIARIES UNDER OTHER PROVISIONS OF LAW.—

(1) BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—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 financial subsidiary (as defined in section 5136A(a)(5)(A) of the Revised Statutes of the United States or referenced in the 20th undesignated paragraph of section 9 of the Federal Reserve Act or section 24(d)(3)(A) of the Federal Deposit Insurance Act) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''; and

(2) FEDERAL RESERVE ACT.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by adding at the end of the following new sentence: ''To the extent permitted under State law, a State member bank may acquire or establish and retain a financial subsidiary (as defined in section 5136A(a)(3)(A) of the Revised Statutes of the United States, except that all references in that section to the Comptroller of the Currency, the Comptroller, or regulations or orders of the Comptroller shall be deemed to be references to the Board or regulations or orders of the Board.''.

[3. CONSUMER PROTECTION]

In paragraph (1) of section 45(a) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert ''governing sales practices'' after ''regulations'' in the portion of such paragraph which precedes subparagraph (A).

In paragraph (1) of section 45(d) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike ''and the making of loans''.

Strike paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, and insert the following new paragraph:

''(2) EFFECT ON OTHER LAWS.—Subject to section 104, regulations prescribed by a Federal banking agency under this section 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 regulations prescribed by a Federal banking agency under this section and then only to the extent of the inconsistency. For purposes of this paragraph, a State statute, regulation, order, or interpretation is not inconsistent with the regulations prescribed by a Federal banking agency under this section if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided by the regulations under this section.

[4. LIFELINE BANKING]

In paragraph (1) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike ''or (C)'' and insert ''(C), or (D)''.

In paragraph (4)(D) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike ''or (C)'' and insert ''(C), or (D)''.

[5. DEFERENCE]

In section 307(e) of the Amendment in the Nature of a Substitute, strike '', without unequal deference''.

[6. GAO STUDY—ANTITRUST]

After section 145 of the Amendment in the Nature of a Substitute, insert the following new section (and redesignate the subsequent section and conform the table of contents accordingly):

SEC. 146. 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.

[7. PRIVACY STUDY]

After section 108 of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 110. REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.

With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, to the Committee on Commerce and the Committee on Banking and Financial Services of the House of Representatives

and the Committee on Banking, Housing, and Urban Affairs of the Senate at the conclusion of each stage of such study and a final report at the conclusion of the study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 428, the gentleman from New York (Mr. LAFALCE) and a Member opposed each will control 20 minutes.

Is the gentleman from Virginia (Mr. BLILEY) opposed to the amendment?

Mr. BLILEY. I am, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. BLILEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. LAFALCE. Mr. Chairman, the bill in its current form is a frontal attack on the national bank system. That is why this administration, past administrations, any future administration would veto the bill before us.

The bill before us promotes the movement of assets out of those institutions covered by the Community Reinvestment Act. It undermines the national bank charter and the authority of the national bank regulator. It places small and mid-sized banks at an enormous competitive disadvantage vis-a-vis the giant conglomerates this bill helps facilitate. It permits discrimination against banks as providers of new financial services, and it would create a serious competitive imbalance between nationally and State chartered banks and between big banks which can and small banks which cannot use a holding company structure.

The amendment the gentleman from Minnesota (Mr. VENTO) and I offer, along with a good many others, would correct these problems. It would correct these problems by permitting national banks to offer a broad range of new financial services efficiently and safely through subsidiaries so that these assets remain covered by CRA. It would ensure that banks are not subject to discriminatory restrictions when providing new financial services, and it would maintain for the national bank regulator the same authority traditionally granted all, each and every, Federal regulator to interpret Federal law.

The treasury secretary has repeatedly pointed out there is no safety and soundness reason whatsoever, none, zero, and no competitive reason that would justify a radical shift from the operation of a bank subsidiary to a wholesale transfer of assets out of the national bank system, out of the jurisdiction of the Comptroller of the Currency, the Federal bank regulator, into the hands of the Federal Reserve Board.

The chairman of the FDIC, present and past, has concurred in that judgment. The State bank regulators have concurred in that judgment. Now, why should we care? Why should we care whether national banks are disadvantaged in this bill? Is this just an esoteric debate about corporate structure? It is not.

There are sound public policy reasons to value national banks and their ability to offer new financial services through their own subsidiaries. Fundamentally, adopting this amendment will ensure that a significant portion of America's financial assets continue to flow through banks. That is good for consumers. That is good for communities.

If we want a law, rather than a one-House bill, we will adopt this amendment and we then will ultimately bring with us the support of the administration and produce something that can be enacted into law. If this amendment goes down, we may or may not get a one-House bill but we will not get a law.

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

Mr. BLILEY. Mr. Chairman, I yield myself 3 minutes.

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

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment offered by my friends, the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO). I have three concerns with this amendment.

One, it puts taxpayer money at risk. It does this by expanding the subsidy provided by Federal deposit insurance and the Federal safety net; two, these operating subsidies are not truly separate from banks and will confuse customers; and three, it undoes the careful compromise on insurance we have reached so that disputes over insurance will be treated equally without unfair deference to one side or the other.

This amendment represents a radically different course in this legislation. It grants new powers for banks in operating subsidiaries. These new powers include full securities underwriting and merchant banking.

I remember when Congress made the disastrous mistake of expanding the powers and the insurance coverage of savings and loan institutions. The result of that legislation was that the taxpayers had to spend billions to bail out the S&Ls that had invested in casinos, strip malls, and other developments. I resolved that never would we do something like that again.

I believe that expansion of operating subsidiaries powers poses the same dangers as did the expansion of the powers of savings and loans. Alan Greenspan, the distinguished chairman of the Federal Reserve, has testified both before the Committee on Banking and Financial Services and the Committee on Commerce that granting banks additional authority in operating subsidiaries expands the reach of the taxpayer subsidy. This expansion of Federal subsidy is both anti-competitive and dangerous to taxpayers.

Operating subsidiaries are anti-competitive because securities or merchant banking done in operating subsidiaries will be able to take advantage of the Federal subsidy to finance their business more cheaply than their competitors. Congress is abolishing subsidies. We ended farm subsidies in the last Congress. Wall Street firms made over $14 billion last year. They need open competition, not subsidies.

Operating subsidiaries are dangerous to taxpayers. If a child takes the family car and goes on a joy ride smashing into a building, who is on the hook? The parents. Similarly, if operating subsidiaries get into trouble, who will hold the bag? The Federal taxpayers. That is why Americans For Tax Reform is opposed to this amendment.

I believe that operating subsidiaries pose dangers to consumers. Last week the SEC brought an enforcement action against a major bank operating subsidiary for selling billions of dollars in unsuitable investments to elderly people. These people had maturing CDs at the bank. Officers of the operating subsidiary called them up and sold them dangerous strip derivatives claiming they were treasury securities. The OCC could have done something about this but the OCC did not. They waited for the SEC to have to bring an action to stop this fraud. I believe we should not expand powers of operating subsidiaries in the face of abuses like this.

□ 1515

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in support of the amendment.

Our good friend from Virginia made me want to call the history police. The misuse of history is one of the downsides of our debate. No, this has nothing to do with why the savings and loans got in trouble. We had tax changes. We had a real estate bubble. We had a lot of other reasons.

This is a very important amendment. I must say that if this amendment were to be adopted, I could vote for a bill which I will otherwise feel constrained to oppose. The smaller banks that I deal with in the State of Massachusetts are banks which have been responsible, which have tried to meet the needs of local communities, so oppose the bill without this amendment. That is a major cause of opposition because what it says to the smaller banks is, none of these new powers are in fact available to them, and indeed much of what they may have been doing they will have to stop doing.

This greatly disadvantages the smaller banks, who are then forced either to forgo getting into these new activities or to get out of the ones they are in, because they will not be able to set up the holding companies. The notion that if we have a holding company with siblings, they do not implicate each other,

but if we have an operating subsidy, they do, does not seem to me to hold water.

The analogies of the gentleman, I must say, do not seem to me any more persuasive than his history. I was sorry to hear about the kid who stole his parents' car and had an accident. What it has to do with banking it will probably take me till Sunday to figure out, but it certainly does not have anything to do with this particular issue.

Yes, we are talking about the same overall entity being in both insured and noninsured activities. Whether or not they do it through a holding company or operating subsidiaries does not affect the quality of regulation, nor will it affect the drain on the insured deposit.

What it will do is weaken the ability of small banks and, further, and maybe this is partly what some had in mind, obviously not all, it weakens the reach of the Community Reinvestment Act because the activities conducted in the operating subsidiaries will be covered by the Community Reinvestment Act. If, in fact, it becomes the holding company, they will not be. So the effect of the bill without this amendment will be to diminish some of the reach of the Community Reinvestment Act.

Now, I realize that is not enough for some people who would like to totally cut off the arms of the Community Reinvestment Act in a later amendment. But I must also say that one surefire way to guarantee that no legislation goes forward is to cut back on the Community Reinvestment Act, which many of us believe to have been a significant improvement in our communities which most need it.

So I hope in the interest of getting reasonable legislation through, that the amendment is adopted.

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

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

Mr. DINGELL. Mr. Chairman, bankers said it this morning, and I want my colleagues to hear what the ABA had to say. They said, ''No amendment or combination of amendments will be offered that will make the bill acceptable.''

Do not think, Mr. Speaker, that voting for this amendment is going to buy us any peace or approval from the bankers. I want my colleagues to understand that.

Now, I want to say a word of respect and affection for my good friend, the gentleman from New York (Mr. LAFALCE), the author of the amendment. I think that the bill is a good bill. It helps the banks. It allows them to underwrite municipal revenue bonds. It allows them to engage in all kinds of financial activity as the agent of the bank in an operating subsidiary. It knocks down current Glass-Steagall and Bank Holding Company Act barriers against affiliations between banks, securities firms, insurance companies, and other firms.

The bankers trade association, the ABA, does not want a bill. It never did. So voting for this amendment is not going to buy us peace with the banks.

But voting for this bill and voting against the LaFalce amendment is going to buy us a bill which is good and in the public interest, which helps banks, and which does something else, which protects people against the abuses that the banks committed which brought about the crash of 1929.

The Fed is right. Listen to Mr. Greenspan. Listen to Chairman Levitt. Listen to other former chairmen of the SEC, pointing out the need to have real separation between banks and between nonbank subsidiaries.

Operating subs are permitted to do all kinds of interesting things: accounting games, shifting of assets back and forth between the sub and the parent company, and opportunities for committing all kinds of, quite honestly, improper and doubtful practices which are nonetheless fully legal.

The simple fact of the matter is that just recently we saw an in-house subsidiary of a bank engaging in grotesquely improper practices, selling to old folks securities which they cast as being government guaranteed. They were not. And they wound up having to pay a $7 million fine. That tells us that bankers are willing to do whatever is necessary to make money and to compete in a hard world.

The only way that we can protect investors against this is to see to it that the banks are situated in a situation where they can be fully observed, where their accounting can be properly watched, and where they cannot shift assets back and forth, and where the bank has no incentive to engage in either bad accounting practices, or to achieve the permission of the regulators to engage in special accounting practices, which will protect them against the failure or the loss of a subsidiary to the dissatisfaction of the public at large.

Remember the abuses that brought about the savings and loan crash? They were caused by in-house actions by the savings and loans. Do not repeat it with the banks.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO), coauthor of the amendment.

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

Mr. VENTO. Mr. Chairman, I rise in strong support of the LaFalce-Vento amendment, and I urge my colleagues to support it.

Now, it may be true that in fact the banks are not going to support this bill with the LaFalce-Vento amendment, but there are a lot of good reasons to support it in spite of that. The fact is that I think it will be a better bill with this and it is the right policy path that we should pursue.

We should not be superimposing a type of corporate structure on these entities unless there is good reason to do so. The fact is that this amendment is good for small- and medium-size banks that they can participate and exercise some of the new powers that are anticipated by virtue of this modernization policy to exercise powers that they do today in the structure that serves them. And, this amendment will help our communities through the application of the Community Reinvestment Act.

This is an important amendment. In fact, this amendment goes a long way towards resolving and reconciling the issue with regard to insurance. We adopt in this amendment the same language with regard to the Illinois case that is part of this basic text. We reached out to try to find compromise that is workable. And, of course, trying to preserve the National Bank Charter is immensely important, an entity that has been in existence for 135 years and has served our Nation very, very well in terms of building the economic foundation of banking in this country, which is, of course, the envy of the world.

There is no greater security under a holding company, affiliate-type structure than there is under a subsidiary corporate structure. That is why the current and past chairpersons of the Federal Deposit Insurance Corporation, which has the principal responsibility to safeguard the public funds the deposit insurance program, I think, that there is absolutely no safety or soundness reason to oppose having in a subsidiary version an affiliate or holding company corporate form.

The fact is that the same procedures, the same laws, the same regulations apply, 23(a) and (b) under the Holding Company Act; 23(a) and (b) a similar type of regulations exercised by the Comptroller of the Currency. And the FDIC can step in and avert types of action which are improper in any instance.

As a matter of fact, as far as the bank is concerned and the insurance funds, the money flows in a one-way direction out of a subsidiary to, in fact, support the source of strength with regards to a bank and thereby protect the taxpayer to a greater extent. This is a good amendment for small- and medium-size banks. While we cannot win the support of all the bankers, the fact is it is good for our economy and it is good in terms of permitting bank to serve communities.

Now, with regard to allegations here regarding functional regulation and penalties, as I was pointing out in my statement previously, there have been nearly $325 million in 1996 of misbegotten funds that have been assessed and recovered from securities firms, and there were $67 million worth of fines in 1996 from these securities firms.

So there has been and this is functional regulation at its best. And this

entity, NationsSecurities, was owned by NationsBank and the securities company Dean Witter when the events and violations occurred. This is not a sound basis upon which to oppose one corporate form over another.

The LaFalce-Vento amendment will provide a better balance, a more appropriate direction for a competitive future financial services industry.

As I stated earlier in the general debate, the underlying bill is fundamentally flawed for national banks, the national bank regulator, and ultimately, consumers and communities.

This amendment makes some technical changes in Section 104. Left to my druthers, I would have preferred the Banking Committee's version of Section 104, or at the very least, a grandfathering of the Illinois State law test. These cut and bite amendments, however, are reasonable, and I think are reflected in some if not all of the changes made by the Manager's amendment.

The changes to section 308 would ensure that with regard to consumer protections, the stronger law, whether State or Federal law, would apply. That is a bare minimum for consumers across this Nation who will be impacted by this legislation.

Our amendment carries three other provisions that were included in the Manager's amendment: the enforcement provisions for lifeline banking, the annual antitrust report, and the privacy study.

Importantly, the LaFalce-Vento amendment would address the deference issue. As written, H.R. 10 will undermine our Federal banking regulator in the courts by altering the deference standard. If H.R. 10 were to pass as written now, the precedent could be detrimental to other areas of law as well.

Last but by no means least, the LaFalce-Vento amendment would make a critical correction in the bill by allowing for the creation of financially viable and safe operating subsidiary for national banks. The amendment would permit all financial activities within the operating subsidiary with the exception of insurance underwriting, and real estate investment and development.

As written today, H.R. 10 would force banks to move financial innovation out of the bank, a loss of diversity that is disadvantageous for many reasons.

Structurally, banks would fundamentally be forced to choose a holding company structure in order to participate in a meaningful way in the 21st Century financial services landscape. This is essentially a business decision that should be made on a business basis, not because options have been closed down by this ''modernization'' bill.

Small- and medium-sized banks may not wish to form such a corporate holding company structure, a much more complex and difficult process than creating a subsidiary. For example, a bank would need to form the company through a filing or reorganization, chartering an interim bank, merger the ''two'' banks, obtain approval by shareholders with public review, DOJ review and OCC approval, obtain approval to engage in non-banking activity with public notice requirements. As a subsidiary, the bank only works to obtain OCC approval with public notice and hearing if applicable (4 steps vs. 1 step). This loss of flexibility through limiting the powers of the operating subsidiary will not further competition in the marketplace nor improve consumer service in many communities across this Nation.

Contrary to some of the rhetoric we will hear today, this lack of diversity within a bank's portfolio does not benefit the deposit insurance funds. The FDIC has opined more than once that operating subsidiaries are not more risky to a bank than affiliates in a holding company. The LaFalce-Vento amendment provides that only well-capitalized and well-managed banks could have operating subsidiaries that are engaged in these expanded financial activities. Because the bank's equity investment in the subsidiary would be deducted from the bank's assets and equity capital while the bank remains well-capitalized, this structure should pose no additional risk to the deposit insurance funds. In fact, these operating subsidiaries should instead provide additional, positive revenues for banks. The same restrictions on transactions applied to holding company affiliates by the FRB, 23(A) and (B), would apply between banks and financial subsidiaries.

Without our amendment, there is yet another disadvantage for the communities in which banks are located. Without the viable operating subsidiary provided in the LaFalce-Vento amendment, bank assets will be shifted away from coverage under the Community Reinvestment Act (CRA) into a bank holding company or financial holding company affiliate, which are not as yet covered by community investment requirements. The OCC is the only bank regulator to count the assets of subsidiaries in terms of analyzing CRA capacity of a bank.

Some may assert that operating subsidiaries will be renegades that will subvert laws, such as securities laws. On the contrary, op subs will be doubly regulated in the instance of securities activities—both by the financial securities regulators—the SEC and the NASD—and the OCC. While bank subs have had their problems, as highlighted by the recent Nations Securities fine, they do not have a corner of the market for less than scrupulous practices. With regard to Nations Securities, the SEC and the NASD were the primary regulators, not the OCC. Unfortunately, that cannot prevent a breaching of suitability and product selection processes.

As to safety and soundness, let me reiterate that the FDIC, the entity responsible for deposit insurance, has not found op subs to be more risky than affiliates. As to arguments that this will bring on the next S&L crisis, I would remind my colleagues that diversity is a good thing. The thrifts got in trouble for a number of reasons, including a mightmare-ish interest rate situation, bad loans and bad investment. Among those that survived without cost to the taxpayers, were the thrifts associated in the more diverse unitary thrift holding companies. Further, following the S&L crisis, Congress enacted two strong laws, FIRREA and FDICIA, that greatly empowered the regulator, specifically the FDIC. If the FDIC finds any activity by any banks is too risky, they can stop that activity from happening under section 24 of the FDI Act.

As to true competitive parity, without the LaFalce-Vento amendment, national banks will not have a subsidiary option that state banks have and that banks, regulated by the Federal Reserve Board, have when operating abroad.

If the LaFalce-Vento amendment were to pass, the Administration has indicated they will take another look at this bill. If it doesn't pass, the veto recommendation will stand. There is no strong public policy reason that this amendment should not pass. I urge my colleagues to vote for this amendment.

Mr. BLILEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio (Mr. OXLEY), chairman of the subcommittee.

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

Mr. OXLEY. Mr. Chairman, the LaFalce amendment would strike down any ability of a State to regulate bank affiliated insurance agents. I want to make that very clear. The gentleman from Minnesota stated quite the opposite, that this amendment would provide functional regulation. I would challenge him on that.

For example, if a bank-affiliated insurance agent commits fraud by representing health care coverage, for example, the result of this amendment offered by the gentleman from Minnesota and the gentleman from New York would mean that we would have virtually no regulatory authority whatsoever at the State level.

Now, if we believe in functional regulation and we believe strongly that State insurance regulators have the ability to regulate insurance, then we have to oppose this amendment. The State insurance regulators have indicated very strongly that they believe this amendment would be catastrophic. It would go beyond the fact that we would have no discrimination, but it would result in no regulation at all.

Now, those of us who believe in State regulation and functional regulation also believe, I think, that the States are the laboratories for democracy. Let us take a real-life look at what happened in banking sales of insurance in the real world.

Our committee held hearings on this bill, and we had the president of the State Bankers Association from Illinois and the president of the State Insurance Agents from Illinois testify about the fact that they had gotten together, worked out a compromise on State bank sales of insurance, had gone to the State legislature in Illinois, not an insignificant State, probably represents a great microcosm of this country, and passed that legislation unanimously and signed by the governor.

We decided in our committee, after a lot of hard work and a lot of head-knocking between the parties, to basically provide that the Illinois statute become a safe harbor for legislation, so if the States had regulation, they would be able to put it up against what Illinois had done. This was the real world. This was a compromise that was worked out very effectively.

Before my time runs out, let me tell my colleagues the States that would be deleted from protecting different State laws. Let me just list the States if I could, Mr. Chairman. These regulatory functions would be struck down in these States if the LaFalce amendment becomes law.

States of Texas, Virginia, Tennessee, Pennsylvania, Michigan, Maine, Louisiana, Indiana, Connecticut, Colorado, Arkansas, Massachusetts, New Hampshire, New Mexico, Rhode Island, West Virginia, Florida, Georgia, and Vermont. All of those State regulatory laws would be out the window if the LaFalce amendment passes.

All of my colleagues who represent those States, and everybody else, let us defeat the LaFalce amendment and preserve the integrity of this regulatory process.

Mr. LAFALCE. Mr. Chairman, I yield myself 15 seconds simply to say that the gentleman from Ohio is in error in his interpretation of our amendment. We leave the Illinois law and less restrictive State statutes as a safe harbor. We keep the language of the bill on that.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Chairman, this rhetoric that we are hearing on the House floor today really, I think, centers around one issue and one issue only, and that is cutting the cake. It is a determination as to whether or not the Committee on Banking and Financial Services is going to gain greater jurisdiction by having more and more of these larger institutions under a regulator that the Committee on Banking and Financial Services oversees, or whether or not the securities industry is going to be the winner and, therefore, the Committee on Commerce is going to oversee the jurisdiction.

□ 1530

That is what this is all about. It is not about whether or not we are going to look after the interests of the taxpayer. It is not about whether we are going to look out after the interests of working families. It is not about whether we are going to make sure that the insurance companies are going to provide insurance policies to all parts of our country, to people of every race, creed, and color. It is not about whether or not we are going to make certain the banks lend into the communities from which they take their deposits. It is about one thing. It is about power.

All I say is it is fine with me for these institutions to gobble one another up, to get stronger, to be able to compete internationally, to be able to compete here in the United States. But if we are going to do that, then we darn well ought to make sure that working families and the poor have every bit of right of access to these institutions, to the creation of wealth as anybody else.

That is what is wrong with this bill, because this bill does not provide the assurance that makes sure that these banks and insurance companies and securities firms cannot discriminate. It does not make certain that they are going to lend money back into the communities from which they suck out their deposits.

That is why I believe we should support the LaFalce amendment, because at a very minimum, at a very minimum, it suggests that these institutions, these powerful companies are not going to be able to serve out to their affiliates their requirements under the Community Reinvestment Act to lend back to the communities from which they take their deposit. It is a minimal standard. It is a very small crumb to provide to the working families of America.

Support the LaFalce amendment. Stand up for the working people of our country.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. FAZIO), the chairman of the Democratic Caucus.

Mr. FAZIO of California. Mr. Chairman, I rise to commend the efforts of my colleagues, the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO), but to oppose their amendment.

Their hard work and dedication is going to be required if we are going to pass this bill, and sometime down the road, see it enacted into law. We hope that, in the months ahead, we can find the key to bringing this bill into law.

But if we agree to the amendment of the gentleman from New York (Mr. LAFALCE) today, it promises to undermine not only the very intent of H.R. 10, but also the manager's amendment we just overwhelmingly adopted.

It gets us no support from the banks, and it earns us the undying opposition of the entire insurance industry. It, therefore, is the killer amendment that will determine whether or not we pass a bill today and move it along in the process so that we can confront our differences and do something about modernizing this industry that so clearly needs it, before it becomes a wholly-owned subsidiary of foreign investors.

Instead of igniting reform and competition, the amendment of the gentleman from New York (Mr. LAFALCE) gives banking institutions extended privileges I fear they lack the mechanisms to properly administer; and the insured deposits of those entities, means this is a problem for the rest of us, for the taxpayers.

The gentleman from Massachusetts (Mr. FRANK) has told us it is not an appropriate analogy to talk about the S&L crisis, but the same underlying problem exists. History reminds us of that bailout. The crisis, that drained the savings of millions of Americans, cost taxpayers billions and embarrassed this country and the financial institutions within it on a global basis.

This amendment leads American financial institutions to a potentially similar economic disaster and places the financial burden of risky banking activity on the shoulders of the average taxpayer. We cannot allow that to occur.

I think we need to support this bill, hopefully in numbers that will give the Senate a message that they need to deal with it, and then sit down with the administration and find a common solution so that we can do what we all say we want to do, and that is, modernize the laws and rules and regulations of our financial institutions.

If we vote for this amendment, we might as well fold our tent, pull the bill, and close it down for another year, another failure. How many times in these past 2 decades are we going to go down that road? I urge a no vote on this amendment.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the LaFalce-Vento amendment.

I am a little surprised that people who typically talk about giving businesses more flexibility are now on the other side of this issue, saying we want to remove flexibility from businesses. Typically, the byword is, let us give businesses the opportunity to organize and operate in a fashion that they believe is most advantageous to them. Yet, here we are, apparently, in this bill, willing to take away that kind of flexibility from banks.

It has a particularly bad impact on small- and medium-sized banks, because they are not going to run out and spend the time and money to create these holding companies. It is just not going to happen. Consequently, this bill is, and the additional powers that we are giving to them are going to be of less value to them than to the larger banks. So for that reason, the increased flexibility reason, I support this amendment.

Another reason that I support the amendment is because I think, to the maximum extent we can, we need to bring assets into the bank and under the bank in such a way that those assets are subjected to the Community Reinvestment Act.

Our communities need a strong commitment from financial institutions, and banks in my congressional district have made that kind of strong commitment. I do not think we ought to be giving them any incentives to take assets away from that commitment.

Mr. BLILEY. Parliamentary inquiry, Mr. Chairman. How much time remains on this side?

The CHAIRMAN pro tempore (Mr. DICKEY). The gentleman from Virginia (Mr. BLILEY) has 9½ minutes remaining. The gentleman from New York (Mr. LAFALCE) has 6 minutes remaining.

Mr. BLILEY. Further parliamentary inquiry, Mr. Chairman. Who has the right to close?

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. BLILEY) has the right to close.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, let me just say there are three reasons to oppose this well-intended amendment. Number one, it does get around the McCarran-Ferguson Act, which says States regulate insurance. It would supersede laws in Texas, Georgia, Virginia, Pennsylvania, and Michigan, just to name a few. This is a time when we are trying to decentralize power out of Washington. We do not want to usurp it from the States.

Number two, this law will have the unintended consequences of rapid bank investment and expansion into nonbanking activities. Look at the Asian model. Here we are with the Asian markets right now in absolute disaster, which the American taxpayers have been asked to contribute $18 billion to help correct and help bail them out. We do not need another S&L-type crisis in America.

Number three and finally, this is corporate welfare. Why should hard-working, middle-class taxpayers who are busting their tail to get to work in the morning and making ends meet at the end of the month, why should they give a subsidy to an industry that made $14 billion in profit last year? American taxpayers do not need more corporate welfare for folks who are already making money.

Those are three good reasons to vote against this amendment. Let us vote it down. Pass the bill as is.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

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

Mr. BENTSEN. Mr. Chairman, the colleague that just spoke before me was wrong on at least two of his counts and possibly on three.

But let me start out, I want to quote Alan Greenspan, because we have heard him talked a lot about. This quote is from the hearing on May 21, 22, 1997 in the House Committee on Banking and Financial Services, and this is in response to a question which I asked about safety and soundness with respect to operating subsidiaries.

He says, ''My concerns are not safety and soundness.'' So once and for all, this is Alan Greenspan and what he said. With respect to the subsidy, if we read the rest of the testimony, he says, The issue here is that the amount of the subsidization that is employed by the holding company in financing a section 20 securities affiliate is significantly less than it would be were it being financed as a subsidiary of a bank.

Mr. Greenspan says that while there is no safety and soundness issue with respect to operating subsidiaries, there is a subsidy that occurs in both the holding company model as well as in the operating subsidiary model. Of course, he did not provide any evidence of that, and no one else has.

Let me ask a question, a question of the subsidy: How does the marketplace see it? If the marketplace sees a tombstone for bond issue offering that are being underwritten by NationsBank Montgomery Securities, do they see that as a subsidy, an implicit guarantee that is going from the bank or from the Federal Government? Even though that is a holding company and an affiliate model, the marketplace is sophisticated enough to understand it.

Let me say also what this bill does. This creates an inequity between the national bank charter and the holding company charter. It shifts regulation of the Nation's banking system away from the elected government, through the Comptroller of the Currency, to the Federal Reserve, an appointed entity.

If we were talking about doing that with the Securities and Exchange Commission, a number of us, including both the gentlemen from the Committee on Commerce, would be down here raising a lot of Cain, as would I.

The fact is, this is not a safety and soundness issue. This is a parity issue. It does affect CRA. And, to assert that somehow this is tied to the savings and loan crisis is just factually incorrect.

I urge my colleagues to support the amendment offered by the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO).

Mr. Chairman, I insert the following:

Mr. Chairman, I rise in support of the LaFalce-Vento amendment and ask unanimous consent to revise and extend my remarks.

As currently drafted H.R. 10 allows banks to engage in securities underwriting through a holding company structure regulated by the Federal Reserve System, but not through a national bank regulated by the Comptroller of the Currency.

As a result, this legislation will restrict some national banks from offering comprehensive financial services for consumers while allowing it for others. The LaFalce-Vento amendment would also ensure that there is a level playing field for all types of financial institutions by allowing banks to make decisions based upon good business strategy rather than the one-size-fits-all bank holding company structure.

I am also convinced that there is no safety and soundness risk associated with operating subsidiaries vs. affiliates. When I questioned Federal Reserve Chairman Alan Greenspan about this issue in the House Banking Committee, he agreed there was no safety and soundness problem associated with an operating subsidiary structure. Rather, he argued that a subsidiary structure extends an implicit taxpayer subsidy to that subsidiary. There is no evidence to back up this claim and in fact Mr. Greenspan goes on to admit that affiliates under a holding company structure also benefits from a subsidy. Further, some argue that the market will interpret a subsidy in an op-sub but not an affiliate. Again, there is no evidence to back up this claim. First, when one sees Nationsbank Montgomery Securities, do they see an implicit subsidy and bank guarantee? But that is an affiliate, not an op-sub.

I also believe that permitting operating subsidiaries is good banking practice. If the operating subsidiary is making profits, its profits will flow up to the parent bank. However, the LaFalce-Bentsen amendment includes proper safeguards that will prevent the operating subsidiary from impacting their parent bank just as the holding company structure attempts to prevent the affiliate from dragging down the holding company and thus the bank. The LaFalce/Vento amendment would only permit national banks that are well-capitalized and well-managed to establish operating subsidiaries. The LaFalce/Vento amendment also requires operating subsidiaries to separately capitalize their operations and keep their operations completely separate from the parent bank. And it subjects the operating subsidiary to full functional regulation. I believe both of these safeguards should ensure that taxpayers are not at risk with operating subsidiaries any more than they would be with a holding company/affiliate structure.

The LaFalce/Vento amendment would also ensure that all of the assets of the bank are subject to the Community Reinvestment Act (CRA). This is critical when many banks are restructuring and being merged with other financial companies. If banks are required to establish affiliates, all of their capital and operations that are directly associated with their affiliate are not subject to CRA. This would have the effect of reducing the amount of assets that are subject to CRA and would reduce the investment that banks are currently making into their communities. I am a strong supporter of CRA and believe that we must ensure that banks continue to invest in their communities.

The LaFalce/Vento amendment corrects the inequity in the underlying bill by providing parity between national banks and bank holding companies. To do otherwise would eviscerate the national bank charter and result in a dramatic shift in regulatory authority over the banking system from the elected to the appointed branch of government. If we proposed that with the Securities and Exchange Commission, I think many would object.

Finally, with respect to section 104 and bank insurance sales, this would correct the provision in the bill that would effectively reverse the Chevron precedent set by the Supreme Court. I must admit that I am ambivalent on this issue.

I strongly support a level playing field with respect to regulation of bank insurance sales. Since McCarran-Ferguson provides for insurance to be regulated at the state level, banks should be subject to state regulation so long as such regulation does not have the effect of discriminating and prohibiting bank insurance sales contrary to the Barnett decision.

In all honesty, I was prepared to accept section 104 as written so long as the operating subsidiary language was also accepted and in fact Mr. VENTO and I had proposed such an amendment, but that was not allowed under the rule. I believe the only true fix to the bank insurance sale power question will come as a result of practice because compromise among the parties has been impossible.

In the end it is necessary that the House adopt the LaFalce/Vento amendment to H.R. 10 to make this bill live up to its name of financial modernization.

Mr. BLILEY. Mr. Chairman, it gives me great, great pleasure to yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, again, let us go back. What are we talking about? Separate subsidiary means we are putting it over here in a separate

operation that makes it possible for the SEC, for insurance regulators, to know what we are doing. An Op-sub is an operating subsidiary. That is what they want to call it. That means it will be right inside the bank, hard for the SEC, hard for the insurance regulators to get inside to know what is going on. Op-sub really stands for ''ordinary people subsidizing'' risky business by banks.

Alan Greenspan, here is what he said in a letter to the gentleman from Michigan (Mr. DINGELL) on May 4, last week, ''Operating subsidiaries also pose serious risks to banks and their deposit insurance funds, and potentially the taxpayer, and will cause serious conflicts in the ability of functional regulators to carry out their supervisory responsibilities.''

Chairman Breeden, George Bush's chair of the Securities and Exchange Commission, he says that it will cause a ''dulling narcotic effect of those subsidies and the related bureaucratic nannyism will work a prompt and significant alteration on the culture of Wall Street.''

We can create a level playing field allowing each of these industries to compete and to consolidate without having the inherent bias that is built in, the conflicts that are built in by having the expansion of the Federal safety net blur over into these operating subsidiaries and causing real dangers to depositors and taxpayers alike.

Vote no on the LaFalce amendment if we do not want to see a repetition of some of the financial shenanigans which we have all come to see during our lifetime.

Mr. LAFALCE. Mr. Chairman, how much time do we have remaining on this side?

The CHAIRMAN pro tempore. The gentleman from New York (Mr. LAFALCE) has 4 minutes remaining.

Mr. LAFALCE. Mr. Chairman, is there a speaker other than the closing speaker?

Mr. BLILEY. Mr. Chairman, we have another speaker.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I rise for the purpose of entering into a colloquy with the gentleman from Iowa (Mr. LEACH).

Mr. Chairman, there is some uncertainty about what, and I quote, ''any other provision of Federal law'' means in section 104(b)(1) of the bill. Some consumer groups expressed concern that this language might be unnecessarily broad and might unintentionally preempt a broad range of consumer laws.

Will the gentleman from Iowa work with me on this matter as this bill moves forward to conference, through the Senate to conference, that this language will be reviewed so as not to be interpreted in an overly broad manner?

Mr. Chairman, I yield to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Chairman, the gentleman has raised probably the most controversial section of the bill in terms of subtleties of language. I share some of his concerns, and I will assure the gentleman, as we move forward there, this language will be carefully reviewed. I cannot guarantee an outcome because there are people on all sides of this issue, but I do believe that a careful review is warranted, and I assure the gentleman that we will continue to look at that precise language.

□ 1545

Mr. BLILEY. Mr. Chairman, I yield one minute to the distinguished gentleman from Nebraska (Mr. BEREUTER).

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

Mr. BEREUTER. Mr. Chairman, I rise in opposition to the amendment as a member of the Committee on Banking and Financial Services. I understand the greater flexibility for small and middle size banks, and that is important. But there is something more important, and I want to remind my colleagues that this Congress listens, the Americans listen, and the world listens to Alan Greenspan when he speaks.

Alan Greenspan has been quoted here several times. Here is what he had to say before the House Committee on Banking and Financial Services on May 22, and he made a similar statement on July 17 to the Committee on Commerce:

> The Federal Reserve Board is of the view that the risks from securities and insurance underwriting are manageable using the holding company framework as compared to the operating subsidiaries. But there is another risk, the risk of transference to nonbank affiliates of the subsidy implicit in the Federal safety net. Deposit insurance, the discount window and access to the payment window with attendant moral hazard. As the committee knows, the Board believes that the subsidiary is more readily transferable to a subsidiary of the insured deposit institution than to its affiliates, and the holding company structure creates the best framework for limiting this leakage.

The Federal Reserve Board will oppose this bill if we approve the LaFalce amendment.

Mr. LAFALCE. Mr. Chairman, I yield one minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, I want to respond to my colleague from Nebraska. At that same hearing, Mr. Greenspan again said, ''My concerns are not safety and soundness,'' and, again if you read the testimony, he does make the argument that there is an implicit subsidy that goes through an operating subsidiary.

He says the same subsidy exists through a bank holding company with an affiliate structure. But then he went on to make an unsubstantiated argument that somehow the subsidy is less through a holding company structure than it is through an operating subsidiary.

But Ricki Helfer, the then-Chairman of the FDIC, as the gentleman will recall, went on to say that in the FDIC's study of the issue, not only did they find there was no safety and soundness concern with respect to an operating subsidiary compared to an affiliate through a holding company structure, but, furthermore, that they saw no difference in the subsidy whatsoever, if in fact there is such a subsidy. So the gentleman will recall from the hearing, it was a year ago, but it was very clear where Mr. Greenspan stood on the issue at the time. The chairman of the Federal Reserve says a lot of things. Sometimes he is consistent, and, quite frankly, sometimes he is not. On this issue, he has apparently not been very consistent.

Mr. BLILEY. Mr. Chairman, I yield two minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I must say that this is a safety and soundness issue, and I am rising in opposition to this amendment.

I must say also that one of the things that Mr. Greenspan has been quite careful to enunciate is that there are heightened concerns in these days of mega-mergers. We should be giving much more attention to the implication of the subsidy.

It is a safety and soundness issue, and this dictates that new activities must be an affiliate under a holding company. The new activities will not pose a threat to the bank or the deposit insurance fund if they are conducted through an affiliate, not a subsidiary. We should not permit operating subsidiaries to pose this kind of danger.

I want to say, my friend, the gentleman from Massachusetts (Mr. FRANK) is not here right now, but I do want to say this does bring to mind ''deja vu all over again'' to the ghost of the savings & loan debacle.

Make no mistake about that, my colleagues. This subsidiary proposal severely violates the functional regulatory structure that we have at the heart of this legislation.

I want to repeat again, I believe that the gentleman from Nebraska (Mr. BEREUTER) correctly quoted Mr. Greenspan in context, stating his opposition to the operating subsidiary, both in terms of the subsidy, as well as in terms of the safety and soundness.

In addition to Mr. Greenspan being opposed to this, Mr. Levitt, the chairman of the Securities and Exchange Commission, is also opposed to it, and I might say that there is significant opposition from my colleagues, and bipartisan opposition, on the Committee on Commerce.

I stand here ready to alert my colleagues that this would be really undermining the whole purpose of this bill if this amendment were passed, so I would urge a no vote.

Mr. Chairman, I rise today, in opposition to this amendment. I support many of the provisions in this package of amendments. In fact,

I asked the Rules Committee to let me offer 3 insurance amendments which are similar to some of the insurance provisions in this package. In addition, I support a small bank CRA exemption. However, I continue to have grave reservations about the operating subsidiary and will vote against the package based on this.

The operating subsidiary is a bad idea, and the House should vote it down.

Proponents argue that an operating subsidiary is necessary to keep the national bank charter vital and flexible. Some even say that it will promote CRA.

The operating subsidiary is not necessary for any of these reasons. On flexibility and vitality—national banks will be permitted to engage in many new opportunities under the bill. They just have to do it over in the holding company.

The debate here is over where the activities must be housed. Should the new activities be as affiliates under the holding company or should they be subsidiaries under the national bank.

This is a safety and soundness issue. And heightened concern in these days of mega mergers. Safety and soundness dictates that the new activities take place in an affiliate under the holding company. These new activities will not pose a threat to the bank or the Federal deposit insurance funds if they are conducted through an affiliate. We should not permit operating subsidiaries to pose a risk to safety and soundness. This does bring deja vous all over again to the savings and loan debacle. This subsidiary proposal severely violates the functional regulatory structure we have as the heart of the legislation.

I am not alone in opposing the operating subsidiary. The operating subsidiary is opposed by Mr. Greenspan, the Chairman of the Federal Reserve Board. It is also opposed by Mr. Levitt, the Chairman of the Securities and Exchange Commission. There is bipartisan opposition to the operating subsidiary. I am joined by Mr. BLILEY and Mr. DINGELL as well as many other members of the Banking Committee. Much has been made about Secretary Rubin supporting the operating subsidiary. Many seem to forget that Treasury Secretary Regan during the Reagan Administration opposed the operating subsidiary.

Don't make a safety and soundness mistake. Vote no on the operating subsidiary.

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, the primary issue is the Community Reinvestment Act. If we pass this amendment, we will permit a structure where you can retain assets under the jurisdiction of the CRA. If we reject this amendment, we mandate that a good many present activities, and most all future activities, would go outside of the jurisdiction of the Community Reinvestment Act. That is fundamental.

Secondly, with respect to safety and soundness, Chairman Greenspan testified before the Committee on Banking and Financial Services on two separate occasions, this is not a safety and soundness issue. So sayeth Alan Greenspan before the Committee on Banking and Financial Services when he was not negotiating with legislators for a particular bill.

Secondly, this was the testimony of the State banking regulators.

Third, this was the testimony of the present chairman and the past chairman of the Federal Deposit Insurance Commission. This is the not a safety and soundness issue. The safety and soundness can be conducted just as well or better under the operating subsidiary concept as under the separate affiliate concept.

Secondly, with respect to functional regulation, there is no difference. We would have the same functional regulation under an operating subsidiary by the SEC, by the State insurance commissioners, et cetera, that we would have under the separate financial holding company affiliate. That is a nonissue.

Big banks, they really do not care. They are going to the financial services holding company routes. The security firms, they do not really care. They want a bill to accomplish repeal of Glass-Stegall and changes the bank holding company law.

The ones that care are the consumers who will not be subject to the Community Reinvestment Act, whose communities will not be subject to it, and the smaller banks, because these smaller banks will be forced to either be taken over or to convert to State chartered institutions.

That is this amendment, and we have the chance of passing a law, rather than a one House bill.

Mr. BLILEY. Mr. Chairman, it is a great pleasure for me to yield the balance of my time to the gentleman from Iowa (Mr. LEACH), the distinguished chairman of the Committee on Banking and Financial Services, who has been so helpful and so cooperative in working together on this bill.

The CHAIRMAN pro tempore (Mr. DICKEY). The distinguished chairman of the Committee on Banking and Financial Services is recognized for 3½ minutes.

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

Mr. LEACH. Mr. Chairman, with reluctance, I stand in opposition to this amendment.

Let me say what is in the bill is a compromise between the Committee on Banking and Financial Services and the Committee on Commerce. If this amendment had gone back to the Committee on Banking and Financial Services' position, I probably would have been obligated to support it. But I will tell you, it goes further. What it does, it adds under the power of a bank, merchant banking authority. This is authority that is very, very significant.

Merchant banking constitutes direct ownership and control of commercial investments. I used to argue in the 1980's that the two dirtiest words in the American language were ''direct investment,'' rights which were authorized S&L's in half a dozen states to use Federally insured deposits to make investments in entities that they would then control. Instead of making loans to people, they would simply own things. Here let me just comment on common sense. If you are an outsider listening to this debate, the esoterics of an operating subsidiary versus affiliate must seem very large. But does any common-sense American think that a bank ought to be able to come in and under its own volition start to own commercial businesses, rather than simply make loans, in ways that involve potentially the deposit insurance system and what could be a subsidy involved thereof?

I know the subsidy issue is controversial. The Fed says one thing, the Treasury something else. In my time in public life, I always found the argument that a subsidy exists to be valid.

Secondly, let me say there is a question of history that has been articulated. That is, the Department of Treasury has said no Treasury could support any position the one being taken. The gentleman from New York has suggested that his is a historical position of all Treasuries.

Well, that, frankly, is not precisely the case. I would like to direct both the Treasury and my good friends to this statement of the Honorable Donald T. Regan, the Department of the Treasury Secretary under the Reagan Administration.

Secretary Regan said, ''The administration,'' meaning the Reagan Administration:

> Does not believe that non-depository institution activities should be conducted through a subsidiary or service corporation in which a bank or a thrift has a direct equity investment. The investment would be at risk if the subsidiary's activities were to falter and the funds for the investment would be raised with Federal assistance not available to non-depository institution competitors and a cost advantage to the bank or the thrift.

I raise this simply to note, as this testimony reflects, that the Reagan Administration was in opposition to this administration's position on this subject, and in consonance with this bill and with the position of Mr. Greenspan.

Finally, let me just stress that there are articulated differences that relate to CRA. The Federal Reserve has a very profound letter out on this subject, and I commend it to my colleagues, which shows that the CRA argument has been widely exaggerated, and that the differences in CRA treatment of a national bank and a bank under the supervision of the Federal Reserve is very, very similar.

This bill expands CRA, it does not contract it, in significant ways. What are the unarticulated differences, or some of the differences, between the Treasury and the Fed in which there is a major battle underway?

Mr. Chairman, I would simply inform the membership that the rest of the words would have been extraordinarily compelling.

Mr. Chairman, truth be told, the CRA argument on this bill is proffered to mask the extraordinary differences between the Treasury

and the Federal Reserve Board on which institutions should be the primary federal regulator of the banking system. Just as the Fed perhaps exaggerates a bit the importance of the subsidy that exists with the offering of insured deposits, the Treasury magnifies the CRA argument. The reason these arguments are so critical to these two institutions is that the Treasury believes Congress will tilt to it if a case can be made that Fed supervised institutions have lower CRA obligations, and the Fed believes Congress may tilt to it if it can be shown that competitive advantages accrue to institutions with subsidized federally insured deposits.

Actually, Congress has historically considered the Federal Reserve to be the appropriate principal regulator for new power approaches for a different set of reasons: (1) It is the Fed which has the predominance of experience with holding company regulations. (2) It is the Fed, and only the Fed, which has the resources to act on a moment's notice in a time of emergency. While the Treasury has no treasury, the Fed has the capacity to liquify virtually any problem of any size. (3) With its functional and precise regulatory approach, the bill is designed to resolve issues of regulatory turf in such a way that financial companies can't engage in regulatory arbitrage thus precipitating weaker regulation. (4) While sometimes controversial in its monetary policy deliberations, the Fed has a sterling record for being above politics on the regulatory front.

From the very beginning of development of this bill I have been impressed with how much support exists for the general framework of change but how extraordinary the divisions on the subtleties are.

In the private sector there are natural maximization of profit motivations; on the public side, there are maximization of power concerns. Ironically, as we come to the conclusion of the House consideration process, the rivalry between the Fed and the Treasury has come more to the fore than rivalries between and within industrial groupings.

One of the most profound observations of the month was that of a prominent New York banker who told me: ''All I want is to get out of the Fed-Treasury crossfire.'' The bill provides certitude as well as fairness.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LAFALCE).

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

RECORDED VOTE

Mr. LAFALCE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 306, not voting 11, as follows:

[Roll No. 144]

AYES—115

Allen
Baesler
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blumenauer
Boehlert
Bonior
Borski
Boswell
Brown (CA)
Capps
Cardin
Carson
Castle
Clayton
Clyburn
Conyers
Davis (IL)
Davis (VA)
DeFazio
Dixon
Dreier
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gibbons
Goode
Goodlatte
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hinchey
Hooley
Hostettler
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lee
Lewis (GA)
Luther
Maloney (CT)
Maloney (NY)
Martinez
McDermott
McHale
McInnis
McIntosh
McKinney
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Moakley
Mollohan
Moran (VA)
Myrick
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne
Pelosi
Petri
Price (NC)
Ramstad
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Schumer
Serrano
Sherman
Slaughter
Smith, Adam
Snyder
Souder
Stark
Stokes
Thompson
Thurman
Tierney
Torres
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Weygand
Woolsey

NOES—306

Abercrombie
Ackerman
Aderholt
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehner
Bonilla
Bono
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gillmor
Gilman
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kennelly
Kildee
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHugh
McIntyre
McKeon
McNulty
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mink
Moran (KS)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Towns
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wicker
Wise
Wolf
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—11

Bateman
Christensen
Clay
Gilchrest
Gonzalez
Harman
Hefner
Hilliard
Kilpatrick
Radanovich
Skaggs

□ 1619

Messrs. COBURN, INGLIS of South Carolina, PICKETT, STENHOLM, Mrs. LOWEY, and Messrs. LEVIN, MASCARA, and FORBES changed their vote from ''aye'' to ''no.''

Messrs. BISHOP, FARR of California, MOAKLEY, GOODLATTE, GIBBONS, Ms. ESHOO, and Messrs. OLVER, McINTOSH, DAVIS of Virginia, and MORAN of Virginia changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. KILPATRICK. Madam Chairman, because I was unavoidably detained in the 15th Congressional District, I missed several roll call votes. Had I been present, I would have voted Nay on roll call number 142, Aye on roll call vote number 143, and Aye on roll call number 144.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 105–531.

AMENDMENT NO. 3 OFFERED BY MR. BAKER

Mr. BAKER. Madam Chairman, I offer an amendment under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2, amendment No. 3, printed in House Report 105–531, offered by Mr. BAKER:

After section 181, insert the following new sections (and conform the table of contents accordingly):

SEC. 182. CRA AMENDMENT.

Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by inserting ''which has total assets of more than $100,000,000'' before the semicolon at the end.

In section 305 of the Amendment in the Nature of a Substitute, strike ''If a national bank'' and insert ''(a) IN GENERAL.—If a national bank''.

In section 305 of the Amendment in the Nature of a Substitute, insert the following new subsections after subsection (a) (as so redesignated):

(b) STATE WAIVER.—If, in any community served by a national bank or a subsidiary of a national bank, there is no company licensed by the appropriate State regulator to provide insurance as agent which is available for acquisition, the State insurance regulator may, upon application by the national bank or subsidiary, waive the limitation of subsection (a) with respect to the provision of insurance as agent by such bank or subsidiary within such community.

(c) SUNSET.—This section shall cease to be effective at the end of the 3-year period beginning on the date of the enactment of this Act.

In paragraph (1) of section 45(d) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike ''and the making of loans''.

In paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike ''Regulations prescribed'' and insert ''Subject to section 104, regulations prescribed''.

After section 309 of the Amendment in the Nature of a Substitute, add the following new section (and conform the table of contents accordingly):

SEC. 310. STUDY OF EFFECTIVENESS OF SAFE HARBOR.

(a) STUDY REQUIRED.—3 years after the date of the enactment of this Act, the Comptroller of the Currency shall study, in conjunction with the National Association of Insurance Commissioners should such Association choose to participate, the effectiveness of the provisions of section 104(b)(2)(A) in establishing a safe harbor for the regulation by States of insurance sales and solicitation activity.

(b) REPORT.—The Comptroller of the Currency, together with the National Association of Insurance Commissioners should such Association choose to participate, shall submit a report to the Congress before the end of the 6-month period beginning 3 years after the date of the enactment of this Act on findings made and conclusions reached with regard to the study required under subsection (a), together with such recommendations for legislative or administrative action as the Comptroller and the Association determine to be appropriate.

Paragraph (9) of section 10(c) of the Home Owners' Loan Act, as added by section 401 of the Amendment in the Nature of a Substitute, is amended by adding at the end the following new subparagraph:

''(C) NO ACQUISITION OF GRANDFATHERED UNITARIES BY UNREGULATED NONFINANCIAL COMPANIES.—Notwithstanding subparagraph (B), paragraph (3) shall not apply to any company described in subparagraph (B)(i)(II) which is not, at the time of the acquisition referred to in such subparagraph, subject to licensing, regulation, or examination by a Federal banking agency, the Securities and Exchange Commission, the Commodities Futures Trading Commission, or a State insurance regulator.''.

Strike the heading of subtitle C of title I of the Amendment in the Nature of a Substitute and insert the following new heading (and amend the table of contents accordingly):

SUBTITLE C—SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS

Strike section 121 of the Amendment in the Nature of a Substitute and insert the following new sections (and redesignate subsequent sections and amend the table of contents accordingly):

SEC. 121. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.

(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. FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.

''(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

''(1) IN GENERAL.—A subsidiary of a national bank may engage in an activity that is not permissible for a national bank to engage in directly, but only if—

''(A) the activity is a financial activity (as defined in paragraph (4));

''(B) the national bank is well capitalized, well managed, and achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of the bank;

''(C) all depository institution affiliates of such national bank are well capitalized, well managed, and have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution; and

''(D) the bank has received the approval of the Comptroller of the Currency.

''(2) NO EFFECT ON EDGE ACT OR AGREEMENT CORPORATIONS.—Paragraph (1) shall not apply with respect to any subsidiary which is a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act.

''(3) OTHER SUBSIDIARIES PROHIBITED.—A national bank may not control any subsidiary other than a subsidiary—

''(A) which engages solely in activities that are permissible for a national bank to engage in directly or are authorized under paragraph (1); or

''(B) which a national bank may control pursuant to section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Act that expressly by its terms authorizes national banks to control subsidiaries.

''(4) FINANCIAL ACTIVITY DEFINED.—For purposes of this section and subject to paragraphs (5) and (6), the term 'financial activity' means any activity determined under section 6(c) of the Bank Holding Company Act of 1956 to be financial in nature or incidental to financial activities.

''(5) OTHER DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which—

''(i) is a subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

''(ii) is engaged in a financial activity pursuant to paragraph (1) that is not a permissible activity for a national bank to engage in directly.

''(B) SUBSIDIARY.—The term 'subsidiary' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

''(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 bank that has been examined, unless otherwise determined in writing by the Comptroller, the achievement of—

''(I) 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 bank; and

''(II) at least a rating of 2 for management, if that rating is given; or

''(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

''(6) INSURANCE UNDERWRITING, MERCHANT BANKING, AND DIRECT INVESTMENT.—Except as provided in title III of the Financial Services Act of 1998, no subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act) may underwrite noncredit-related insurance, engage in real estate investment or development activities (except to the extent a national bank is specifically authorized by statute to engage in any such activity directly), or engage in merchant banking (as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956).

''(7) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 12-month period preceding the submission of an application to acquire a financial subsidiary and any depository institution which becomes so affiliated after the approval of such application may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

''(A) the national bank has submitted an affirmative plan to the Comptroller of the Currency to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, during the most next examination of the institution; and

''(B) the plan has been accepted by the Comptroller.

''(b) CAPITAL DEDUCTION REQUIRED.—

''(1) IN GENERAL.—In determining compliance with applicable capital standards—

''(A) the amount of a national bank's equity investment in a financial subsidiary shall be deducted from the national bank's assets and tangible equity; and

''(B) the financial subsidiary's assets and liabilities shall not be consolidated with those of the national bank.

''(2) REGULATIONS REQUIRED.—The Comptroller shall prescribe regulations implementing this subsection.

''(c) SAFEGUARDS FOR THE BANK.—A national bank that establishes or maintains a financial subsidiary shall assure that—

''(1) the bank's procedures for identifying and managing financial and operational risks within the bank and financial subsidiaries of the bank adequately protect the bank from such risks;

''(2) the bank has, for the protection of the bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the bank and subsidiaries of the bank; and

''(3) the bank complies with this section.

''(d) NATIONAL BANKS WHICH DO NOT COMPLY WITH REQUIREMENTS OF THIS SECTION.—

''(1) IN GENERAL.—If the Comptroller determines that a national bank which controls a financial subsidiary, or a depository institution affiliate of such national bank, does not

continue to meet the requirements of subsection (a), the Comptroller shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

''(A) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a depository institution of a notice given under paragraph (1) (or such additional period as the Comptroller may permit), the depository institution failing to meet the requirements of subsection (a) shall execute an agreement with the appropriate Federal banking agency for such institution to correct the conditions described in the notice.

''(B) COMPTROLLER MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the Comptroller may impose such limitations on the conduct of the business of the national bank or subsidiary of such bank as the Comptroller determines to be appropriate under the circumstances.

''(3) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the Comptroller may require, under such terms and conditions as may be imposed by the Comptroller and subject to such extensions of time as may be granted in the discretion of the Comptroller—

(A) the national bank to divest control of each subsidiary engaged in an activity that is not permissible for the bank to engage in directly; or

''(B) each subsidiary of the national bank to cease any activity that is not permissible for the bank to engage in directly.

''(e) FUNCTIONAL REGULATION.—

''(1) IN GENERAL.—A financial subsidiary of a national bank shall not be treated as a bank for purposes of any definition of bank in the Federal securities laws.

''(2) DEFERENCE TO SEC.—The Comptroller shall defer to the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies.

''(3) DEFERENCE TO EXAMINATIONS.—In the case of a financial subsidiary of a national bank which is a registered broker or dealer or a registered investment adviser, the Comptroller shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Comptroller by forgoing an examination and instead reviewing the reports of examination made of such subsidiary by or on behalf of the Securities and Exchange Commission.''.

(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. Financial subsidiaries of national banks.''.

SEC. 122. ACTIVITIES OF SUBSIDIARIES OF INSURED STATE BANKS.

Section 24(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(d)) is amended—

(1) by adding at the end the following new paragraphs:

''(3) CONDITIONS ON CERTAIN ACTIVITIES.—

''(A) IN GENERAL.—A subsidiary of a State bank may engage in an activity in which a subsidiary of a national bank may engage as principal pursuant to subsection (a)(1) of section 5136A of the Revised Statutes of the United States but only if the State bank meets the same requirements which are applicable to national banks under subparagraphs (B) and (C) of such subsection and subsections (b) and (c) of such section.

''(B) APPLICATION OF SECTION 5136A OF REVISED STATUTES.—For purposes of applying section 5136A of the Revised Statutes of the United States with regard to the activities of a subsidiary of a State bank, all references in such section to the Comptroller of the Currency, or regulations and orders of the Comptroller, shall be deemed to be references to the appropriate Federal banking agency with respect to such State bank, and regulations and orders of such agency.

''(4) STATE BANKS WHICH FAIL TO COMPLY WITH PARAGRAPH (3) CONDITIONS.—

''(A) IN GENERAL.—If the appropriate Federal banking agency determines that a State bank that controls a subsidiary which is engaged as principal in financial activities pursuant to paragraph (3) does not meet the requirements of subparagraph (A) of such paragraph, the appropriate Federal banking agency shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

''(A) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

''(i) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a bank of a notice given under paragraph (1) (or such additional period as the appropriate Federal banking agency for such bank may permit), the bank failing to meet the requirements of paragraph (3)(A) shall execute an agreement with the appropriate Federal banking agency for such bank to correct the conditions described in the notice.

''(B) AGENCY MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the appropriate Federal banking agency for the State bank may impose such limitations on the conduct of the business of the bank or a subsidiary of the bank as the agency determines to be appropriate under the circumstances.

''(C) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the appropriate Federal banking agency for the State may require, under such terms and conditions as may be imposed by such agency and subject to such extensions of time as may be granted in the discretion of the agency—

''(i) the bank to divest control of each subsidiary engaged in an activity as principal that is not permissible for the bank to engage in directly; or

''(ii) each subsidiary of the bank to cease any activity as principal that is not permissible for the bank to engage in directly.''.

SEC. 123. RULES APPLICABLE TO FINANCIAL SUBSIDIARIES.

(a) 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—

''(A) is a subsidiary of a bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

''(B) is engaged in a financial activity (as defined in section 5136A(a)(4)) that is not a permissible activity for a national bank to engage in directly.

''(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.

''(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.''.

(b) TREATMENT OF FINANCIAL SUBSIDIARIES UNDER OTHER PROVISIONS OF LAW.—

(1) BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—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 financial subsidiary (as defined in section 5136A(a)(5)(A) of the Revised Statutes of the United States or referenced in the 20th undesignated paragraph of section 9 of the Federal Reserve Act or section 24(d)(3)(A) of the Federal Deposit Insurance Act) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''; and

(2) FEDERAL RESERVE ACT.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by adding at the end of the following new sentence: ''To the extent permitted under State law, a State member bank may acquire or establish and retain a financial subsidiary (as defined in section 5136A(a)(3)(A) of the Revised Statutes of the United States, except that all references in that section to the Comptroller of the Currency, the Comptroller, or regulations or orders of the Comptroller shall be deemed to be references to the Board or regulations or orders of the Board.''.

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Louisiana (Mr. BAKER) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

REQUEST FOR MODIFICATION TO AMENDMENT NO. 3 OFFERED BY MR. BAKER

Mr. BAKER. Madam Chairman, I ask unanimous consent to modify the amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Mr. BAKER:

After section 181, insert the following new sections (and conform the table of contents accordingly):

SEC. 182. CRA AMENDMENT.

Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by inserting ''which has total assets of more than $100,000,000'' before the semicolon at the end.

In section 305 of the Amendment in the Nature of a Substitute, strike ''If a national bank'' and insert ''(a) IN GENERAL.—If a national bank''.

In section 305 of the Amendment in the Nature of a Substitute, insert the following new subsections after subsection (a) (as so redesignated):

(b) STATE WAIVER.—If, in any community served by a national bank or a subsidiary of a national bank, there is no company licensed by the appropriate State regulator to provide insurance as agent which is available for acquisition, the State insurance regulator may, upon application by the national bank or subsidiary, waive the limitation of subsection (a) with respect to the provision of insurance as agent by such bank or subsidiary within such community.

(c) SUNSET.—This section shall cease to be effective at the end of the 3-year period beginning on the date of the enactment of this Act.

In paragraph (1) of section 45(d) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike ''and the making of loans''.

After section 309 of the Amendment in the Nature of a Substitute, add the following new section (and conform the table of contents accordingly):

SEC. 310. STUDY OF EFFECTIVENESS OF SAFE HARBOR.

(a) STUDY REQUIRED.—3 years after the date of the enactment of this Act, the Comptroller of the Currency shall study, in conjunction with the National Association of Insurance Commissioners should such Association choose to participate, the effectiveness of the provisions of section 104(b)(2)(A) in establishing a safe harbor for the regulation by States of insurance sales and solicitation activity.

(b) REPORT.—The Comptroller of the Currency, together with the National Association of Insurance Commissioners should such Association choose to participate, shall submit a report to the Congress before the end of the 6-month period beginning 3 years after the date of the enactment of this Act on findings made and conclusions reached with regard to the study required under subsection (a), together with such recommendations for legislative or administrative action as the Comptroller and the Association determine to be appropriate.

Paragraph (9) of section 10(c) of the Home Owners' Loan Act, as added by section 401 of the Amendment in the Nature of a Substitute, is amended by adding at the end the following new subparagraph:

''(C) NO ACQUISITION OF GRANDFATHERED UNITARIES BY UNREGULATED NONFINANCIAL COMPANIES.—

''(i) IN GENERAL.—Notwithstanding subparagraph (B), paragraph (3) shall not apply to any company described in subparagraph (B)(i)(II) which is not, at the time of the acquisition referred to in such subparagraph, subject to licensing, regulation, or examination by a Federal banking agency, the Securities and Exchange Commission, the Commodities Futures Trading Commission, or a State insurance regulator.''.

''(ii) SUNSET PROVISION.—This subparagraph shall cease to be effective at the end of the 5-year period beginning on the date of the enactment of the Financial Services Act of 1998.''.

Strike the heading of subtitle C of title I of the Amendment in the Nature of a Substitute and insert the following new heading (and amend the table of contents accordingly):

SUBTITLE C—SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS

Strike section 121 of the Amendment in the Nature of a Substitute and insert the following new sections (and redesignate subsequent sections and amend the table of contents accordingly):

SEC. 121. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.

(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. FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.

''(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

''(1) IN GENERAL.—A subsidiary of a national bank may engage in an activity that is not permissible for a national bank to engage in directly, but only if—

''(A) the activity is a financial activity (as defined in paragraph (4));

''(B) the national bank is well capitalized, well managed, and achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of the bank;

''(C) all depository institution affiliates of such national bank are well capitalized, well managed, and have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution; and

''(D) the bank has received the approval of the Comptroller of the Currency.

''(2) NO EFFECT ON EDGE ACT OR AGREEMENT CORPORATIONS.—Paragraph (1) shall not apply with respect to any subsidiary which is a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act.

''(3) OTHER SUBSIDIARIES PROHIBITED.—A national bank may not control any subsidiary other than a subsidiary—

''(A) which engages solely in activities that are permissible for a national bank to engage in directly or are authorized under paragraph (1); or

''(B) which a national bank may control pursuant to section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Act that expressly by its terms authorizes national banks to control subsidiaries.

''(4) FINANCIAL ACTIVITY DEFINED.—For purposes of this section and subject to paragraphs (5) and (6), the term 'financial activity' means any activity determined under section 6(c) of the Bank Holding Company Act of 1956 to be financial in nature or incidental to financial activities.

''(5) OTHER DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which—

''(i) is a subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

''(ii) is engaged in a financial activity pursuant to paragraph (1) that is not a permissible activity for a national bank to engage in directly.

''(B) SUBSIDIARY.—The term 'subsidiary' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

''(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 bank that has been examined, unless otherwise determined in writing by the Comptroller, the achievement of—

''(I) 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 bank; and

''(II) at least a rating of 2 for management, if that rating is given; or

''(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

''(6) INSURANCE UNDERWRITING, MERCHANT BANKING, AND DIRECT INVESTMENT.—Except as provided in title III of the Financial Services Act of 1998, no subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act) may underwrite noncredit-related insurance, engage in real estate investment or development activities (except to the extent a national bank is specifically authorized by statute to engage in any such activity directly), or engage in merchant banking (as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956).

''(7) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 12-month period preceding the submission of an application to acquire a financial subsidiary and any depository institution which becomes so affiliated after the approval of such application may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

''(A) the national bank has submitted an affirmative plan to the Comptroller of the Currency to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, during the most next examination of the institution; and

''(B) the plan has been accepted by the Comptroller.

''(b) CAPITAL DEDUCTION REQUIRED.—

''(1) IN GENERAL.—In determining compliance with applicable capital standards—

''(A) the sum of—

''(i) the amount of a national bank's equity investment in a financial subsidiary; and

''(ii) the amount equal to the sum of the retained earnings of each financial subsidiary,

shall be deducted from the national bank's assets and tangible equity; and

''(B) the financial subsidiary's assets and liabilities shall not be consolidated with those of the national bank.

''(2) REGULATIONS REQUIRED.—The Comptroller shall prescribe regulations implementing this subsection.

''(c) SAFEGUARDS FOR THE BANK.—

''(1) IN GENERAL.—A national bank that establishes or maintains a financial subsidiary shall assure that—

''(A) the bank's procedures for identifying and managing financial and operational risks within the bank and financial subsidiaries of the bank adequately protect the bank from such risks;

''(B) the bank has, for the protection of the bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the bank and subsidiaries of the bank; and

''(C) the bank complies with this section.

''(2) PROHIBITION ON PIERCING THE CORPORATE VEIL.—Notwithstanding any other law (including any law relating to insurance), no obligation of a financial subsidiary of a national bank arising more than 270 days after the date of enactment of the Financial Services Act of 1998 may be charged against such bank by reason of any ruling, determination, or judgment disregarding the separate corporate identity or limited liability of the bank or the financial subsidiary.

''(3) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS—

''(A) IN GENERAL.—The Comptroller shall take steps, including conducting the review required by subparagraph (B), to assure that each national bank observes the separate corporate identity and separate legal status of each of the bank's financial subsidiaries.

''(B) EXAMINATIONS.—The Comptroller, when examining a national bank, shall review whether the bank is observing the separate corporate identity and separate legal status of the bank's financial subsidiaries.

''(d) NATIONAL BANKS WHICH DO NOT COMPLY WITH REQUIREMENTS OF THIS SECTION.—

''(1) IN GENERAL.—If the Comptroller determines that a national bank which controls a financial subsidiary, or a depository institution affiliate of such national bank, does not continue to meet the requirements of subsection (a), the Comptroller shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

''(A) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a depository institution of a notice given under paragraph (1) (or such additional period as the Comptroller may permit), the depository institution failing to meet the requirements of subsection (a) shall execute an agreement with the appropriate Federal banking agency for such institution to correct the conditions described in the notice.

''(B) COMPTROLLER MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the Comptroller may impose such limitations on the conduct of the business of the national bank or subsidiary of such bank as the Comptroller determines to be appropriate under the circumstances.

''(3) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the Comptroller may require, under such terms and conditions as may be imposed by the Comptroller and subject to such extensions of time as may be granted in the discretion of the Comptroller—

''(A) the national bank to divest control of each subsidiary engaged in an activity that is not permissible for the bank to engage in directly; or

''(B) each subsidiary of the national bank to cease any activity that is not permissible for the bank to engage in directly.

''(e) FUNCTIONAL REGULATION.—

''(1) IN GENERAL.—A financial subsidiary of a national bank shall not be treated as a bank for purposes of any definition of bank in the Federal securities laws.

''(2) DEFERENCE TO SEC.—The Comptroller shall defer to the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies.

''(3) DEFERENCE TO EXAMINATIONS.—In the case of a financial subsidiary of a national bank which is a registered broker or dealer or a registered investment adviser, the Comptroller shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Comptroller by forgoing an examination and instead reviewing the reports of examination made of such subsidiary by or on behalf of the Securities and Exchange Commission.''.

(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. Financial subsidiaries of national banks.''.

SEC. 122. ACTIVITIES OF SUBSIDIARIES OF INSURED STATE BANKS.

Section 24(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(d)) is amended—

(1) by adding at the end the following new paragraphs:

''(3) CONDITIONS ON CERTAIN ACTIVITIES.—

''(A) IN GENERAL.—A subsidiary of a State bank may engage in an activity in which a subsidiary of a national bank may engage as principal pursuant to subsection (a)(1) of section 5136A of the Revised Statutes of the United States but only if the State bank meets the same requirements which are applicable to national banks under subparagraphs (B) and (C) of such subsection and subsections (b) and (c) of such section.

''(B) APPLICATION OF SECTION 5136A OF REVISED STATUTES.—For purposes of applying section 5136A of the Revised Statutes of the United States with regard to the activities of a subsidiary of a State bank, all references in such section to the Comptroller of the Currency, or regulations and orders of the Comptroller, shall be deemed to be references to the appropriate Federal banking agency with respect to such State bank, and regulations and orders of such agency.

''(4) STATE BANKS WHICH FAIL TO COMPLY WITH PARAGRAPH (3) CONDITIONS.—

''(A) IN GENERAL.—If the appropriate Federal banking agency determines that a State bank that controls a subsidiary which is engaged as principal in financial activities pursuant to paragraph (3) does not meet the requirements of subparagraph (A) of such paragraph, the appropriate Federal banking agency shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

''(A) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

''(i) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a bank of a notice given under paragraph (1) (or such additional period as the appropriate Federal banking agency for such bank may permit), the bank failing to meet the requirements of paragraph (3)(A) shall execute an agreement with the appropriate Federal banking agency for such bank to correct the conditions described in the notice.

''(B) AGENCY MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the appropriate Federal banking agency for the State bank may impose such limitations on the conduct of the business of the bank or a subsidiary of the bank as the agency determines to be appropriate under the circumstances.

''(C) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the appropriate Federal banking agency for the State may require, under such terms and conditions as may be imposed by such agency and subject to such extensions of time as may be granted in the discretion of the agency—

''(i) the bank to divest control of each subsidiary engaged in an activity as principal that is not permissible for the bank to engage in directly; or

''(ii) each subsidiary of the bank to cease any activity as principal that is not permissible for the bank to engage in directly.''.

SEC. 123. RULES APPLICABLE TO FINANCIAL SUBSIDIARIES.

(a) 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—

''(A) is a subsidiary of a bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

''(B) is engaged in a financial activity (as defined in section 5136A(a)(4)) that is not a permissible activity for a national bank to engage in directly.

''(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.

''(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.''.

(b) TREATMENT OF FINANCIAL SUBSIDIARIES UNDER OTHER PROVISIONS OF LAW.—

(1) BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—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 financial subsidiary (as defined in section 5136A(a)(5)(A) of the Revised Statutes of the United States or referenced in the 20th undesignated paragraph of section 9 of the Federal Reserve Act or section 24(d)(3)(A) of the Federal Deposit Insurance Act) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''; and

(2) FEDERAL RESERVE ACT.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by adding at the end of the following new sentence: ''To the extent permitted under State law, a State member bank may acquire or establish and retain a financial subsidiary (as defined in section 5136A(a)(3)(A) of the Revised Statutes of the United States, except that all references in that section to the Comptroller of the Currency, the Comptroller, or regulations or orders of the Comptroller shall be deemed to be references to the Board or regulations or orders of the Board.''.

Mr. BAKER (during the reading). Madam Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

PARLIAMENTARY INQUIRY

Mr. DINGELL. Point of parliamentary inquiry, Madam Chairman.

Are we reading the amendment, or discussing the amendment which is authorized by the rule, or something different?

The CHAIRMAN. The reading of the modification was just dispensed with.

Is there objection to modifying the amendment offered by Mr. BAKER?

Mr. DINGELL. Reserving the right to object, Madam Chairman, we have not had a chance to review this or what it means. The Committee on Rules has spoken rather clearly on it, and with great respect and affection for the distinguished gentleman from Louisiana (Mr. BAKER), I have to object. I do object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to respond just briefly to the intent to modify, so that the distinguished individual can understand our intent.

Madam Chairman, under the provisions of the consolidated amendment, there is one small element of the insurance provisions——

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Parliamentary inquiry, Madam Chairman. Are we under regular order? Is time being consumed on the 40 minutes now? Because that is regular order.

The CHAIRMAN. That is correct.

Mr. BAKER. Madam Chairman, I would like to respond to the gentleman's inquiry. Under the provisions of the insurance portions of the amendment, there was a technical reference to section 104 being cross-referenced with section 308; stated in other words, consumer protection standards for the sales of insurance by banks.

Given the fact that some in the insurance community had expressed concerns about the consequences of those provisions, I simply chose to remove that section from the consideration from the House, thinking that that would be moving in the gentleman's direction in the consideration of this amendment. I regret that he was unable to allow that modification to be considered.

Madam Chairman, the amendment before us is substantive and quite broad-based. Simply stated, it is an amendment which addresses many of the community banks' concerns who, in the process of financial modernization, have felt, frankly, not only left out, but all too often stepped on.

Just last month this House passed H.R. 1151, which gave credit unions the unfettered right to continue to provide services to their consumers. Unfortunately for most small banks in this country, they are feeling increased competitive pressures from the mergers and consolidations, increased regulatory oversight, and little ability to offer new products to their shrinking consumer base.

Madam Chairman, reemphasizing the point, there is little in this bill, as it now stands, that is attractive to the community banker who is struggling to survive with high end regulatory costs.

This amendment makes four simple changes. It exempts community banks under $100 million in asset size from compliance with CRA; it amends the insurance provisions to allow enhanced flexibility for the marketing of insurance products; it provides an operating subsidiary structure reported out by the Committee on Banking and Financial Services months ago, which does not allow for merchant banking, underwriting of insurance, or direct investment in real estate; it provides for a prohibition on the sale of unitary thrifts to commercial enterprises.

Many of my colleagues on the other side of this issue are very much concerned about the merger of commerce and finance, and the giant corporations gobbling up small town banks. We now have in law what is known as a unitary thrift, a unique financial creature which combines the resources of commercial enterprises with financial resources.

This amendment would prohibit the future sale of those enterprises to the Microsofts, the General Electrics, the General Motors. It is, in fact, a protection against the further breach of banking and commerce.

This is an extraordinarily important amendment, and I would suggest that unless the amendment is adopted, it is highly unlikely that many of the hometown bankers now calling Members' offices and complaining about the consideration of this bill will find an ability to tolerate the provisions of H.R. 10, without the inclusion of this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. BLILEY. Madam Chairman, I claim the time in opposition.

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) is recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. LAFALCE. Parliamentary inquiry, Madam Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. LAFALCE. Madam Chairman, should the time in opposition be given to a member of the same party in opposition, or to a member of the opposition party in opposition?

The CHAIRMAN. The time in opposition has been given to the manager of the bill.

Mr. BLILEY. Madam Chairman, I yield myself 1½ minutes.

Madam Chairman, I will see that the gentleman from New York (Mr. LAFALCE) gets time.

Madam Chairman, this amendment is similar to the amendment offered by the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO) in that it expands the powers of operating subsidiaries. It undoes the insurance compromise we have crafted to end deference to the OCC. It also restricts other provisions.

Like Alan Greenspan, like Americans for Tax Reform, like Ronald Reagan's Treasury, I am opposed to expanding the powers in operating subsidiaries.

□ 1630

The reason I am opposed is that these are not free; they increase risk to taxpayers. Americans for Tax Reform say that operating subsidiaries pose just that danger. I do not think it is worth the risk.

H.R. 10 gives bank affiliates full securities, insurance and merchant banking powers. It does it in an affiliate structure that protects taxpayers. No one, other than the bureaucrats at the OCC, care about operating subsidiaries. Protecting taxpayers is more important than protecting them. I urge Members to oppose this amendment.

Please note that even if this Baker amendment passes, the community banks will not support this bill.

Madam Chairman, I reserve the balance of my time.

Mr. BAKER. Madam Chairman, I yield 4 minutes to the gentleman from New York (Mr. LAZIO).

Mr. LAZIO of New York. Madam Chairman, I thank the gentleman for his hard work and for his effort to try and improve this bill, at least as it affects banks.

Let me explain the operating subsidiary provisions in the amendment before the House. First, these provisions are similar to the operating subsidiary provisions adopted by the Committee on Banking and Financial Services.

Second, the powers of a bank op-sub are limited to those powers granted to a bank holding company under the bill. Third, op-subs are not authorized to engage in insurance underwriting, merchant banking and real estate. In that sense, fourth, they push out the most risky business.

Fifth, the safeguards of section 23A and 23B of the Federal Reserve Act apply. Section 23A limits how many transactions a bank can have within its op-sub. Section 23B says every one of those transactions must be conducted at arm's length. The Federal Reserve writes the rules for op-subs.

Sixth, the bank must be well managed, well capitalized and meet community credit needs before it can have an operating subsidiary.

Seventh and most importantly, any bank investment in the op-sub must be deducted from the bank's regulatory capital, so a bank can lose its entire stake in the subsidiary and it will be protected and remain well capitalized.

These provisions further reinforce that securities activities will be regulated by the SEC, and it empowers State securities officials to regulate these activities.

There are even more safety provisions. If the bank is not well capitalized or well managed, regulators have authority to impose additional terms and conditions. Failure to comply with these conditions may result in divestiture.

Then FDIC Chairwoman Ricki Helfer submitted testimony to the House Committee on Banking and Financial Services on March 5, 1997. She said, ''With appropriate safeguards, having earnings from new activities in bank subsidiaries lowers the probability of failure and thus provides greater protection for the insurance fund than having the earnings from new activities in bank holding company affiliates.'' This from one of our top regulators.

Two experts, Gerard Lynch and Peter Strauss, state further in the October 1997 issue of the Columbia Law Review that banks should not be denied the use of operating subsidiaries. For years U.S. banks operating overseas have had separate op-subs with these powers. Banks in most G–10 countries have long, and successfully, engaged in these financial services in a subsidiary, including underwriting and brokering securities, which is what we are pushing now.

A survey of bank failures in the United States over the last 20 years demonstrates that the cause of failures is typically due to deterioration in the quality of the traditional assets that they hold, not to involvement in nonbanking activities.

These op-sub provisions were contained in the amendment that I filed with the Committee on Rules along with the gentleman from Louisiana (Mr. BAKER), the gentleman from Delaware (Mr. CASTLE) and the gentleman from Iowa (Mr. LEACH). They represent a reasonable, rational, safe and sound approach to expanding an op-sub's ability to engage in new powers and are reflective of our need and desire to modernize our financial services in this country.

Mr. BLILEY. Madam Chairman, I ask unanimous consent to yield 10 minutes to the gentleman from New York (Mr. LAFALCE) and that he may be permitted to control the time, and that the balance of my time be under the control of the gentleman from Ohio (Mr. GILLMOR).

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. LAFALCE. Madam Chairman, I yield myself 1 minute. I thank the distinguished chairman of the Committee on Commerce for his generosity.

I have tremendous respect for the gentleman from Louisiana (Mr. BAKER). We attempted to work out an amendment together. I wish that we could have done it, because right now I think the Committee on Rules has divided us and maybe, by dividing us, hoped to conquer. If the gentleman could have joined with me, I think we would have done much better.

The difficulty I have in joining with him is his provision that repeals the requirements of CRA for banks $100 million or less. That is a poison pill for Democrats. We simply cannot support it.

So prescinding from the relative merits or demerits of the rest of his amendment, so long as it contains this provision, a repeal of CRA for banks with $100 million or less, we are constrained to oppose it.

Madam Chairman, I reserve the balance of my time.

Mr. BAKER. Madam Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS), another distinguished member of Committee on Banking and Financial Services.

Mr. BACHUS. Madam Chairman, I would like to say that the gentleman from New York said something that I agree with. That is, that we are mixing a lot of things in this amendment. And I wish that the Committee on Rules had given us an opportunity to address CRA reform in a separate amendment. I had offered an amendment to exempt the community banks of CRA up to $250 million, but this House is not going to get to address that.

However, in this amendment, there is a provision which will exempt the small banks up to $100 million in assets from CRA. Let me tell my colleagues, this is not a revolutionary idea. In fact, the gentleman from Pennsylvania (Mr. KANJORSKI), Democratic Member of this body, offered and the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services passed a provision which exempted banks up to $150 million and rural banks up to $250 million in 1991. We continue to back-pedal on this issue.

In the Senate, 12 Democratic Senators have endorsed the idea of a two-tier approach to CRA. Forty-one Democrats have joined in the House, saying that we need to have a two-tier approach. But first of all, we are not going to get to vote on that in a clear shot. I wish we all did.

I wish that the Committee on Rules had seen in their wisdom to let us take a stand on this issue. All we will get to do today is vote on this provision, and one of the things it has in it that I strongly support is an exemption for banks up to $100 million in assets. And who are these banks? Seventy-five percent of them are in communities of 10,000 people and less; 45 percent of them, the majority of their loans are agricultural loans to small farmers. These banks are simply being driven out of the market by the cost of compliance. It is open season on the small banks.

H.R. 10 is going to continue to put them at a disadvantage and put them out of business, but at least this amendment gives them a little bit of relief, not as much as the Democratic House of Representatives in 1991 gave them, because we obviously love regulation today more than we did then, not as much as this entire House did when it passed the provisions a few years ago.

We are back-pedalling, making the exemption smaller, giving less relief, but good gosh, can we not at least do this?

Mr. GILLMOR. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Madam Chairman, I thank the gentleman for yielding time to me.

I rise today in opposition to this amendment. I do so reluctantly because there are parts of this package that I really supported. For example, the insurance amendments, where I wanted amendments of my own on the insurance question. But they were not permitted in the rule. And also I think the small bank CRA exemption has merit.

However, I want my colleagues to understand this, and it is interesting that it follows on the Vento-LaFalce operating subsidiary question that we just

voted on. Make no mistake about it, the core of this package, the essence of this amendment is the operating subsidiary provision. This is the core issue, none other.

So I must repeat again what I said in the prior debate, that particularly in this time of megamergers, we have to be very concerned about how the operating subsidiary relates to the safety and soundness issue. As far as I am concerned, this actually just goes to the heart and violates the very heart of the bill we have before us.

The reason I am for this mixture of modernization of financial institutions is because I am sure that we have a sound regulatory structure, but this amendment, if adopted with the operating subsidiary, will really violate the essence of the functional regulation and the bank holding company structure that we have in this bill. So I must again oppose the amendment, and again, I guess I have got to repeat, because there are an awful lot of us around who either were here or taxpayers at home, when we remember the savings and loan debacle and how that came about at the end of the 1980s, it built up through the 1980s, came there at the end of the 1980s, and we are still living with the cost to the taxpayer of that issue.

I do not want to make, even have a potential opening for that kind of mistake again. I must reluctantly oppose this package because of the operating sub provision.

Mr. BAKER. Madam Chairman, I yield 2 minutes to the gentleman from Utah (Mr. COOK).

Mr. COOK. Madam Chairman, I rise today in support of the amendment offered by my good friend, the gentleman from Louisiana (Mr. BAKER).

Although the Baker amendment has several components, I would like to focus on one section that is particularly important to the health of small banks across our Nation. The Baker amendment would remove Community Reinvestment Act obligations from banks with less than $100 million in assets.

I respect very much the views of my friends on the other side of the aisle who believe the CRA is important for helping underserved communities, rural and urban alike, but CRA, as it was intended, does not work efficiently in practice, particularly with small banks. Let me take a moment to share a bit of anecdotal evidence.

An acquaintance of mine recently received a CRA loan for a home purchase. The loan was well below the going interest rate with no points or origination fees. This person makes a good income, has no family to support and could easily handle an identical mortgage at standard rates, but this person makes just under the median income of 57,000 in the area where he is from. The loan recipient told me that his experience is an example of how CRA has good intentions, but does not really work in practice.

This person himself does not believe that he is the intended recipient of CRA assistance. The problem is not with the financial institution who granted this discounted loan; the problem is with the Federal law that forces banks to make such loans just in order to receive high CRA ratings.

This is especially true with small, community-based financial institutions that probably have a personal relationship with their loan applicants. In reality, small institutions are deeply engaged with the communities they serve. If they were not, they would simply be out of business. CRA obligations are onerous burdens that tie the hands of small institutions, cause an increase in bank fees, and make car, home and business loans out of reach for many Americans.

For these reasons, I urge my colleagues to support the Baker amendment.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Madam Chairman, sometimes in this Chamber we act as though we have a collective sense of amnesia.

I want to stand in opposition to the Baker amendment today, an issue that the gentleman from Louisiana (Mr. BAKER) and I engaged in some years ago, as well, and with great regard for the gentleman's abilities. But I would like to point out that oftentimes we forget what has occurred here.

In 1991, I offered this amendment on the House floor that would call for the opportunity for lending institutions to do a better job of keeping track of the loans that they made to small business and to small farms. At that time, I had the support of Andy Ireland, who was the ranking member on the Committee on Small Business, but in the end we were able to come to an agreement that allowed the call report to be amended so that we could do a better job of tracking this information as it applied again to small business and to small farms.

□ 1645

Now, the FIDICIA act of 1991, in the midst of the magic words that some of us also might remember here, the credit crunch, where we had regulators arguing that there was no credit crunch, what the real argument was about was they were unable to secure the necessary data that accompanied that information so that we could have done a better job beyond anecdotal evidence, as highlighted by the previous speaker. We need to be in a position where we can secure this information so that we can act accordingly.

Now, let me talk, if I can about that FIDICIA markup. At that time my amendment was included in the final package, and to this day we are able to go and retrieve that information in a timely manner. I offered that amendment at the time to collect evidence that small banks were not lending to small businesses. I was pleased at the time that the data was included, and I believe it encouraged banks to make loans to small businesses, which we oftentimes celebrate here as the engine of economic growth.

Now, I know the economy today is not in the same state that it was in in 1991. The banks are reporting record profits. And I do not think anybody here would argue that there still exists a credit crunch. But who in this chamber knows how long that is going to last?

We should reject the Baker amendment, stick with the CRA requirements, and retrieve this information in a timely manner so that we can make better decisions.

Mr. BAKER. Madam Chairman, I yield 3 minutes to the gentleman from California (Mr. DREIER), a distinguished member of the Committee on Rules and former member of the Committee on Banking and Financial Services.

Mr. DREIER. Madam Chairman, I thank my friend from Baton Rouge for yielding me this time, and I would like to begin by congratulating him for his excellent work as chairman of the Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises of the Committee on Banking and Financial Services, where he has been the driving force for this whole issue of the three-way street affiliations, which are very important, so that we can continue our quest to meet the consumer demand.

I rise in very strong support of his amendment for a number of reasons. I think one of the most important is, in fact, to counter the argument that was just provided by my friend, the gentleman from Springfield, Massachusetts (Mr. NEAL). I believe the provisions that were initially put forward by our friend, the gentleman from Alabama (Mr. BACHUS), are very important to deal with that tremendous regulatory burden which has been placed onto the shoulders of those small banks that are trying to deliver financial services to people in small communities.

I think that we have a tremendous chance with this amendment to greatly improve what I think is a flawed measure. And so I think that as we look at the work that has been done by the gentleman from Louisiana (Mr. BAKER) and others in this effort, that this amendment deserves our very, very serious consideration and support. And I urge my colleagues to join in doing just that.

Mr. GILLMOR. Madam Chairman, I yield 2 minutes to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Madam Chairman, I spoke from this side of the well earlier, almost on the same subject. I am going to switch and talk to my Republican colleagues in particular over here.

What I asked earlier of my good friends on the Democratic side of the

aisle was did they remember what happened in the early 1980s. Do we remember? The gentleman from New York (Mr. LAFALCE) and others were here back in 1980 when this Congress brought an innocuous bill to the floor which caused the S&L crisis.

What we did at that time was that we raised the guaranty on simple deposits by our constituents from $25,000 up to $100,000. Then we said they could place $100,000 in 50 banks across the country, if they wanted to, and the Federal Government is going to guaranty every nickel of it.

So what happened is, people like me, who had sold their businesses, had a little bit of money, we said, sure, we can invest in these new banks that are starting up, and let them go into the high risk knowing that we are going to get our money back if it fails. And lo and behold they did fail. They failed by the dozens all over this country. Not in my neck of the woods, up in the Adirondacks, in the Hudson Valley. They are prudent, cautious, conservative bankers, and none of them failed, but they failed in other places. And yet we, our investors, our depositors and our taxpayers, had to bail out these others.

My colleagues, we have not seen anything yet. We let this legislation go down the drain, and if this amendment passes, regardless of its merits, and I have great respect for the sponsor, he is one of the most respected Members and the most knowledgeable Member in this House on these issues, but if we let this legislation fail, we are going to see 4 or 5 years from now that we are going to be bailing out much larger, mega, mega bailouts than we have in the past, and it will be all our taxpayers that are doing it.

That is why we need this legislation today. Defeat this amendment. Let us go to the Senate and then let us work as a team with the administration together to try to fashion a bill that will protect the consumers, protect the investors, the depositors and, above all else, protect the taxpayers. Please defeat the amendment.

Mr. BAKER. May I inquire of the Chair how much time is remaining?

The CHAIRMAN. The gentleman from Louisiana (Mr. BAKER) has 7½ minutes remaining, the gentleman from Ohio (Mr. GILLMOR) has 4½ minutes remaining, and the gentleman from New York (Mr. LAFALCE) has 7 minutes remaining.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chair, I rise in opposition to the amendment. Fundamentally, I am concerned. This amendment, I think, is a grudging recognition of the importance of the operating subsidiary which has been turned down in the previous amendment.

I will not reiterate the arguments for an operating subsidiary. This is a more limited operating subsidiary. It is set forth, in fact, with the permission of the Federal Reserve Board. So I guess the Fed already provides operating subsidiaries in U.S. banks that operate abroad, and this tries to give them some of the same powers. But the fact is that in giving powers to an operating subsidiary, we give it to them so that they can serve the communities. So this amendment gives with one hand but then it takes back with the other.

If I remember correctly, about 80 percent of the banks would not be subject to CRA. And what is CRA, after all? It is a successful law that assures that financial institutions are actually participating in providing creditworthy activity within the communities that they serve. Where they are taking deposits, they make loans. Where they are taking deposits, they finance businesses and farms and make home loans.

That is what Community Reinvestment Act has provided. It is workable. The new program that has been put together with the lead of the Comptroller of the Currency, incidentally, working with the Fed and working with the Federal Deposit Insurance Corporation, has, in fact, put a CRA program in place that emphasizes performance, not paperwork. It is working.

There are many examples. I said jokingly before that not many will get up and say I love my bank, as my colleague did with regard to other financial institutions. But the fact is that many small and medium-sized banks within my community in Minnesota are, in fact, performing tremendous service in the community, both as volunteers but, most importantly, fulfilling that important work.

In fact, what we are finding with CRA is that a lot of loans are being made that before were not recognized as being creditworthy. CRA works and we ought to keep it in place.

Mr. GILLMOR. Madam Chairman, I yield 2 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. Madam Chairman, I would like to commend and compliment my colleagues. This has been one of the most constructive and, I believe, gentlemanly debates I have seen in my career in this Congress.

And I particularly want to pay tribute to my friend from New York (Mr. LAFALCE), and my colleagues on the other side, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Louisiana (Mr. BAKER), and the other Members of the Congress who have participated.

I would like to speak about the amendment, and I would like to point out several things. First of all, if my colleagues voted against the LaFalce amendment earlier, because it allowed for operating subsidiaries inside the banks to engage in nonbank activities, they should oppose this because this amendment does exactly the same thing.

Now, a large number of my other colleagues voted for the LaFalce amendment because they said it kept intact the community reinvestment requirements that are in the CRA. That was a valid reason for my colleagues to vote that way, although I do not think that was controlling in that particular matter. I would observe, however, if that was the reason for my colleagues voting that way on that amendment, they should vote ''no'' on this amendment because this amendment removes the requirements of the CRA from community banks, small banks, it is said. But the number of the banks that are absolved of those responsibilities are 6,500. Sixty-five hundred banks no longer have to meet that requirement if this amendment is adopted.

Now, this also violates the compromise which was achieved with the insurance agents and brokers. I would assume that if Members voted against the provisions of the LaFalce amendment, or if Members voted for it because they were concerned about CRA, they would vote against this amendment in the firm knowledge that they have every reason to so do.

Now, there is one other point to be made. A lot of my colleagues are still troubled about the concerns of the banks, and very truthfully I am, too, because banks are important to this country and to the economy. But I would observe for my colleagues, clearly, that the banks have made it plain that the adoption of this or any other amendment is not going to make this bill acceptable to them.

Mr. LAFALCE. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) has 5 minutes remaining.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Madam Chairman, I think that it is interesting that the way this bill is now being debated is whether or not we can use the excuse to merge and acquire more and more banks, more insurance companies, more securities firms to actually undercut and drop back the bar on our investments to the poorest communities in this country. That is what we have come to in the Congress of the United States.

It seems if we are really serious about looking at the effects of CRA, let us take a look at the fact that since 1977 the regulators have indicated that over $400 billion have been invested in the poorer communities of this country. Not communities where banks lose money, but rather communities where banks have invested, the communities have grown and prospered, and we see home ownership rates rising among blacks and Hispanics and Asians, as well as poor whites.

We see communities that have been neglected for years and years, despite the fact that they put deposits in banks. Banks sucked up those deposits

and then turned around and lent the money someplace else. All CRA says is put the money back into the communities from which the deposits are taken.

Why would anybody try to undercut that basic fundamental premise? Why would we say that they should not do that? Why should we say that small banks have less of an obligation to do that than big banks, when if we look at the data, the fact of the matter is that small banks have worse records in terms of lending to minorities, lending to people of color, lending into the poorer communities than the bigger banks.

Sixty-five percent of all the banks in the United States would be exempted by virtue of the amendment that we are currently debating. Sixty-five percent. We are going to turn around and say to 65 percent of the banks in the United States that they can go ahead and buy each other up, they can merge and acquire one another, they can go into the insurance industry, go into the securities industry, but, boy, they really do not have to go back to Main Street; they do not have to go back and lend money into the communities from which they take their deposits.

It is a crime for us to be suggesting that we want to allow that kind of pullback on our commitment to the poorest people in this country as a provision in order to allow the bigger banks to get even bigger.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Chairman, I rise to voice my strong opposition to the Baker amendment. If passed, the Baker amendment would exempt more than 60 percent of all banks from the requirements of the Community Reinvestment Act. This amendment is a frontal attack on the Community Reinvestment Act and has absolutely no place in this bill.

The fact of the matter is the Baker amendment tries to solve a problem that does not exist. The new CRA regulations have already streamlined the exam process for small banks. Under the new rule, banks with assets of less than $250 million are no longer required to collect, report or disclose any data. Instead, examiners look at a small bank's loan-to-deposit ratio and distribution of loans across geography and income levels.

□ 1700

Even though the new rule went into effect in January of 1996, the effect is already being felt. According to the Office of the Comptroller of the Currency, over 80 percent of all banks covered by CRA qualify for the streamlined performance standards for small banks and thrifts. They also report that the actual time spent in community banks on CRA examinations have been reduced by 30 percent. To argue that small banks are still suffering under unfair burdens is absolutely preposterous.

CRA works. The Community Reinvestment Act has been an extremely hard-fought reform of our banking sector that has brought over $400 billion in resources to poor and minority communities. This has meant the availability of critically needed lending for community, small business, and housing developments.

That is why the friend of my colleague got some money. He lives in a community that had not been getting the money, and now he has got it. It has nothing to do with affirmative action. So we have a successful law. It should not be dismantled. Vote against this amendment.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. NETHERCUTT) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

FINANCIAL SERVICES COMPETITION ACT OF 1997

The CHAIRMAN. The Committee will resume its sitting.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, it surprises a number of my colleagues on the Committee on Banking and Financial Services that the gentleman from Louisiana (Mr. BAKER) and I are quite often on the same side of financial services issues. But I have got to jump ship on him today when he starts trying to do away with CRA for small banks. Sixty-four percent of the banks in this country, in fact, would be exempted under this amendment. I cannot go there with him.

The CRA requirements for small banks, those under $250 million in assets, were already streamlined in 1995. I am not sure what it is we are responding to with this proposed amendment, because in February of 1996, the American Banker headlines said, ''Small banks give thumbs up to streamlined CRA exams.''

They are not complaining. Who is it that we are trying to protect? This is an amendment in search of a problem to solve. And I am not sure why we are trying to solve a problem in the midst of this bill that has a bunch of problems in it for people who do not even perceive that they have a problem.

CRA has served a very important purpose in our communities. The gentleman from Utah (Mr. COOK) is absolutely wrong in his assessment that the purpose of CRA is for community people. It is not an affirmative action program. It is for small businesses, small farmers, people who live in the communities. It has got nothing to do with affirmative action. We ought to all be supporting CRA rather than trying to abolish it.

I think we ought to oppose this amendment even though there are some other aspects to it that might be valuable.

Mr. BAKER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, in 1950, the average American family had 50 percent of their assets in a bank. Today, that percentage is 17 percent. And in the corporate arena, it is even worse.

For many years, the banks were the only place in town where moderate- to large-size businesses could get credit to grow or expand. And from perhaps 80 percent of corporate lending, we now find that banks provide less than 20. And it is not only just that markets are changing. New products are being created.

In 1980, there were 266 mutual funds in this country. Today there are over 2,600. As the stock market continues to surge ahead to unparalleled record highs, investors are not worried about deposit insurance; they are worried if they are going to miss out on the next 25 percent rate of return.

The creation of money market funds, a nonbank product, allowing people to put their money in a perceived safe location and earn interest on their checking accounts, again, more disintermediation, more money flowing out of the banks into nontraditional sources.

So many banks in the marketplace are surging ahead with these new mergers because this gives them a way to keep the profitability up as they spread fixed operating cost over larger and larger and larger customer bases. It makes good sense for the large institutions. It is reported that the NationsBank merger, for that institution alone, will result in annual savings in excess of $2 billion. Phenomenal savings are occurring through these efficiencies in the marketplace.

Now, the question becomes, how does the typical $47 million bank in America, the 6600 subject of the CRA amendment, see any benefit from any of this? Is there any provision that we can point to in this bill that we can go back to hometown XYZ in our State and say, this is going to help make us more profitable, it is going to relieve us of regulatory burden, it is going to give us an opportunity to grow and prosper?

Sure, if they are a billion-dollar institution with branches in multiple States, maybe who has even acquired a recent insurance company in spite of Federal prohibitions to the contrary, they might see tremendous potential in diversification and opportunities, particularly if H.R. 10, as currently constituted, is passed.

But for the average consumer who goes home today and uses their ATM machine, if they have them in their community, who is complaining about

those fee increases, who bitterly hates the new charges for all the service the banks are providing, those banks are desperate. They are looking for ways to get new revenue streams. Because it is a historical fact, interest on loans is in decline and the real growth market is in the fee business and trying to find new products.

Again, that is not a significant problem to a competent management team who has diverse interests. But to the hometown bank, walk in a hometown bank, the the president and vice president are not only the loan officer, not only the fellow who locks the door, there are probably two tellers at the window, they are the CRA compliance department. They are the OCC compliance department. They put up with the audit from the FDIC or the Federal Reserve. They are doing it all.

Make no mistake, this amendment is a great deal more than just limiting the load of CRA and its financial obligations on small town institutions. It is, in fact, the product of the Committee on Banking and Financial Services on restructuring how a bank can sell new products.

There is nothing insidious about the words ''operating subsidiary.'' It is a way of doing business. And quite to the contrary opinion of the Federal Reserve, the Secretary of the Treasury, I am told, will urge a veto of this legislation because we do not allow operating subsidiaries to be engaged, in the base text of H.R. 10, as envisioned by the administration.

I would also point out, for those who are scared of the new world of commerce and finance, of all the megamergers and the banks gobbling one another and perhaps the giant of all, Microsoft, one day finding a way to enter the financial marketplace, guess what? The unitary thrift is alive and well if this bill passes. And even worse, it is bigger than ever if this bill fails.

And there is no restraint, no other amendment, no limiting factor. There are approximately 800 unitaries that have been in the marketplace quite successfully. They own over 62 percent of all thrift assets in the country. They are enormously successful. Look down the application line.

Why, even in Louisiana, we have got my Farm Bureau and 26 more who are joining together on March 9 to apply for a unitary thrift charter. Do my colleagues think they just want to make farm loans? I think they have got other plans.

Now, all of these applications, unless there is something just basically deficient with the applicant, will be approved. It could be 1,500, it could be 2,000 of these new commercial enterprises that own thrifts. Under the bill, there is no prohibition about selling these entities to Microsoft or to General Motors or any of the other horror stories we have heard time after time after time as we concern ourselves about where our financial markets are going. This amendment would prohibit those sales. It would keep the Microsofts from buying unitary thrifts.

This amendment is a lot more than just CRA operating subsidiaries and closing down thrifts. It is an amendment that does important insurance reform. If they want to get into the insurance business in this bill, as a bank, they have to buy an existing insurance agency that has been in business for 2 years.

What if they are in a town that does not have an existing insurance agency that has been in business for 2 years? This amendment allows them to petition the State insurance commissioner to certify there is no competition in the community and allows them then to enter into the insurance business, a small-town, small-bank provision.

Sure, I know financial modernization is an absolute necessity and frankly will proceed whether this Congress or the regulators notwithstanding choose to take a position that moves the marketplace forward. Bright people are going to find a way to get around the law, the Congress notwithstanding. But we can facilitate it. We can make it less expensive.

For the past 50 years, this Congress has taken the pasture of financial services and fenced it off; and what we decide is some people get 10 acres, some people get 30, some people get the really pretty waterfront property in the fertile valley, others get the rocks.

Now, whether they have 10 acres in the rocks or 30 acres on the waterfront has depended on how successful their lobbying effort is. That ought not to be the case. We ought to take down the fence lines. We ought to let them roam wherever they choose and eat as much grass as they want. But if they get sick, do not come back to us.

This proposal does not allow for that innovation. This proposal makes it difficult for small banks to be innovative, to sell new products, to use that dreaded operating subsidiary, to reach out to their consumers and provide them competitive products at competitive prices in small towns across this country. This amendment speaks to that point.

I understand the differences that some Members may have with the philosophy of this amendment. I understand that the Federal Reserve and the OCC fight each other for regulatory turf. I understand there are a lot of reasons for people to be opposed to this amendment. But I can honestly tell my colleagues, the sole motivation for seeing it included in H.R. 10 is to give hope back to the small community banks across this great Nation.

Mr. GILLMOR. Madam Chairman, I yield 2½ minutes to the gentleman from Ohio (Mr. OXLEY).

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

Mr. OXLEY. Madam Chairman, let me first of all say that it has been an excellent debate. I have great respect for the gentleman from Louisiana, as he well knows, and he certainly has expressed his position exceptionally forcefully and well to this body.

Frankly, I have some empathy for his position, particularly on some CRA relief versus small banks. But I really do have major concerns with how this particular amendment treats insurance sales in banks. As I had indicated earlier during the debate on the LaFalce amendment, this issue, the bank sales of insurance, has bedeviled this Congress for a long, long time. It has basically kept this modernization legislation from passing Congress now for the last 20 years.

We finally in our committee, after a lot of hard work and a lot of gnashing of teeth and a lot of long nights and negotiations between the parties, came to an agreement on how we would best deal with banks selling insurance; and we basically came to that conclusion that indeed, based on court decisions, the Barnett decisions and decisions by the OCC that indeed banks would be in a position to sell insurance.

So the next question is how do we best protect the consumer and at the same time allow that kind of activity to take place. So we got the players together, the president of the insurance agents, the representatives of the insurance agents, representatives of the banks, or some banks at least, the ones that were participating in our effort, particularly Bank One and NationsBank, who were real leaders in trying to come to a conclusion. And after a lot of negotiations and after having testimony from the Illinois representatives of the agents and the banks telling us how they worked so hard to get a bill passed in the Illinois legislature unanimously and signed by the governor that became essentially the template for what we tried to do in this piece of legislation.

□ 1715

It is not perfect. In many cases, all of us would have written this differently depending on where we are coming from. But the fact is it was forged in the caldron of compromise in a major State and signed off on by the major players. That is really what we use the basis for our provision on insurance in our committee. It has survived on to the floor.

Unfortunately, the amendment of the gentleman from Louisiana (Mr. BAKER) would rend asunder our ability to make those kind of changes that we basically have the major players sign off on. It removes, in my estimation, a critical consumer protection preventing implicit coercion; that is tying of insurance sales to loans. I think we do have to provide the kind of protection for the consumer that is absolutely necessary.

Another concern I have is that the Baker amendment contains a mischievous provision requesting the OCC, the Federal bank regulator, to report to Congress on the effectiveness of State insurance laws. That, in my estimation, is already predetermined how

that would come out. I ask you to defeat the Baker amendment, as well-intentioned as it may be and support the underlying bill.

Ms. JACKSON-LEE of Texas. Madam Chairman, I rise to speak in opposition to the Baker Amendment.

This amendment's aim and consequence is to eviscerate the Community Reinvestment Act. That Act was created in order to encourage banks to meet the credit needs of the communities in which they were located.

That Act is the child of a successful grassroots movement that is over 20 years old: the ''anti-redlining'' campaign.

In the late 60s, the ''anti-redliners'' took it upon themselves to investigate just how well banks were treating the customers from the communities in which they were located. Their discoveries were shocking. Many banks were using their financial leverage to siphon the savings of middle and lower income neighborhoods, only to turn around and invest those same funds in upper-class neighborhoods.

Although not alone, the Community Reinvestment Act remedied much of this problem. It gave many deserving Americans access to credit and capital for the first time. And it did so, and continues to do so by simply telling banks that they must make better efforts to serve each and every person that comes before them.

Respected Colleagues, this Act did what it was advertised to do, something I wish I could say about much of what we produce. It has resulted in over $200 billion dollars worth of investments in low-income and minority areas.

Under the Baker Amendment, any bank worth less than $140 million dollars would be exempt from the requirements of the Community Reinvestment Act. Ladies and gentlemen, that exemption would capture 80% of all of our banks and thrifts!

Under the current law, most of these banks already operate under a relaxed version of the Community Reinvestment Act standards. These ''streamlined'' rules are more than satisfactory to banks. There is no reason to fix something that is not broken.

This amendment is a profound step backwards for urban communities and minorities. Not only do I not want to face constituent-entrepreneurs who can no longer obtain loans for their small businesses, I also do not want to hear the outcries from the neighborhoods that are being deprived of the essential services which only come to them in the form of locally-owned, family businesses.

I also realize that the Community Reinvestment Act if often the only means that urban development groups can reach agreements with banks. If this Congress wants to continue to look for private solutions for social problems—why do we want to take away the most effective tool for getting private institutions and local communities to sit down at the same table? It just makes no sense.

What does make sense? The Community Reinvestment Act has been instrumental in over 300 different community renewal projects in over 70 different metropolitan and rural communities.

Furthermore, this amendment allows the banking industry to measure its own performance in providing minority access to lending against other banking institutions. Even more importantly, it removes the proverbial leash from banks, allowing them to revert to their discriminatory lending practices of the past.

I ask my fellow colleagues not only to vote against this amendment, but also realize that the Community Reinvestment Act provides benefits to all citizens of the United States, giving us all equal access to the ''economic wells'' that make our country great.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. BAKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BAKER. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 281, answered ''present'' 1, not voting 10, as follows:

[Roll No. 145]

AYES—140

Aderholt
Archer
Armey
Bachus
Baker
Barrett (NE)
Bartlett
Barton
Bereuter
Bilbray
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boucher
Brady
Bryant
Bunning
Buyer
Callahan
Camp
Canady
Cannon
Castle
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crapo
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fox
Gallegly
Gilchrest
Goode
Goodlatte
Goss
Graham
Granger
Gutknecht
Hansen
Hayworth
Hefley
Hill
Hilleary
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Klug
Largent
Latham
LaTourette
Lazio
Linder
Lucas
McCollum
McCrery
McInnis
McIntosh
McKeon
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Neumann
Norwood
Nussle
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pombo
Portman
Pryce (OH)
Ramstad
Redmond
Regula
Riley
Rogers
Rohrabacher
Ryun
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Smith (TX)
Snowbarger
Souder
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Wamp
Watkins
Watts (OK)
Weldon (FL)
Wicker

NOES—281

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Burton
Calvert
Campbell
Capps
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crane
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goodling
Gordon
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastert
Hastings (FL)
Hastings (WA)
Herger
Hinchey
Hinojosa
Hobson
Holden
Hooley
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Morella
Murtha
Nadler
Neal
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Payne
Pelosi
Pickett
Pitts
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogan
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Hall (TX)

NOT VOTING—10

Bateman
Christensen
Gonzalez
Green
Harman
Hefner
Hilliard
Paxon
Radanovich
Skaggs

☐ 1737

Ms. FURSE and Mr. MCHUGH changed their vote from ''aye'' to ''no.''

Messrs. DOOLITTLE, CANNON, DICKEY and REDMOND changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GREEN. Madam Chairman, I missed rollcall vote 145 because I was unavoidably detained. Had I been here, I would have voted no.

The CHAIRMAN. The Chair has been advised that Amendment No. 4 has been withdrawn.

It is now in order to consider Amendment No. 5 printed in part 2 of House Report 105–531.

AMENDMENT NO. 5 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. 5 offered by Mrs. ROUKEMA:

Strike subparagraph (A) of section 6(f)(1) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, and insert the following new subparagraph:

''(A) the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 10 percent of the consolidated annual gross revenues of the financial holding company;''.

Strike paragraph (2) of section 6(f) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute.

Strike paragraph (3) of section 6(f) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, and insert the following new paragraph:

''(2) FOREIGN BANKS.—In lieu of the limitation contained in paragraph (1)(A) in the case of a foreign bank or a company that owns or controls a foreign bank which engages in any activity or acquires or retains ownership or control of shares of any company pursuant to paragraph (1), the aggregate annual gross revenues derived from all such activities and all such companies in the United States shall not exceed 10 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6.''.

Strike paragraph (4) of section 6(f) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute and insert the following new paragraph:

''(3) FINANCIAL HOLDING COMPANY GROWTH BEYOND CAP.—Notwithstanding paragraph (1), the Board may, on a case by case basis, allow the aggregate annual gross revenues derived by a financial holding company from activities engaged in, or companies the shares of which such holding company owns or controls, under this subsection to exceed the 10 percent limitation contained in subparagraph (A) of such paragraph so long as—

''(A) such aggregate annual gross revenues do not exceed 15 percent of the consolidated annual gross revenues of the financial holding company; and

''(B) the financial holding company does not commence any new activity, or acquire ownership or control of shares of a company, under this subsection after the date on which such gross revenues first exceed 10 percent of the consolidated annual gross revenues.''.

After paragraph (3) (as so redesignated) of section 6(f) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute insert the following new paragraph:

''(4) DOMESTIC GROWTH OF FOREIGN BANK BEYOND CAP.—Notwithstanding paragraph (2), the Board may, on a case by case basis, allow the aggregate annual gross revenues derived by a foreign bank from activities engaged in, or companies the shares of which such foreign bank owns or controls, in the United States under this subsection to exceed the 10 percent limitation contained in such paragraph so long as—

''(A) such aggregate annual gross revenues do not exceed 15 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6; and

''(B) the foreign bank does not commence any new activity, or acquire ownership or control of shares of a company, under this subsection after the date on which such aggregate annual gross revenues first exceed the 10 percent limitation contained in paragraph (2).''.

Strike subsection (g) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute (and redesignate the subsequent subsection and amend any cross reference to any such subsection accordingly).

The CHAIRMAN. Pursuant to House Resolution 428, the gentlewoman from New Jersey (Mrs. ROUKEMA) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment is a straightforward one. All financial holding companies, under this amendment, will be entitled to derive 10 percent of their gross annual revenue from nonfinancial activities and investments.

Once a financial holding company hits the 10 percent commercial basket, they would not be permitted to make new investments. They would be permitted to have a 10 percent commercial basket with a cap. They would not be permitted to make new investments in commercial entities or activities once they reach that cap. The Federal Reserve, and this is very important, could approve on a case-by-case basis a financial holding company application for an additional 5 percent, but it would only be at the discretion of the Fed, with very strict parameters.

There are several good reasons, in my opinion, for increasing the commercial basket to 10 percent. In the first place, I believe we need that famous, or infamous, two-way street for all market participants. It should be understood by my colleagues that banks, security firms and insurance companies need to be able to affiliate on an equal basis as in a holding company.

The 10 percent commercial basket is especially important for those who are concerned about their banks. It would establish parity among banks, securities firms and insurance companies by establishing a single limit that applies to all participants.

The basket is only modest. As I have said, it would have strict safety and soundness supervision and examinations by Federal and State regulators. Sections 23(a) and 23(b) of the Federal Reserve Act impose a significant limitation on transactions with affiliates, and the Federal safety net, the deposit insurance funds and the Federal payment systems, are more than adequately protected by the limits in this bill.

□ 1745

I want to assure people of that. The commercial basket would accommodate normal growth of income from commercial activities. I do not have time to go into the business cycle effects, but I think that really indicates, it is really an indication of a lot of common sense about that. It gives the elasticity to accommodate the banks, the securities firms and the insurance industry.

If financial services holding companies can invest in commercial activities, as under this bill, as under this amendment, there will be a new potential source of capital for small and midsized companies. I know I have heard that question raised by numbers of constituents, and I think we can go back to our small and midsized companies, which all of us know are really an engine of growth in our communities, and we know what trouble they have attracting capital. I believe that this 10 percent basket will be very helpful to them.

Madam Chairman, every day I think that we know that there are new products and services and we can certainly understand how this 10 percent basket would help in creating those new innovations for variable annuities, money market deposit accounts and sweep accounts, and it would be a help to those.

Now, I want to stress to all of our Members that this is probably a subject that is not well understood by many Members, but I have to tell my colleagues that the Committee on Banking and Financial Services, in committee, adopted an even larger basket, a 15 percent basket, with a 2-to-1 margin. After studying this for months and months and months, our committee voted 35-to-19 to allow a 15 percent basket.

Madam Chairman, my amendment is more modest. It takes a more modest, smaller step towards this innovation. But I also must say that all 5 subcommittee chairmen of the Committee on Banking and Financial Services support this amendment, and I note with great pride and appreciation the fact that we have bipartisan support with the ranking member of the full committee, the gentleman from New York (Mr. LAFALCE), and the gentleman from Minnesota (Mr. VENTO), my ranking member on the Subcommittee on Financial Services. We all give strong support to this amendment.

The securities industry and the insurance industry strongly support the amendment, and I must repeat that this is particularly important to the

bankers because the amendment does give parity, a parity arrangement for banks in this new financial services world.

BACKGROUND—WHAT THE AMENDMENT DOES

My amendment is straightforward. All financial holding companies would be entitled to derive 10% of their gross annual revenue from nonfinancial activities and investments. Once a financial holding company hits the 10 percent commercial revenue cap, they would not be permitted to make new investments in commercial entities or activities. The Federal Reserve could approve, on a case by case basis, financial holding company application to receive up to an additional 5 percent in earnings from existing commercial activities.

The bill as currently drafted would limit the amount of revenue to 5 percent of annual gross domestic revenues. My amendment would expand that limit to 10 percent of annual gross domestic revenues.

There are several good reasons for increasing the size of the commercial basket to 10 percent.

THE TWO WAY STREET

We need a two way street for all market participants.

Banks, securities firms and insurance companies need to be able to affiliate on an equal basis in a holding company.

Insurance companies and securities firms are not prohibited from affiliating with commercial entities. They derive significant revenue from these nonfinancial activities.

Insurance companies and securities firms need a commercial basket so they can be financial services holding companies. Without a basket they will have to curtail existing commercial activities.

The bill would grandfather existing commercial activities of securities and insurance firms—up to 15 percent of annual gross revenues.

Bank holding companies would be limited to 5% of annual gross domestic revenues.

My 10 percent commercial basket would establish parity among banks, securities firms and insurance companies, by establishing a single limit that applies to all participants.

SAFETY AND SOUNDNESS

The basket is modest—only 10 percent of annual gross revenues.

Strict supervisiion and examination by the State and Federal regulators.

Sections 23A and 23B of the Federal Resrve Act imposes significant limitations on transactions with affiliates.

The federal safety net—the deposit insurance funds and the federal payment systems—are adequately protected by the limits in the bill.

10 PERCENT ACCOMMDATES BUSINESS FLUCTUATIONS

The 10 percent commercial basket would accommodate normal growth of income from commercial activities.

It is the hope of every businessman that their businesses will grow. The 10 percent commercial basket will permit enough flexibility to accommodate reasonable increases in income from commercial activities.

The 10 percent commercial basket would also help accommodate any seasonal decrease in the amount of revenue derived from ''financial'' activities.

The business cycle affects all industries. For instance a securities firm's revenues may rise or fall depending on general economic conditions. Insurance company revenues can be affected by natural disasters. Banks revenues are significantly affected by interest rate changes.

The basket will be large enough to account for normal fluctuations in the holding company's financial business.

ECONOMIC GROWTH

A commercial basket will encourage economic growth.

If financial services holding companies can invest in commercial entities there will be a new potential source of capital for small and midsized companies.

Small and midsized companies—which are the engine of most growth in the United States—frequently have problems attracting equity financing.

The 10 percent commercial basket may help these new and innovative companies.

The 10 percent commercial basket may also promote community reinvestment. Holding companies could make investments in their community's businesses and contribute to vibrant, growing local economy.

ENHANCE COMPETITION

The 10 percent commercial basket will enhance competition between all participants in the financial services industry.

This bill is supposed to level the playing field between the banking, securities and insurance industries.

The insurance and securities firms have never been prohibited from affiliating with commercial firms.

The 10 percent basket would permit a ''modest'' level of commercial affiliation and would enhance competition.

NEW PRODUCTS AND SERVICES

Innovation is the United States.

Every day there are new products and services.

Examples include: variable annuities, money market deposit accounts, and sweep accounts.

A basket which is too small would result in statutory and regulatory barriers which the legislation is supposed to eliminate.

We need to have a basket large enough to accommodate the new products and services which the financial services industry creates in the coming years.

This amendment has significant support.

The Banking Committee adopted a larger 15 percent basket by a vote of 35–19. A 2 to 1 margin.

All 5 Banking Subcommittee Chairmen supported this amendment.

The amendment enjoyed strong bipartisan support in committee.

I note that Mr. LAFALCE, the ranking minority member of the full committee, and Mr. VENTO, the ranking member on my financial institutions subcommittee, support this amendment.

Other members of the committee will be speaking in support of this amendment.

The securities industry and the insurance industry strongly support this amendment. And this amendment, to repeat, will give parity (pg.2) to the Banks.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I rise in opposition to the amendment.

I do not want to speak at length at this time; I simply would say that the gentlewoman has outlined a very thoughtful perspective on a very troubling area of law. I happen to believe this is perhaps the most profound amendment, if not profound approach, that applies to the financial landscape in the United States that can be expressed or will be addressed by this body, and I will have a substitute amendment at the appropriate time that will be designed, in effect, to negate the effects of this particular amendment.

I would simply suggest to my colleagues that if one believes that what this country needs is more conglomeration, greater integration of financial institutions with other parts of commerce, then this amendment is a very sensible way to go. If, on the other hand, one believes that the engine of dynamism in this country are smaller enterprises, more discreet enterprises, enterprises that are hallmarked by competition, enterprises that are hallmarked by nonintertwined capitalism, then I think one will want to give serious thought to alternatives, or the alternative that I will be presenting.

Madam Chairman, at this time I would allow the gentlewoman and the advocates of her approach to make as strong a case as they can marshal, and I reserve the balance of my time.

Mrs. ROUKEMA. Madam Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO), the ranking member of the subcommittee.

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

Mr. VENTO. Madam Chairman, I rise in strong support of the Roukema-Vento-LaFalce, and Baker amendment. This is a good amendment. This I think is an amendment which provides parity for both the banking, the securities, and the insurance industries.

As we seek to modernize financial institutions, Madam Chairman, in the past, the Committee on Banking and Financial Services has guided into enactment, working with the Senate and the administration, the Branching and Interstate Banking Act, which in essence, vertically integrated and provided an opportunity for banks to work across State lines and eliminate some of the geographic barriers.

What is occurring here and what has been said by the regulators is, of course, the recognition that financial entities, insurance, banking, and securities, have instruments that look very much alike. What we want is a 2-way street regards their ability to do business. We want the securities and insurance industry, which has historically involved an equity ownership that is commerce, to, in fact, be able to participate and not to have to change the entire nature of the way that they operate in a limited extent, and of course operating at a 10 percent equity ownership position would facilitate that.

Now, on the banking side, we have had any number of intrusions in terms of commerce. In fact, this bill personifies some of those intrusions, such as

the non-bank bank provisions of this bill; such as the provisions in this bill that permit nearly 100 unitary thrifts to continue to have a commerce role, 100 of them, without any limitation as to a percent of revenue or assets. There is no 10 percent limitation in this example.

Then, of course, we have banks that are owned by commercial companies in this Nation. There are 4 or 5 of them. And we have, of course, looking beyond that, looking at our U.S. banks that operate abroad, they all have a commerce role in those market places where they are not limited. They own commercial interests abroad and exercise, I might say, many other powers out of a holding company or even subsidiary going back to a past argument and are regulated by the Federal Reserve, curiously, who doesn't object to such relationship.

So there is a mixture of commerce and banking. That already is an established fact. I have just given my colleagues 4 or 5 instances of commerce banking ownership by banks. The question is, are we going to rationalize and regulate this in a consistent and fair manner? That is what we are trying to do with this amendment.

We recognize that to completely shut off commerce in banking, we would be shutting down this particular bill in terms of what securities firms or insurance firms may be able to do, and to deny that the Federal Reserve Board, through some artifice that they suggest: Well, the bank does not have controlling interest, they only have this investment in this area; they only have a participation in this particular area. Well, that is an artifice. That is an artificial distinction, and we should recognize that and adopt an amendment that gives parity to both banks and the other institutions such as the Roukema-Vento amendment, and I urge my colleagues to adopt it.

I rise in support of the Roukema-Vento amendment that will provide a parity basket—that is an equal 10 percent basket for all financial holding companies—as opposed to the unequal 5 percent for banks and 15 percent for everyone else basket.

As my colleague stated, the amendment would provide a 10 percent of annual gross revenues basket for commercial activities. This limited basket is further narrowed because affiliations would be prevented between the largest 1,000 U.S., companies. A further safeguard is the prohibition on transactions with affiliates engaged in non-financial activities.

This amendment is a responsible approach that recognizes the reality of our financial marketplace and works within that framework. It would reduce the disparity between bankholding companies that would be frozen at 5 percent, and the new financial holding companies formed by securities or insurance companies that would have a 15 percent basket. There is no rationale for the difference.

What is important to recognize is that commerce and banking are already in the marketplace on an ''ad hoc'' and ''exception to the rule'' basis. What the bill does and the Roukema-Vento amendment does better is make a clear and reasonable framework for the linking. Without a basket, there is no ''two way street'' which is modernization speak for an opportunity for securities and insurance companies to affiliate with bank. That is why even the Leach ZERO basket approach allows the very thing he and his supporters will preach against—a 15 percent basket for up to 15 years.

If Congress were acting in a void, the creation of a financial system that creates an absolute and total separation of banking and commerce might be achievable. In fact, however, we are not working in a void.

There is a long tradition of equity ownership with investment banking and insurance industries. The regulators have been playing around the edges with regard to operating subsidiary powers and on Section 20 affiliates. The unitary thrift holding company provides a clear opportunity for commerce and banking and that over 100 unitaries are using today. We have non-bank banks, grandfathered banks, and grandfathered activities. What we don't have is a level and open playing field that recognizes the reality of today's marketplace. We need a rational overall structure that establishes the same firewalls, the same rules and same competitive opportunities for everyone within the U.S. financial services industries.

This amendment, really a take off from legislation Mrs. ROUKEMA and I introduced early last session, provides that overarching structure and a two-way street. Total restrictions on banking and commerce need to be lifted so that financial services entities can diversify: spreading risk and increasing profitability. The EQUAL 10 percent basket, with the ability for the Federal Reserve Board to move to 15 percent in strict circumstances, will provide running room to allow for ups and downs in the business cycle and will assure that the majority of financial services companies will not immediately bump up against the top of the basket.

I urge my colleagues to support this amendment and to oppose the Leach amendment that follows. This basket parity amendment is one small step in the direction of the banking industry. This parity amendment will keep the law relevant to the current and future market conditions of all players. While this bill remains flawed for banks, passage of this amendment will alleviate one of the unfair aspects of H.R. 10—while the Leach amendment will only make it worse.

Mr. LEACH. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER), who has such a thoughtful perspective on this issue, and who is also the chairman of the Subcommittee on Asia and the Pacific, and I think might want to address that perspective.

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

Mr. BEREUTER. Madam Chairman, I am a 17-, 18-year member of the Committee on Banking and Financial Services. I do chair the Subcommittee on Asia and the Pacific of the House Committee on International Relations, and I think, frankly, that is a more relevant set of experience right now for this legislation than service on the Committee on Banking and Financial Services. Because of that combination, I have had an opportunity to watch up close, first as a member of the authorizing subcommittee for the IMF legislation or the activities of the IMF, and then from the Asia and Pacific Subcommittees to see what is happening in Japan and Korea and Thailand in recent months.

I want to speak in the strongest possible terms of my opposition to the Roukema-Vento amendment and for the Leach-Campbell–Bereuter substitute.

What we have seen over the last few years is a Japanese banking system where the assets have grown tremendously because Japanese banks have been able to take equity positions or ownership in businesses. So as the economy was good in Japan, the assets of those banks also moved upward dramatically with the progress of those industries. So Japan had most of the largest 20 or 25 banks in the world. But what happens with their mixing of banking and commerce is that it also exaggerates trends downward. So at a time when the Japanese need a strong banking system, they do not have that strong banking system to help them spin out of their economic difficulties.

In fact, if we take a look at the ownership of a Japanese bank today and their assets, we will find that they can take 5 percent ownership in this business, 5 percent in this business, 5 percent in this business, and so on, and as those businesses had trouble, then, in fact, the asset base of the banks also has deteriorated.

We have also had, there and in Korea, an incestuous relationship between banks and businesses. So we have the disaster in the Republic of Korea today with the chaebols, those huge conglomerates, when banks gave loans to such businesses without considering the real risk, but only on the basis of those incestuous business relationships. And the same sort of thing happened in Japan and Thailand. I can tell my colleagues that the burden of proof should be on those people in Congress and not American society that want to change Glass-Steagall—those who want to eliminate the separation between commerce and banking.

What did Paul Volcker tell the Committee on Banking and Financial Services? I want to quote from his statement to us. He said, ''The American financial system is the most vigorous, flexible, innovative, quickest-to-change, most efficient in allocating capital, and it has been done by maintaining the separation. So the burden of proof seems to me to be on those who want to end this separation. We are doing fine without it, and without exception those countries that have more connections between banking and commerce are noted for having inflexible systems.''

The burden of proof, my colleagues, is on those people who want to establish this so-called ''basket,'' and certainly, it is on those people who want to accentuate the size of it. Once we

cross that line, once we eliminate the separation between commerce and banking, we know what is going to happen. The beneficiaries of this change are going to be in here every year asking for an increase. That is not in the best interests of the United States.

Madam Chairman, I want to suggest to my colleagues that the burden of proof indeed should be on those people that want to break down the barriers between commerce and banking, on those who want to disturb the status quo. We have the strongest banking system in the world, and we have loans being made on the basis of risk, not on the basis of incestuous relationships between banks and business.

I would like to ask my colleagues to take a look at a ''Dear Colleague'' letter that the gentleman from Iowa (Mr. LEACH), the chairman of the committee, and the gentleman from California (Mr. CAMPBELL) and I have circulated to show my colleagues the breadth of the opposition to any changes in Glass-Steagall. It is extraordinary. It spans the ideological-business-political-labor spectrum. This elimination of the Glass-Steagall barrier is a step we do not want to take. Vote ''no,'' vote ''no'' emphatically on the Roukema-Vento amendment, and support the status quo, which keeps the barrier between banking and commerce.

Mrs. ROUKEMA. Madam Chairman, I yield myself such time as I may consume to observe my colleague's arguments against my amendment. I will reserve most of them for the debate on the Leach proposal, but I would say that there is no comparison, none whatsoever, between what the Japanese, the south Koreans or the Indonesians do in terms of regulatory controls and the accounting practices and the forcing of conflicts of interest under their system. So the comparisons with Southeast Asia are not valid.

□ 1800

To tell Members the truth, some of the strongest banking financial systems in the world are in Europe, particularly in great Britain, Germany, and other European countries. Virtually every one of those countries have at least a 10 percent commercial entity, and in many cases, many more, and have had them for a long period of time.

Madam Chairman, I yield 2 minutes to our colleague, the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Madam Chairman, I thank the gentlewoman from New Jersey for yielding time to me.

Madam Chairman, I rise in strong support of the 10 percent basket amendment, the Roukema-Vento-Baker-LaFalce amendment.

This amendment is similar to an amendment I offered during the markup of this bill in the Committee on Commerce. As a New Yorker, I fully understand the importance and significance of providing the proper framework where financial services can thrive.

Our nation's markets are the envy of the world, and New York is the capital of the world's economy. Any legislation that is reported must ensure that our financial structure retains its ability to adapt to the changing needs of the public.

To this end, I believe that financial modernization legislation must allow banks, securities, and insurance firms with commercial interests to invest some percentage of its domestic gross revenues in nonfinancial services. Financial modernization legislation should reflect the current market, and permit some form of commercial affiliation. A 10 percent commercial basket is a reasonable first step toward integrating commerce and banking.

Legislation on this matter must be flexible enough to ensure that financial service providers can continue to evolve. We cannot push back progress. Without a basket, many firms would be forced to choose between their current commercial activities and newly authorized banking powers. In addition, many firms would have difficulty competing in the global economy without having some ability to invest in foreign entities.

While we are pleased that a 5 percent basket was included in the bill, a 10 percent basket provides the proper cushion to accommodate both the normal growth of a commercial enterprise and the potential decrease of financial activity revenues.

To this end, I strongly urge my colleagues to vote for the 10 percent basket amendment. Financial providers must have the ability and the flexibility needed to move forward as we approach the 21st century. As the gentlewoman correctly pointed out, a 15 percent basket would even make more sense, but this is a scaled-back bill, a moderate bill, a bill trying to make progress, and a bill trying to get a majority of the votes.

We cannot put our heads in the sand. We cannot be blinded. We cannot pretend that progress does not march on. To pretend that this is the same financial economy as that of 50 or 60 years ago just does not make sense. I urge my colleagues to vote for this very, very modest amendment, which moves us in the right direction.

Mr. LEACH. Madam Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, I want to express affection and respect for the authors of this amendment, but I want to differ with them strongly on its need. I talked to the distinguished chairman of the Federal Reserve Board. He opposes this amendment, and he says this in his May 4 letter to me: ''There is every reason to move with caution in this area. The combining of banking and commerce is clearly irreversible. Once permitted, the Congress is unlikely to impose the costs and disruption of disentanglement.''

Let us look at Germany. Their financial institutions have been discussed. The German economy is stagnant. They are exporting jobs because they cannot start them up at home.

Look at Asia, and look what is happening. Over there, a bank can do anything it wants. They own property, they own real estate, they own businesses, they own stock. When values start going down on those kinds of assets, the bank is in serious trouble. It happened in Thailand, it happened in Korea, it has happened in Japan, and all three economies are stagnant, in good part because of this.

Listen to what Chairman Greenspan says:

> The current turmoil in some Asian economies highlights the risk that can arise from the interrelationships between banks and nonbank corporate entities. First, if the interrelationships are too close, the banks' decisions with respect to lending might be based, not on the underlying creditworthiness or other relevant characteristics of the borrowers, but rather on such factors as implicit or explicit subsidies, personal and business relationships, and common managers.

That is exactly what has happened in Japan, Thailand and Korea.

Listen further:

> Second, the interrelationships can become so complex and nontransparent that investors and counterparties cannot properly understand or assess the banks' financial soundness.

Again, this is happening in Korea, in Japan, and Thailand, and in the Asian economies which are in trouble. This amendment would authorize a replication of that unfortunate situation.

Continuing,

> Both of those risks are important elements in the problems now facing some Asian banking systems and are the reasons why banking and commerce have historically been separated in the United States.

If Members want a more clear warning on the dangers of this amendment, check with Chairman Greenspan. Madam Chairman, the Chairman goes on to say this:

> Thus, it is critical that H.R. 10 retain its ongoing $500 million cap. Such a cap allows the controlled experimentation of the mixing of banking and commerce, without locking policymakers into one particular approach that, as noted, may be impossible to reverse and that could do more harm than good. . . . If the fundamental and longstanding structural separation of banking and commerce in this country is to be changed, the Board strongly believes that any modification should proceed at a deliberate pace, in order to test the response of market and technological innovations as well as the supervisory regimes to the altered rules.

I urge my colleagues to heed the warning that is present in these words. Do not replicate the follies of Korean, Japanese, Thai banking. Let us use responsibility. The strength of this country has been that, although our banks have not been as big as they would like to be, they have been strong.

I have heard the banks complain constantly about the size of Japanese and Korean banks and their ability to do

all manner of things. It turns out that this ability to do all manner of things has created a disaster for these countries. We are being asked to bail them out. What are we going to do when our replication of their banking system creates the same abuses, the same hazards, and the same economic collapse for our constituents?

I beg the Members, reject this amendment.

Mrs. ROUKEMA. Madam Chairman, I yield 3 minutes to the gentleman from New York (Mr. LAFALCE), the ranking member of the full committee.

Mr. LAFALCE. I thank the gentlewoman for yielding time to me, Madam Chairman.

Surely the whole question of banking and commerce is one of the most difficult for the committee to come to grips with. An attempt was made within the Committee on Banking and Financial Services to put responsible limitations on that combination. That was 15 percent across the board. But then the bill was changed when the Republican leadership brought it forth, and it is 15 percent for these new financial services' holding companies, and 5 percent for bank holding companies.

So we have to understand that what the amendment that the gentlewoman from New Jersey would do is not to increase it from the existing bill, it is to level it. It is to bring the 15 percent down to 10, the 5 percent to 10; to have a leveling of the field between these financial services holding companies, and the banks.

It is also my understanding that subsequent to this amendment, the chairman of the committee, the gentleman from Iowa (Mr. LEACH) will be offering an amendment with a zero basket but with a grandfather provision that would allow up to 15 percent. So even in this zero basket, as I understand it, the grandfathered institutions would have a higher basket than the Roukema amendment would provide.

This is a difficult issue, but if we are to allow the mixing of banking and commerce, I think a 10 percent across-the-board basket would be more appropriate.

In fashioning my motion to recommit, however, stripping the bill of the controversial national bank charter provisions, so we simply would not deal with it, so that we would simply deal with the Glass-Steagall and the bank holding company changes, it is my intent to follow the disposition of the House on this issue. If the House wants to go for 15, 5, or 10, or a zero basket with a 15 percent for the grandfathered institutions, that is what I would incorporate in my motion to recommit.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, in 1694 the British parliament ruled that banking should not mix with commerce. In 1791, Alexander Hamilton, in the United States, decided that banking should not mix with commerce. Thus, it has been over the last 300 years in the Anglo-American tradition.

Now we are told, since the 1980s, that we should mirror the Japanese model of Keiretsu, where bankers and industrialists work very closely together. In fact, we were told in the 1980s here in Congress that if we did not model ourselves upon the Japanese economic system, that we would become an economic power of the past.

Now, in the 1990s, what do we see? Keiretsu in Japan means bankers and industrialists apologizing to the Japanese people for destroying their economy over the last 15 years. The American system continues on with its entrepreneurial, Darwinian, Adam Smith, ruthless set of decisions, with bankers deciding, venture capitalists deciding, which one of the American companies deserves more capital, not because it is tied to it, not because it is married to it.

What happens as a result of the Japanese system? Something called Asian flu. That comes from having bankers too closely tied to industrialists, having too deep of an investment in them and anyone who gets close to them. What is recommended here by the Roukema amendment? That we should, as well, engage in Keiretsu.

Our system is working. It has worked for 300 years. We do not have to abandon it and emulate the Japanese. The correct vote here tonight is no on Roukema, no on the Japanese system. It has failed, and failed badly. Vote yes on the Leach amendment. The Leach amendment will keep the continuation of the Anglo-American system.

Mr. DINGELL. Madam Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Madam Chairman, it is also no on the Korean system and the Thai system.

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me make several points. There has been a lot of talk on the floor today about the bill in general. This amendment comes to summarize several aspects of it.

For example, there has been talk about consumer issues, protecting the public. I do not know a bigger consumer issue or a bigger public protection issue than the question of do we allow the safety net of financial institutions to be spread to commercial activities of banking institutions. This is what has cost lots of countries in the world lots of money.

Asian countries, European countries, a French bank, a Spanish bank, German institutions have cost substantial funds either to their institutions or to their public deposit safety nets, if they exist.

Let me give an example in Germany, because we have focused so much time in the Far East. In Germany a few years back there was a metals firm that went under called Metallgesellschaft. This particular metal company entered into some very sophisticated derivatives trading.

A study at the Chicago Federal Reserve Bank has indicated that they believe that the risk environment involved, the lack of supervision, because it was associated with a commercial bank, caused substantial losses; by ''substantial'', $6 billion.

The Chicago Federal Reserve then examined an American company not associated with the bank, a major American company called Enron. Enron entered into the same kinds of derivative transactions on the same metals at the same time. It made a mistake or two, but because of the discipline of the United States stock market, Enron run survived quite nicely, and it is prospering today. Metallgesellschaft caused enormous losses to a particular financial institution.

□ 1815

Now, if we think about what it is that is at stake in all of this that one relates to, is there a difference between financial prowess and management of enterprise prowess? What we have developed in this country today are the most sophisticated capital markets, but also capacities of people that know how to manage money to take over lots of enterprises, enterprises that they may not be very good at managing.

I happen to think that there is a huge distinction between management and financial prowess. And what this approach before us has in mind is the idea that because one is a good money manager, one then can become a manager of manufacturing, a manager of retail sales, and the end result is very simple. It is a concentration of ownership.

This country has long had an antipathy to concentration of ownership. Here we are going to be looking at combining financial and commercial ownership in ways that I think, if one takes a step back and looks at it, one should have grave doubts about. I know, frankly, some very smart individuals have brought this approach to the Congress that are Members; smart people on the outside have suggested it would be the way to go. But every time I try to describe it neutrally to people in my district and I ask the local Rotary if they think the local bank ought to own the local department store, if they think it would be smart for a national auto company to be intertwined with a national bank, I get people saying, you have got to be crazy.

That is what this amendment not only endorses, but leads to.

I personally think we ought to just take a step back, think it through and suggest that mixing commerce and banking, which is an abstract concept, just simply does not fit the United States of America. I urge serious consideration of the amendment that I will shortly be offering to this particular approach.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to

the gentleman from Delaware (Mr. CASTLE).

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

Mr. CASTLE. Madam Chairman, I rise in strong support of the Roukema amendment.

Mrs. ROUKEMA. Madam Chairman, I yield myself the balance of my time.

I would simply like to say there have been a lot of dramatics here and a lot of quotes here and a lot of economic analysis, and I do not know that there has been substantiation of any of it. I do know that when Mr. Greenspan came before our committee, he indicated, no, he did not want to hold open the commercial basket, but he did say that we had to take a step in this direction. It was inevitable with technology and the global markets with which we are dealing. It was out there; we had to deal with it in some way or other.

We are not opening it up, as has been implied here, to unlimited commercial activity. We are saying that 10 percent gives the legitimate two-way street and the parity and the kind of mixture that we are having between banks, insurance and securities. And that is all.

Forget the drama. It is not keiretzu. When we get to the Leach amendment, I will give a little more of my own analysis of why we are not talking about Asian flu.

The CHAIRMAN. It is now in order to consider substitute amendment No. 6 printed in part 2 of House Report 105–531.

AMENDMENT NO. 6 OFFERED BY MR. LEACH AS A SUBSTITUTE FOR AMENDMENT NO. 5 OFFERED BY MRS. ROUKEMA

Mr. LEACH. Madam Chairman, I offer an amendment as a substitute for the amendment that would eliminate the commercial basket for financial services holding companies.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2 amendment No. 6 printed in House Report 105–531 offered by Mr. LEACH as a substitute for amendment No. 5 offered by Mrs. ROUKEMA:

Strike subsection (f) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute (and redesignate subsequent subsections and any cross reference to any such subsection accordingly).

In paragraph (1) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, strike ''subsection (f)(1) and''.

In paragraph (2) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute—

(1) strike '', as of the day before the company becomes a financial holding company,''; and

(2) insert ''(excluding revenues derived from subsidiary depository institutions)'' before '', on a consolidated basis''.

In paragraph (4) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, insert ''(excluding revenues derived from subsidiary depository institutions)'' before the period at the end.

In paragraph (5) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, strike '', subsection (f),''.

In paragraph (6) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, strike '', subsection (f),''.

After paragraph (6) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, insert the following new paragraph:

''(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 1998. The Board may, upon application by a financial holding company, extend such 10-year period by not to exceed an additional 5 years if such extension would not be detrimental to the public interest.

Strike paragraph (1) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute (and redesignate subsequent paragraphs and any cross reference to any such paragraph accordingly).

In subparagraph (A) of paragraph (1) (as so redesignated) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute, strike ''paragraph (1)(A) and''.

In subparagraph (C) of paragraph (1) (as so redesignated) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute, strike ''or (g)''.

In subparagraph (B) of paragraph (2) (as so redesignated) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute, strike ''Notwithstanding paragraph (1)(A)(i), the'' and insert ''The''.

In subparagraph (A) of paragraph (3) (as so redesignated) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute, strike '', (2), or (3)'' and insert ''or (2)''.

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Iowa (Mr. LEACH) and a Member opposed, each will control 15 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

The movement to go beyond the integration of financial services and eliminate the traditional legal barriers between commerce and banking is simply a bridge we should not cross. It is a course fraught with risk and devoid of benefit and one for which there is no justification.

Such a step would open the door to a vast restructuring of the American economy and an abandonment of the traditional role of banks and impartial providers of credit, while exposing the taxpayer to liabilities on a scale far exceeding the savings and loan bailout. At issue with financial services modernization is increased competition. At issue with mixing commerce and banking is economic conglomeration, the concentration of ownership of corporate America.

Recognizing this, warnings about mixing commerce and banking have been issued by the Federal Reserve Board, by Paul Volcker, and by consumer activist Ralph Nader. It is opposed by groups representing consumers, labor organizations, community bankers, farmers, travel agents, realtors, pharmacists, building contractors and the self-employed. In other words, the concept is opposed by the millions of workers, small businessmen and women who are the generators of economic prosperity in the United States.

Proponents of a commercial basket argue that U.S. financial holding companies need a commercial basket to be able to compete with foreign competitors, and that virtually all European countries permit banks to make direct investments in commercial activities. However, this overlooks a couple of simple facts.

First, in testimony before our committee, Chairman Volcker noted that the mixing of commerce and banking in Germany, France, Spain, Japan and elsewhere has led to massive financial losses for both banks and taxpayers in these countries. There is plenty of recent experience in other parts of the world to suggest that potential problems with banking-commerce links are not just theoretical, Paul Volcker noted.

Second, a recent New York Times article indicated that the European universal banks have a lower return on equity than U.S. banks, such as Citicorp, which does not have a commercial basket. So why would we encourage our banks to go in that direction?

Third, the U.S. financial system has much more depth and credit in equity markets. That is one of the strengths of the United States system. It thus could not be more ironic that powerful groups in Washington are today suggesting that Congress redesign America's financial landscape to make it more like that of Japan and Germany, France and Spain and the 1980s United States S&L industry.

Mixing commerce and banking only benefits large banks and large corporations at the expense of small banks and small business. For decades small business has been the engine of job creation in the United States, and mixing banking and commerce places American job growth in jeopardy.

For instance, would an individual hoping to open a restaurant in a town where the only bank was owned by McDonald's be able to obtain a loan, or would the bank disregard its role as an impartial provider of credit? Would a bank owned by a real estate developer

provide comparably priced credit to competing developers? Given these troubling possibilities, it is no surprise that the nonpartisan General Accounting Office issued a report demonstrating that there is no compelling economic argument for mixing commerce and banking and a lot of socioeconomic and political jeopardy in doing so.

In this time of crisis in Asian economies, the lessons of the chaebols of Korea, the keiretzus of Japan and cartels of Indonesia should not be lost in the United States. Those who advocate financial modernization legislation which mixes commerce and banking might want to take a hard look at the conflicts of interest endemic to systems that have allowed such mixing.

In East Asia, bank ownership of industrial firms led to crony capitalist relationships with the government. The virtue of America's decentralized, stock-market-oriented financial system is that credit and investment decisions are made based on economic fundamentals, not entangled relationships or corporate favoritism.

America is a country which has traditionally opposed concentrations of power, both political and economic. It is the country of Jeffersonian individualism, Jacksonian bank skepticism and Teddy Roosevelt trust busting. The contemplated mixture of commerce and banking goes beyond the lessons that we have learned and the values that we hold.

Madam Chairman, I reserve the balance of my time.

Mr. VENTO. Madam Chairman, I rise in opposition to the Leach amendment.

The CHAIRMAN. The gentleman from Minnesota (Mr. VENTO) is recognized for 15 minutes.

Mr. VENTO. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, I rise in opposition to this amendment. This amendment, what it actually says, and I respect the chairman and his staunch opposition to commerce and banking; he has been consistent in that particular view. But what this amendment does is it says, they rise in opposition to the Roukema amendment which provides a 10 percent basket even for securities, insurance or banking firms, but this one says, 10 percent is too much, but 15 percent is just about right.

That is what this amendment does. This provides 15 percent commerce ownership within a securities or insurance firm for 15 years.

Here we are in an environment in which economic events within a short period of time, in days, maybe months, certainly years, in 15 years we could see dramatic changes in terms of what happens in the economy. We are saying, we are providing a level playing field, taking the most important financial entities in our country, banks, and treating them in a disparate way. Of course, I mentioned the many, many exceptions.

Now, in order to sell this particular proposal to the Members, we have had the bloody flag of the S&L crisis waved back and forth. It has been suggested that somehow our culture and free enterprise system and free people are going to accept the type of government and type of control that exists in Asia, in Japan or Korea or Germany. I do not think so.

I think that our free enterprise system is strong enough and mature enough to recognize what actually is taking place. What happens when banks permit the financing for mergers and acquisitions? What happens when banks make these tremendous loans and end up collecting these companies as collateral? They become, in a sense, investors. They end up picking up that collateral and having that control. And there are many, many exceptions. In fact one of the largest corporations in my State, 3M owns a bank. It has not undercut 3M yet. They are still going to the private market.

I oppose this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 3 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Madam Chairman, it is a compliment to the side of the argument presented by the chairman of the committee that those opposing his amendment would say that it allows 15 percent commercial investment to continue, as though they realize what danger it is to allow such mixture of commerce and banking.

Let me at the start put to rest this argument. The 15 percent that would be allowed to continue for the bank holding company during the period of a wind-down is in order to allow a reasonable phaseout of the mixture of banking and commerce that is already in existing law.

The fundamental debate here tonight is between those who wish to go to zero mixing of commerce and banking and those who would permit it, those who believe that 5 percent mixture is not enough and, in the Roukema amendment, that it be 10, or as we heard in the debate earlier, that some would even go to 15.

I think the real debate thus is, shall we have a mixture of commerce and banking? Admittedly, the Leach amendment, of which I am proud to be a cosponsor, has a phaseout provision. That is appropriate for now. Eventually, however, under the Leach amendment there will be no mixture of commerce and banking, as there should be no mixture of commerce and banking.

Under the Roukema amendment, it will be 10 percent today, probably 15 percent or 20 in years to come.

What is the objection to the mixture? I think it has been adequately explained by my colleagues in regard to the risk that comes from a commercial investment made by someone that ought to be a neutral provider of capital. I would rather address one point that has not been made, and that is whether the fire walls are adequate, because we know that in the bill itself and in the amendment from our colleague, the gentlewoman from New Jersey (Mrs. ROUKEMA), there is a set of fire walls to make sure that the bank does not offer a loan to the very commercial enterprise in which it has an equity stake.

But there is no fire wall against providing a loan to the customers of that commercial enterprise or to the suppliers of that commercial enterprise. And so a bank might own some stock in General Motors, and General Motors cannot get its new fleet out on time because Firestone has a little trouble providing the tires, due to cash flow. Will the bank not be tempted to give a little bit of leniency on any loan to Firestone? It would not break any fire wall to do so because the fire wall only applies as to the extension of credit to General Motors, if, by hypothesis, the bank has an equity stake in General Motors.

The point is simple, there is no way that the imagination of humankind can prevent the temptation from arising. If a bank has an equity stake in an enterprise, that enterprise will have a claim on the bank's lending policy.

Lastly, why do we care so much? Because it is not the companies' money. I have no problem with the company retaining earnings and using it for its own intended investment—splendid, but not with the taxpayers' money. What we are dealing with here tonight is Bank Insurance Fund money which, if the Bank Insurance Fund is stressed, will, as in the case of the savings and loan crisis, and will, in this context again, be a tax upon the taxpayers.

□ 1830

Mr. VENTO. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PAUL), a member of the committee.

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

Mr. PAUL. Madam Chairman, I rise in opposition to the Chairman's amendment and in strong support of the amendment of the gentlewoman from New Jersey.

There are two positions that one could take on this. We could have zero integration, which this amendment would do; or we could think about the market. The market would just allow it to exist.

Earlier, somebody quoted Hamilton as being opposed to an integration of commerce in banking. Well, of course, at that particular time in history we had the Jeffersonians, and they were strongly in support of the market and even against central banking.

So I think, considering all things, that I cannot get my 100 percent, and we certainly do not want zero. We need to move in a direction, so I would say this very modest request is very justified.

I think this FDIC insurance is something we should be concerned about,

but that is a different issue for the moment. I object to that, but I do not believe this will solve the FDIC problem.

We have to think about how we got here. In the 1920s, the Federal Reserve created a lot of credit. They created a boom and a booming stock market and good times. Then the Federal Reserve raised the interest rates and there was a stock market crash and a depression. And out of the depression came the desire to regulate banking and commerce. That caused the depression, which was erroneous, because the cause of the depression was excessive credit and then a deflated bubble, which should be all laid at the doorstep of the Federal Reserve.

This is the size of the Glass-Steagall Act, a few pages, in order to solve a problem that did not exist. But we have been living with this for all these years. And now, over these several years, we have been trying to solve the problem. Now, this is the size of the solution. This is H.R. 10, this is the version of the Committee on Commerce as well as the version of the Committee on Banking and Financial Services that went to the Committee on Rules.

We need to look at the fundamental cause of our problems and not jump off a cliff and do the wrong thing. I strongly support the Roukema amendment.

Mr. LEACH. Madam Chairman, I yield 3 minutes to the gentleman from Nebraska (Mr. BEREUTER), my distinguished friend and coauthor of the amendment.

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

Mr. BEREUTER. Madam Chairman, I thank the gentleman for yielding this time to me.

The gentleman from Texas has just spoken to us about letting the market work. The problem with the mixing of commerce and banking is that market decisions are not made. Credit decisions are made on the basis of equity that a bank has in a business. We are more likely to have the market working properly when we have this division between banking and commerce as we have had since the 1930s, even tracing far back beyond that, as the gentleman from Massachusetts (Mr. MARKEY) earlier said, tracing back in some form to a period even before the founding of the Republic.

I just cannot help but think of what happened in the home State of the gentleman from Texas (Mr. PAUL) when we had under S&L law in Texas, in that State and some other States, an opportunity under their legislation to use federally insured deposits to make investments in their own name instead of loans to residents of their community. And I recall something like 50 percent of the total losses in the S&L debacle were in the gentleman's home State of Texas.

The gentleman from Minnesota (Mr. VENTO) suggests that this 10 percent basket is a modest step. Well, I think we are more likely to pay attention to what the gentleman from New York (Mr. ENGEL) said. He said this 10 percent basket is a reasonable first step as a basket. And that is the point this gentleman was trying to make some time ago; that there is, in fact, no end to this process for a larger basket all the time once we break the barrier down between commerce and banking. We are going to be back here with such amendments year after year.

Mr. VENTO. Madam Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Minnesota.

Mr. VENTO. I wanted to suggest that I did not agree with the gentleman from New York (Mr. ENGEL) on the first step.

Mr. BEREUTER. I thank the gentleman for that clarification.

I watch with awe and wonder the gentleman from New York (Mr. LAFALCE), who speaks to us in such a soothing voice, about how the changes that are being made here are actually reducing it from 15 percent basket to 10 percent basket. And, well, that is accurate. But in reality, of course, the status quo is a zero basket. And that is what we are supportive of the Leach amendment think is a crucial and proper level. It is crucial that we maintain this barrier against mixing banking and commerce. I think it provides us a much higher likelihood of the impartial provision of credit by bankers to people and to businesses that deserve to receive credit. It avoids a concentration of economic power.

Earlier, too, we heard references about a bloody flag being waived in the debate on S&Ls. But I think that is appropriate for we have to learn from our experience. And it boggles my mind, it boggles foreign legislators' minds that we in America would be recreating, the kind of unhealthy banking situations that we find in Asian countries.

And as the gentlewoman from New Jersey (Mrs. ROUKEMA) ask earlier, well, what about Europe? Well, in fact, the problems resulting from the mix of commerce and banking exists in Europe, too. And, in fact, in France and Spain the public treasuries were raided to make insolvent large banks more solvent after they made imprudent commercial investments. And that is what we would have to have.

Do not trade the separate American banking and commercial systems for the failures of Asia or Europe.

Mr. VENTO. Madam Chairman, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Madam Chairman, I thank the gentleman for yielding me this time.

This is, no question, a very difficult issue. I can come down almost on either side. But if we do not deal with it tonight, and my bet is we probably are not going to deal with it tonight, we are going to have to deal with it at some point in the future.

Again, I have nothing but the greatest respect for the chairman of the Committee on Banking and Financial Services, and I think he has thought long and hard about this, but we have to consider a few things.

First of all, the chairman talked really about two types of commercial baskets. I think he talked about what this amendment or the Roukema amendment was about, and then he talked about what he thinks may come in the idea of a reverse basket where McDonald's owns banking entities around the country.

Of course, we already have a system in place where we have the small town banker that owns the bank and the car dealership and the feed store and everything else, and that is allowed under current law. But I think we also have to remember we have a much more dynamic marketplace.

And that leads into my second point. It is not really fair to compare the United States' economy to that of Asia or even Europe. Our market is much more sophisticated. It is much more diversified. Our capital and credit markets are much more diversified, much more efficient, much larger. So, yes, there may well be risk, but I think it is a very unfair comparison to make.

I think that the gentleman uses the example of the German company and Enron, which happens to be based in my home city of Houston, and how efficient the U.S. market, the stock market treats it, and I think that is true with respect to banks.

We could turn this over to Mr. Greenspan and let him write the entire bill and just rubber stamp it when it gets back over here and let him go on with his business. I think that would be inappropriate. But what I think Mr. Greenspan and the former chairman, Mr. Volcker, said, when they testified before the committee, is getting back to the real crux of the issue, which is, well, we are opening the door a little bit and it is going to get broader.

But herein lies the problem. Because, as the chairman knows, we are going to find, and we are finding it now, that where banks, as they become stronger, are going to get into areas which are not financial in nature, whether it is data processing or others, that have to be part of their function to be competitive. And we are going to have to address this problem. If we do not address it tonight, we will be addressing it down the road very shortly, I believe.

So I think the chairman has thought a lot about his amendment, I appreciate what he has to say about it, but I think we ought to defeat it and support the amendment of the gentlewoman from New Jersey.

Mr. LEACH. Madam Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. CAMPBELL), who is also a coauthor of the amendment.

Mr. CAMPBELL. Madam Chairman, I asked for the additional time just to stand in defense of the free market. Our good friend and colleague the gentleman from Texas (Mr. PAUL) spoke on

behalf of the free market, and it is hard to beat him when he speaks on behalf of the free market, but I am not weak in my own right in terms of defending the free market—on this floor, and in our Committee on Banking and Financial Services.

I say people should do whatever they want with their own money. If they want to have a commercial enterprise and a bank and an insurance company and a real estate company, may God bless them. May they succeed and prosper in America, the greatest economy in the world, but on their own dime. But, if they have access to the Federal tax dollar through the FDIC, its successor, the Bank Insurance Fund, then no, sir, no, ma'am. I want to make sure they are restricted with what they do when taxpayers' funds are at risk. I want to make sure they are careful.

And do not tell me it will not happen. I came to this Congress in 1989. I joined the Committee on Banking and Financial Services, and the thrift crisis happened. I hope no one suggests causality in that order of events. But let me say to my colleagues there were people telling me I should not worry; that the thrifts were safe; savings and loans could not be better. And we ended up, we the taxpayers, paying for it.

I'm for the free market—on their own dime, but not on the taxpayers.

Mr. VENTO. Madam Chairman, I yield 2½ minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Madam Chair, I thank my colleague for yielding me this time.

I do not know where to begin here. There have been so many strawmen and exceptions to prove the rule thrown out here that it is really a little difficult to answer. But I do want to say to my colleagues, let us be very sure. This is not the time of Jefferson or Hamilton. It is not even the time of Teddy Roosevelt. We are in modern times with technological changes that are so fast pace we can hardly absorb them, and in global market places. And that is the reality of what we are trying to do here.

Now, I secondly want to point out that, with all due respect to my good friend and colleague, the chairman of the committee, and my other good friend and colleague, the gentleman from Nebraska (Mr. BEREUTER), my colleague on the committee, we have worked long and hard on lots of different issues, but with all due respect we cannot be making these parallels between Southeast Asia and what we are proposing here with a 10 percent commercial basket with the kinds of regulatory reforms and fire walls and structures that we have in place in this bill.

This is not Japan, South Korea or Indonesia. It is not unlimited investment, as those countries have. It is a 10 percent basket. Also, we do not have a situation where banks lend to only certain companies. We also do not have the family connection things of those foreign countries. Banks in the United States are generally examined annually, and we have the generally accepted accounting principles and stricter requirements. The foreign banks do not have this.

I could go on and on. In fact, I will, in one more respect. U.S. bank transactions with affiliates are subject to the protections, and under this bill would continue to be subject to the protections of 23(a) and 23(b) of the Federal Reserve Act. And this is very important because it is specific to how you cannot make these gross comparisons that are being made. The restrictions on the amount of loans a bank can make to their affiliates, and requires fair deal for all, not giving better deals to any one particular affiliate. There are all kinds of distinctions in this bill.

We are making a modest step forward and one that I believe any objective observer would say get with the program, figure out a regulatory structure that would accommodate so that we can compete with virtually every other of the successful European countries with whom we are competing.

Mr. LEACH. Madam Chair, I yield myself such time as I may consume.

First, let me talk about competition. In case no one has noticed, over the last 2 decades the United States of America has outstripped competitively virtually every Western European country. We organize differently than Europe. We decentralize.

In case nobody has noticed, the last 7 years Japan has averaged about 1 percent growth. The United States 2 to 4 times the rate of growth in each of these years in Japan. We organize differently.

In terms of speed, in very short order, very large things can occur. We have just witnessed announcement in the last 4 or 5 weeks of the largest financial combination in American history. Reports after the fact indicate that the leadership of the two institutions involved, Travelers and Citicorp, reached a decision in a 6 to 7 week time frame.

As financial institutions grow, these percentage restraints grow with them. So we have a circumstance that the larger financial institutions become, the larger the commercial enterprises they can intertwine with. In very, very short order the American commercial landscape as well as financial landscape can change if this kind of approach is adopted.

Finally, let me just note that in addition to concentration of ownership that can occur, we are likely to get a concentration of geographic control.

□ 1845

It simply is a fact that most large enterprises are not located in rural areas. It simply is a fact that people in what are called money center areas are more mobile with large sums of capital than people who are not.

And so, in very short order, if one goes ahead with an approach that authorizes the mixing of banking and commerce, one can see a concentration of ownership grow in this country and one can see a geographic concentration of that ownership come to be of rather telling dimensions.

So I would simply urge this Congress to note that, other than some very large interest groups, I know of no one that advocates this approach. I have never in my time in public life gotten a letter that has said, ''What ails America is that Chase Manhattan and General Motors are not combined.'' I have never gotten a letter that says, ''What we need are larger enterprises, not from growth within but from conglomeration.'' And I just suspect that if the American public thought this through, there is not only lack of majority support, there is lack of any support other than a very, very few very, very wealthy people.

So I would urge restraint.

Mr. BEREUTER. Madam Chairman, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Nebraska.

Mr. BEREUTER. The Chairman is exactly right about the small number of entities, if any, that are supportive of it. There are a handful of firms and banks. But on the other side, perhaps it is good to reiterate the people that are in favor of the Leach amendment, maintaining the status quo of the zero basket. The chairman has mentioned a few of them before.

Mr. VENTO. Madam Chairman, I yield myself 1½ minutes.

I wanted to point out that the Leach proposal has a 15 percent basket for securities and insurance firms. And what I presume that means, the way it operates, is that until the year 2013, for 15 years, they could have that 15 percent basket of equity position. They then could go, under this Glass-Steagall provision, and buy banks, buy insurance firms, and maintain 15 percent equity ownership. So it boggles the mind.

I understand that we are against commerce and banking, except that this particular configuration until the year 2013 would prevail. In my judgment, it is an untenable position in terms of what is going on. As I listen to the debate here, I wonder if really we are prepared, or the proponents of this amendment are prepared, to really repeal the Glass-Steagall amendment. Because they seem to have learned no lessons or recognized no difference between the fact that we are not able to distinguish some of the instruments of these financial entities; that in fact the banks write two-thirds of the derivatives, that the types of loan programs that they are involved in, I think very often look like investments. The inconsistency of this in this particular bill, in the marketplace, it seems that they are in a state of denial, quite frankly.

I am just amazed at the vehemence in terms of this particular position. And then to compare us to Germany and Japan and other countries where

they do not have a regulatory system, a culture, and a free enterprise system as we have. I must state again, this is not my first step. This is just a recognition to get out there and regulate it.

Madam Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Madam Chairman, I just wanted to point out to the gentleman from Minnesota (Mr. VENTO) regarding the grandfathering arrangement, it is a 10-year period. It could be extended for five years. But this is dealing with an anomalous situation. It is a condition created by regulators because the Congress did not act earlier. These anomalous conditions are not a good situation, but the grandfather clause is a valuable way to remedy these anomalous situations.

Mr. VENTO. Reclaiming my time, I understand. I think the gentlemen are being very fair. Except it just becomes very inconsistent in terms of what the effect is. It just becomes unworkable and it is untenable to present a bill like this where we have such an unlevel playing field; and to criticize 10 percent at the same time they are providing 15 percent here just boggles the mind.

Madam Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), a distinguished member of the Committee on Banking and Financial Services.

Mr. BAKER. Madam Chairman, I thank the gentleman for yielding the time.

I certainly want to acknowledge the hard work that the gentleman from Iowa (Mr. LEACH) has given in the difficult management of H.R. 10 throughout not just this session, but many years.

However, this is one issue where the chairman and I have had significant differences of legitimate opinion as to the appropriateness of diversified financial structures. If we were to adopt the zero parity amendment that is proposed by this amendment, we would find significant dislocations in the current marketplace. There would be corporations and entities legally engaged in businesses which they have engaged in for many years which would, of necessity, have to divest those revenue streams from their corporate structure. Stated another way, people lawfully engaged in business that does no harm would now, by action of this Congress, be told they can do that no more.

That, to me, seems to be a bit unreasonable, especially when we realize that one of the important elements this amendment does not address is the structure of the unitary thrift, which will continue to exist and proliferate, which may be resold without limit in which one cannot only have nonfinancial income, they can own a plywood plant, a hotel, a restaurant, and a thrift.

Mr. VENTO. Madam Chairman, if the gentleman will yield, there is no 10 percent limit in there. There could be a 100 percent.

Mr. BAKER. That is correct. The gentleman makes the point that there is no revenue limit at all with regard to the unitaries that can be sold to commercial enterprises, so that a General Motors can get into the thrift business by accessing that charter. This amendment does not address that question.

And so what we have left at the end of consideration if this amendment were to prevail is a very unbalanced marketplace where a few authorized actors have the right to have very diverse incomes, while we are taking banks and financial enterprises down to zero level and requiring them to divest themselves of currently legally authorized activities.

When we look at those currently authorized institutions that have significant activity, American Express, for example, enjoys 9 to 14 percent of revenue annually coming from nonfinancial related activities. We see A.G. Edwards, Charles Schwab, Lehman Brothers, we can go down the list and look at what is going on in the market today and realize the consequences of this amendment are not minor.

Now, I certainly understand the proponents' perspective that we should not allow commercial and financial interests to intermingle. But I have to tell my colleagues, smart people are figuring out ways to do that no matter what the Congress might attempt to limit.

This is a very serious amendment. It is a very thoughtful amendment. It is a very important amendment. But it is a disaster for the existing financial marketplace of this country if it were to be adopted.

Mr. TOWNS. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Iowa.

The five percent commercial basket contained in H.R. 10 recognizes that the securities industry has a long, troublefree history or affiliation with commercial companies. In fact, there are instances in which securities firms have benefitted greatly from the capital a commercial affiliate has contributed. Additionally, allowing financial holding companies (F.H.C.s) to invest a percentage of their domestic gross revenues in non-financial activities will provide companies with a source of capital and will help F.H.C.s.

The Commerce Committee reported out this with a 5% commercial basket. The Banking Committee passed a 15% commercial basket amendment by a 35 to 19 vote. At no point did either committee say that there should be no commercial basket. Modernization legislation can not continue the status quo. This bill must reflect the current market and permit some form of commercial affiliation. Therefore, I would urge my colleagues to oppose this amendment and to support the gentlelady's from New Jersey's amendment to increase the commercial basket to 10%.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Iowa (Mr. LEACH) as a substitute for the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VENTO. Madam Chairman, on that 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 428, further proceedings on the substitute amendment offered by the gentleman from Iowa (Mr. LEACH) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 7 printed in part 2 of House Report 105–531.

AMENDMENT NO. 7 OFFERED BY MR. KINGSTON

Mr. KINGSTON. Madam 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. KINGSTON:

After section 108 of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

SEC. 109. GAO STUDY OF ECONOMIC IMPACT ON COMMUNITY BANKS AND OTHER SMALL FINANCIAL INSTITUTIONS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the projected economic impact that the enactment of this Act will have on financial institutions which have total assets of $100,000,000 or less.

(b) REPORT TO THE CONGRESS.—The Comptroller General of the United States shall submit a report to the Congress before the end of the 6-month period beginning on the date of the date of the enactment of this Act 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.

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Georgia (Mr. KINGSTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Madam Chairman, I yield myself such time as I may consume.

This amendment is a very simple one. It simply says that after 6 months of enactment of this legislation that a study will be done on institutions with $100 million or less in assets to see how House Resolution 10 impacts them, and it requires the Comptroller of the Currency to conduct that study and just to be sure that our smaller financial institutions, usually community banks, see if they are negatively impacted by it.

It is not second-guessing the bill as much as it is saying the bill may not be perfect, there may be some unintended consequences that affect the bill if it is passed without this amendment. So all we are trying to do is say, let us take a look at it, let us make

sure that things are working as they are intended to work, and let us get that report back to Congress.

Mr. BLILEY. Madam Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Virginia.

Mr. BLILEY. Madam Chairman, we have looked at the amendment. We think it is a good amendment, and we are prepared to accept it.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, in my view, it is a very thoughtful amendment. We are very appreciative that the gentleman has offered it, and I hope it will be adopted.

Mr. KINGSTON. Reclaiming my time, I appreciate that.

Mr. LAFALCE. Madam Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from New York.

Mr. LAFALCE. Madam Chairman, I concur in the judgments of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Iowa (Mr. LEACH).

Mr. KINGSTON. Madam Chairman, I appreciate that, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. NUSSLE). The question is on the amendment offered by the gentleman from Georgia (Mr. KINGSTON).

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

Mr. KINGSTON. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore (Mr. NUSSLE). Pursuant to House Resolution 428, further proceedings on the amendment offered by the gentleman from Georgia (Mr. KINGSTON) will be postponed.

It is now in order to consider Amendment No. 8 printed in part 2 of House Report 105–531.

AMENDMENT NO. 8 OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. 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. 8 offered by Mrs. ROUKEMA:

After subtitle H of title I, insert the following new subtitle (and redesignate the subsequent subtitle and conform the table of contents accordingly):

Subtitle I—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) 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) 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) 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 meaning given to such term 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 meaning given to such terms in section 7(l) of the Federal Deposit Insurance Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 428, the gentlewoman from New Jersey (Mrs. ROUKEMA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I will not take the 5 minutes.

This is a very direct and straightforward amendment, and I believe that it can easily be understood. It simply asks for a study to be done. It requires that the FDIC conduct a study regarding the two deposit insurance funds, the Bank Insurance Fund and the Savings Association Insurance Fund, the SAIF.

The FDIC, under this study amendment, would look at the number of institutions in each fund and the risk posed by the concentration of deposits in those individual institutions or in certain regions of the country. The FDIC would be required to address how the funds might be merged and how long such a merger would be taken into effect and how such a merger would be paid for if there were extenuating costs circumstances. The FDIC would be required to file a written report with the Congress within 9 months after enactment.

I think, Mr. Chairman, those of us that have been working on this issue over the years have understood that originally there was a central element of the bill that was going to require integration of the funds, of the deposit insurance funds, and we dropped that because we felt that we did not quite know enough about the costs and how they would be allocated and whether or not indeed there would be enough capital in those deposits.

□ 1900

So I think that this is the better part of valor so that we cannot abandon the complications of the BIF SAIF implications as we have known them, but I think it gives us an intelligent useful way to take our time, go about it, and know the complexities of it, not only nationwide, but on a regional basis. I think this will serve us well.

Mr. BLILEY. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, we have read the amendment. We think it is a good amendment, and we would support the amendment.

Mr. LEACH. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Iowa, the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Chairman, again, I think this is a very thoughtful amendment, and I am delighted the gentlewoman has brought it to the attention of the House and urge its adoption.

Mr. LAFALCE. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, I would concur in the judgments of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Iowa (Mr. LEACH).

Mr. Chairman, this amendment would require the FDIC to produce a study on the BIF and SAIF Funds within 9 months of the date of enactment.

The Study would focus on concentration in the two funds. The FDIC would look at the number of banks or savings associations in the particular fund. They would tell us if concentration in terms of the percentage of deposits, number of institutions or regional concentration pose any Safety and Soundness Concerns.

The FDIC would also report on how it will merge the two funds, how long it will take, the expected cost and how the costs would be divided among the members of the Deposit Insurance Funds.

Mr. Chairman, many of the members of the Banking Committee are worried about the deposit insurance funds. With respect to the SAIF—which insures savings associations—the largest savings association in the United States—Washington Mutual—accounts for over 11% of the deposit which are insured by the SAIF. They are based primarily on the West Coast of the United States. We are particularly concerned about the concentration of savings association deposits on the West Coast.

With respect to the bank insurance fund, the recent merger of NationsBank and BankAmerica raises a smaller, but similar, issue. The combined bank will hold roughly 8.6% of the deposits which are insured by the BIF. We are not quite as concerned about regional concentration with respect to the BIF as we are with the SAIF.

The FDIC has said in recent testimony before the House Banking Committee that they would like to have the insurance funds merged. Several members, including Mr. MCCOLLUM and myself, are very concerned about concentration also, and would like to see the funds merged.

I believe we should not prejudge the situation but request a report which will form the basis for further Congressional Action.

The CHAIRMAN pro tempore (Mr. NUSSLE). Is there a Member who rises in opposition to the amendment from the gentlewoman from New Jersey?

Seeing none, the question is on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

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

Mrs. ROUKEMA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 428, 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 pro tempore. Pursuant to House Resolution 428, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Substitute amendment No. 6 offered by the gentleman from Iowa (Mr. LEACH), amendment No. 5 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA), amendment No. 7 offered by the gentleman from Georgia (Mr. KINGSTON), 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. 6 OFFERED BY MR. LEACH

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 6 offered by the gentleman from Iowa (Mr. LEACH) as a substitute for amendment No. 5 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) 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 pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 193, not voting 10, as follows:

[Roll No 146]

AYES—229

Abercrombie
Aderholt
Andrews
Archer
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Becerra
Bereuter
Berman
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Bonilla
Bonior
Borski
Boswell
Boyd
Brady
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Danner
Davis (VA)
Deal
DeFazio
Delahunt
Diaz-Balart
Dicks
Dixon
Doolittle
Duncan
Edwards
Ehlers
Emerson
Ensign
Evans
Ewing
Fawell
Filner
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodling
Goss
Graham
Gutierrez
Gutknecht
Hamilton
Hansen
Hastings (WA)
Herger
Hilleary
Hinchey
Hinojosa
Hobson
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
Kingston
Kleczka
Klug
Kolbe
Kucinich
Latham
Leach
Lewis (CA)
Lipinski
LoBiondo
Lofgren
Lucas
Luther
Maloney (NY)
Manzullo
Markey
Martinez
Matsui
McCarthy (MO)
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moran (KS)
Nadler
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quinn
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Shadegg
Shaw
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snyder
Souder
Sununu
Taylor (NC)
Thomas
Thune
Tierney
Torres
Traficant
Upton
Wamp
Waters
Watkins
Waxman
Weller
Whitfield
Wicker
Wolf
Woolsey
Young (FL)

NOES—193

Ackerman
Allen
Armey
Baker
Barcia
Bartlett
Bentsen
Bilbray
Blumenauer
Boehner
Bono
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Capps
Carson
Castle
Clay
Clayton
Clyburn
Cook
Coyne
Cunningham
Davis (FL)
Davis (IL)
DeGette
DeLauro
DeLay
Deutsch
Dickey
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Ehrlich
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Fazio
Foley
Ford
Fossella
Frank (MA)
Frost
Furse
Gekas
Goodlatte
Gordon
Granger
Green
Greenwood
Hall (OH)
Hall (TX)
Hastert
Hastings (FL)
Hayworth
Hefley
Hill
Hilliard
Hoekstra
Holden
Hooley
Hunter
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kennelly
Kilpatrick
Kind (WI)
King (NY)
Klink
Knollenberg
LaFalce
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Livingston
Lowey
Maloney (CT)
Manton
Mascara
McCarthy (NY)
McCollum
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Neal
Neumann
Ney
Owens
Pascrell
Pastor
Paul
Paxon
Payne
Pitts
Porter
Price (NC)
Rahall
Ramstad
Rangel
Riggs
Roemer
Rogan
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanchez
Sawyer
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shays
Sherman
Shuster
Smith (MI)
Smith, Adam
Snowbarger
Solomon
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson
Thornberry
Thurman
Tiahrt
Towns
Turner
Velazquez
Vento
Visclosky
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Wise
Wynn
Young (AK)

NOT VOTING—10

Bateman
Christensen
Forbes
Gonzalez
Harman
Hefner
Radanovich
Skaggs
Spence
Yates

□ 1924

Messrs. LIVINGSTON, HEFLEY, ROGAN, WALSH, DOGGETT, GEKAS, JONES, and BRYANT changed their vote from ''aye'' to ''no.''

Messrs. OXLEY, KIM, DICKS, GANSKE, KENNEDY of Massachusetts, WAXMAN, MCKEON, MCINTOSH, ISTOOK, MCDERMOTT, MILLER of California, ADERHOLT, BASS, DELAHUNT, POMEROY, MICA, DOOLITTLE, GOODLING, and SHIMKUS, Ms. RIVERS, and Ms. LOFGREN 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 428, 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 each amendment on which the Chair has postponed further proceedings.

PARLIAMENTARY INQUIRY

Mrs. ROUKEMA. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Mrs. ROUKEMA. Madam Chairman, I have had many, many questions in the last few minutes, that Members were rather confused on what they were voting on. Will the Chair please explain what this second vote will be, with precision?

The CHAIRMAN. The Chair is about to put the question on the Roukema amendment, as amended by the substitute by the gentleman from Iowa (Mr. LEACH), on which the committee just voted.

Mrs. ROUKEMA. I think Members have to understand that would mean that it would change the bill to include no commercial basket.

The CHAIRMAN. The Chair cannot interpret the amendment.

Mrs. ROUKEMA. Who can then? Who can?

AMENDMENT NO. 5 OFFERED BY MRS. ROUKEMA, AS AMENDED

The CHAIRMAN. The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. The question is on Amendment No. 5 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. ROUKEMA. Madam Chairman, I demand a recorded vote.

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 218, noes 204, not voting 10, as follows:

[Roll No. 147]

AYES—218

Abercrombie
Aderholt
Andrews
Archer
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Bonior
Bono
Borski
Boswell
Boyd
Brady
Burton
Buyer
Calvert
Camp
Campbell
Canady
Cardin
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Danner
Deal
DeFazio
Delahunt
Diaz-Balart
Dicks
Dixon
Doolittle
Duncan
Dunn
Ehlers
Emerson
Ensign
Evans
Ewing
Fawell
Filner
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodling
Goss
Graham
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastings (WA)
Herger
Hilleary
Hinchey
Hinojosa
Hobson
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jenkins
Johnson (CT)
Johnson (WI)
Jones
Kanjorski
Kasich
Kennedy (MA)
Kennedy (RI)
Kildee
Kingston
Kleczka
Klug
Kolbe
Kucinich
Lampson
Latham
Leach
Lipinski
Lofgren
Lucas
Luther
Maloney (NY)
Manzullo
Markey
Martinez
Matsui
McCarthy (MO)
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (CA)
Miller (FL)
Minge
Moran (KS)
Murtha
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Pallone
Parker
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pomeroy
Portman
Poshard
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Sabo
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Shadegg
Shaw
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith, Linda
Snyder
Souder
Stark
Sununu
Taylor (MS)
Taylor (NC)
Thomas
Thune
Tierney
Torres
Traficant
Upton
Wamp
Waters
Watkins
Waxman
Weller
Whitfield
Wicker
Wolf
Woolsey
Young (FL)

NOES—204

Ackerman
Allen
Armey
Baker
Barcia
Bartlett
Bilbray
Blagojevich
Blumenauer
Boehner
Bonilla
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Callahan
Cannon
Capps
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Cook
Coyne
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
DeGette
DeLauro
DeLay
Deutsch
Dickey
Dingell
Doggett
Dooley
Doyle
Dreier
Edwards
Ehrlich
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Fazio
Forbes
Ford
Fossella
Frank (MA)
Frost
Furse
Goodlatte
Gordon
Granger
Green
Greenwood
Hall (TX)
Hastert
Hastings (FL)
Hayworth
Hefley
Hill
Hilliard
Hoekstra
Holden
Hooley
Hyde
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Johnson, Sam
Kelly
Kennelly
Kilpatrick
Kim
Kind (WI)
King (NY)
Klink
Knollenberg
LaFalce
LaHood
Lantos
Largent
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lowey
Maloney (CT)
Manton
Mascara
McCarthy (NY)
McCollum
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Mink
Moakley
Mollohan
Moran (VA)
Morella
Myrick
Nadler
Neal
Neumann
Ney
Owens
Packard
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pitts
Pombo
Porter
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Riggs
Roemer
Rogan
Rohrabacher
Roukema
Royce
Rush
Ryun
Salmon
Sanchez
Sawyer
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shays
Sherman
Shimkus
Shuster
Slaughter
Smith (MI)
Smith (OR)
Smith, Adam
Snowbarger
Solomon
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Thompson
Thornberry
Thurman
Tiahrt
Towns
Turner
Velazquez
Vento
Visclosky
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Wise
Wynn
Young (AK)

NOT VOTING—10

Bateman
Christensen
Gonzalez
Harman
Hefner
Kaptur
Radanovich
Skaggs
Spence
Yates

□ 1937

Messrs. SPRATT, JOHN, RUSH, and EDWARDS changed their vote from ''aye'' to ''no.''

Ms. WATERS and Mr. HUNTER changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. KINGSTON

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 7 offered by the gentleman from Georgia (Mr. KINGSTON) 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.

PARLIAMENTARY INQUIRY

Mr. SABO. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SABO. Madam Chairman, is this a request for a rollcall vote on an amendment which passed without dissent?

The CHAIRMAN. A recorded vote was requested.

Mr. SABO. Madam Chairman, the amendment was accepted by all the managers of the bill without dissent?

The CHAIRMAN. The Chair shortly will ask those in support of a recorded vote to rise. The Chair did not happen to be presiding at the time that that vote took place.

Mr. SABO. Maybe we should vote ''no.''

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 404, noes 18, answered ''present'' 1, not voting 9, as follows:

[Roll No. 148]

AYES—404

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass

Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—18

Abercrombie
Blumenauer
Bonior
Conyers
Dooley
Fazio
Kanjorski
Kind (WI)
LaHood
Mink
Oberstar
Parker
Sabo
Sanchez
Stark
Torres
Velazquez
Vento

ANSWERED ''PRESENT''—1

DeFazio

NOT VOTING—9

Bateman
Frank (MA)
Gonzalez
Harman
Hastert
Hefner
Radanovich
Skaggs
Yates

□ 1947

So the amendment was agreed to.

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 amendment No. 8 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 406, noes 13, not voting 13, as follows:

[Roll No. 149]

AYES—406

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus

Shuster	Stupak	Visclosky
Sisisky	Sununu	Walsh
Skeen	Talent	Wamp
Skelton	Tanner	Waters
Slaughter	Tauscher	Watkins
Smith (MI)	Tauzin	Watt (NC)
Smith (NJ)	Taylor (MS)	Watts (OK)
Smith (OR)	Taylor (NC)	Waxman
Smith (TX)	Thomas	Weldon (FL)
Smith, Adam	Thompson	Weldon (PA)
Smith, Linda	Thornberry	Weller
Snowbarger	Thune	Wexler
Snyder	Thurman	Weygand
Solomon	Tiahrt	White
Souder	Tierney	Whitfield
Spence	Torres	Wicker
Spratt	Towns	Wise
Stabenow	Traficant	Wolf
Stark	Turner	Woolsey
Stearns	Upton	Wynn
Stokes	Velazquez	Young (AK)
Strickland	Vento	Young (FL)

NOES—13

Conyers	LaHood	Sabo
Dickey	Oberstar	Stenholm
Hefley	Parker	Stump
Hostettler	Peterson (MN)	
Kanjorski	Pombo	

NOT VOTING—13

Armey	Gonzalez	Radanovich
Bass	Harman	Skaggs
Bateman	Hefner	Yates
Crapo	Lewis (CA)	
Frank (MA)	Nethercutt	

□ 1956

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 part 2 of House Report 105–531.

AMENDMENT NO. 9 OFFERED BY MR. SANDERS

Mr. SANDERS. 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. SANDERS: After section 241 of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

SEC. 242. STUDY OF LIMITATION ON FEES ASSOCIATED WITH ACQUIRING FINANCIAL PRODUCTS.

Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the efficacy and benefits of uniformly limiting any commissions, fees, markups, or other costs incurred by customers in the acquisition of financial products.

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my understanding is that this amendment has the support of both the majority and the minority, and therefore, I will be very, very brief.

Madam Chairman, this amendment simply requires the Controller General of the United States to conduct a study on whether it would be beneficial, in light of the expected consolidation of the financial industry, if H.R. 10 were to pass to establish uniform limits on commissions and other fees charged to consumers who purchase stocks, bonds, insurance, and other financial products.

□ 2000

This amendment would require a report to be submitted to Congress concerning the results of the study within 1 year of enactment of this bill. That is the short version of my speech.

Mr. BLILEY. Madam Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Virginia.

Mr. BLILEY. Madam Chairman, we have looked at the amendment. We think it is helpful, and we will accept it.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, likewise, it is a very thoughtful amendment from a very thoughtful Member. I urge its consideration.

Mr. SANDERS. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. If there is no Member in opposition, the question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

The CHAIRMAN. The Chair has been advised that amendment No. 10 to have been offered by the gentleman from Massachusetts (Mr. MARKEY) has been withdrawn.

It is now in order to consider amendment No. 11 printed in part 2 of House Report 105–531.

AMENDMENT NO. 11 OFFERED BY MR. METCALF.

Mr. METCALF. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2 Amendment No. 11, offered by Mr. METCALF:

After section 401 of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

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.'' and 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 1998 may retain the term 'Federal' in the name of such institution so long as 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 given to such terms in section 3 of the Federal Deposit Insurance Act.''.

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Washington (Mr. METCALF) and the gentleman from Texas (Mr. BENTSEN) each will control 5 minutes.

The Chair recognizes the gentleman from Washington (Mr. METCALF).

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

Mr. METCALF. Madam Chairman, I yield myself such time as I may consume.

It is my understanding that the minority does not oppose what I consider to be just clearly a technical amendment. I would like to thank the gentleman from Iowa (Mr. LEACH), the gentleman from Virginia (Mr. BLILEY) and, of course, the gentleman from New York (Mr. SOLOMON) and the consideration of my ranking members, the gentleman from New York (Mr. LAFALCE) and the gentleman from Michigan (Mr. DINGELL) for allowing me to bring this technical amendment that would assist over 500 financial institutions across the country.

This amendment would simply change the law to allow federally chartered financial institutions that have the word ''Federal'' in their name or in their title to opt for a State banking charter if they so choose.

Last year, when this issue came up in the Committee on Banking and Financial Services during markup of H.R. 10, this same amendment passed unanimously.

Over 500 financial institutions across the country are hamstrung because they have the word ''Federal'' in their name. Some of these banks and thrifts may be over 100 years old and would like to benefit from the dual banking system and would simply like to change from a national charter to a State charter without having to change their name.

I urge my colleagues to support this amendment to bring parity and fairness for all financial institutions. Like financial modernization, let us bring forth a level playing field for all financial institutions to have flexibility not only in the marketplace but also in the ability to change from a national to State charter.

Mr. BLILEY. Madam Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentleman from Virginia.

Mr. BLILEY. Madam Chairman, we have looked at the amendment. We think it is a good amendment, and we are prepared to support it.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, I also believe that what the gentleman is doing makes sense.

I would only also stress what an enormous contribution he has made to the committee this year. I think this is a worthy amendment.

Mr. METCALF. I appreciate those comments.

Madam Chairman, I reserve the balance of my time.

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

Mr. BENTSEN. Madam Chairman, I yield myself such time as I may consume.

If I might, I would like to engage the gentleman from Washington in a colloquy if I could ask him a question about his amendment.

If I understand this correctly, if you have a bank or savings bank or thrift which is currently federally chartered and has the name ''Federal'' in it and then, as of this bill, that thrift or that bank decides to recharter as a State thrift or State bank, even though they will be a State institution, they can keep the name ''Federal'' or keep the word ''Federal'' in their name; is that correct?

Mr. METCALF. Madam Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Washington.

Mr. METCALF. If my amendment goes through, that is correct. Many of them have had the name for a long time and would like to transfer to a State charter without having to change their name.

Mr. BENTSEN. Madam Chairman, as we understand, current law does not allow for any institution which switches a charter from Federal to State or State to Federal to retain the previous name of origin, if you will, in their name, that they were a State bank or Federal bank.

Mr. METCALF. Madam Chairman, if the gentleman will continue to yield, I know that one cannot, if they have the name ''Federal'', cannot switch to a State charter today.

Mr. BENTSEN. I thank the gentleman.

If you have a State and you go to a Federal, could you retain State in your name under this amendment?

Mr. METCALF. Madam Chairman, I do not think that my amendment touches that.

Mr. BENTSEN. I thank the gentleman.

My only concern with this, and I think all of us are concerned with this legislation in terms of consumer protection and disclosure and appearances of whether or not there is some sort of taxpayer-backed guarantee to other financial activities that banks or thrifts are getting into. The problem I have with this particular amendment is that we are going to take the moniker of Federal and allow it to be used for nonfederally chartered institutions. I am not an expert on banking law, but I would imagine this is highly unprecedented.

I appreciate what the gentleman is trying to do. I am a strong supporter of the dual banking system, as the gentleman knows from our work together on the Committee on Banking and Financial Services, but I think this raises a lot of questions with respect to proper disclosure. And I think that you have the problem that a depositor comes into a bank and they think it is a federally chartered bank, maybe they think it is still regulated by the Comptroller of the Currency, but it has shifted to a State-chartered bank. They may feel that they have more protections because the name Federal is in there than what they might have under a State charter. I appreciate what the gentleman is doing, but I have to oppose the amendment.

Madam Chairman, I reserve the balance of my time.

Mr. METCALF. Madam Chairman, I yield myself such time as I may consume.

I would answer in this way, that the important factor is that State-chartered institutions are still regulated by the Federal Reserve. They must carry Federal deposit insurance and they must still pay Federal taxes. In that regard, I think that the amendment is legitimate.

Mr. LAFALCE. Madam Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentleman from New York.

Mr. LAFALCE. Madam Chairman, initially I had a conversation with the distinguished author of the amendment in which I said I would probably defer to the judgment of the chairman of the Committee on Banking and Financial Services on this issue. But I regret to inform him that now that I have reflected upon it, I feel compelled to oppose his amendment.

I simply think it is misleading and it would also assist in the tendency that this bill will promote having national banks convert to a State charter. That is the effect, I think, of the governing structures that we have created in the bill.

Now, the gentleman's amendment, I think, would make it a bit easier because they would be able to convert to the State charter, but still retain the word ''Federal.'' So it is with deep reluctance, but after reflection and consideration, hearing the gentleman from Texas (Mr. BENTSEN), I feel constrained to oppose the gentleman's amendment.

Mr. BENTSEN. Madam Chairman, how much time remains on both sides?

The CHAIRMAN. The gentleman from Washington (Mr. METCALF) has 30 seconds remaining, and the gentleman from Texas (Mr. BENTSEN) has 2 minutes remaining.

Mr. BENTSEN. Madam Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Texas (Mr. BENTSEN) has the right to close.

Mr. BENTSEN. Madam Chairman, I reserve the balance of my time.

Mr. METCALF. Madam Chairman, I yield myself such time as I may consume.

I would just reiterate that the important factor is that State-chartered institutions still are regulated by the Federal Reserve, carry Federal deposit insurance and must still pay Federal taxes. I think this is legitimate, to not force them to change the name that many of them have had for 100 years. I think that that is unfortunate if they want to change to a State charter.

Mr. BENTSEN. Madam Chairman, I yield myself the balance of my time.

I have nothing but great respect for my colleague from Washington State. I think his amendment is well-intentioned but problematic. He mentions that State-chartered banks are still regulated by the Federal Reserve, but we also have State-chartered banks that are nonmember banks which are not members of the Federal Deposit Insurance Corporation, which means that you could switch your charter and create a bank, and there are still some in Texas, I believe, that are State-chartered banks that are not protected by the FDIC. But if you retain ''Federal,'' retain the Dime Box Federal Bank, someone might go in and think that they are still an FDIC bank.

I am sure that when everybody walks into the bank, they look on the glass door there to make sure it says FDIC protection, they read all the language that is in there so they know. But I just think with all of our concern that has been raised today, whether it is the consumer protections which I support, or this issue of whether or not there is an implicit subsidy that occurs through operating subsidiaries or even as the chairman of the Federal Reserve, Mr. Greenspan says, with affiliates through holding companies, that this gives the wrong appearance.

Quite frankly, I would just close by saying, this is one amendment where I cannot quote the chairman of the Federal Reserve and apparently no one else can. It is surprising, because we have heard his comments on every other amendment that we have addressed, but my feeling is probably, and I do not want to speak for the Fed chairman, but my feeling is probably if you push the Fed on this, they probably would not think this is a particularly good idea as well. Certainly anybody who is involved in disclosure would probably think this is not a good idea.

I think the gentleman is very well intentioned in what he is trying to do. I do support the dual banking system, but I am not sure that we want to do this. Therefore, I would ask my colleagues to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. METCALF).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. KLECZKA. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 428, further proceedings on the amendment offered by the gentleman from Washington (Mr. METCALF) will be postponed.

It is now in order to consider amendment No. 12 printed in part 2 of House report 105–531.

AMENDMENT NO. 12 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2, amendment No. 12, offered by Mr. MORAN of Virginia: At the end of section 305 of the Amendment in the Nature of a Substitute insert the following new sentence: ''This section shall cease to have effect 5 years after the date of the enactment of this Act.''.

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Virginia (Mr. MORAN) and the gentleman from Virginia (Mr. BLILEY), each will control 5 minutes.

Does the gentleman from Virginia (Mr. BLILEY) oppose the amendment?

Mr. BLILEY. Madam Chairman, we are prepared to accept the amendment.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. DINGELL. Madam Chairman, we are happy to accept the amendment over here.

The CHAIRMAN. Without objection, the gentleman from Virginia (Mr. BLILEY) will be recognized for 5 minutes.

There was no objection.

Mr. MORAN of Virginia. Madam Chairman, I yield myself such time as I may consume.

I know when I am ahead and I will keep this brief, but just simply explain that this amendment would sunset, that is, repeal after 5 years the requirement that any bank that is not currently selling insurance products would not have to purchase an insurance agency that has been regulated within their State for at least 2 years. That reduces the competition, and this is obviously a compromise amendment that will at least take this prohibition away and produce greater competition in the marketplace. It was a fairly restrictive amendment. By providing 5 years before the sunset, I do not think any of the industries are going to take particular exception to it.

I appreciate the fact that there is no opposition to it.

Madam Chairman, I yield to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I commend the gentleman for his amendment. I recommend it to my colleagues, but I think this just points out one of the major problems with this bill in that, throughout this bill, this measure has treated national banks in a disparate manner. It is suggested that for only 5 years you cannot go into a State, under modernization and deregulation, mind you, you cannot go into a State and start de novo, that is, start from scratch, an insurance business under this deregulation bill for only 5 years. And then after that 5 years, now, with this amendment, of course, it was forever based on what was in the bill. So the gentleman has made a great improvement in the bill.

Unfortunately, it still has restrictions for towns of 5,000 for the sale of insurance for banks. It still has restrictions that treat national banks in a different way than they treat State banks for the purpose of insurance. It still has in the bill restrictions in terms of the sale of title insurance, in terms of national banks.

□ 2015

So on and on it goes with this disparate treatment. And this is one more reason, I am afraid, that this bill should not be passed.

And I commend the gentleman for trying to improve it, it just does not improve it enough. I think we needed a lot more than what is in this one amendment that they permitted the gentleman to offer.

Mr. OXLEY. Madam Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Ohio.

Mr. OXLEY. Madam Chairman, I thank my friend from Virginia, and let me commend him on his amendment. I was at the Committee on Rules when he offered the amendment.

To correct my friend from Minnesota, this was the product of a very carefully balanced compromise between warring parties that have been at this for at least 20 years. We finally got an agreement with many of the banks and with the insurance industry and the agents to finally put this issue behind us. That was the essence of what this compromise is all about.

Did it give the banks everything they wanted? Of course, not. And the gentleman from Minnesota seems to think that that is the way it ought to be. I would suggest to the gentleman that this was a product of a reasonable compromise. That is what this bill is all about. The gentleman's amendment will provide, I think, a meaningful amendment.

Let me just say, in closing, I commend the gentleman on his amendment but simply say that the gentleman from Minnesota wants it all and that is not the way the process works around here.

Mr. VENTO. Madam Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Minnesota.

Mr. VENTO. The gentleman from Minnesota does not want it all, but he wants a level playing field to permit banks that are national to have the same rights of banks that are State. And this bill does not do it. And it is intentional.

I understand it was a tough negotiation. I commend the gentleman. But the only thing balanced about this is the deal that is being offered to the House. I do not think it is good enough. I commend the gentleman for trying to improve it but it does not go far enough.

Mr. MORAN of Virginia. Madam Chairman, I thank my two friends and colleagues for expanding the battlefield upon which this amendment might be considered, but again let me just say that without this amendment the bill would have created a situation where some banks can continue to sell insurance under current Federal and State guidelines while other banks would be forced to buy an insurance agency first before they can sell the very same insurance products.

I appreciate the support that it has.

The CHAIRMAN. Does the gentleman from Virginia (Mr. BLILEY) wish to consume the balance of the time?

Mr. BLILEY. Madam Chairman, I yield back the balance of the time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. METCALF

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Washington (Mr. METCALF) 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.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was refused.

On a division (demanded by Mr. KLECZKA) there were ayes 14, noes 7.

So the amendment was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BARRETT of Nebraska) having assumed 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 428, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. 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?

Mr. KLECZKA. Mr. Speaker, I demand a separate recorded vote on amendment No. 11, the so-called Metcalf amendment.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment:

After section 401 of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

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.'' and 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 1998 may retain the term 'Federal' in the name of such institution so long as 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 given to such terms in section 3 of the Federal Deposit Insurance Act.''.

Mrs. ROUKEMA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

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

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

Mr. METCALF. 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 256, nays 166, not voting 10, as follows:

[Roll No. 150]

YEAS—256

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Brady
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeGette
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kilpatrick
Kim
King (NY)
Kingston
Klug
Knollenberg
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lucas
Manton
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Millender-McDonald
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pallone
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Rush
Ryun
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stabenow
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—166

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Blumenauer
Blunt
Bonior
Borski
Boyd
Brown (CA)
Brown (FL)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Furse
Gejdenson
Gephardt
Gillmor
Gordon
Green
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hoyer
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kind (WI)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Reyes
Rodriguez
Roemer
Rothman
Roybal-Allard
Royce
Sabo
Sanchez
Sandlin
Schumer
Serrano
Shays
Sherman
Shimkus
Skelton
Slaughter
Snyder
Spratt
Stark
Stearns
Stokes
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise

NOT VOTING—10

Bateman
Cox
Doolittle
Frank (MA)
Gonzalez
Harman
Hefner
Radanovich
Skaggs
Yates

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Mrs. LOWEY, Mr. ABERCROMBIE and Mr. MINGE changed their vote from ''yea'' to ''nay.''

Ms. WOOLSEY and Messrs. RUSH, DEUTSCH, DIAZ-BALART, and HULSHOF changed their vote from ''nay'' to ''yea.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 213, not voting 6, as follows:

[Roll No. 151]

AYES—214

Ackerman
Andrews
Archer
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Bass
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Boehlert
Boehner
Bono
Boyd
Brown (OH)
Bryant
Bunning
Burton
Buyer
Calvert
Castle
Chabot
Coble
Collins
Condit
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Fawell
Fazio
Forbes
Ford
Fossella
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons

Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Greenwood
Hall (OH)
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hyde
Inglis
John
Johnson (CT)
Johnson, E. B.
Kasich
Kelly
Kennelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Livingston
LoBiondo
Lowey
Maloney (NY)
Manton
Markey
McCarthy (NY)
McCrery
McDade
McGovern
McIntosh
McKeon
McNulty
Meeks (NY)
Metcalf
Mica
Miller (FL)
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paxon
Pease
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Riggs
Rogan
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Schaefer, Dan
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Shimkus
Smith (MI)
Smith (NJ)
Smith, Adam
Smith, Linda
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Towns
Upton
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wise
Wolf
Young (FL)

NOES—213

Abercrombie
Aderholt
Allen
Bachus
Baesler
Baldacci
Barrett (NE)
Barrett (WI)
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Blumenauer
Blunt
Bonilla
Bonior
Borski
Boswell
Boucher
Brady
Brown (CA)
Brown (FL)
Burr
Callahan
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coburn
Combest
Conyers
Costello
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
Dickey
Dixon
Doggett
Dreier
Duncan
Edwards
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Foley
Fowler
Frank (MA)
Furse
Gephardt
Goode
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hastings (FL)
Hefley
Hilleary
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Hulshof
Hunter
Hutchinson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Lee
Lewis (GA)
Lewis (KY)
Lipinski
Lofgren
Lucas
Luther
Maloney (CT)
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McDermott
McHale
McHugh
McInnis
McIntyre
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pombo
Poshard
Ramstad
Redmond
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Scarborough
Schaffer, Bob
Scott
Serrano
Sessions
Sherman
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (OR)
Smith (TX)
Snowbarger
Snyder
Stark
Stenholm
Stokes
Taylor (MS)
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weygand
Wicker
Woolsey
Wynn
Young (AK)

NOT VOTING—6

Bateman
Gonzalez
Harman
Hefner
Skaggs
Yates

□ 2112

Mr. EWING and Mr. MALONEY of Connecticut changed their vote from ''aye'' to ''no.''

Messrs. ARCHER, MILLER of Florida and STEARNS changed their vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT CONCERNING NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–252)

The SPEAKER pro tempore (Mr. BARRETT of Nebraska) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I hereby report to the Congress on developments since the last Presidential report of November 25, 1997, concerning the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c). This report covers events through March 31, 1998. My last report, dated November 25, 1997, covers events through September 30, 1997.

1. There have been no amendments to the Iranian Assets Control Regulations, 31 CFR Part 535 (the ''IACR''), since my last report.

2. The Iran-United States Claims Tribunal (the ''Tribunal''), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered one award. This brings the total number of awards rendered by the Tribunal to 585, the majority of which have been in favor of U.S. claimants. As of March 31, 1998, the value of awards to successful U.S. claimants paid from the Security Account held by the NV Settlement Bank was $2,480,897,381.53.

Since my last report, Iran has failed to replenish the Security Account established by the Algiers Accords to ensure payment of awards to successful U.S. claimants. Thus, since November 5, 1992, the Security Account has continuously remained below the $500 million balance required by the Algiers Accords. As of March 31, 1998, the total amount in the Security Account was $125,888,588.35, and the total amount in the Interest Account was $21,716,836.85. Therefore, the United States continues to pursue Case No. A/28, filed in September 1993, to require Iran to meet its obligation under the Algiers Accords to replenish the Security Account.

The United States also continues to pursue Case No. A/29 to require Iran to meet its obligation of timely payment of its equal share of advances for Tribunal expenses when directed to do so by the Tribunal. Iran filed its Rejoinder in this case on February 9, 1998.

3. The Department of State continues to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

On January 16, 1998, the United States filed a major submission in Case No. B/1, a case in which Iran seeks repayment for alleged wrongful charges to Iran over the life of its Foreign Military Sales (FMS) program, including the costs of terminating the program. The January filing primarily addressed Iran's allegation that its FMS Trust Fund should have earned interest.

Under the February 22, 1996, settlement agreement related to the Iran Air case before the International Court of Justice and Iran's bank-related claims against the United States before the Tribunal (see report of May 16, 1996), the Department of State has been processing payments. As of March 31, 1998, the Department of State has authorized payment to U.S. nationals totaling $13,901,776.86 for 49 claims against Iranian banks. The Department of State has also authorized payments to surviving family members of 220 Iranian victims of the aerial incident, totaling $54,300,000.

During this reporting period, the full Tribunal held a hearing in Case No. A/11 from February 16, through 18. Case No. A/11 concerns Iran's allegations that the United States violated its obligations under Point IV of the Algiers Accords by failing to freeze and gather information about property and assets purportedly located in the United States and belonging to the estate of the late Shah of Iran or his close relatives.

4. U.S. nationals continue to pursue claims against Iran at the Tribunal. Since my last report, the Tribunal has issued an award in one private claim. On March 5, 1998, Chamber One issued an award in *George E. Davidson* v. *Iran,*

AWD No. 585–457–1, ordering Iran to pay the claimant $227,556 plus interest for Iran's interference with the claimant's property rights in three buildings in Tehran. The Tribunal dismissed the claimant's claims with regard to other property for lack of proof. The claimant received $20,000 in arbitration costs.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1998.*

□ 2115

MANDATES INFORMATION ACT OF 1998

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to House Resolution 426 and rule XXIII, 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. 3534.

□ 2116

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. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes, with Mr. SESSIONS 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 New York (Mr. SOLOMON) and the gentleman from Massachusetts (Mr. MOAKLEY) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in a bit of ecstacy, not only for the passage of the last bill, but to bring to this floor another very important bill on behalf of business and industry and all Americans, and that is H.R. 3534, the Mandates Information Act of 1998. Today, the House will build on the important work that the 104th Congress began in the area of unfunded intergovernmental mandates and private sector mandates.

Mr. Chairman, the House has operated under the strictures of the Unfunded Mandate Reform Act since January of 1996. It is the opinion of the Committee on Rules that this statute has served the House well and we are prepared to recommend a modest improvement on it today, one that affects not only the public sector, and that means towns and villages and cities and counties and States, but now it affects the private sector.

A report from the Congressional Budget Office last year found, not surprisingly, that the Republican-controlled Congress has not passed unfunded mandates on State and local governments on the private sector. CBO has found in the last 2 years only 11 percent of the bills and amendments they analyzed contained intergovernmental mandates, and just 2 percent contained costs exceeding the $50 million threshold into the law.

On the private sector side, CBO has found that only 13 percent of the bills and amendments contained private sector mandates and a scant 5 percent contained costs exceeding the $100 million threshold.

CBO appeared before the Committee on Rules' oversight hearings on the operation of the law, and they testified that the goals of the law providing reliable information for Members and the public, as well as congressional accountability for passing a mandate, have largely been met. In other words, we succeeded in doing what we set out to do.

Under that law, CBO has prepared these estimates for committee reports, and the information on public and private sector mandates has been available for Members when they come to this floor to vote so that they know what the long-range ramifications of casting that vote will be.

In the opinion of the Committee on Rules, the underlying law has served as an effective deterrent for Congress to mandate, because of the point of order available on the House floor.

There have been instances in the Committee on Rules's experience where a mandate on the public or private sector was discovered and the offending language was deleted or altered in a rule in an effort to address the concerns, rather than face an automatic debate on the vote on the floor. In other words, Congress has paid attention and they have not brought these unfunded mandates to the floor knowing they are going to have to face this test.

The law has worked in a manner impossible to quantify in these instances, Mr. Chairman.

At the close of the 104th Congress, the Committee on Rules was pleased to report to the House in its activity report that in the first year of existence of the unfunded mandate law, it could find no single instance in which it had waived the unfunded mandates point of order, not once. There were several instances in which the committee waived all points of order, but in those cases the committee was not aware of any CBO estimate of an unfunded mandate in the underlying legislation.

In fact, in several prominent instances, such as the immigration reform bill, the committee waived all points of order except those arising under the unfunded mandate statute.

Mr. Chairman, the Committee on Rules has an excellent track record of adherence to the principles of the unfunded mandates law in this 105th Congress as well. The experience of the House with the Nuclear Waste Policy Act is illustrative of the fact that the Committee on Rules prefers not to waive the mandates point of order, but rather prefers to force the committees of jurisdiction to defend their work product on the floor of this House and then let the House work its will.

With 2 years of positive experience with the unfunded mandates procedure in the public sector as our foundation, the Committee on Rules is compelled to recommend H.R. 3534 to the House as an improvement to our proceedings.

Under current law, CBO is only required to estimate the direct costs of all Federal private sector mandates that exceed $100 million, and the amount of Federal financial assistance, if any, provided by the legislation to assist with the compliance costs.

The bill before the House amends the Unfunded Mandates Reform Act to require committee reports on bills or joint resolutions to include a statement from CBO estimating the impact of private sector mandates on consumers, on workers, on small businesses, including any disproportionate impact in particular regions or on particular industries within those regions. It would subject such legislation to a point of order if it is not feasible for the CBO to prepare such an estimate, as well.

Current law only allows a point of order against consideration of a bill, joint resolution or amendment, motion or conference report if it exceeds $50 million in direct costs in Federal mandates on intergovernmental (State and local governments), unless that mandate is paid for with new Federal financial assistance. This bill would prohibit the consideration of the legislation containing private sector mandates whose direct costs exceed $100 million and thereby expand the available points of order under the landmark law.

The bill further constrains the Chair from recognizing more than one point of order with respect to private sector mandates for any one bill, joint resolution, amendment, motion or conference report. It is anticipated that one point of order, one 20-minute debate, and one vote is sufficient to encapsulate the debate on the private sector mandates contained in any one legislative measure.

The bill also contains a provision during the markup of the Committee on Rules as an amendment by our friend, the vice chairman of the committee, the gentleman from California

(Mr. DREIER) which excludes from the private sector mandates point of order any legislation which results in a net tax cut.

For purposes of illustration, if the Committee on Ways and Means reported a bill which resulted in a net tax cut as scored by CBO and the Joint Committee on Taxation, a private sector mandates point of order would not apply because the net tax would be a decrease as opposed to an increase.

However, if the Committee on Ways and Means reported a bill which increased mandatory spending and, in turn, provided a revenue offset which resulted in a private sector mandate over $100 million, a private sector mandate point of order would then clearly be in order.

The bill further amends clause 5 of House rule XXIII to always make in order motions to strike an unfunded mandate on the intergovernmental and private sector side unless specifically waived by a rule from the Committee on Rules.

Mr. Chairman, it is important for small businesses across the country to know that Congress is fully aware of the consequences when it mandates on the private sector. This bill will help us improve our own deliberations in this House while maintaining important institutional prerogatives.

The bill before us is strongly supported by, and let me just read some of these organizations: the American Dental Association; the American Farm Bureau, which is very, very important in my district; the American Rental Association; the American Subcontractors Association; the Associated Builders and Contractors; Citizens For a Sound Economy; the National Association of Self-Employed, small businesses; the National Association of Manufacturers; the National Association of Wholesale Distributors; the National Federation of Independent Business, which is the largest organization of small businesses in this entire country; the National Restaurant Association; the National Retail Federation, and it goes on and on and on, ending up with the United States Chamber of Commerce in strong support of this bill.

Mr. Chairman, I do not have to tell my colleagues that years ago, before I came to this Congress, I was a small businessman and I started out from scratch. I had 5 children, and we did not have any money really, but we went into business and we started that business, and I had to work sometimes 2 or 3 different businesses, and the banks did not want to lend any money because we did not have established credit, and yet whatever available cash we had was tied up in all of these duplicative regulations that are piled on local businesses throughout this country, and it was almost impossible to get started.

This legislation is meant to prevent that. It is meant to educate every Member of Congress to know exactly what he is voting for on this floor and how it affects that small business back in one's district before one casts that vote. That is how important this legislation is.

So I would urge support for the bill.

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

Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. DREIER) be permitted to take over the management of this legislation.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

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

Mr. Chairman, I want to make something very, very clear. I am opposed to unfunded Federal mandates. I represent 23 cities and towns in the Commonwealth of Massachusetts that are paying for the biggest Federal mandate this government has ever imposed: the cleanup of Boston Harbor. In the end, the Boston Harbor cleanup cost well over $3 billion; only 19 percent of that $3 billion was paid for by the Federal Government. The rest of the costs had to be borne by the citizens of those 43 cities and towns in the Commonwealth, families and businesses, and believe me, it was not easy.

I know how hard it can be for communities to shoulder the cost of complying with governmental edicts, and I firmly belief we should keep those costs in mind when passing any kind of legislation. Before we pass a bill, we should know what the costs would be for businesses. We should know what the costs would be for individuals, as well as for the State and local governments. But, Mr. Chairman, this bill is not the way to do it. This bill contains language that will further gut the well-intentioned, unfunded mandates bill.

□ 2130

It further erodes the idea that any mandate could be harmful by accepting bills that raise taxes, as long as the money raised is used to lower taxes somewhere else.

Contrary to what some of my colleagues may think, all government spending is not necessarily bad, and all tax breaks are not necessarily good. Under this bill, if a tax on coal revenues is coupled with a tax break on ethanol, it is okay. If it spends the money on miners' health benefits, someone can raise a point of order and someone can call attention to it.

Mr. Chairman, I do not believe we should decide in advance which types of mandates are good and should be ignored and which are bad and should be exposed to a point of order. Either we should request all of them, or we should examine none of them.

I urge my colleagues to defeat the bill in the present form, if the Dreier language is not removed. It just takes a worthwhile idea and pollutes it with political assumptions.

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

Mr. DREIER. Mr. Chairman, I am happy to yield 3 minutes to my good friend, the gentleman from Sugarland, Texas (Mr. DELAY), the distinguished Republican Whip.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding time to me, and I appreciate all his hard work on this very important legislation. I rise today in support of it, and I really urge my colleagues it take a look at this legislation, and I hope they will vote for it.

This is a small but yet a very significant step for small business. Basically, it says if we are going to put mandates on the private sector, we need to let the American people know that we are doing it. That is all it is. This is the same principle that we have used for the last 3 years for the mandates we put on State and local government. If we are going to make the businessmen and women of America pay for our good ideas, we should make certain that we have a debate on the floor about the merits of those ideas.

This bill allows Members to raise a point of order against any bill that the Congressional Budget Office determines would cost the private sector more than $100 million a year. If after 20 minutes of debate the House decides that such a mandate is necessary, we can vote to consider the rest of the bill.

I just think this is a commonsense piece of legislation, because it makes Members of Congress think about what they are voting for before they vote. It makes them think about the costs to the private sector. It makes them think about the potential job loss. It makes them think about the role of government in our society. It brings much needed transparency to our government.

This is a very important piece of legislation that forces the House to understand what they are doing to the real people in the real world. I urge my colleagues to support this pro-small business piece of legislation.

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

Mr. Chairman, I agree with the gentleman who just left the microphone. If this were the same bill that we had in the Committee on Rules just before the Dreier amendment was put in, I would buy it. But this, what it says, in effect, is that if you get money in the highway bill, you cannot spend it on roads, you cannot spend it on safety if it is over and above, but if you give a tax break back to the very rich, then the point of order does not apply.

That is the part that I do not like, it is what we do when it is an unfunded mandate, what we do with the money. The proceeds from the tobacco bill cannot be used to educate children to stop smoking, but if we want to give it back to the tobacco companies and people who invest in tobacco as a tax break, that is fine.

If that is fair, Mr. Chairman, if that is equitable, then I have missed something along the line.

Mr. Chairman, I yield such time as he may consume to my good friend, the gentleman from California (Mr. CONDIT).

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

Mr. CONDIT. Mr. Chairman, I rise tonight obviously in support of H.R. 3534, the Mandate Information Act of 1998. This is not a new idea, it is an old idea with a little different twist. It still requires accountability and openness.

The chairman of the Committee on Rules explained the bill very well, talked about the $100 million threshold, the fact that if you reach a $100 unfunded mandate that there is a point of order process. That is basically what this bill does, it allows us to have a debate.

As we hear discussion about this tonight and tomorrow, Members are going to hear that this unfunded mandate bill will set us back, that it will destroy some of the things that we have done, say in the workplace, safety in the workplace, et cetera.

That is not true. This bill does not turn anything back. It simply requires us to be accountable and responsible for the unfunded mandates we place on the private sector. That is what this bill does. It requires us to have an open debate. We cannot take away the mandate with that debate. We still have a vote after we call the point of order.

What this simply does, it is a very simple idea, it just gives us more information that Members can make an informed decision about a mandate on the private sector.

With that, Mr. Chairman, I want to thank the gentleman from Ohio (Mr. PORTMAN), who is the cosponsor and has been the lead person on the other side of the aisle in this area for unfunded mandates, not only in the private sector but for State and local government. I want to thank him for all the work that he has done.

I want to also say tonight we will hear two proposals, two amendments to this bill. I support those amendments. The gentleman from Virginia (Mr. MORAN) and the gentleman from Virginia (Mr. DAVIS) will have an amendment, and the gentleman from Ohio (Mr. TRAFICANT) will have an amendment. I encourage us to accept those amendments. I think they improve the bill.

This bill is about information, about the Members getting more information. It is about openness, about fairness and accountability, and Members should not let anyone tell them any different. We ought to look at the amendments that are going to come up. They may improve the bill. We ought not to be fearful to support those amendments if they improve the bill.

But this is a simple idea. If we cannot pass this simple idea to hold ourselves accountable, to hold ourselves accountable for the mandates we place on the private sector; that we cannot say, we voted for that, and we voted for that with full information, that we knew what the cost was going to be, then we are going to have a difficult time doing any kind of reforms in this House, Mr. Chairman.

Mr. DREIER. Mr. Chairman, I yield 6 minutes to my friend and hallmate, the gentleman from Cincinnati, Ohio (Mr. PORTMAN), the lead author of this measure who has worked long and hard on not only this issue, but the unfunded mandates that were imposed on State and local governments.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from California (Mr. DREIER) for yielding time to me, and for all his help in getting us to this point. I also want to commend the gentleman from California (Mr. GARY CONDIT), who has been my partner on this and also on the private sector mandates fight.

Mr. Chairman, this is really legislation that builds on what we did 3 years ago, in 1995 in the public sector side. Let me try to put it in some context. The gentleman from New York (Chairman SOLOMON) has already mentioned this.

Three years ago we said we were going to stop public sector mandates. We passed legislation which required that three things be done: number one, there be a cost analysis done of every new public sector mandate; number two, there be a debate on the floor that any Member of Congress could insist on by a process called a point of order; and number three, there would be a vote, an actual vote by a majority of this House.

By a simple majority we could decide to go ahead with the legislation, notwithstanding the mandate. But at least we would then have a clear understanding of what the costs were, all the information that we did not have previously. In the end we would come up with better legislation.

It has actually worked to curtail these public sector mandates. I think 394 Members of this Congress voted for that bill, after a lot of controversial amendments were offered. In the end I think we convinced most people, and they were right, it has worked. This simply builds on that. This says, now let us shift to the private sector.

In the last legislation, again, the 1995 legislation, we were able to get into the legislation that the Congressional Budget Office, which does the analysis on the public sector side, would also analyze the private sector mandates, if they exceeded a threshold which was twice the public sector threshold, $100 million rather than $50 million.

What we were not able to get in the last legislation 3 years ago was the ability to come to this floor and to raise that point of order, to actually put some teeth in that analysis, and to enable Members of Congress to take a careful look at those costs and then decide whether they wanted to move forward with the legislation, notwithstanding those costs.

We are taking that next important step tonight. We did not do it last time, frankly, because this was a pretty controversial idea. It was precedent-setting. It turns out it worked, and now we are doing what I think is the next logical thing, which is to move to the private sector side.

It is not going to stop all mandates, just as our public sector bill in 1995 did not stop all public sector mandates. It has curtailed them. Incidentally, it has not curtailed them just because we have had these debates on the floor. It has been done in a very responsible way, at the committee level, because the committees have been forced to work with State and local government to come up with new ways to get things through this Congress that in fact do represent the will of this Congress, but to not send an unfunded requirement down on our State and local governments. That is what this would do also, this legislation, if we can get it passed tonight and get it enacted into law.

There are a lot of debates that are going to take place over the next couple of hours tonight and then tomorrow on various amendments and on various interpretations of the bill. My good friend, the gentleman from Massachusetts (Mr. MOAKLEY) a little while ago made the statement, and I tried to write it down as he said it, I may have gotten it wrong, correct me, he said that proceeds from the tobacco bill cannot be used to help children if this passes.

Of course, that is not true. Proceeds from the tobacco bill, if we do a tobacco bill, if it has a tobacco tax in it, can certainly be used for whatever purpose this Congress thinks they should be used for. By a simple majority vote this Congress will decide whether in fact a new mandate, if it is a tobacco tax, it is a new mandate, whether that should indeed be something we want to do. What is wrong with that? What is wrong with a little openness and accountability around here?

So I know we are going to have a lot of debates. The gentleman from Massachusetts (Mr. MOAKLEY) is going to make some very legitimate points about the impact of this legislation on various areas of our government, particularly labor, environment, and so on. His particular concern, I think, is going to be on the so-called Dreier amendment, which was accepted in the Committee on Rules.

I want to be very clear about this. All it says is that we have a debate on it. If in the end, because there is a tobacco tax that is not offset by tax cuts somewhere else or tax relief somewhere else, therefore, this legislation goes into effect, all we are saying is we are going to have a debate on the merits of this and then vote.

The point is a very simple one. All we are saying is that we want the opportunity, just as we have in the public sector, to begin to legislate with better

information, and therefore, to legislate more wisely in this place.

With regard to the tobacco example, I will just say, if this Congress in fact looks at the tobacco bill that has a tax increase, it is considered a mandate, one Member of Congress can raise his or her hand, force a point of order on it, and then by a simple majority we can determine whether that is the appropriate thing to do. That does not stop it, that simply forces us to be more accountable.

I want to thank the gentleman from California (Mr. GARY CONDIT) again, I want to thank the Committee on Rules for working with us, the gentleman from Massachusetts (Mr. MOAKLEY), the gentleman from Massachusetts (Chairman SOLOMON), the gentleman from California (Mr. DAVID DREIER), to perfect this legislation over the last few months.

It is very important legislation. That is why it is supported by so many groups around the country. It will help consumers, it will help particularly small businesses, and it will help to create more jobs in this country. I want to thank again the Committee on Rules for allowing us to get this to the floor, because they have a lot on their agenda.

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

Mr. Chairman, I want to commend the gentleman for his outstanding explanation. He is completely right, there would be a point of order raised on that tax bill. But if they allocated that money to a tax break, there would not be a point of order. It is only if they wanted to spend it to educate the smokers, or if they wanted to spend it on stopping kids from smoking, that is when the mandate would kick in. But if somebody allocated that money as a tax break, there would be no point of order the against the mandate.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, maybe we should back up a second to explain what the amendment is. The gentleman from California (Mr. DREIER) is here, who is going to explain it later, I am sure. But in this legislation there is one provision that came out of the Committee on Rules which says that in the case of tax legislation that is on the floor of the House, where there is a net tax decrease, in other words, where there is tax relief, that the point of order would not apply.

Why? One, taxes are different than requirements.

Mr. MOAKLEY. Mr. Chairman, if the gentleman would stop right there, that is what I am talking about. If there was some money there and they decided, the majority party decided to give that back in a tax break, rather than educate smokers, there would be no violation of the unfunded mandate. I would ask the gentleman, am I correct?

Mr. PORTMAN. If the gentleman will continue to yield, Mr. Chairman, the single point of order which is able to be raised under this legislation, which is the consolidation of whatever private sector mandates are there, would not be able to be raised in a case where there was not a tax increase, because there is not a tax increase. So that is the one exception to this bill, where it would be raised.

In the gentleman's case, I would say to the gentleman from Massachusetts (Mr. MOAKLEY) that this will in every other case apply, this legislation. In the case that the gentleman has brought forward, which is the case where that tax increase would be used to fund government programs, there would be a point of order to be raised.

□ 2145

But it would simply be a simple majority. If the Dreier legislation were not part of this legislation, the same thing would happen. In other words, all the Dreier amendment does is it takes the cases where there is no tax increase and says, we shall not apply this point of order which can be overridden by simple majority vote.

I do not now how the Dreier amendment affects your example one way or the other. In any case, there would be a point of order on the scenario that you have laid out.

Mr. MOAKLEY. We can debate this when my amendment comes up. I thank the gentleman for his explanation.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, in 1992–1993, I introduced unfunded mandates legislation. This was during the time when the Democratic Party was in the majority. I could not get it out of the Government Operations Committee. My friend and colleague from California, I am sure, recalls that he also had unfunded mandates legislation which suffered the same fate. Then when the Republican majority took over the Congress, it, of course, became the first legislation to be enacted.

At that time, when that bill was debated, I had an amendment. That amendment was designed to correct an oversight which was that it did not include private sector mandates. It only applied to public sector mandates. It did not get included because the House leadership did not give its stamp of approval at that time, and it was not part of the Republican contract on America. So it did not get the votes necessary for adoption.

The legislation that we are considering today does just what that amendment was designed to do. It is the same amendment. That is why I support this rule and this bill because it does correct something that was left unfinished when we passed the original unfunded mandates legislation.

My original legislation actually only required that if it is an unfunded mandate, that you come up with the actual cost that is being passed on to States and localities and the private sector. The gentleman from California (Mr. CONDIT) went further and required a point of order, which is ultimately what got legislated.

There is one other aspect, though, of the unfunded mandates issue which pertains to a public sector mandate, and that affects particularly the Medicaid program. We will address that when the Davis-Moran amendment is raised, and I know that that will have the full support of this body as well.

Again, this is a bill that will correct what was unfinished the last time we had unfunded mandates legislation, and I think that the rule and the bill will undoubtedly get passed overwhelmingly.

I thank the gentleman for yielding me the time.

Mr. DREIER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a very able member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of this bill but particularly to converse with my colleague, the gentleman from Massachusetts (Mr. MOAKLEY), on the issue of his concern about tax reductions.

The goal of this bill is to put in place a far more accountable process in regard to government's mandating of expenses on other levels of government, which we did in the past, and now in the private sector. It comes from very deep bipartisan concern with government's rather casual attitude toward the costs of the legislation that it is passing and the way those costs tend to be borne by others than themselves in society.

When we cut taxes, on the other hand, when we give a tax break, we are essentially talking about how we use our own resources, so we are mandating a cost on ourselves and we are paying for it by foregoing revenues that we would otherwise collect. So I do not think that the issue is the same when we forgo revenue through a tax break as the underlying issue that this mandates bill seeks to address.

If we choose to spend our revenues by collecting them and then appropriating them, that is one thing. If we choose to spend our revenues by, in a sense, granting a tax exemption, that is also our right. But that is a separate issue from the issue that this bill addresses, which is making us accountable and making visible the costs that will follow from the responsibilities that we are imposing on our society.

Mr. MOAKLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, say for instance the gentlewoman is a corporation. She gets taxed. Then someone raises a point of order and someone says, well, we will give it back as a tax relief.

The CHAIRMAN. The time of the gentlewoman from Connecticut (Mrs. JOHNSON) has expired.

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

So we say, well, instead of putting it into the company, we are going to give a tax break to other people. The company still pays that tax. It is a way of taxing people.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, the company does not have the right to give a tax break. The company must pay the taxes that we require them to pay.

Mr. MOAKLEY. Mr. Chairman, the mandate is the same, whether they get taxed to build roads or they give it back as a tax break, that company we are trying to protect is still getting the same tax.

Mrs. JOHNSON of Connecticut. Mr. Chairman, if the gentleman will continue to yield, they are still getting taxed exactly the same. The goal of this bill is to make evident the costs we are imposing on the society, whether it is on another level of government or a private sector entity or an individual, the costs that we are imposing on them to carry out a public benefit. And I think all the vote on the House floor does, when the point of order is raised, is to make clear that I agree that this level of cost for a small businesses is worth it for our society to achieve a certain common goal. That is accountability.

Mr. MOAKLEY. The small businessperson still gets taxed.

Mrs. JOHNSON of Connecticut. Absolutely.

Mr. MOAKLEY. But the reason for this mandate is to stop this spending to take place, stop penalizing small companies. But if we say, we are going to tax them and then someone says, well, a point of order, and then someone says, we will give it back as a tax break, that company is still paying the tax even though that is going back as a tax break rather than going into the industry it is supposed to police.

Mr. DREIER. Mr. Chairman, I yield 3 minutes to the gentleman from Fairfax, Virginia (Mr. DAVIS), author of a very important amendment which we intend to accept.

Mr. DAVIS of Virginia. Mr. Chairman, I will address my amendment a little later. Let me say, taxes are pretty straight forward, put a tax on business or people, and unfunded mandates are hidden taxes.

The purpose of this is to let the public know and Members recognize when they are putting these mandates, unfunded mandates, that have the effect of being hidden taxes on companies just as we have done on local governments. Unfunded mandates over the last decade drove up the cost of local governments by the tens of billions of dollars.

Congress passed the Unfunded Mandate Reform Act in 1995, because Congress for too long prior to that had been passing the bills and then passing the buck on to the localities who would then have to either raise local taxes. And generally these were property taxes, sales taxes, much more regressive taxes than the Federal income tax, or, in some cases, if they were financially strapped, these unfunded mandates, in driving up the cost of local government, they would have to substitute Washington's priorities for their own priorities.

We felt that was wrong and, as a Congress, by overwhelming majorities 2 years ago, 3 years ago were able to pass unfunded mandates reform. And only 5 times in the last Congress, 5 times were objections, points of order even raised on the House floor. At least in two of those cases, we proceeded, after voting to overrule the point, not to sustain the point of order.

This bill takes unfunded mandate reform to the next level, as the gentleman from Virginia (Mr. MORAN) just talked about, something we would have liked to have done 3 years ago, but some Members thought it was too ambitious or even too radical. Now that we have had some experience dealing with State and local governments, I think we are more comfortable. Unfunded mandates, though, to America's businesses often lead to higher prices for American consumers, and they will now be subject to points of order if the cost to American businesses are over $100 million.

Remember, American businesses are now engaged in a global economy. We are competing against Japanese companies, German companies, Mexican companies, Chinese companies. If Congress wants to add additional mandates on American businesses, often these mandates will not apply to these foreign businesses as they manufacture goods. That has the effect of raising America's businesses' costs, of making them less competitive, leading to job losses or, in many cases, driving jobs offshore. That has the net effect of unfunded mandates on American business.

There may be times and there may be circumstances and there may be priorities where we as a Congress decide it is important to do this because of what we are trying to accomplish. But this at least allows Members to not only recognize what those costs are, but to have an affirmative vote ongoing and moving forward with this cost. This is an important step for America's businesses, something that has been addressed widely by a number of business organizations and, I might also add, by State and local government organizations.

Finally, let me just note, Congress does not lose any flexibility to enact any of these mandates, but we will have the information before us. We will have to act in an affirmative manner, recognizing that we are imposing basically a hidden tax or an unfunded mandate on these businesses.

I am proud to be here tonight and support my friend in this legislation and hope the House will act favorably on it. I will address my amendment during the amendment period.

Mr. DREIER. Mr. Chairman, may I inquire of the Chair how much time remains for general debate on each side?

The CHAIRMAN. The gentleman from California (Mr. DREIER) has 9 minutes remaining, and the gentleman from Massachusetts (Mr. MOAKLEY) has 17½ minutes remaining.

Mr. DREIER. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I thank the gentleman for yielding me the time.

I only wish that a number of Members and colleagues were watching this debate. I think this is an important bill. By definition, points of order stifle debate. The reason a Member raises a point of order is to short-circuit debate on a bill or amendment. That is why I oppose this bill. No one ever raises a point of order to extend debate.

Yes, the point of order created by H.R. 3534 would prompt 20 minutes of debate, 10 on each side. But the reason for the point of order is to prevent the much greater debate that would otherwise occur.

Let us take the example of the Saxton-Boehlert substitute to the Clean Water Act. A point of order against the amendment would have granted 20 minutes of debate, but without that point of order, we had a day and a half of debate, a full debate that would not be able to occur under this bill.

There are lots of other examples. Proponents argue in effect that a point of order would not limit debate if it were defeated. But surely proponents are not working for this bill on the assumption that points of order would never prevail. What the bill does is skew the discussion by requiring an official objective estimate of costs but no similar information on benefits. If Members truly believe that benefits can never be quantified, then it is curious that Congress would have spent so much time pushing for cost-benefit analysis.

However, my main objection to H.R. 3534 is the point of order, not the additional cost analysis called for in the bill. It is just that the way the bill dismisses benefits is a sign that it is designed to help only one side in the debate, not to provide balance.

Can anyone think of a bill that has gone through Congress in which the costs on the private sector were not debated?

The impact of H.R. 3534, whatever its sponsors' intent, is not to ensure that industry's view is heard but, rather, that it has a greater chance of prevailing. Even more importantly, however, the primary threat of 3534 is not the point of order once the bill reaches the

floor. The problem is that the availability of a point of order will make it harder to affect the bills before they come to the floor because committees will want to avoid points of order. This will prevent many amendments from getting a full hearing.

If proponents believe that general debate allows enough time for any Member disagreeing with industry to get his point across, why is that not true for industry's proponents as well? Why does industry need a point of order to bolster its side in an argument? Think of the existing laws that H.R. 3534 would have made more difficult to negotiate and to pass, including the Clean Water Act and the Clean Air Act. Think of the pending legislation before Congress this year. I am talking about tobacco. I am talking about a patient Bill of Rights. This bill will place roadblocks in front of that legislation.

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I do not believe that Congress should pass mandates on industry without full discussion. I do not object to Congress having full and fair information, like the CBO scoring of private mandates already required by current law. I do object to a bill whose only possible impact is to shortcircuit any debate on any bill or amendment that industry might oppose.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, there are a number of things the gentleman said that seem inconsistent to me. The gentleman just said a moment ago that he was happy to support something that forces us to understand what the costs are to new legislation on the private sector, and then the gentleman said but he would not want a point of order.

Let me be clear. This point of order is not the kind of point of order that we would normally have where we simply come to the floor, raise a point of order, and that stops the legislation if it is approved. This permits a debate precisely for the reason the gentleman stated earlier. We get 10 minutes on each side to be able to debate the question as to whether we should proceed on the legislation. The precise question the gentleman is raising.

The argument that some Members will make, which might include the gentleman on environmental legislation, from the way I am hearing what he is saying, would be we need a full debate on this question.

Mr. GANSKE. Reclaiming my time, Mr. Chairman, the point is this: That a point of order brought on this would allow only 20 minutes of debate, 10 minutes per side, on a complicated issue that really should not be limited by that time limit.

I am fine with the analysis. I have voted for that in the past. It is the point of order that I think tilts the side too much to one side to prevent legislation from being fully debated. And that is why I have to oppose this amendment or this bill.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, let me just make the point that what we do here, I guess the gentleman and I have a different view of this place. The gentleman's sense, as I have tried to write down what he said, is there has never been legislation around here where the costs have not been fully debated. I do not know that there is any legislation, including the banking bill we just passed, where we ever understand what the full costs are, whether it is to the public sector or the private sector.

Maybe the gentleman's staff reads all the legislation and gives him a cost breakdown, but mine certainly does not, and I do not know that that is true of any other Member. What we need is to have some debate on the cost, because the rest of the debate is always about the benefits.

Mr. DREIER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, when legislation is debated on the floor of the House, the legislation is debated because someone has a good idea. It is a great sounding idea.

We talk a lot about the benefits, and we do it continually. What we do not talk about is the cost to the private sector and to the public sector. This simply permits the Congress to focus on that issue and then determine in its will by a simple majority vote whether to proceed with the legislation or not.

So this is good government. It is accountability that will get at exactly what the gentleman earlier stated was his objective, which was to be fully informed about the cost of the legislation.

Mr. GANSKE. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Iowa.

Mr. GANSKE. I appreciate the intent of this legislation, but I think the effect, because of the time limits on a point of order, would be to limit debate on a lot of bills.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume to congratulate the prior speaker on his analysis and I agree with him. I think he did a wonderful job.

Mr. DREIER. Mr. Chairman, I yield myself such time as I may consume to say that I thought that my friend agreed with the bill, with the exception of the Dreier amendment that was in here.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume to suggest to the gentleman from California if he would just take the Dreier amendment out, we can wrap it up tonight.

Mr. DREIER. Mr. Chairman, I yield myself such time as I may consume to point out that the gentleman from Iowa, with whom the gentleman from Massachusetts has just agreed, was actually disagreeing with the whole thrust of the legislation.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume to respond that I believe the gentleman said that the other side of the aisle does not give enough time, and I agree with him. Twenty minutes is not enough time on this.

Mr. CONDIT. Mr. Chairman, I rise today in support of H.R. 3534, the Mandates Information Act of 1998. I want to thank the Rules Committee Chairman and Vice-Chairman for bringing this bill to the floor under an open rule and for their commitment to pass this legislation.

This bill is a new version of an old idea, which will yield the same results—accountability and openness. This bill is similar to H.R. 1010, the Mandates Information Act of 1997, which I introduced on March 11, 1997. These bills were introduced as a follow-up to the successes we have had with the Unfunded Mandate Reform Act.

As you are aware, the Unfunded Mandate Relief Act required the Congressional Budget Office to estimate the cost of unfunded mandates a bill would place on both local governments and the private sector. These cost estimates are required to be included in the committee's report which accompanies a bill reported to the House.

The law also established a point of order procedure for bills imposing a mandate on local governments in excess of $50 million. The Mandates Information Act of 1998 will establish a similar point of order procedure for bills containing an unfunded mandate on the private sector in excess of $100 million.

The Mandates Information Act of 1998 has been modified to address the concerns raised by the House Rules committee that the point of order procedure would be used as a delaying tactic and could impede the legislative process. The new version of the Mandates Information Act would allow Members of Congress to raise a single point of order against a bill or amendment containing a mandate in excess of $100 million. It is important to note that this bill would not affect a Member's ability to raise a separate point of order if the Congressional Budget Office failed to adequately estimate the impacts of a private sector mandate. Nor does H.R. 3534 prevent Members from raising multiple points of order against a bill containing intergovernmental mandates.

Tonight we will hear arguments that this bill is an assault on the environment, health and worker safety. Mr. Chairman, nothing could be further from the truth. H.R. 3534 cannot be used to block important environmental health and safety regulations. H.R. 3534 is simply a way to guarantee an accurate and informed debate on the costs of proposed mandates.

Mr. Chairman, I urge my colleagues to support information and accountability by supporting the Mandates Act of 1998.

Mr. CANNON. Mr. Chairman, I am pleased to rise today in support of H.R. 3534.

Just as this great body voted in 1995 to release state and local governments from the stranglehold of unfunded federal mandates, we must vote today to free our private sector as well.

Our booming economy thrives on the ability of our private sector to continue flourishing.

We must ensure that government does not impede this development.

I have received letters in support of this legislation from all groups involved in our growing economy: consumers, taxpayers, farmers, and small businesses.

I would like to emphasize that this latter group, in particular, succeeds or suffers in direct proportion to the increased government mandates placed on it. Federal mandates discourage development of small businesses and start-ups, the most valuable, yet most vulnerable engine furthering growth and job creation in our economy.

We have voted time and time again over these past few years to lessen the government burdens on this sector.

This legislation represents the next logical step in making this body more cognizant of the impact of our actions on our developing economy.

Mr. MOAKLEY. Mr. Chairman, I yield back the balance of my time.

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment printed in the bill is adopted and the bill, as amended, is considered as an original bill for further amendment and is considered read.

The text of H.R. 3534, as amended by the amendment recommended by the Committee on Rules, is as follows:

H.R. 3534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mandates Information Act of 1998''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Before acting on proposed private sector mandates, the Congress should carefully consider the effects on consumers, workers, and small businesses.

(2) The Congress has often acted without adequate information concerning the costs of private sector mandates, instead focusing only on the benefits.

(3) The costs of private sector mandates are often borne in part by consumers, in the form of higher prices and reduced availability of goods and services.

(4) The costs of private sector mandates are often borne in part by workers, in the form of lower wages, reduced benefits, and fewer job opportunities.

(5) The costs of private sector mandates are often borne in part by small businesses, in the form of hiring disincentives and stunted growth.

SEC. 3. PURPOSES.

The purposes of this Act are the following:

(1) To improve the quality of the Congress' deliberation with respect to proposed mandates on the private sector, by—

(A) providing the Congress with more complete information about the effects of such mandates; and

(B) ensuring that the Congress acts on such mandates only after focused deliberation on the effects.

(2) To enhance the ability of the Congress to distinguish between private sector mandates that harm consumers, workers, and small businesses, and mandates that help those groups.

SEC. 4. FEDERAL PRIVATE SECTOR MANDATES.

(a) IN GENERAL.—

(1) ESTIMATES.—Section 424(b)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 658c(b)(2)) is amended—

(A) in subparagraph (A) by striking ''and'' after the semicolon; and

(B) by redesignating subparagraph (B) as subparagraph (C), and inserting after subparagraph (A) the following:

''(B) when applicable, the impact (including any disproportionate impact in particular regions or industries) on consumers, workers, and small businesses, of the Federal private sector mandates in the bill or joint resolution, including—

''(i) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on consumer prices and on the actual supply of goods and services in consumer markets;

''(ii) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on worker wages, worker benefits, and employment opportunities; and

''(iii) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on the hiring practices, expansion, and profitability of businesses with 100 or fewer employees; and''.

(2) POINT OF ORDER.—Section 424(b)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 658c(b)(3)) is amended by adding after the period ''If such determination is made by the Director, a point of order under this part shall lie only under section 425(a)(1) and as if the requirement of section 425(a)(1) had not been met.''.

(3) THRESHOLD AMOUNTS.—Section 425(a) of the Congressional Budget Act of 1974 (2 U.S.C. 658d(a)) is amended by—

(A) striking ''and'' after the semicolon at the end of paragraph (1) and redesignating paragraph (2) as paragraph (3); and

(B) inserting after paragraph (1) the following new paragraph:

''(2) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal private sector mandates *(excluding any direct costs that are attributable to revenue resulting from tax or tariff provisions of any such measure if it does not raise net tax and tariff revenues over the 5-fiscal-year period beginning with the first fiscal year such measure affects such revenues)* by an amount that causes the thresholds specified in section 424(b)(1) to be exceeded; and''.

(4) APPLICATION RELATING TO APPROPRIATIONS COMMITTEES.—(A) Section 425(c)(1)(A) of the Congressional Budget Act of 1974 (2 U.S.C. 658d(c)(1)(A)) is amended by striking ''except''.

(B) Section 425(c)(1)(B) of the Congressional Budget Act of 1974 (2 U.S.C. 658d(c)(1)(B)) is amended—

(i) in clause (i) by striking ''intergovernmental'';

(ii) in clause (ii) by striking ''intergovernmental'';

(iii) in clause (iii) by striking ''intergovernmental''; and

(iv) in clause (iv) by striking ''intergovernmental''.

(5) THRESHOLD BURDEN.—(A) Section 426(b)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 658e(b)(2)) is amended by inserting ''legislative'' before ''language''.

(B) Section 426(b)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 658e(b)(2)) is amended by striking ''section 425 or subsection (a) of this section'' and inserting ''part B''.

(6) QUESTION OF CONSIDERATION.—(A) Section 426(b)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 658e(b)(3)) is amended by striking ''section 425 or subsection (a) of this section'' and inserting ''part B''.

(B) Section 426(b)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 658e(b)(3)) is amended by inserting '', except that not more than one point of order shall be recognized by the Chair under section 425(a)(1) or (a)(2)'' before the period.

(7) APPLICATION RELATING TO CONGRESSIONAL BUDGET OFFICE.—Section 427 of the Congressional Budget Act of 1974 (2 U.S.C. 658f) is amended by striking ''intergovernmental''.

(b) RULES OF THE HOUSE OF REPRESENTATIVES.—Clause 5(c) of rule XXIII of the Rules of the House of Representatives is amended by striking ''intergovernmental'' and by striking ''section 424(a)(1)'' and inserting ''section 424 (a)(1) or (b)(1)''.

(c) EXERCISE OF RULEMAKING POWERS.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it shall be considered as part of the rules of such House, respectively, and shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The chairman of the Committee of the Whole may postpone a demand 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.

Are there any amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. DAVIS OF VIRGINIA

Mr. DAVIS of Virginia. Mr. 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 the gentleman from Virginia (Mr. DAVIS):

Page 8, after line 11, add the following new section:

SEC. 5. FEDERAL INTERGOVERNMENTAL MANDATE.

Section 421(5)(B) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(5)(B)) is amended—

(1) by striking ''the provision'' after ''if'';

(2) in clause (i)(I) by inserting ''the provision'' before ''would'';

(3) in clause (i)(II) by inserting ''the provision'' before ''would''; and

(4) in clause (ii)—

(A) by inserting ''that legislation, statute, or regulation does not provide'' before ''the State''; and

(B) by striking ''lack'' and inserting ''new or expanded''.

Mr. DAVIS of Virginia. Mr. Chairman, I rise to offer an amendment to H.R. 3534, the Unfunded Mandates Information Act of 1998.

Mr. Chairman, my amendment would simply serve as a clarification of the

Unfunded Mandates Reform Act, of which I was a primary sponsor in the 104th Congress. This amendment is necessary due to the Congressional Budget Office's interpretation of an important provision of the Unfunded Mandates Reform Act in a way that is inconsistent with the intent of Congress. The CBO interpretation has a significant impact on the States.

The definition of ''Federal Intergovernmental Mandate'' as drafted under the Unfunded Mandates Reform Act was specifically intended to include Medicaid and other large entitlement programs and efforts to impose new Medicaid mandates without new flexibility.

However, when asked to review the President's proposal for a cap on the Federal share of Medicaid spending per beneficiary, CBO determined that the proposal did not contain a mandate as defined by UMRA, the Unfunded Mandates Reform Act. According to CBO, this was because States currently have the flexibility to amend their own financial and programmatic responsibilities by reducing some optional services or by choosing not to serve some local optional beneficiaries.

This interpretation is at odds with congressional intent. In passing UMRA, Congress intended that the flexibility required under clause (ii) be new flexibility, concomitant with the mandate-imposing legislation, for States to amend their responsibilities to provide ''required services'', not optional services. However, because the Unfunded Mandates Reform Act, as passed, does not say new flexibility specifically, CBO believes its interpretation is consistent with the law as written.

My amendment is supported by Ohio Governor George Voinovich, the National Governors' Association, the Council of State Governments, the National Conference of State Legislatures, the National Association of Counties, and the National League of Cities.

As a former chairman of the Fairfax County Board of Supervisors, I recognize the incredible burdens placed on States and localities by unfunded mandates, of which I just spoke during the general debate, and I would urge my colleagues to support this common sense amendment.

Mr. MORAN of Virginia. Mr. Chairman I move to strike the last word.

Mr. Chairman, in addition to having an opportunity to pass an amendment that I thought should have been passed back in January of 1995, that I had offered then, I think probably it helps in a Republican Congress to have a Republican offeree, and I trust that this bill will pass, although I suspect that there will be more opposition to it than is present here tonight.

This is also an opportunity to correct a technical problem that we have encountered with the Congressional Budget Office's scoring of State and local mandates. That is why I urge everyone to support the Davis-Moran amendment.

Mr. DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Virginia.

Mr. DAVIS of Virginia. Mr. Chairman, I think this has the best of all worlds, according to the gentleman from Virginia. This has the Moran intellect and the Davis name, and when we put the two together, from what I hear the gentleman saying, it is a ''can't lose'' amendment.

Mr. MORAN of Virginia. Reclaiming my time, Mr. Chairman, that was not exactly the point I was trying to make, but I am certainly willing to let that stand in the record if my friend and colleague wants to suggest that.

The gentleman from Virginia (Mr. DAVIS) is known not only by his name but by his intellect, and I am more than happy to join him in this amendment. I was actually referring in a more general way. I was not suggesting that the only way we could get our amendment passed was if it had the gentleman's name on it. The gentleman has worked very hard on this, but I will now amplify some of the points that the gentleman made.

The reason why the amendment is necessary is because the Congressional Budget Office determined that any new Federal mandates in the area of entitlement programs are not subject to the Unfunded Mandates Reform Act's point of order procedure if there is sufficient flexibility in the affected entitlement program to offset the new State and local costs.

The best example of this is on June 10th, 1996, when CBO ruled that a point of order would not exist for a proposed cap on Federal Medicaid expenditures and any other mandatory Federal aid programs except food stamps. The effect of this interpretation is to exempt more than two-thirds of all granted aid. In other words, all the mandatory entitlement programs from coverage under the Unfunded Mandates Reform Act.

What may appear to be an optional Federal mandate program from CBO's perspective, such as, for example, expanded Medicaid coverage to pregnant women and children, is not an optional program from the State's perspective. I do not know of any State willing to reduce Medicaid coverage to pregnant women and children in order to help offset the cost of new Federal mandates.

Our amendment would correct this implementation problem by adding a few simple words to the Unfunded Mandates Reform Act to clarify that any cut or cap of safety net programs constitutes an intergovernmental mandate unless State and local governments are given new or additional flexibility and the authority to offset the cut or the cap.

This amendment has been endorsed by the five major State and local organizations. It ought to be supported. I urge all my colleagues to support it, and, again, I am honored to be able to offer it in coordination with my friend and colleague, the gentleman from Virginia (Mr. DAVIS).

I will conclude at this point, Mr. Chairman, feeling as though I have given my cosponsor more than sufficient recognition.

Mr. DREIER. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment, as long as it does not lead the gentleman from Massachusetts (Mr. MOAKLEY) to come out in opposition of the amendment.

So I am going to proceed, and I will assure the gentleman from Virginia (Mr. MORAN) and the gentleman from Virginia (Mr. DAVIS) that I will withdraw my name and I will, in fact, not support the amendment if it in any way jeopardizes the support of the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, if the gentleman would just go a little further and remove the amendment that has his name on it, I would be very happy to support everything.

Mr. DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Fairfax, Virginia.

Mr. DAVIS of Virginia. We could call it the Moran-Davis, Davis-Moran, Dreier-Moakley unity bipartisan amendment.

Mr. DREIER. Mr. Chairman, reclaiming my time, I thank my friends for their contribution. It seems to me that we have bipartisan agreement on the measure and I strongly support it.

The brief statement that I would like to provide here, Mr. Chairman, states that under section 421(5)(B) of the Congressional Budget Act, Federal entitlement programs such as Medicaid, child nutrition, and foster care are considered unfunded intergovernmental mandates if Congress imposes new conditions, places caps on funding, or cuts funding without giving the States the authority to adjust those changes. Although this was the clear intent of the Unfunded Mandates Reform Act, the Congressional Budget Office has used a different interpretation which undermines the act. Specifically, CBO contends that UNRA's language does not specify new authority and that States already have sufficient authority or options to adjust to any cut or cap to an entitlement program except for the food stamp program.

The Davis-Moran amendment clarifies that any funding cut or cap is considered a new mandate unless the States are given new or additional flexibility to adjust their programmatic or financial responsibilities in order to offset the additional mandate costs.

I believe it is a very important amendment, and I will clearly support

it and urge my colleagues to join in doing the same.

Mr. CONDIT. Chairman, I move to strike the last word to speak in favor of the amendment.

I want to rise and show my support for the amendment, and I would like to commend the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. MORAN) for being on their toes and being on guard for State government.

This is an amendment that is needed for the State governments, and I just commend them and congratulate them for doing this.

□ 2215

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words just briefly again to commend sponsors of this amendment.

We did work with the gentleman from Virginia (Mr. MORAN) last time around and were not able to do what really should have been done, it turned out. This is a needed technical correction really to the 1995 legislation, because it clarifies the intent of the original act to make it clear that State and local government could be given newer, expanded authority to meet their programmatic responsibilities if additional costs were imposed on them through entitlement reform.

So I want to thank the authors of the amendment and also echo what the gentleman from California (Mr. CONDIT) has said and issue my strong support.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

I would just like to offer an addendum to the very thoughtful list of supporters that was provided by the gentleman from Virginia (Mr. DAVIS), and say that I suspect not many Members are aware of the fact that the International City-County Management Association, which is headed by Gary Gwinn, also strongly supports the Davis-Moran amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. DAVIS).

The amendment was agreed to.

Mr. DREIER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PORTMAN) having assumed the chair, Mr. SESSIONS, 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. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and provide extraneous material on H.R. 3534.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SESSIONS). Under the Speaker's announced policy of January 7, 1997, 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 gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

(Mr. FOX of Pennsylvania 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 Colorado (Mr. MCINNIS) is recognized for 5 minutes.

(Mr. McINNIS 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 North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

(Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HOUGHTON) is recognized for 5 minutes.

Mr. HOUGHTON. Mr. Speaker, I would like to talk for a minute about a bill that we will be voting on tomorrow, and that is called the Freedom From Religious Persecution Act of 1998. The number is H.R. 2431.

This has gone through the Committee on International Relations. I was on that committee. I voted against it, and it has gone to the Committee on Ways and Means for a particular issue of a sequential referral.

I understand why people are concerned with persecution of individuals and various religions throughout this world, and many times it is out of a sense of compassion for these people. And yet at the same time, I think that there are ways of handling this which I do not think are being recognized here.

What this bill will do, and I know things have been changing rather rapidly in terms of the terminology, is, it will establish an Office of Religious Persecution Monitoring. Think of it, an Office of Religious Persecution Monitoring in our government. And that man who is in charge of that office will then recommend, in his own infinite wisdom, to the Secretary of State whether persecution is taking place throughout the world.

There are various categories involved here. I will not go into the specifics, but the important thing is that if a country has been decided to be involved in religious persecution in any way, whether this is tribal or whether this is two religions, whether the country has no control over it whatsoever, that country will then have a denial of United States foreign assistance, it will be subject to various trade sanctions, denial of visas, prohibition of exports, U.S. support for multilateral bank assistance, and a whole variety of different things. I think that is the wrong way of going about it.

We all in our own way and our own sense have a feeling of religion inside us, and we do not want to see anybody persecute it. The question is, really, who are the beneficiaries of this? I have talked to members of the Russian Orthodox Church. I have talked to the people who are in charge of the religious expression of a variety of different sects in Sudan. I have been to India. I have been to Zimbabwe. I have talked really recently to the National Council of Churches.

And whether it was in the Middle East or whether it was somebody who represented 27 million Muslims in Indonesia, I asked the question, ''Who wants this?'' The letters that we see supporting this particular act all come out of New York or Washington. None come from abroad. ''Who wants this?'' And there was not a single affirmative answer in that whole group.

So what we were doing, therefore, was literally imposing sort of a post-colonial Western sense of what is right and what is wrong on the peoples of this world. And in many cases, the governments have absolutely no control over what the religious persecution is. I know this is true in terms of Sudan. I know it is true in terms of a variety of other countries. And by the United States imposing its will upon those countries, those areas, which they really know very little about, they are going to be hurting more people than they are going to be helping.

So the question is, who are the intended beneficiaries? Not many. Billy Graham does not think this is a good idea. The Dalai Lama does not think this is a good idea. The Council of Churches does not think this is a good idea. A variety of organizations, such as the American Farm Bureau, does not think it is a good idea.

Why are we doing this? I think we are doing this out of a sense of compassion, but misdirected compassion.

It is wrong for us to set ourselves up as the arbiter of what goes on in a country. As much as we have a feeling for this thing, we must be very, very careful not to superimpose our own standards on the rest of the world, particularly when it involves something so

very, very personal such as your religious feelings.

RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2431, FREEDOM FROM RELIGIOUS PERSECUTION ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–534) on the resolution (H.Res. 430), providing for consideration of the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes, which was referred to the House Calendar and ordered to be printed.

TRIBUTE TO OFFICER DENNIS FINCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, yesterday we were on the floor, as it is National Law Enforcement Officers Memorial Week, and we were talking about law enforcement and a number of bills we were trying to put forth and pass in this Congress, as we normally do during National Law Enforcement Officers Memorial Week.

As founder and cochair of the Law Enforcement Caucus, I spend a lot of time on law enforcement issues. In fact, tomorrow at 3:30 in the Longworth Building, the Law Enforcement Caucus will be meeting to talk about pending legislation we have on body armor and the educational school benefits for those dependents of law enforcement officers who were killed in the line of duty, the police officers' bill of rights, a number of other issues that the Members would like to bring up to discuss with the Law Enforcement Caucus.

Actually, yesterday as we were debating the Visclosky bill, the Bulletproof Vest Partnership Grant Act, H.R. 2829, which overwhelmingly passed this House; we talked a lot about what happens with police officers, and I mentioned a case which happened back in 1974 when I was a police officer.

Unfortunately, at that time, we did not know and the statistic was put forth that about every 2 days we lose a police officer. Up in my northern Michigan rural community, we lost a police officer in Traverse City yesterday. I regret to inform the Nation that Sergeant Dennis Finch of the Traverse City Police Department was murdered as he went to check on an individual at a residence in Traverse City. Sergeant Dennis Finch is survived by his wife Agnes and their two daughters, who are 30 and 23 years old.

It is a rather unusual report that we have been picking up in the news media about what happened to Sergeant Finch, but I think it certainly highlights what police officers go through day in and day out in their job. They never know the dangers they face.

The individual who murdered Sergeant Finch was well-known by police officers. They had a number of incidents with the individual, and he was described by neighbors as a disturbed man who believed the Mafia was after him. And in fact, yesterday, Tuesday, he was actually seen with a gun strapped to his hip, a pistol if you will, and it was described as a large handgun strapped in a holster; and he came up to people and he was talking to people about the Mafia and that the Mafia was giving him a hard time.

It made people nervous. And as often happens, they called police officers to investigate. And according to the newspaper articles, the assailant here was convinced that the Traverse City Police Department, that the cops are the Mafia, and as he told some people, ''Don't make any mistake about that.''

□ 2230

Unfortunately, in our line of work, people unfortunately do die, and we should not make any mistake about that. I find it ironic that as we were debating those bills that try to help all police officers, we had one in our district, at least in northern Michigan, lose his life. That is a very rare thing that happens in northern Michigan. Seldom do we have that kind of violence, but it surrounds us at all times.

As we go through National Law Enforcement Memorial Week, I hope we will keep Sergeant Finch in mind in some of the legislation we work on for law enforcement officers. Those of us who are past law enforcement officers, we try to work with this Congress to bring some degree of kindness and humanity to a very difficult occupation.

On Friday, it is usually my role as chair of the Law Enforcement Caucus to join in on Police Memorial Day, which is always on May 15, and that will be this Friday. This Friday I had planned on actually being in Traverse City, part of my district. I will be leaving Thursday night and had planned on taking part in a ceremony they hold every year in Traverse City on May 15 for fallen law enforcement officers.

This year's ceremony, unfortunately, will have a much deeper meaning for those of us who represent Traverse City and who knew Sergeant Finch. I will be in my district in Traverse City Friday and, hopefully, will get a chance to express the outrage and regret that this Congress feels when any police officer has fallen in the line of duty.

Our sympathies and deepest regrets go to his wife and his daughters and the rest of his family, his friends and fellow officers. This thing ended, after Sergeant Finch was shot, probably some 8, 9 hours later in a standoff before the assailant was finally apprehended.

We just ask that the good Lord may give strength to the family and to our communities in northern Michigan, and we may have peace returned to our northern Michigan communities as we have known before, and that the good Lord may take away our pain and bless this family that has suffered so much for this country and for Traverse City in northern Michigan communities.

DEMOCRATS DENY GRANTING OF IMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BARR) is recognized for 5 minutes.

Mr. BARR of Georgia. Mr. Speaker, before I get into my remarks, I would like to thank the previous speaker, the gentleman from Michigan (Mr. STUPAK) for his remarks as we look to celebrate Law Enforcement Officers Day. I extend my condolences and sympathies to the people in his district and particularly to the family of the slain officer.

Mr. Speaker, I think it was Winston Churchill who speculated that, every now and then, mankind trips over the truth; but inevitably, he speculated and observed, mankind picks itself up, dusts itself off, and keeps right on going.

Unfortunately, Mr. Speaker, by action of the Democrats unanimously today in the Committee on Government Reform and Oversight, we were not even afforded the opportunity to trip over the truth. The Democrats have erected yet another stonewall designed to prevent us from getting at the truth.

I speak, Mr. Speaker, of the unanimous vote by the Democrats on the Committee on Government Reform and Oversight to deny what would be an important tool and what always has been an important tool for either law enforcement or investigative work of the Congress to get at the truth; and that is the granting of immunity.

Granting of immunity is a mechanism of long-standing and important history in our country, both here in the Congress and its investigative work as well, as in the work of law enforcement in which I engaged as a United States attorney in the Northern District of Georgia.

Granting immunity to witnesses is frequently the only way that law enforcement has of uncovering evidence sufficient to successfully prosecute important cases or for the Congress to elicit important testimony and evidence from recalcitrant witnesses.

Normally, when the Department of Justice, as it did in the case of the four proposed witnesses today, tells the Congress it has no objection to the granting of immunity for the witnesses, it is a pro forma, routine vote by whatever committee of the Congress it is that is seeking to elicit the testimony from those immunized or to-be-immunized witnesses to seek a grant of immunity. This is provided for in the United States statute, Title 18 of the U.S. Code, Section 6005(b)(2).

Unfortunately, the mechanism provided in that statute has been abused by the Democrat minority in its absolute effort to protect this administration from accountability. That particular statute requires a two-thirds vote by the committee, whichever committee it is of the House seeking to immunize witnesses.

There are only two committees in the House that have that ratio such as guarantees the search for the truth. Unfortunately, the Committee on Government Reform and Oversight is not among them.

On two occasions now the Democrats have steadfastly denied both the committee and this great body, as well as the American people, the opportunity to search for the truth and elicit truthful testimony from witnesses. That was what happened today.

I have therefore, Mr. Speaker, introduced legislation today to amend 18 U.S.C. 6005(b)(2) to require a simple majority vote by a committee or subcommittee of the House in order to seek immunity for witnesses. This is consistent with the other provision of 18 U.S.C. 6005(b)(1) which provides that, for the House itself to grant immunity, it only requires a majority vote.

What is appropriate and proper for the House should apply, particularly in light of recent events whereby the provisions of the Code have been abused by the Democratic minority and have prevented the American people from knowing the truth. I believe that it is important to bring these two provisions of the United States Code to be consistent with each other, and therefore, I have introduced this legislation. I commend it to this body.

Hopefully, once it is enacted, we will once again be able to do what I would have hoped all of us in this body would want to do and would work towards achieving, and that is a search for the truth and accountability by our top elected leaders in this country.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

(Mrs. MALONEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

END U.S. SUPPORT FOR SUHARTO DICTATORSHIP IN INDONESIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. SANDERS) is recognized for 5 minutes.

Mr. SANDERS. Mr. Speaker, the time is now to end U.S. support for the Suharto dictatorship in Indonesia. I will be sending a letter to the President tomorrow with a number of signatures from my colleagues to urge him to help us do that.

History has taught us that it is not in the best interest of this country or for the people of affected countries that the United States back corrupt, authoritarian regimes whose leaders are opposed by the vast majority of their people.

It was wrong for us to have supported the Mobuto government in Zaire, the Saddam Hussein government in Iraq, the Noriega government in Panama, and many other dictatorships that we have backed over the years. It is wrong for us to support the Suharto government today.

As a result of our support for these corrupt and detested governments, our credibility in the world community suffers and our commitment to freedom and human rights is rightfully challenged.

As you know, Mr. Speaker, General Suharto is currently in his seventh 5-year term at the helm of the Government in Indonesia, which, according to the most recent U.S. State Department report on human rights, ''remains strongly authoritarian.'' That is from the U.S. State Department.

This same report states that in 1997 the Suharto government ''continued to commit serious human rights abuses'' and ''demonstrated that it would not tolerate challenges to the fundamental elements of the political system by arresting and placing on trial some of its critics.''

The State Department report documents Suharto's failure to allow free and fair elections in Indonesia in the most recent elections, just as he has done in the previous five held since 1971.

Today, the leader of the free trade union movement in Indonesia, Muchtar Pahpahan, remains in jail because of his radical belief that workers in this country have the right of freedom of association.

Further, General Suharto is widely acknowledged to be a dictator with an enormous amount of blood on his hands. In 1965, when he toppled General Sukarno as leader of Indonesia, it is estimated that some half million Indonesians were killed. Half a million, one of the great slaughters in modern history.

In East Timor, it is believed General Suharto's decisions have led to the deaths of 200,000 people or one-third, one-third of East Timor's population. Just yesterday, six unarmed students were shot down in cold blood by the Suharto military for protesting against the dictatorship. Recent testimony before Congress shows that Suharto's government is currently disappearing and torturing hundreds of its opponents.

General Suharto is known, not only for his brutality, but for his corruption and his greed. He is the sixth wealthiest person in the world, and it is estimated that his family is worth between $30 billion and $40 billion. This wealth has been accumulated in a country where the average income is less than $20 a week and where child labor is widespread.

The Suharto family owns much of Indonesia's wealth, and they have strong control over the economy there. It is widely acknowledged the Suharto family makes huge sums of money by running cartels and receiving bribes and kickbacks in perhaps the outstanding international example of crony capitalism.

Every day, more and more Indonesians are showing extraordinary courage and are putting their lives on the line by standing up to the Suharto dictatorship. Not only have tens of thousands of Indonesian students taken to the streets, but even retired generals and former cabinet ministers are now calling for General Suharto's ouster. Mr. Amien Rais, a prominent Muslim leader, recently said, ''I urge the government of President Suharto to step down, as the people demand.'' If the brave people of Indonesia are prepared to risk their lives to demand that General Suharto step aside, how can we ignore their cries for freedom?

It is important that we act soon. If General Suharto understands that we no longer support him, and international support for his regime is fading, it is far more likely that he will give up power soon, avoiding unnecessary bloodshed. In other words, the sooner that the United States tells Suharto that we will not support him, the more likely it is that he will perhaps flee his country and prevent the widespread bloodshed that might otherwise happen.

In my view, the President must utilize all diplomatic tools available to expedite the replacement of the Suharto dictatorship with a democratically elected government. Such steps should include but not be limited to immediate contact by Secretary of Defense Cohen with the Indonesian military, urging them not to use their guns against their own people.

The immediate freeze on all US weapons, spare parts and ammunition sales to Indonesia, including the financing of dual-use technologies through the Export-Import Bank.

In conjunction with the United Nations, dispatch an emergency relief group composed of non-governmental representatives, including human rights and famine-relief groups, to monitor the military and provide relief to famine stricken areas of East Timor and Indonesia.

Suspend further IMF loans to Indonesia until fundamental human rights are established under a new government.

Mr. Speaker, you have the opportunity to send a message to the Indonesian people and the entire world that the United States will not support dictators who deny their people basic human rights. The time to act is now.

DEMOCRATS ON CHAIRMAN BURTON'S COMMITTEE JUSTIFIED IN REFUSING TO VOTE FOR IMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, several hours ago, the House Committee on Government Reform and Oversight gave a vote of no confidence to the campaign finance investigation being headed by my friend, the gentleman from Indiana (Mr. BURTON). The committee declined to immunize four witnesses and haul them before his committee. As a past chairman of that committee, I can tell you that what the committee did today was the only course of action they could take.

□ 2245

My Democratic colleagues were not asking for much. They simply wanted procedures for subpoenas that would give them a chance to object and force a committee vote before such subpoenas could be issued. They were willing to negotiate, but Chairman BURTON was not.

I am sorry to say this, but Chairman BURTON'S recent actions have discredited the Committee on House Oversight of the Congress, which is supposed to set the example for fair investigative procedure. Never in my tenure as chairman of that committee, not once, did the minority complain that a major investigation was unfair or conducted without their full involvement.

Consider the causes for our embarrassment. More than 600 subpoenas have been unilaterally issued, without one of them ever having a committee vote or the involvement of members of the committee; a stubborn and continuing refusal to subpoena any witnesses requested by the Democratic members of the committee; a tasteless decision to release the private conversations between Mr. Hubbell and his wife, that had no connection to the subject matter that the committee was investigating; the misleading editing of the tape transcripts, which should have never been released in the first place, forcing a public rebuke by the Speaker himself for the embarrassment caused to the House of Representatives; and, finally, growing evidence that the committee may be improperly and perhaps illegally coordinating its investigation with that of Independent Counsel Kenneth Starr, which, by Federal law, is supposed to remain secret.

So the failure of the committee's investigation carries an important lesson for all of us in Congress: The concerns of every member of a committee, especially an investigative committee, cannot be ignored or shunted aside by procedural maneuvers.

I am hopeful that my colleagues will keep these lessons in mind as we move forward from the ashes of the BURTON investigation.

PRESERVING THE INTEGRITY OF THE BILL OF RIGHTS

The SPEAKER pro tempore (Mr. SESSIONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas (Mr. EDWARDS) is recognized for 37 minutes as the designee of the minority leader.

Mr. EDWARDS. Mr. Speaker, in three weeks the gentleman from Oklahoma (Mr. ISTOOK) will try to amend the U.S. Bill of Rights, the sacred document that has served America for well over 200 years.

Perhaps the greatest contribution of the American experiment in democracy is our Nation's religious freedom. Because of our Bill of Rights, America is not torn by religious wars.

In contrast to the religious strife in Northern Ireland and in the Middle East, Americans are at peace. In contrast to Islamic fundamentalist states that use government to force religion upon its citizens, America's Founding Fathers had the wisdom to write a Bill of Rights that separated the power of government from the freedom of religion.

These and others are powerful reasons why the Bill of Rights has never been amended in our Nation's 207 years; never, never has been amended since the Bill of Rights was adopted 207 years ago.

Yet Mr. ISTOOK not only wants to tamper with the Bill of Rights, he wants to rewrite the first 16 words of the First Amendment of the Bill of Rights, those words that say ''Congress shall make no laws respecting an establishment of religion or prohibiting the free exercise thereof.''

Now, Mr. ISTOOK calls his bill the religious freedom amendment. I would suggest that James Madison and our Founding Fathers beat Mr. ISTOOK to the punch by just over 200 years. The real religious freedom amendment is called the First Amendment of our Constitution. I believe Mr. ISTOOK'S bill should frankly be called the religious freedom destruction act.

It is amazing that some of the same people who do not entrust the Federal Government to deliver our mail want government involved in something as sacred as our children's and grandchildren's prayers. To change the Bill of Rights for any reason is a grave undertaking. To change it for reasons that simply do not exist is wrong.

Mr. ISTOOK bases his amendment on several myths. His arguments are a temple built on a false foundation.

Myth number one: Mr. ISTOOK alleges that students cannot pray in public schools. Nothing could be further from the truth. The law of this land allows students to pray before, after, and even during school. What the law prohibits, as it should, as intended by our Founding Fathers, is that government-sponsored prayers should be prohibited.

Time Magazine on April 27, 1998, and CNN have recently reported there are thousands of prayer and Bible groups that have been formed in public schools all across America in just the last few years.

Mr. Speaker, I enclose for the RECORD the article from Time Magazine of April 27 record entitled ''Spiriting Prayer into School.''

Mr. Speaker, let me take several excerpts from this Time Magazine article. ''Politicians may bicker about bringing back prayer, but in fact it is already a major presence, thanks to the many after-school prayer clubs.'' The article goes on to say that ''available statistics are approximate, but they suggest that there are clubs in as many as one out of every four public schools in the country. In some areas, the tally is much higher.''

Later the article says this: ''The resulting Equal Access Act of 1984 required any federally-funded secondary school to permit religious meetings if the schools allowed other clubs not related to curriculum, such as public-service Key Clubs. The crucial rule was that the prayer clubs had to be voluntary, student-run, and not convene during class time.''

The article goes on to point out the Supreme Court in 1990 sustained this law by a vote of 8 to 1.

Let me read additional excerpts from the Time Magazine article. ''Evangelicals had already seized the moment. Within a year of the 1990 court decision, prayer clubs bloomed spontaneously on a thousand high school campuses. Fast on their heals came adult organizations dedicated to encouraging more. Proffitt's, Tennessee-based organization, First Priority, founded in 1995, coordinates interchurch groups in 162 cities, working with clubs in 3,000 schools. The San Diego-based National Network of Youth Ministries has launched what is called Challenge 2000, which pledges to bring the Christian gospel to 'every kid on every secondary campus in every community in our Nation by the year 2000.' It also promotes a phenomenon called 'See You at the Pole,' encouraging Christian students country-wide to gather around their school flagpoles on the third Wednesday of each September; last year, 3 million students participated.''

Mr. Speaker, I would suggest that this article points out very clearly that Mr. ISTOOK's allegation that somehow we simply do not have prayer at our public schools does not bear out with today's facts.

The Time article also says, ''Says Doug Clark,'' quoting him, ''field director of the National Network of Youth Ministries, 'Our energy is being poured into what kids can do voluntarily and on their own. That seems to us to be where God is working.' ''

They then go on in the article finally to say, ''For now, the prospects for prayer clubs seem unlimited.

The doom of Mr. ISTOOK's predictions simply is not there.

Mr. Speaker, the fact is that students can pray silently in the classroom, or out loud over the lunch table. For anyone to suggest that prayer is not alive

and well in schools is not facing reality. For anyone to suggest that somehow God has been taken out of our schools, underestimates the God that I and my family worship. No person, no law, has the power to take an all-powerful God from anyplace in this world, much less a school classroom.

Myth number two, used by Mr. ISTOOK to push his amendment of the Bill of Rights: Mr. ISTOOK suggests that liberal Federal courts have misinterpreted our Founding Fathers.

That is simply not the case. To begin with, the majority of these so-called liberal Federal courts have been appointed by Republican presidents, Gerald Ford, George Bush, and that well-known liberal president, Ronald Reagan.

I would also point out that Thomas Jefferson could not have been more clear in his interpretation of the First Amendment of the Bill of Rights inasmuch as it deals with religious freedom. This is what Mr. Jefferson, Thomas Jefferson, our third president, the author of our Declaration of Independence, said in his letter to the Danbury Baptists.

''Religion is a matter which lives solely between man and his God that he owes account to none other for his faith or worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reference that act of the whole American people which declared that their legislatures should ''make no law respecting an establishment of religion or prohibiting the free exercise thereof,'' thus, building a wall of separation between church and state.''

The fact is that modern day Federal judges, including the majority of judges that have been appointed in our Federal courts by Mr. Bush and Mr. Reagan and Mr. Ford, have interpreted today's law exactly to be consistent with the intention of Thomas Jefferson and our Founding Fathers; not to demean religion by separating it from government, but to respect religion and to defend religious liberty by the very act of building a wall of separation to protect religion from the intrusion of government.

Myth number three Mr. ISTOOK has gone so far as to call opponents of this bill ''demagogues.'' He has suggested that those opposed to his amendment are somehow committed to keeping children from praying in schools.

He has also suggested, or others have suggested, I should say, other supporters of Mr. ISTOOK, that opponents of Istook are somehow anti-religion.

The implication that somehow Istook supporters are pro-prayer and pro-religion and opponents of Mr. ISTOOK's amendment of the Bill of Rights are anti-prayer and anti-religion could well be a surprise to the numerous religious groups strongly opposing the Istook amendment. Let me mention just a few of the religious and educational groups opposing the Istook amendment, for the very reason they believe that Istook would harm religious freedom in America, not defend it.

These groups would be disappointed to know that Mr. ISTOOK has referred to opponents of his amendment as ''demagogues,'' and if opposing Istook and defending the words of James Madison and our Bill of Rights, make me a demagogue, Mr. Speaker, then I am in good company. Let me just list some of that company that oppose the Istook amendment.

The American Association of School Administrators; the American Association of University Women; the American Baptist Churches, USA; the American Jewish Committee; the American Jewish Congress; the Antidefamation League; the Baptist Joint Committee on Public Affairs; the Episcopal Church; the Lutheran Office for Governmental Affairs; the Evangelical Lutheran Church in America; the National Association of Elementary School Principals; the National Education Association; the Southern Christian Leadership Conference; the United Church of Christ, Office for Church and Society.

I join in good company, Mr. Speaker, along with our Founding Fathers, such as Jefferson and Madison and others, in defending the Bill of Rights, not amending it; not changing it, not undermining it.

I agree with Brent Walker, the General Counsel of the Baptist Joint Committee, who said this: ''The Istook amendment is unnecessary, unwise, and unfaithful to our heritage of religious freedom and separation of church and State.''

The fact is that, in my words, Mr. Speaker, the Istook amendment is a house built on sand.

□ 2300

Its foundation is flawed, unfounded, and false. In the days ahead, I will also take time to point out the numerous possible harmful consequences of the Istook amendment.

To name just a few this evening, the Istook amendment could first, allow Satanic prayers and even animal sacrifices as part of prayer rituals in first and second and third grade public school classrooms across America.

Second, it could lead to censorship of prayers.

Third, it could allow outside religious groups to proselytize young students on public school grounds so that our children will be going to public schools learning reading, writing and arithmetic and perhaps will be proselytized by some religious group such as those we see at our Nation's airports across America. I am not sure America's parents sending their children to public schools want to have to worry about religious groups, or possibly even cults, proselytizing their children while they should be learning on the school grounds.

Fourth, the Istook amendment could be an unfunded mandate of Biblical proportions, stemming from its words that we cannot ''Deny equal access to benefit on account of religion.'' Who knows how many decades of court decisions it might take and divisiveness in our country to interpret that particular language. But certainly, on the surface, it could appear that this language of the gentleman from Oklahoma (Mr. ISTOOK) could basically have required the Federal Government to fund David Koresh and the Branch Davidians in my hometown of Waco, Texas for a child care program or a child care center because other groups, nonreligious groups, were given Federal funding for child care centers, despite the fact that before his death, Mr. Koresh said that, in his religious beliefs, that God had encouraged him to have sex with girls as young as 10 years old.

I am offended by the possibility that America's taxpayers' dollars could go to fund such religious groups and programs.

Fifth, the Istook amendment could lead to majoritarian prayers in many of our public schools, and there are many others. But let me just read from a statement prepared by the Coalition to Preserve Religious Liberty. They said this:

> The following are a few examples of activities that would be permitted under the amendment:
>
> A tax could be levied for support of sectarian schools.
>
> Crosses, stars of David, or statues of the goddess Gaia could be erected in public places such as courthouses, public schools and military bases to represent religious heritage or belief.
>
> New testament readings and specific prayers could be prescribed for all meetings of government employees (except public schools) as long as no one was required to participate.
>
> Devotional Bible readings or meditations from the Quran could be required in public schools as long as no one was required to participate.
>
> Upon a student's suggestion, a teacher could lead prayers for his or her kindergarten classes, as long as the prayers were not prescribed by the government and participation was not required.
>
> Bibles, Books of Mormon or Qurans could be printed or distributed to all public school students or public employees as a way of recognizing the people's heritage.
>
> Public schools could be required to teach creation science along with evolution as a way of recognizing the beliefs and heritage of the people.
>
> Tax money could be used to fund mission programs sponsored by Baptists, Buddhists or Branch Davidians, Methodists, Mormons or Mennonites.
>
> A judge or juror could lead the courtroom in prayer and limit such prayers to the majority faith of the surrounding community.

Mr. Speaker, I am afraid it will take far longer than one hour to point out why so many religious groups and people of deep religious faith are opposing the Istook amendment. For that reason, I would like to focus on some of the cases of ''Religious persecution'' that Istook supporters use to justify their taking such drastic action as amending our Bill of Rights for the first time in our Nation's history.

I would refer to a recent publication by the People For The American Way Action Fund, and, Mr. Speaker, I would like to submit this statement for the RECORD following my remarks. This is what they say in the report:

The true facts behind the Christian Coalition's ''religious persecution'' claims.

As part of its May 22, 1977 Religious Freedom Celebration on Capitol Hill, the Christian Coalition is presenting 4 claims of what it calls ''religious persecution'' which purportedly justify a constitutional amendment concerning religion. In fact, these claims are nothing of the sort. Instead, they are instances where officials properly applied school or job rules without improper religious discrimination, or, in one instance, where school officials made a mistake and promptly corrected it. In the case of the school-related examples that the Christian Coalition is using, all 3 incidents are at least 5 years old. Religious freedom should be celebrated in our country with the true facts about the First Amendment which fully protects religious liberty for all people.

The People For The American Way Action Fund statement then goes on to mention these purported claims by the Christian Coalition of religious persecution. Brittany Settle Gossett, ''Received an ''F'' on a research paper simply because her topic was Jesus Christ.'' The Christian Coalition letter, May 8, 1997. The true facts behind the claim, according to this report, are these: ''As both a Federal trial and appeals court found, Ms. Gossett grade on this 1991 assignment was based not on religious discrimination, but on her ''refusal to comply with the requirements'' of the teacher, including changing her paper topic, without permission, and choosing a topic with which she was already familiar.''

''As one judge explained, ''The student has no constitutional right to do something other than that assignment and receive credit for it. The First Amendment already protects a student's right to address religious topics in homework if relevant and otherwise compliant with the assignment.''

The second purported claim of religious persecution that is being used to justify amending the Bill of Rights goes to the case of Kelly DeNooyer who ''Was told by her school principal that she could not show a videotape of herself performing a religious song in church for her part in the VIP of the week program in her school classroom ''because it had Christian things in it.''

The response of the facts according to this report is this: ''As a Federal Court of Appeals found, the school's decision in 1990 was upheld based not on the content of the video, but because the purpose of the program was to increase ''students' communication skills by requiring a live classroom presentation by the student,'' and that purpose ''would be frustrated if every student were permitted to show a videotape instead.''

Example number 3 used by the supporters of the Istook amendment to say why Mr. Madison and Mr. Jefferson's first amendment is somehow inadequate today. Audrey Pearson was told by school officials that ''She could not read the Bible on the school bus.'' This is the response, according to this report: ''Within days, Audrey was back reading her Bible on the bus after only a few phone calls to the principal's office in 1989.''

Mr. Speaker, it is amazing to me that Members of this House and supporters of the Istook amendment would use a case from 1989, a problem that was resolved within a few hours with a handful of phone calls, knowing that that problem had been corrected because of the misinterpretation of the law, to use that case to justify massacring the First Amendment of the Bill of Rights is unbelievable.

The final case of religious persecution used to undermine our constitutional protections of religious freedom goes to the story of Brad Hicks, a North Carolina police officer who was ''Reprimanded by his police department for offering a religious tract to a woman whom he had pulled over for speeding and was later fired for refusing a police department request to refrain from speaking about religion whenever in a police uniform.'' The response is this: ''According to the police chief, Hicks was dismissed not for speaking about religion, but because he refused to stop proselytizing to citizens while on duty. As Hicks admitted, for 7 months, ''Whenever I would pull someone over to come into contact with them on some kind of call, while on duty and on police business, he sought to proselytize and witness.''

□ 2310

The chief explained that, ''You cannot stop someone on the road as a police officer and proceed to give them a church sermon.''

Mr. Speaker, I would agree with the judicial decision, that a police officer in uniform should not be allowed to use the power and threatening nature, at times, of his government position to proselytize his personal religious views upon the citizens of this land.

In 3 weeks, Mr. Speaker, Members of this House must make a choice. They must choose between defending our Bill of Rights or dismantling it. Members must choose between the wisdom of our Founding Fathers, such as James Madison and Thomas Jefferson, and the latest and often-amended version of the Istook amendment.

We must choose in this House between the cautious, careful consideration of our Founding Fathers as they drafted that cherished document we know as the Bill of Rights, versus a constitutional amendment by the gentleman from Oklahoma (Mr. ISTOOK) that received 1 day of hearings, 1 day of hearings in 1998.

Mr. Speaker, it is amazing to me that the leadership of this House would even allow a measure to come to this floor attempting to amend the first 16 words of the First Amendment of our Bill of Rights, after having less days of hearings on it, on amending the Constitution and the Bill of Rights, than they had in reviewing the Branch Davidian situation in my hometown of Waco.

In less than 3 weeks Members must choose between America's proud 200-year history of religious freedom versus the world's history of religious intolerance caused by the commingling of government and religion.

How ironic and sad it would be for America, which is a beacon of religious freedom to the world, to take the first step down the path of Islamic fundamentalist states to prove how religious freedom is imperiled when the wall of separation between church and state is dismantled.

The choice is clear, in my opinion. Madison and Jefferson were right, and my colleague, the gentleman from Oklahoma (Mr. EARNEST ISTOOK), no disrespect intended, is wrong. I believe the Bill of Rights should be protected, not dismantled.

The materials referred to earlier are as follows:

[Prepared by People for the American Way Action Fund]

THE TRUE FACTS BEHIND THE CHRISTIAN COALITION'S 'RELIGIOUS PERSECUTION' CLAIMS

As part of its May 22, 1977 Religious Freedom Celebration on Capitol Hill, the Christian Coalition is presenting four claims of what it calls ''religious persecution'' which purportedly justify a constitutional amendment concerning religion. In fact, these claims are nothing of the sort. Instead, they are instances where officials properly applied school or job rules without improper religious discrimination or, in one instance, where school officials made a mistake and promptly corrected it. In the case of the school-related examples that the Christian Coalition is using, all three incidents are at least 5 years old. Religious freedom should be celebrated in our country with the true facts about the First Amendment, which fully protects religious liberty for all people.

The Christian Coalition claim:

Brittany Settle Gossett ''received an F on a research paper simply because her topic was Jesus Christ.'' (Christian Coalition letter May 8, 1997)

The true facts behind the claim:

As both a federal trial and appeals court found, Ms. Gossett's grade on this 1991 assignment was based *not* on religious discrimination, but on her ''refusal to comply with the requirements'' of the teacher, including changing her paper topic without permission and choosing a topic with which she was already familiar. 1995 Lexis Fed. App. 141, 4–5. As one judge explained, ''the student has no constitutional right to do something other than that assignment and receive credit for it.'' *Id.* at 20. The First Amendment *already protects* a student's right to address religious topics in homework if relevant and otherwise compliant with the assignment.

The Christian Coalition claim:

Kelly DeNooyer ''was told by her school principal that she could not show'' a videotape of herself performing a religious song in church for her part of the VIP of the Week program in her school classroom ''because it had Christian things in it.'' (Rutherford Inst. Rep. Oct. 1992)

The true facts behind the claim:

As a federal court of appeals found, the school's decision in 1990 was upheld based *not* on the content of the video, but because the purpose of the program was to increase ''students'' communication skills by requiring a

'live' classroom presentation by the student,'' and that purpose ''would be frustrated if every student were permitted to show a videotape'' instead. 1993 U.S. App. Lexis at 4.

STATEMENT PREPARED BY THE COALITION TO PRESERVE RELIGIOUS LIBERTY

The following are a few examples of activities that would be permitted under the amendment:

A tax could be levied for support of sectarian schools.

Crosses, stars of David or statues of the goddess Gaia could be erected in public places such as courthouses, public schools and military bases to represent religious heritage or belief.

New Testament readings and specific prayers could be prescribed for all meetings of government employees (except public schools) as long as no one was required to participate.

Devotional Bible readings or meditations from the Quran could be required in public schools as long as no one was required to participate.

Upon a student's suggestion, a teacher could lead prayers for his or her kindergarten classes, as long as the prayers were not prescribed by the government and participation was not required.

Bibles, Books of Mormon or Qurans could be printed and distributed to all public school students or public employees as a way of recognizing the people's heritage.

Public schools could be required to teach creation science along with evolution as a way of recognizing the beliefs and heritage of the people.

Tax money could be used to fund mission programs sponsored by Baptists, Buddhists or Branch Davidians; Methodists, Mormons or Mennonites.

A judge or juror could lead the courtroom in prayer and limit such prayers to the majority faith of the surrounding community.

[From the Time—April 27, 1998]

SPIRITING PRAYER INTO SCHOOL

POLITICIANS MAY BICKER ABOUT BRINGING BACK PRAYER, BUT IN FACT IT'S ALREADY A MAJOR PRESENCE—THANK TO THE MANY AFTER-SCHOOL PRAYER CLUBS

(By David Van Biema)

On a overcast afternoon, in a modest room in Minneapolis, 23 teenagers are in earnest conversation with one another—and with the Lord. ''Would you pray for my brother so that he can raise money to go [on a preaching trip] to Mexico?'' asks a young woman. ''Out church group is visiting juvenile-detention centers, and some are scared to go,'' explains a boy. ''Pray that God will lay a burden on people's hearts for this.''

''Pray for the food drive,'' says someone.

''There's one teacher goin' psycho because kids are not turning in their homework and stuff. She's thinking of quitting, and she's a real good teacher.''

''We need to pray for all the teachers in the school who aren't Christians.'' comes a voice from the back.

And they do, Clad in wristbands that read w.w.j.d. (''What Would Jesus Do?'') and T shirts that declare upon this rock I will build my church, the kids sing Christian songs, discuss Scripture and work to memorize the week's Bible verse, John 15:5 (''I am the vine and you are the branches'') Hours pass. As night falls, the group enjoys one last mass hug and finally leave its makeshift chapel—room 133 of Patrick Henry High School. Yes, a public high school. If you are between ages 25 and 45, your school days were not like this. In 1963 the Supreme Court issued a landmark ruling banning compulsory prayer in public schools. After that, any worship on school premises, let alone a prayer club, was widely understood as forbidden. But for the past few years, thanks to a subsequent court case, such groups not only have been legal but have become legion.

The club's explosive spread coincides with a more radical but so far less successful movement for a complete overturn of the 1963 ruling. On the federal level is the Religious Freedom amendment, a constitutional revision proposed by House Republican Ernest Istook of Oklahoma, which would reinstate full-scale school prayer. It passed the Judiciary Committee 16 to 11, last month but will probably fare less well when the full House votes in May. One of many local battlefields is Alabama, where last week the state senate passed a bill mandating a daily moment of silence—a response to a 1997 federal ruling voiding an earlier state pro-school prayer law. Governor Fob James is expected to sign the bill into law, triggering the inevitable church state court challenge.

But members of prayer clubs like the one at Patrick Henry High aren't waiting for the conclusion of such epic struggles. They have already, brought worship back to public school campuses, although with some state-imposed limitations. Available statistics are approximate, but they suggest that there are clubs in as many as 1 out of every 4 public schools in the country. In some areas the tally is much higher, evengelicals in Minneapolis-St. Paul claim that the vast majority of high schools in the Twin Cities region have a Christian group. Says Benny Proffitt, a Southern Baptist youth-club planter: ''We had no idea in the early '90s that the response would be so great. We believe that if we are to see America's young people come to Christ and America turn around, it's going to happen through our schools, not our churches.'' Once a religious scorched-earth zone, the schoolyard is suddenly fertile ground for both Vine and Branches.

The turnabout culminates a quarter-century of legislative and legal maneuvering. The 1963 Supreme Court decision and its broad-brush enforcement by school administrators infuriated conservative Christians, who gradually developed enough clout to force Congress to make a change. The resulting Equal Access Act of 1984 required any federally funded secondary school to permit religious meetings if the schools allowed other clubs not related to curriculum, such as public-service Key Clubs. The crucial rule was that the prayer clubs had to be voluntary student-run and not convened during class time.

Early drafts of the act were specifically pro-Christian. Ultimately, however, its argument was stated in pure civil-libertarian terms: prayers that would be coercive if required of all students during class are protected free speech if they are just one more after-school activity. Nevertheless, recalls Marc Stern, a staff lawyer with the American Jewish Congress, ''there was great fear that this would serve as the base for very intrusive and aggressive proselytizing.'' Accordingly, Stern's group and other organizations challenged the law—only to see it sustained, 8 to 1, by the Supreme Court in 1990. Bill Clinton apparently agreed with the court. The President remains opposed to compulsory school prayer. But in a July 1995 speech he announced that ''nothing in the First Amendment converts our public schools into religion-free zones or requires all religious expression to be left at the schoolhouse door.'' A month later Clinton had the Department of Education issue a memo to public school superintendents that appeared to expand Equal Access Act protections to include public-address announcements of religious gatherings and meetings at lunchtime and recess.

Evangelicals had already seized the moment. Within a year of the 1990 court decision, prayer clubs bloomed spontaneously on a thousand high school campuses. Fast on their heels came adult organizations dedicated to encouraging more. Proffitt's Tennessee-based organization, First Priority, founded in 1995, coordinates interchurch groups in 162 cities working with clubs in 3,000 schools. The San Diego-based National Network of Youth Ministries has launched ''Challenge 2000,'' which pledges to bring the Christian gospel ''to every kid on every secondary campus in every community in our nation by the year 2000.'' It also promotes a phenomenon called ''See You at the Pole,'' encouraging Christian students countrywide to gather around their school flagpoles on the third Wednesday of each September; last year, 3 million students participated. Adult groups provide club handbooks, workshops for student leaders and ongoing advice. Network of Youth Ministries leader Paul Fleischmann stresses that the resulting clubs are ''adult supported,'' not adult-run, ''If we went away,'' he says, ''they'd still do it.''

The club at Patrick Henry High certainly would. The group was founded two years ago with encouragement but no specific stage managing by local youth pastors. This afternoon its faculty adviser, a math teacher and Evangelical Free Church member named Sara Van Der Werf, sits silently for most of the meeting, although she takes part in the final embrace. The club serves as an emotional bulwark for members dealing with life at a school where two students died last year in off-campus gunfire. Today a club member requests prayer for ''those people who got in that big fight [this morning].'' Another asks the Lord to ''bless the racial-reconciliation stuff.'' (Patrick Henry is multiethnic; the prayer club is overwhelmingly white.) Just before Easter the group experienced its First Amendment conflict: whether it could hang posters on all school walls like other non-school-sponsored clubs. Patrick Henry principal Paul McMahan eventually decreed that putting up posters is off limits to everyone, leading to some resentment against the Christians. Nonetheless, McMahan lauds them for ''understanding the boundaries'' between church and state.

In Alabama, the new school-prayer bill attempts to skirt those boundaries. The legislation requires ''a brief period of quiet reflection for not more than 60 seconds with the participation of each pupil in the classroom.'' Although the courts have upheld some moment-of-silence policies, civil libertarians say they have struck down laws featuring pro-prayer supporting language of the sort they discern in Alabama's bill. In the eyes of many church-club planters, such fracases amount to wasted effort. Says Doug Clark, field director of the National Network of Youth Ministries: ''Our energy is being poured into what kids can do voluntarily and on their own. That seems to us to be where God is working.''

Reaction to the prayer clubs may depend on which besieged minority one feels part of. In the many areas where Conservative Christians feel looked down on, they welcome the emotional support for their children's faith. Similarly, non-Christians in the Bible Belt may be put off by the clubs' evangelical fervor; members of the chess society, after all, do not inform peers that they must push pawns or risk eternal damnation. Not everyone shares the enthusiasm Proffitt recently expressed at a youth rally in Niagara Falls, N.Y.: ''When an awakening takes place, we see 50, 100, 1,000, 10,000 come to Christ. Can you imagine 100, or 300, come to Christ in your school? We want to see our campuses come to Christ.'' Watchdog organizations

like Americans United for the Separation of Church and State report cases in which such zeal has approached harassment of students and teachers, student prayer leaders have seemed mere puppets for adult evangelists, and activists have tried to establish prayer clubs in elementary schools, where the description ''student-run'' seems disingenuous.

Nevertheless, the Jewish committee's Stern concedes that ''there's been much less controversy than one might have expected from the hysterical predictions we made.'' Americans United director Barry Lynn notes that ''in most school districts, students are spontaneously forming clubs and acting upon their own and not outsiders' religious agendas.'' A.C.L.U. lobbyist Terri Schroeder also supports the Equal Access Act, pointing out that the First Amendment's Free exercise clause protecting religious expression is as vital as its Establishment Clause, which prohibits government from promoting a creed. The civil libertarians' acceptance of the clubs owes something to their use as a defense against what they consider a truly bad idea: Istooks's school-prayer amendment. Says Lynn: ''Most reasonable people say, 'If so many kids are praying legally in the public schools now, why would you possibly want to amend the Constitution?'''

For now, the prospects for prayer clubs seem unlimited. In fact, the tragic shooting of eight prayer-club members last December in West Paducah, Ky., by 14-year-old Michael Carneal provided the cause with martyrs and produced a hero in prayer-club president Bob Strong, who persuaded Carneal to lay down his gun. Strong recalls that the club's daily meetings used to draw only 35 to 60 students out of Heath High School's 600. ''People didn't really look down on us, but I don't know if it was cool to be a Christian,'' he says. Now 100 to 150 teens attend. Strong has since toured three states extolling the value of Christian clubs. ''It woke a lot of kids up,'' he says. ''That's true everywhere I've spoken. This is a national thing.''

TRANSFER OF TECHNOLOGY COULD REPRESENT MAJOR SECURITY BREACH

The SPEAKER pro tempore (Mr. SESSIONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Pennsylvania (Mr. WELDON) is recognized for the remaining time until midnight as the designee of the majority leader.

Mr. WELDON of Pennsylvania. Mr. Speaker, I do not rise to speak in the well to talk about scandals in this city. Many of my colleagues do, and many of our colleagues talk about the latest scandal of the day, whether it is in the White House or from other parts of our society. I do not like to do that, and in fact, I have not done that.

Mr. Speaker, I rise tonight to talk about, first of all, an issue that I usually speak about on the floor when I get the opportunity. That is our national security, and our relationship with those countries who have been our adversary, or who may be our adversary in the future.

Tonight, unfortunately, Mr. Speaker, I rise to talk about both of those issues, our national security and a scandal that is currently unfolding that I think will dwarf every scandal that we have seen talked about on this floor in the past 6 years.

Mr. Speaker, this scandal involves potential treason, and if in fact the facts are true as they have been outlined in media reports, which we are currently trying to investigate, I think will require articles of impeachment.

Mr. Speaker, there was a story that ran in the New York Times in the early part of April that outlined a technology transfer involving American companies and institutions in China involving the Long March space launch vehicle. In February of 1996 the Long March space launch vehicle exploded, blew up, and destroyed a $200 million satellite built by the Loral Company that it was supposed to place into orbit.

What happened after that explosion, Mr. Speaker, is the subject of intense investigation right now, but there are some facts that we do know. What we do know is that there was some degree of cooperation between one and perhaps two American companies and the Chinese government and their military and space agencies that allowed for a technology transfer to assist the Chinese in not just their commercial space launch program, but, more importantly, their ability to place long range missiles into the upper atmosphere and have a capability of deploying multiple warheads, posing an extremely significant threat to the U.S. and our allies.

The military significance of the technology transfer that took place following this explosion was of such gravity that a criminal investigation was opened by the U.S. Justice Department, and a grand jury was empaneled. The grand jury was empaneled to consider whether indictments were warranted in this cooperative technology transfer with the Chinese.

However, before any formal charges were filed, the criminal inquiry was dealt a very serious blow two months ago, in fact, this would have been in February or March of this year, when President Clinton quietly authorized the export to China of similar technology by one of the companies under investigation, the Loral Corporation.

So in effect, the President's quiet authorization of this technology transfer, which up until this time was not allowed under U.S. law, basically took the entire foundation away from the Justice Department investigation. In fact, Mr. Speaker, we know the Justice Department opposed that decision by the White House, arguing that it would be much more difficult to prosecute the companies if the government gave its blessing to the deal that had occurred. In fact, it is probably now impossible to have any indictments against Loral and Hughes because of the President's actions.

Why is this a scandal, Mr. Speaker? First of all, and I am going to get into this in great detail, this, perhaps, will do as much harm to our security as that situation that occurred years ago when the Russians were able to get our quieting technology that they basically illegally acquired, that allowed them to build their submarines in a quiet manner that makes it extremely difficult and in some cases impossible for our U.S. intelligence sources to monitor these submarines as they travel across the oceans of the world. This is a very egregious violation of transferring technology that directly threatens the U.S. and our people, as well as our allies.

But in addition, Mr. Speaker, the American people need to understand something else about the Loral Corporation. First of all, the CEO of the Loral Corporation, Mr. Schwartz, was the largest contributor to the Democratic National Committee in the year during which this entire process occurred. That in itself raises some concerns.

The questions that need to be answered are, did the CEO of Loral Corporation's involvement in contributing hundreds of thousands of dollars of personal wealth to one political party affect the President's decision to waive a requirement that basically undermined a judicial investigation, a criminal judicial investigation of this incident? We are attempting to find that out right now, Mr. Speaker.

The American people and our colleagues in this institution need to know whether or not this administration basically allowed a technology to be transferred to China that was up until that point in time prohibited, and that appears not only is that in itself an outrageous act; but then on top of that, did the influence of the CEO of that corporation, and the fact that that corporation hired one of the most well-connected lobbyists in the city, whose brother in fact had been working at the White House, did that connection have an impact on the President's decision? If it did, in my opinion, Mr. Speaker, that is treason.

□ 2320

Mr. Speaker, the whole issue of this technology transfer itself is a scandal. Newspapers across this city and across this country, through bits and pieces, have picked up the story and have attempted to piece it together.

The Speaker of the House, leadership on both sides of the national security effort in this body are concerned about the technology transfer itself as well as whether or not there was an impact of this CEO's involvement with one political party and convincing the President to waive the requirement that would have allowed the criminal prosecution of Loral and possibly Hughes to move forward.

We need to know the answers, and we need to have that information provided to us. To me it is an absolute outrage that this occurred even without the connection of the dollars from the CEO of Loral and his contributions to the Democratic National Committee.

But, Mr. Speaker, I think even of more significance to us for the long-term security of our country is the fact that this is a continuing pattern that

we have seen over the past six years of this administration, advocating an aggressive arms control policy but in fact doing the complete opposite when it comes to violations of arms control agreements or the transfer of sensitive technology.

Mr. Speaker, there are those who are sitting in their offices tonight or those around the country who would say, here is another Republican just railing about this administration or railing about issues involving security, someone who wants to use China and perhaps Russia as a scapegoat for larger defense budgets.

Let me state at the outset, Mr. Speaker, that I have supported this administration in many instances on this floor on security issues. In fact, just several months ago, I traveled to Moscow very quietly to make the case to members of the Russian State Duma that they should understand the reason why President Clinton was about to take on Saddam Hussein if he, in fact, did not allow the U.N. inspectors to complete their investigations throughout Iraq. I did that in support of this President because I felt that Russia should understand why Americans were concerned and why Democrats and Republicans were supportive of our President in this very difficult decision to stand down Saddam Hussein when he basically ignored the requirements of the United Nations.

In addition, Mr. Speaker, I take great pride in working in a very bipartisan way with the Members of our Committee on National Security. In fact, just last week we reported our bill out of committee with a vote of 51 to 1, a strong bipartisan measure that had Democrat and Republican active involvement. And next week we will have that bill on the floor. Again, it will be a strong bipartisan effort.

In terms of Russia and China, Mr. Speaker, I take great pride in leading this body in our interactive effort with Russia. In fact, next week, again, I will be hosting senior leaders of the Russian State Duma from all nine major factions as we begin again the ongoing interactive dialogue that I helped start on a formal basis between the Russian State Duma and our Congress 2 years ago. Having traveled to Moscow and Russia some 14 times and having led delegations there to discuss a broad range of issues, including helping encourage more investment in Russia, stabilizing the economy, helping create a middle class, I take great pride in proactively engaging the Russian people and their leaders.

Likewise, Mr. Speaker, in the case of China, I support the policy of the President in engaging China. I think an isolationist approach advocated by some of my conservative colleagues is the wrong approach. And to that extent, last year I led two delegations of our colleagues to Beijing and Shanghai. In fact, while in Beijing, I was the first U.S. policymaker to address the National Defense University of the People's Liberation Army both times I went. I gave the first lecture at Fudan University in the Lincoln lecture series, and I will go back to China this year where I will deliver lectures at two other Chinese universities where they will name me an honorary member of their faculty.

I mention these facts, Mr. Speaker, because I want our colleagues and I want the American people to understand that it is not my intent to sensationalize the problems that I am going to outline here or to think that I am always critical of this administration when it comes to our relationship with other countries throughout the world. But, Mr. Speaker, this administration has a major problem in the arms control area. And this country needs to understand it, needs to think through the effect that this policy is having on us in the short-term and, more importantly, needs to understand the undermining this policy is going to have on future stability in the world in the 21st century.

I have given you one specific proliferation case, an egregious case that occurred this year that involves the potential for the largest scandal I think that this administration will have encountered since it took office 6 years ago. But I want to go through some other instances, Mr. Speaker, because unfortunately we see a pattern, a pattern that I think is causing us a more destabilized relationship with the major powers of the world, with the emerging powers of the world and with rogue nations.

This is extremely important because we are reading the headlines, Mr. Speaker, every day, most recently of India conducting underground nuclear tests. We were assured by this administration that arms control agreements would prevent countries like India from further proliferating nuclear weapons by conducting underground tests. Right before these underground tests by India, in fact about a month earlier, the same newspapers reported on their front pages Pakistan testing a medium range missile, which perhaps led to India's underground nuclear tests. The question then becomes, how and why are India and Pakistan becoming involved in what I think is one of the world's newest and potentially most devastating arms races?

One only has to look at the arms control record of this administration to see a pattern that unfortunately has occurred over the past 6 years.

The same pattern exists not just with technology involving missiles and weapons of mass destruction but involves supercomputers. Let me cite, Mr. Speaker, another example. Documents that have been made public, again by the news media show, that the Clinton administration approved the export of U.S. built supercomputers to Communist China in late December 1997, even though the Chinese officials were unwilling to allow on-site inspections of the delivery venue of those supercomputers which is required by U.S. law. Facts have shown that commerce officials for this government at our embassy in Beijing were denied permission by the Chinese government to inspect the university where these supercomputers were headed prior to the export of these digital high performance computers.

In fact, according to a December 19, 1997 letter to Lee Yu Hu, director general for science and technology at China's ministry of foreign trade and economic cooperation or MFTEC, cosigned by Commerce Department officials, Amanda Bus, assistant secretary for export enforcement, and Roger Mayjack, assistant secretary for export administration, and I quote, We were disappointed at MFTEC's decision not to allow an on-site end-use check and refusal to permit an embassy representative to travel to the stated university at the university's invitation. Because we were unable to work through MFTEC, we gathered information on the end user through other sources and have approved the license through those means.

A case where the administration did not even abide by the laws on the books of this country to secure a complete understanding of where these supercomputers were headed. Why is that so important?

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It is so important because this body and the other body passed a new law in 1997 requiring that we know where this administration is allowing supercomputers to be sold.

Well, why would we pass a law like that, Mr. Speaker? We passed a law like that because in 1995 this administration allowed the export of high-speed supercomputers to Russia. Now, these supercomputers going to Russia, Mr. Speaker, were supposedly intended for a project involving wetlands analysis. When the actual determination was made as to where these supercomputers ended up, we found that these supercomputers ended up in nuclear weapons laboratories in Russia, a clear violation of the intent of the transfer and, obviously, a concern to Members' on both sides of the aisle in this institution and in the other body.

Because of that transfer and the fact that this administration allowed these supercomputers that were supposed to go for Russia for an environmental project to end up going to a nuclear weapons laboratory, we passed a law. That law was violated, Mr. Speaker, earlier this year when the President did not, in fact, require the Chinese government to allow us to see the end location of where these most recent supercomputers were going in China.

Mr. Speaker, this administration has maintained throughout the past 6 years that our security relationships around the world are based on arms control agreements. In fact, in many cases this administration has said that

we do not need defensive military systems because arms control negotiations and deterrence and control of technology through these documents will provide the stability in the world and, therefore, we do not need defensive systems.

So not only has this administration opposed defensive systems, and not only have they tried to impose limitations on the Congress' ability to deploy these systems, but even more egregiously, Mr. Speaker, this administration, which claims to base its security arrangements on arms control agreements, has failed to enforce sanctions time and time again when proliferations occur; when companies and institutes in China and in Russia are caught transferring technology illegally to other nations.

Now, to back up my claim, Mr. Speaker, I would like to insert in the record for all of our colleagues and the American people to see several documents. The first involves a chronology compiled not by some Republican think tank but rather by the Congressional Research Service, an independent nonpartisan arm of the Congress, supported, I might add, by Democrats and Republicans. A chronology of Chinese weapons-related transfers since 1992.

Over the past 6 years our intelligence community caught China transferring technology illegally 271 times. This administration imposed sanctions once. Twenty-one times China transferred technology.

November 1992. M–11 missiles transferred to Pakistan. Violations: Missile Technology Control Regime, Arms Control Export Act, Export Administration Act. This time administration sanctions were imposed and then they were waived on November 1 of 1994.

In 1994–95. Dozens and possibly hundreds of missile guidance systems and computerized machine tools transferred by China to Iran. Violations of the MTCR, the Iran-Iraq Arms Nonproliferation Act, the Arms Export Control Act, the Export Administration Act. The administration's response: Nothing. No sanctions.

Second quarter of 1995. Parts for the M–11 missile to Pakistan. Violations: MTCR, Arms Export Control Act, Export Administration Act. The administration's response: Nothing. No sanctions.

December 1994 to mid 1995. 5,000 ring magnets to be used for nuclear enrichment programs for nuclear weapons in Pakistan. Violations: The Nonproliferation Treaty, the Export-Import Bank Act, the Nuclear Proliferation Prevention Act, the Arms Export Control Act. The administration's response: They considered the sanctions but they never imposed them.

July 1995. More than 30 M–11 missiles stored in Sargodha Air Force Base in Pakistan. Violation: MTCR, Arms Export Control Act, Export Administration Act. This administration's response: Nothing. No sanctions.

September 1995. Calutron electromagnetic isotope separation system for uranium enrichment to Iran. Again, for a nuclear weapons program. Violation: Nuclear Nonproliferation Treaty, Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Control Act. Response by this administration: Nothing. No sanctions.

1995 and 1997. C–802 anti-ship cruise missiles and C–801 air launch cruise missiles, again to Iran. Violation: Iran-Iraq Arms Nonproliferation Act. Response by the administration: Nothing. No sanctions.

February 1996. Dual-use chemical precursors and equipment to aid Iran's chemical weapons program. Violation: Arms Export Control Act, Export Administration Act. Result: Sanctions were imposed. The one time in 21. Sanctions were imposed May 21, 1997.

Summer 1996. 400 tons of chemicals transferred to Iran. Violation: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Administration response: Nothing. No sanctions.

August 1996. A plant to manufacture M–11 missiles or missile components in Pakistan. Violation: MTCR, Arms Export Control Act, Export Administration Act. Response by the administration: Nothing. No sanctions.

August 1996. Gyroscopes, accelerometers and test equipment for missile guidance systems, again to Iran. Violation: MTCR, Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Response by the administration: Nothing. No sanctions.

September 1996. Special industrial furnace and high-tech diagnostic equipment to unsafe guarded nuclear facilities in Pakistan. Violation: NPT, Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Control Act. Response by the administration: Nothing. No sanctions imposed.

July to December of 1996. The Director of Central Intelligence reports, and I quote, tremendous variety, end quote, of technology and assistance for Pakistan's ballistic missile program. Violations of the MTCR, the Arms Export Control Act, the Export Administration Act. Response by the administration: Nothing. No sanctions.

July-December of 1996. The same Director of Central Intelligence reports, and I quote, a tremendous variety, end quote, of assistance for Iran's ballistic missile program. Violations: MTCR, Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Response by the administration: Nothing. No sanctions.

July-December 1996 again. Again this Director of Central Intelligence reports, principal supplies of nuclear equipment, material and technology for Pakistan's nuclear weapons program. Violations: NPT, Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Administration Act. Response by the administration: Nothing. No sanctions.

July-December 1996. The same director reports key supplies for technology for large nuclear projects in Iran. Violations: NPT, Iran-Iraq Arms Nonproliferation Act, Nuclear Proliferation Prevention Act. Export-Import Bank Act, Arms Export Administration Act. Response by the administration: Nothing. No sanctions.

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Again in July and December of 1996. The same Director of Central Intelligence reports, considerable chemical weapons-related transfers for production equipment and technology to Iran. Violations: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Response by the Administration: Nothing. No sanctions.

January of 1997. Dual use biological items to Iran. Violation: The BWC, the Iran-Iraq Arms Nonproliferation Act, the Arms Export Control Act, the Export Administration Act. Response by the Administration: Nothing. No sanctions.

1997 again. Chemical precursors, production equipment, and production technology for Iran's chemical weapons program including a plant for making glass-lined equipment. Violations again of the Iran-Iraq Arms Nonproliferation Act, the Arms Export Control Act, the Export Administration Act. Response by the Administration: Nothing. No sanctions.

September–December of 1997. The China Great Wall Industry Corporation provided telemetry equipment used in flight tests to Iran for its development of the Shahab III and Shahab IV medium-range ballistic missiles. Violation: MTCR, Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Response by the Administration: Nothing. No sanctions.

And finally, November 1997 through April of 1998. We now find they may have transferred technology for Pakistan's Ghauri medium-range ballistic missile that was flight-tested on April 6, 1998, violating the MTCR, the Arms Export Control Act, the Export Administration Act. No sanctions. No action taken by the administration.

Mr. Speaker, this is the record that is causing us to see a scenario unfolding that will place this country and the world at the greatest possible risk of confrontation. We see the administration daily railing about Iran's capability, Iraq's capability. We see them railing about India doing underground nuclear tests, Pakistan testing medium-range missiles. When here we have 21 specific cases, all documented, where this administration, which purports to base its arms control treaty relationships, as the basis for stopping proliferation in a situation where they do not enforce any of them except in one case.

And yet they wonder why, they wonder why India and Pakistan are now in a major arms control race. And they

wonder why Iran and Iraq continue to develop threatening capabilities that threaten to destroy Israel, all of our allies in that region, all of our Arab friends, as well as our troops in that region.

Mr. Speaker, I argue on the floor tonight, it is this administration that is causing the problem we currently see in India, in Pakistan, Iraq, and Iran. It is this administration that bases its security relationships on arms control agreements but never enforces those very agreements when they are in fact violated.

Let us talk about Russia, Mr. Speaker. We have documented here for the RECORD 16 specific violations since 1990 and 1991 by the Russians of various treaties, and only for two of those 16 did the administration impose sanctions.

Early in the 1990s, we do not know the exact year, Russians sold drawings. Now listen to this, Mr. Speaker. The Russians sold drawings of a sarin plant manufacturing procedures and toxic agents to a Japanese terrorist group. The Russians sold these drawings to a Japanese terrorist group.

And we all know, several years ago in Japan in a subway we had a sarin weapons attack in a subway that killed Japanese citizens. Violations, Mr. Speaker, of the Arms Export Control Act, section 81, and the Export Administration Act, section 11(c). No publicly known sanctions were administered by this administration.

In 1991, Mr. Speaker, Russia transferred to China, Russian entities, 3 RD–120 rocket engines and electronic equipment to improve the accuracy of ballistic missiles, a violation of the MTCR; the Arms Export Control Act, Section 73; the Export Administration Act, section 11(b). No sanctions imposed by the Administration.

From 1991 and 1995, Russian entities transferred cryogenic liquid oxygen hydrorocket engines and technology to India, Mr. Speaker. Now China is supplying Pakistan. Russia is supplying India. Violations: MTCR; the Arms Export Control Act, section 73; the Export Administration Act, section 11(b). Sanctions against Russia and India under both of those cases were imposed on May 6 for 2 years and then they expired after 2 years. But they were imposed in that one instance.

From 1992 to 1995, Russian transfers to Brazil of carbon fiber technology for rocket motor cases for a space launch program. Violating the MTCR, the Arms Export Control Act, and the Export Administration Act. Sanctions were reportedly secretly imposed and then waived, although we never knew that because it was all done in secret.

From 1992 to 1996, Russian armed forces delivered 24 Scud-B missiles and eight launchers to Armenia, violating the MTCR, the Arms Export Control Act, the Export Administration Act. Sanctions again were never introduced or implemented by this administration.

June of 1993. Additional Russian enterprise involved in missile technology transfers to India, violating the MTCR, the Arms Export Control Act, the Export Administration Act. Sanctions were imposed on June of 1993, but they were waived until July. No publicly known follow-up on those sanctions.

1995 to the present, Mr. Speaker. Construction of a 1,000 megawatt nuclear reactor at Bushehr in Iran. And by the way, there was a side deal that the Ministry of Atomic Industry in Russia initially had that even Boris Yeltsin was not aware of on this nuclear power plant deal that only because inside of Russia it was exposed was that separate effort actually canceled, but the construction of the Bushehr nuclear power plant continued. Violations of the Iran-Iraq Arms Nonproliferation Act, the Foreign Operations Appropriations Act, the Nuclear Proliferation Prevention Act, and the Foreign Assistance Act. The response by the administration: They refused to renew some civilian nuclear cooperation agreements. They waived sanctions on aid. Waived sanctions, Mr. Speaker.

August of 1995. Russian assistance to Iran to develop biological weapons. Violations of the Biological Weapons Convention, the Arms Export Control Act, the Export Administration Act, the Iran-Iraq Arms Nonproliferation Act, the Foreign Assistance Act. No known sanctions.

November 1995. Russian citizens transferred to unnamed country technology for making chemical weapons, violating the Arms Export Control Act, the Export Administration Act. The sanctions were imposed in this case on a Russian citizen on November 17, 1995.

December of 1995. Russian gyroscopes from submarine launched ballistic missiles smuggled to Iraq through middlemen. We caught them red-handed, Mr. Speaker, red-handed, violating the United Nations sanctions, the Missile Technology Control Regime, the Arms Export Control Act, the Export Administration Act, the Iran-Iraq Arms Nonproliferation Act, and the Foreign Assistance Act. No sanctions were ever imposed.

In fact, Mr. Speaker, we were told when I wrote to the President on this particular transfer that we would pursue this aggressively, and we did not impose sanctions, the Administration said, because Russia was pursuing a criminal investigation.

We now know that last fall Russia ended the criminal investigation. No criminal levies were brought against any Russian citizen or company, and in fact, no sanctions were ever imposed. The transfer took place. In fact, we now know there were 120 sets of these guidance systems that went to Iraq from Russia three different times.

July–December of 1996. The Director of Central Intelligence reported Russia transferred to Iran a variety of items related to ballistic missiles. Violating the MTCR, the Arms Export Control Act, the Export Administration Act, the Foreign Assistance Act, the Iran-Iraq Arms Nonproliferation Act, and the Foreign Operations Appropriations Act. The administration's response, no sanctions.

November of 1996. Israel reported Russian assistance to Syria to build a chemical weapons plant. Violating the Arms Export Control Act, the Export Administration Act, and the Foreign Assistance Act.

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No publicly known sanctions. 1996 and 1997, Russia delivered 3 kilowatt diesel electric submarines to Iran, violations of the Iran-Iraq Arms Nonproliferation Act, the Foreign Assistance Act. No sanctions imposed.

January to February of 1997, Russia transferred detailed instructions to Iran on the production of the SS–4 missile, which now, within a year, will threaten all of Israel and all of our friends and our troops in that theater, violating the MTCR, the Missile Technology Control Regime, the Arms Export Control Act, the Export Administration Act, the Foreign Assistance Act, the Iran-Iraq Arms Nonproliferation Act, and the Foreign Operations Appropriations Act. No sanctions imposed, Mr. Speaker.

April of 1997, Russia sold S–300 antiaircraft, antimissile missile systems to Iran to protect the nuclear plant that they were building, again in violation of treaties. These violations were of the Iran-Iraq Arms Nonproliferation Act and the Foreign Assistance Act. No known sanctions.

Finally, in October of 1997, Israeli intelligence reported Russian technology transfers for Iranian missiles developed with ranges between 1,300 and 10,000 kilometers. The transfers included engines and guidance systems, violating the MTCR, the Arms Export Control Act, the Export Administration Act, the Iran-Iraq Arms Nonproliferation Act, and the Foreign Operations Appropriations Act. No known sanctions.

Mr. Speaker, I know I sound repetitious in going through all of those violations, but I think it is about time, Mr. Speaker, that we lay the cards on the table. This administration has no foreign policy. This administration maintains that arms control agreements are the basis of our security relationships.

I have just cited on the RECORD, with documentation involving China and Russia, which I ask all of our colleagues and the American people to review, 40 separate occasions where violations of agreements have taken place and where on only three occasions has this administration imposed sanctions.

We wonder why the President says Iran and Iraq have this capability. We wonder why Russian entities continue to sell technology to Iraq and to Iran. We wonder why India is doing underground nuclear tests. We wonder why Pakistan is testing medium-range missiles, all of which are destabilizing world security.

Why are all these things happening? Because everyone in the world knows

this administration does not enforce the laws that we place on the books, that we ask every nation that is a signatory to abide by.

Mr. Speaker, time is running out. In the 12 years that I have been in this institution, I have never seen a greater lack of confidence in any administration by this body and the other body in enforcing arms control agreements.

Last November, after this body found out, primarily by the actions of the leaders of Israel, Mr. Netanyahu and the Israeli intelligence community, after we found out from them that Russia had signed deals, the Russian space agency with the Iranians, to build this missile that is going to threaten Israel a year from now, the Congress was outraged.

A bipartisan Iran sanctions bill was introduced by the gentleman from New York (Mr. GILMAN), co-endorsed by the gentlewoman from California (Ms. HARMAN), and supported by Democrats and Republicans.

Vice President GORE, who I have the highest respect for, called a group of us down to the White House. This was in November of last year. There were 12 or 13 of us in the room, the Vice President's meeting room, along with some of his security people.

We met for an hour. There were Senators, Democratic, Republican Senators, and there were Democratic, Republican House Members, chairmen of committees, and key people involved in international and defense issues.

The Vice President personally pleaded with us. He said, my friends, please do not let this Iran sanctions bill pass the House, because if it passes, it will send the wrong signal. It will send the signal that the Congress has no confidence in this administration's ability to control proliferation.

When he finished, every one of us in the room, Democrats and Republicans, Senators and House Members, said, Mr. Vice President, it is too late. The Congress has lost confidence.

That same week, Mr. Speaker, the RECORD speaks for itself, the Iran missile sanctions bill came up on the House floor, and almost 400 Members of this body voted in favor of that bill in spite of the Vice President lobbying personally against it. Liberals, conservatives, southerners, northeasterners, big city representatives, and rural areas all came together and said, we have got to send a signal that this policy of the past 6 years is failing. It is destabilizing the world. The bill passed the House.

Then a month and a half ago, I got a call from the White House to come back down because the Vice President again wanted to meet with a group of us. So I went back down to the White House. Again, I was with the Vice President. On one side of him was a Member of the National Security Council. On the other side was one of his key staffers.

The Vice President met with the 13 or 14 of us again for 90 minutes. He went through all of the efforts being taken to assist Russia in controlling proliferation. When he finished his discussion, I said, Mr. Vice President, I agree, you are making efforts, and you are getting some results, but you have not totally stopped the proliferation.

He said, I know. You are right. We have not totally cut it off. He said, but please do not pass that bill in the Senate.

That bill is pending right now for a vote in the Senate. If it is brought up, my prediction is it will pass.

Mr. Speaker, we have got a problem. This Congress has lost confidence in this administration's ability to stop proliferation. Why is that important, Mr. Speaker? Because every day we pick up the newspaper, we are reading more horror stories that shake this world that are eventually going to lead to a confrontation, a confrontation perhaps between India and Pakistan, and the tensions are flaring there rapidly; a confrontation between North Korea and perhaps Japan or South Korea; a confrontation between Iran and Israel or Iraq and Israel or some other nation, all of which have benefited from these technology transfers that this administration has ignored for 6 straight years, all the time saying we do not need defensive systems because our arms control negotiations are the security blanket we need to provide stability in the world.

On top of all of this, Mr. Speaker, we read of a situation, front page in the New York Times, that one of our companies assisted the Chinese illegally, were under a criminal investigation with the grand jury when the President of the United States very quietly issued an executive order waiving, waiving the actual prohibition so that the entire criminal investigation of Loral Corporation was undermined by the action of the President.

Then we find out that the CEO of that corporation is, in one year, the single largest contributor politically to the President's campaign and the Democratic National Committee, over $300,000 by one person, the CEO of that same company that was able to get itself out of what was an aggressive criminal investigation.

Mr. Speaker, we are going to get to the bottom of this. Not because this is a scandal that would embarrass the President, not because this is some kind of a campaign fund-raising issue, but because this threatens the security of this Nation.

If the facts are as they have been reported in the New York Times and the other major national media, this, in fact, Mr. Speaker, in my mind, is an act of treason, and this, in my mind, would result in a call for impeachment proceedings against this President.

Mr. Speaker, I thank the staff of the House for staying through this ordeal, and I thank you, Mr. Speaker, for remaining here during this time so that I could present this special order.

Mr. Speaker, I include for the RECORD the documents I referred to:

TECHNOLOGY SCANDAL WITH RISKY PORTENT

[From the Washington Times, Apr. 7, 1998]

(By Frank Gaffney, Jr.)

The front page of Saturday's New York Times featured an article that should alarm every American. It reported that two of America's leading aerospace companies—Loral Space and Communications and Hughes Electronics—are suspected of having provided ''space expertise that significantly advanced Beijing's ballistic missile program.''

It will be recalled that the PRC's ballistic missile program includes missiles capable of delivering nuclear weapons against cities in the United States. This is hardly an abstract threat.

Not so long ago, a top Chinese official intimated to the longtime No. 2 man at the U.S. Embassy in Beijing that such an attack against Los Angeles would be in prospect if the United States interfered in China's campaign of intimidation against Taiwan.

Although this is not the first time American firms are alleged to have supplied foreign governments with militarily relevant equipment and know-how that could wind up being used to harm the United States, its citizens or interests, it is a particularly egregious example of the syndrome.

According to the New York Times, the two American concerns were called in to help the Chinese determine why their Long March space-launch vehicle blew up in February 1996, destroying a $200 million satellite built by Loral that it was supposed to place on-orbit. The article states that ''Those exchanges, officials believe, may have gone beyond the sharing of information that the companies had been permitted, giving the Chinese crucial assistance in improving the guidance systems of their rockets. The technology needed to put a commercial satellite in orbit is similar to that which guides a long-range nuclear missile to its target.''

In fact, the military significance of this technology transfer was of sufficient gravity that a criminal investigation was opened and a grand jury empaneled to consider indictments in the matter. Before formal charges were filed, however, ''the criminal inquiry was dealt a serious blow two months ago when President Clinton quietly authorized the export to China of similar technology by one of the companies under investigation''—namely, Loral.

The chilling effect Mr. Clinton's action would have was clearly understood at the time it was taken. In the words of the New York times: ''The decision was opposed by Justice Department officials, who argued that it would be much more difficult to prosecute the companies if the government gave its blessing to the deal.'' In fact, as a practical matter, it will probably be impossible to prosecute the case against Loral and Hughes.

This is a scandal on three levels.

First, the Clinton administration's indifference to the arming of communist China is simply stupefying. Even the most pollyannish of experts in the field recognize that there is a chance that the massive modernization program upon which the People's Liberation Army (PLA) has embarked may produce a ''peer competitor'' to the United States in the next century. More realistic observers judge the PLA's doctrine and procurement programs as dispositive evidence of a determined effort to attain such a status.

The Clinton team has nonetheless approved among other technology transfers to China: The sale of machine tools used to manufacture advanced military aircraft; jet engines suitable for use in fighter aircraft

and cruise missiles; sophisticated telecommunications equipment; and 46 supercomputers that have wound up in the Chinese military-industrial complex, including its nuclear weapons program. Now, the administration has endorsed the sale of equipment and know-how that will assist Beijing in delivering its nuclear arms to American targets. This is all the more appalling given Clinton-Gore's determination to deny the American people near-term, effective defenses against ballistic missile attack.

Second, even if the Chinese space-launch program were not an inherently dual-use affair (that is, a program that has both military and civilian dimensions, with technology flows between the two unavoidable), the administration's policy of abetting China's space activities would still be contrary to long-term U.S. interests.

To be sure, some U.S. companies (notably, Loral and Hughes) are anxious to find inexpensive launch services for their satellites. They tend to be delighted with Mr. Clinton's easing of restraints on American use of massively subsidized space-launch operations in China and Russia, operations trying to buy into and ultimately to dominate the commercial launch market. In helping its friends in Beijing and the Kremlin to undercut an already-struggling U.S. space launch industry, however, the Clinton administration is further jeopardizing the United States' ability to assure its access to space. This is a critical national security, as well as commercial capability.

Regrettably, Mr. Clinton does little more than pay lip service to the need for this and other means necessary for the United States to exercise the dominance of outer space necessitated by both military and private sector requirements. Instead, he compounds the damage done by his line-item vetoes last fall of critical U.S. space control technologies with initiatives that reward Russia and China with dual-use missile technology for merely reaffirming their commitment to non-proliferation—even as they continue to engage in it. In fact, it is a safe bet, that at least some of the missile technology sold to China by Loral and others will wind up in the weapons fielded by enemies of Israel and other American friends.

Finally, it must be asked: Could the fact that Loral's CEO Bernard Schwartz, was the largest personal contributor to the Democratic National Committee last year have anything to do with the president's decision effectively to vitiate legal proceedings against his company? Or was this simply yet another instance in which a federal case involving Chinese interests was sabotaged by members of the Clinton team? (in 1996, someone—probably at the State Department—blew a sting operation as it was about to net a PRC ''princeling'' implicated in running thousands of AK–47s to U.S. agents who were posing as purchasers for drug lords and street gangs.)

Any way you slice it, the administration's handling of the China account is a scandal. Will it be held accountable for the damage it is thus doing to the nation's security, to long-term U.S. commercial interests and, perhaps ultimately, even to the physical safety of individual Americans?

Date of transfer or report	Reported transfer by China	Possible violation	Administration's response
Nov. 1992	M–11 missiles or related equipment to Pakistan (The Administration did no officially confirm reports that M–11 missiles are in Pakistan.).	MTCR: Arms Export Control Act, Export Administration Act.	Sanctions imposed on Aug. 24, 1993, for transfers of M–11 related equipment (not missiles); waived on Nov. 1, 1994.
Mid-1994 to mid-1995	Dozens or hundreds of missile guidance systems and computerized machine tools to Iran.	MTCR: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
2nd quarter of 1995	Parts for the M–11 missile to Pakistan	MTCR: Arms Export Control Act, Export Administration Act.	No sanctions.
Dec. 1994 to mid-1995	5,000 ring magnets for an unsafeguarded nuclear enrichment program in Pakistan.	NPT: Export-Import Bank Act, Nuclear Proliferation Prevention Act, Arms Export Control Act.	Considered sanctions under the Export-Import Bank Act; but announced on May 10, 1996, that no sanctions would be imposed.
July 1995	More than 30 M–11 missiles stored in crates at Sargodha Air Force Base in Pakistan.	MTCR: Arms Export Control Act, Export Administration	No sanctions.
Sept. 1995	Calutron (electromagnetic isotope separation system) for uranium enrichment to Iran).	NPT: Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Control Act.	No sanctions.
1995–1997	C–802 anti-ship cruise missiles and C–801 air-launched cruise missiles to Iran.	Iran-Iraq Arms Nonproliferation Act	No sanctions.
Before Feb. 1996	Dual-use chemical precursors and equipment to Iran's chemical weapon program.	Arms Export Control Act, Export Administration Act	Sanctions imposed on May 21, 1997.
Summer 1996	400 tons of chemicals to Iran	Iran-Iraq Arms Nonproliferation Act,[1] Arms Export Control Act, Export Administration Act.	No sanctions.
Aug. 1996	Plant to manufacture M–11 missiles or missile components in Pakistan.	MTCR: Arms Export Control Act, Export Administration Act.	No sanctions.
Aug. 1996	Gyroscopes, accelerometers, and test equipment for missile guidance to Iran.	MTCR: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
Sept. 1996	Special industrial furnace and high-tech diagnostic equipment to unsafeguarded nuclear facilities in Pakistan.	NPT: Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Control Act.	No. sanctions.
July–Dec. 1996	Director of Central Intelligence (DCI) reported ''tremendous variety'' of technology and assistance for Pakistan's ballistic missile program.	MTCR: Arms Export Control Act, Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported ''tremendous variety'' of assistance for Iran's ballistic missile program.	MTCR: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported principal supplies of nuclear equipment, material, and technology for Pakistan's nuclear weapon program.	NPT: Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported key supplies of technology for large nuclear projects in Iran.	NPT: Iran-Iraq Arms Nonproliferation Act, Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported ''considerable'' chemical weapon-related transfers of production equipment and technology to Iran.	Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
Jan. 1997	Dual-use biological items to Iran	BWC: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
1997	Chemical precursors, production equipment, and production technology for Iran's chemical weapon program, including a plant for making glass-lined equipment.	Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
Sept. to Dec. 1997	China Great Wall Industry Corp. provided telemetry equipment used in flight-tests to Iran for its development of the Shahab-3 and Shahab-4 medium range ballistic missiles.	MTCR: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
Nov. 1997/April 1998	May have transferred technology for Pakistan's Ghauri medium-range ballistic missile that was flight-tested on April 6, 1998.	MTCR: Arms Export Control Act, Export Administration Act.	No sanctions.

[1] Additional provisions on chemical, biological, or nuclear weapons were not enacted until February 10, 1996.
BWC: Biological Weapons Convention.
MTCR: Missile Technology Control Regime.
NPT: Nuclear Nonproliferation Treaty.

Date of transfer or report	Reported Russian transfers that may have violated a regime or law	Possibly applicable treaties, regimes, and/or U.S. laws	Administration's response
Early 1990s	Russians sold drawings of a sarin plant, manufacturing procedures, and toxic agents to a Japanese terrorist group.	AECA sec. 81, EAA sec. 11C	No publicly known sanction.
1991	Transferred to China three RD–120 rocket engines and electronic equipment to improve accuracy of ballistic missiles.	MTCR: AECA sec. 73, EAA sec. 11B	No publicly known sanction.
1991–1995	Transferred Cryogenic liquid oxygen/hydrogen rocket engines and technology to India.	MTCR: AECA sec. 73 EAA sec. 11B	Sanctions against Russia and India under AECA and EAA imposed on May 6, 1992; expired after 2 years.
1992–1995	Russian transfers to Brazil of carbon-fiber technology for rocket motor cases for space launch program.	MTCR: AECA sec. 73, EAA sec. 11B	Sanctions reportedly secretly imposed and waived.
1992–1996	Russian armed forces delivered 24 Scud-B missiles and 8 launchers to Armenia.	MTCR: AECA sec. 73, EAA sec. 11B	No publicly known sanction.
June 1993	Additional Russian enterprises involved in missile technology transfer to India.	MTCR: AECA sec. 73, EAA sec. 11B	Sanctions imposed on June 16, 1993 and waived until July 15, 1993; no publicly known follow-up sanction.

Date of transfer or report	Reported Russian transfers that may have violated a regime or law	Possibly applicable treaties, regimes, and/or U.S. laws	Administration's response
1995-present	Construction of 1,000 megawatt nuclear reactor at Bushehr in Iran.	IIANPA sec. 1604 and 1605, FOAA, NPPA sec. 821, FAA sec. 620G.	Refused to renew some civilian nuclear cooperation agreements; waived sanctions on aid.
Aug. 1995	Russian assistance to Iran to develop biological weapons.	BWC, AECA sec. 81, EAA sec. 11C, IIANPA sec. 1604 and 1605, FAA sec. 620G and 620H.	No publicly known sanction.
Nov. 1995	Russian citizen transferred to unnamed country technology for making chemical weapons.	AECA sec. 81, EAA sec. 11C	Sanctions imposed on Nov. 17, 1995.
Dec. 1995	Russian gyroscopes from submarine launched ballistic missiles smuggled to Iraq through middlemen.	United Nations Sanctions, MTCR, AECA sec. 73, EAA sec. 11B, IIANPA sec. 1604 and 1605, FAA sec. 620G and 620H.	No publicly known sanction.
July–Dec. 1996	DCI reported Russia transferred to Iran ''a varity'' of items related to ballistic missiles.	MTCR AECA sec. 73, EAA sec. 11B, FAA sec. 620G and 620H, IIANPA sec. 1604 and 1605, FOAA.	No publicly known sanction.
Nov. 1996	Israel reported Russian assistance to Syria to build a chemical weapon plant.	AECA sec. 81, EAA sec. 11C, FAA sec. 620G and 620H	No publicly known sanction.
1996–1997	Delivered 3 Kilo diesel-electric submarines to Iran	IIANPA sec. 1604 and 1605, FAA sec. 620G and 620H	No publicly known sanction.
Jan.–Feb. 1997	Russia transferred detailed instructions to Iran on production of the SS–4 medium-range missile and related parts.	MTCR: AECA sec. 73, EAA sec. 11B, IIANPA sec. 1604 and 1605, FOAA.	No publicly known sanction.
April 1997	Sale of S–300 anti-aircraft/anti-missile missile system to Iran to protect nuclear reactors at Bushehr and other strategic sites.	IIANPA sec. 1604 and 1605 FAA sec. 620G and 620H	No publicly known sanction.
Oct. 1997	Israeli intelligence reported Russian technology transfers for Iranian missiles developed with ranges between 1,300 and 10,000 km. Transfers include engines and guidance systems.	MTCR: AECA sec. 73, EAA sec. 11B, IIANPA sec. 1604 and 1605, FAA sec. 620G and 620H FOAA.	No publicly known sanction.

Regimes: BWC: Biological Weapons Convention. MTCR: Missile Technology Control Regime.
U.S. Laws: AECA: Arms Export Control Act. EAA: Export Administration Act. FAA: Foreign Assistance Act. FOAA: Foreign Operations Appropriations Act, IIANPA: Iran-Iraq Arms Non—Proliferation Act. NPPA: Nuclear Proliferation Prevention Act.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, after 6:30 p.m., on account of physical reasons.

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. SANDERS) to revise and extend their remarks and include extraneous material:

Mr. CONYERS, for 5 minutes, today.
Mr. EDWARDS, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. STUPAK, for 5 minutes, today.
Mrs. MALONEY of New York, for 5 minutes, today.
Ms. JACKSON-LEE, FOR 5 MINUTES, TODAY.
Mr. SANDERS, for 5 minutes, today.

The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:

Mr. HOUGHTON, for 5 minutes, today.
Mr. BARR, for 5 minutes, today.
Mr. WELDON of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SANDERS) and to include extraneous matter:)

Mr. HAMILTON.
Mr. TOWNS.
Mr. KUCINICH.
Mr. KIND.
Mr. STARK.
Mr. KLECZKA.
Mr. DEUTSCH.
Mr. DAVIS of Illinois.
Mr. BERRY.
Mr. SCHUMER.
Mr. FARR of California.
Mr. LANTOS.
Ms. LEE of California.
Mr. HINCHEY.
Mr. OLVER.
Mr. SABO.
Ms. KILPATRICK.
Mr. CONYERS.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. CAMPBELL.
Mr. GOODLING.
Mr. KINGSTON.
Mr. CANNON.
Mr. RADANOVICH.
Mr. CASTLE.
Mr. HASTERT.
Mrs. SMITH of Washington.
Mr. THORNBERRY.
Mr. SMITH of Michigan.
Mr. KNOLLENBERG.
Mr. CUNNINGHAM.
Mr. SOLOMON.
Mr. MICA.
Mr. GIBBONS.
Mr. COLLINS.

(The following Members (at the request of Mr. WELDON of Pennsylvania) and to include extraneous matter:)

Mr. GILLMOR.
Mr. CLYBURN.
Mr. GINGRICH.
Mr. JOHNSON of Wisconsin.
Mr. OWENS.
Mr. DEFAZIO.
Mr. UPTON.
Mr. RAMSTAD.
Mr. CARDIN.
Mr. MCINNIS.
Mrs. NORTHUP.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 75. Concurrent resolution honoring the sesquicentennial of Wisconsin statehood; to the Committee on Government Reform and Oversight.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, May 14, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9112. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule— Mediterranean Fruit Fly; Addition to the Quarantined Area [Docket No. 97–056–11] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9113. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Diflubenzuron; Temporary Pesticide Tolerance [OPP–300660; FRL–5790–5] (RIN: 2070–AB78) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9114. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule Tebufenozide; Pesticide Tolerances for Emergency Exemptions [OPP–300640; FRL–5784–7] (RIN: 2070–AB78) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9115. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—N-(4-fluorophenyl)-N- (1-methylethyl)-2 [[5-(trifluoromethyl)— 1,3,4-thiadiazol-2-yl]o]acetamide; Time-Limited Pesticide Tolerance, Correction [OPP–300636A; FRL–5787–6] (RIN: 2070–AB78) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9116. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Special Combinations for Tobacco Allotments and Quotas (RIN: 0560–AF14) received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9117. A communication from the President of the United States, transmitting requests to make available emergency appropriations for the Departments of Agriculture, Defense, the Interior, and Transportation; the Corps

of Engineers; the Federal Emergency Management Agency; the United States Information Agency; and International Security Assistance, pursuant to Public Law 105—174; (H. Doc. No. 105—251); to the Committee on Appropriations and ordered to be printed.

9118. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Electronic Funds Transfer [DFARS Case 98–D012] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9119. A letter from the Director, Office of Management and Budget, transmitting a report on direct spending or receipts legislation within seven days of enactment, pursuant to Public Law 101—508; to the Committee on the Budget.

9120. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits [29 CFR Part 4044] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9121. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Determination of Functional Equivalency on Harmonization [NHTSA–98–3815] (RIN: 2127–AG62) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9122. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Finding of Failure to Submit Required State Implementation Plans for Carbon Monoxide; Arizona; Phoenix Carbon Monoxide Nonattainment Area [OAQPS # AZ–007–FON; FRL 6010–3] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9123. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule— Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934 [WT Docket No. 97–192, ET Docket No. 93–62, RM–8577] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9124. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule— Amendment of the Commission's Rules to Relocate the Digital Electronic Message Service From the 18 GHz Band to the 24 GHz Band and to Allocate the 24 GHz Band For Fixed Service [ET Docket No. 97–99] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9125. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule— Natural Rubber-Containing Medical Devices; User Labeling [Docket No. 96N–0119] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9126. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Forces's Proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services (Transmittal No. 98–40), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9127. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–22–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9128. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Turkey (Transmittal No. DTC–18–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9129. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Brunei (Transmittal No. DTC–4–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9130. A letter from the Chief Financial Officer, Export-Import Bank of the United States, transmitting the Bank's management report for the fiscal year ending September 30, 1997 and a copy of the 1997 Annual Report, pursuant to 12 U.S.C. 635g(a); to the Committee on Government Reform and Oversight.

9131. A letter from the President, Federal Financing Bank, transmitting the Bank's Annual Management Report for Fiscal Year 1997, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform and Oversight.

9132. A letter from the Chairman, Federal Maritime Commission, transmitting the semiannual report on the activities of the Office of Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9133. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

9134. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants: Final Rule to List the Preble's Meadow Jumping Mouse as a Threatened Species (RIN: 1018–AE06) received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9135. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—SPECIAL LOCAL REGULATIONS; El Nuevo Dia Offshore Cup, Bahia De Mayaguez, Puerto Rico [CCGD07 98–012] (RIN: 2115–AE46) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9136. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class D Airspace; Twin Falls, ID [Airspace Docket No. 97–ANM–24] received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9137. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—SAFETY ZONES, SECURITY ZONES, AND SPECIAL LOCAL REGULATIONS [USCG–1998–3772] received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9138. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3–30 and SD3–60 Series Airplanes Equipped with Fire Fighting Enterprises (U.K.) Ltd. Fire Extinguishers [Docket No. 96–NM–175–AD; Amendment 39–10509; AD 98–09–28] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9139. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Commercial Passenger-Carrying Operations in Single-Engine Aircraft under Instrument Flight Rules [Docket No. 28743; Amendment Nos. 43, 73] (RIN: 2120–AG55) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9140. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Borrego Springs, CA [Airspace Docket 96–AWP–4] (RIN: 2120–AA66) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9141. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; Mountain View, CA [98–AWP–9] (RIN: 2120–AA66) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9142. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company Model GE90–76B Turbofan Engines [Docket No. 97–ANE–28–AD; Amendment 39–10496; AD 98–09–15] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9143. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Osceola, AR [Airspace Docket No. 92–ASW–35] received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9144. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330–301 Series Airplanes [Docket No. 97–NM–300–AD; Amendment 39–10511; AD 98–09–30] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9145. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives Boeing Model 747–400 Series Airplanes [Docket No. 97–NM–138–AD; Amendment 39–10510; AD 98–09–29] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9146. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–215–1A10 and CL–215–6B11 Series Airplanes; Correction [Docket No. 98–NM–05–AD; Amendment 39–10458] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9147. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes [Docket No. 98–NM–131–AD; Amendment 39–10512; AD 98–10–01] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9148. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace (Jetstream)

Model 4101 Airplanes [Docket No. 97–NM–199–AD; Amendment 39–10513; AD 98–10–02] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9149. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) (Eurocopter Deutschland) Model MBB-BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters [Docket No. 97–SW–45–AD; Amendment 39–10246; AD 97–26–03] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9150. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes (formerly known as Beech Aircraft Corporation 90, 100, 200, and 300 series airplanes) [Docket No. 97–CE–05–AD; Amendment 39–10207; AD 97–23–17] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9151. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Credit for Producing Fuel From a Nonconventional Source, 29 Inflation Adjustment Factor, and 29 Reference Price [Notice 98–28, 1998–19 I.R.B.] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9152. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories [Revenue Ruling 98–26] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9153. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Valuation of Certain Farm, Etc., Real Property [Revenue Ruling 98–22] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on 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. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3504. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; with an amendment (Rept. 105–533). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 430. Resolution providing for consideration of the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes (Rept. 105–534). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Commerce discharged from further consideration. H.R. 1023 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1704. Referral to the Committees on Government Reform and Oversight and House Oversight extended for a period ending not later than May 22, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DELAY:

H.R. 3850. A bill to provide reporting requirements for the assertion of executive privilege, and for other purposes; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 3851. A bill to amend the Federal Election Campaign Act of 1971 to provide for expenditure limitations and public financing for House of Representatives general elections, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Ways and Means, and 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. OBEY:

H.R. 3852. A bill to amend the Federal Election Campaign Act of 1971 to provide for public financing for House of Representatives general elections for candidates who voluntarily limit expenditures, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Ways and Means, and 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. PORTMAN (for himself, Mr. BISHOP, and Mr. SOUDER):

H.R. 3853. A bill to promote drug-free workplace programs; to the Committee on Small Business.

By Mr. BARR of Georgia (for himself, Mr. SOLOMON, Mr. MICA, Mr. GRAHAM, Mr. BURTON of Indiana, Mr. LATOURETTE, Mr. MCINTOSH, and Mr. SESSIONS):

H.R. 3854. A bill to amend title 18, United States Code, to modify immunity provisions in certain cases involving Congressional investigations; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mrs. JOHNSON of Connecticut, and Mr. GREENWOOD):

H.R. 3855. A bill to provide for payments to children's hospitals that operate graduate medical education programs; to the Committee on Commerce, 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. EWING (for himself and Mr. WELLER):

H.R. 3856. A bill to provide for the conveyance of the vacant Army Reserve Center in Kankakee, Illinois; to the Committee on National Security.

By Mr. HOUGHTON (for himself, Mr. LEVIN, Mr. WELLER, Mr. ENGLISH of Pennsylvania, Mr. RAMSTAD, Mr. CAMP, Mr. METCALF, Mr. TRAFICANT, Mr. FROST, Ms. STABENOW, Ms. LOFGREN, Mr. MCDERMOTT, and Mr. KLECZKA):

H.R. 3857. A bill to amend the Internal Revenue Code of 1986 to allow the research credit for expenses attributable to certain collaborative research consortia; to the Committee on Ways and Means.

By Mr. HUNTER (for himself, Mr. BILBRAY, Mr. PACKARD, Mr. REYES, and Mr. CUNNINGHAM):

H.R. 3858. A bill to assure drug-free borders by increasing penalties for certain drug-related offenses, to enhance law enforcement efforts for counterdrug activities, and for other purposes; to the Committee on the Judiciary.

By Mr. SCARBOROUGH:

H.R. 3859. A bill to amend the Internal Revenue Code of 1986 to repeal the estate and gift tax; to the Committee on Ways and Means.

By Mr. SCARBOROUGH:

H.R. 3860. A bill to amend the Internal Revenue Code of 1986 to eliminate taxes on capital gains after December 31, 2001; to the Committee on Ways and Means.

By Mrs. LINDA SMITH of Washington (for herself and Mr. HUNTER):

H.R. 3861. A bill to amend the Internal Revenue Code of 1986 to provide, for purposes of computing the exclusion of gain on sale of a principal residence, that a member of the Armed Forces of the United States shall be treated as using property as a principal residence while away from home on extended active duty; to the Committee on Ways and Means.

By Mr. UPTON (for himself and Mr. TOWNS):

H.R. 3862. A bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers; to the Committee on Commerce.

By Mr. WATTS of Oklahoma (for himself, Mr. TAYLOR of Mississippi, Mr. HEFLEY, Mr. RYUN, Mr. BILBRAY, Mr. BOYD, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. FILNER):

H.R. 3863. A bill to provide for a special Medicare part B enrollment period, a reduction or elimination in the part B late enrollment penalty, and a special medigap open enrollment period for certain military retirees and dependents; to the Committee on Commerce, 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. WHITFIELD (for himself and Mr. ROGERS):

H.R. 3864. A bill to designate the post office located at 203 West Paige Street, in Tompkinsville, Kentucky, as the ''Tim Lee Carter Post Office Building''; to the Committee on Government Reform and Oversight.

By Mr. SAXTON:

H. Con. Res. 276. Concurrent resolution expressing the sense of the Congress that United States foreign policy with respect to the Middle East peace process should not include an attempt to require Israel to make concessions which Israel does not believe to be in its self-interest, including concessions which would jeopardize the security of Israel; to the Committee on International Relations.

By Mr. DREIER:

H. Res. 429. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. WALSH.
H.R. 371; Mr. HUTCHINSON.
H.R. 678: Mr. RAMSTAD, Mr. SMITH of Oregon, Mr. BARRETT of Wisconsin, Mr. DOOLEY of California, Ms. JACKSON-LEE, Mr. HINCHEY, Mr. KANJORSKI, Mr. TORRES, Mr. MOAKLEY, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. HEFLEY, Mrs. NORTHUP, Mr. BROWN of California, Mr. BONILLA, Mr. GALLEGLY, Mr. JONES, Mr. KIM, Mr. PACKARD, and Mr. PORTER.
H.R. 716: Mr. WAMP.
H.R. 746: Mrs. MYRICK and Mr. FARR of California.
H.R. 754: Mr. NEAL of Massachusetts and Ms. FURSE.
H.R. 815: Ms. NORTON.
H.R. 864: Mr. BISHOP, Mr. TORRES, Mr. ROEMER, Mr. DINGELL, and Mr. GILLMOR.
H.R. 872: Mr. FARR of California, Mr. SAXTON, and Mr. STEARNS.
H.R. 922: Mr. KIM.
H.R. 953: Ms. DANNER and Mr. DEUTSCH.
H.R. 979: Mr. SAWYER, Mr. ORTIZ, Mr. COOKSEY, Mr. TOWNS, and Mr. HASTINGS of Washington.
H.R. 1038: Mr. ROHRABACHER.
H.R. 1126: Mr. UPTON, Mr. CLEMENT, Mr. KIND of Wisconsin, and Mr. SOLOMON.
H.R. 1320: Mr. MCGOVERN and Mr. ANDREWS.
H.R. 1401: Mr. NEAL of Massachusetts and Mrs. KENNELLY of Connecticut.
H.R. 1450: Mr. SABO.
H.R. 1560: Mr. GREENWOOD, Mr. EVERETT, Mr. CALVERT, Mr. MCINNIS, Mr. CALLAHAN, Mr. LEACH, Ms. PRYCE of Ohio, Mr. HANSEN, Mr. CHAMBLISS, Mrs. MYRICK, Mr. HASTINGS of Washington, Mr. SHADEGG, Mr. JONES, Mr. GILLMOR, Mr. CAMP, Mrs. NORTHUP, Mr. GUTKNECHT, Mr. SUNUNU, Mr. LEWIS of Kentucky, Mr. EHLERS, Mr. COX of California, Mr. FOSSELLA, Mrs. FOWLER, Mr. BARR of Georgia, Mr. DEAL of Georgia, Mr. MANZULLO, Mr. EHRLICH, Mr. REDMOND, Mr. COOKSEY, Mr. FORBES, Mr. RILEY, Mr. SMITH of Texas, Mrs. KELLY, Mr. DELAY, Mr. WELDON of Florida, Mr. MCCOLLUM, Mr. SESSIONS, Mr. WICKER, Mr. SNOWBARGER, Mr. UPTON, Mr. GRAHAM, Mr. MCKEON, Mr. PETERSON of Pennsylvania, Mr. HAYWORTH, Mr. PACKARD, Mr. ROGERS, Mr. PICKERING, Mr. WATTS of Oklahoma, Mr. HOSTETTLER, Mr. CHABOT, Mr. NEUMANN, Mr. ARMEY, Mr. BOEHLERT, Mr. LAHOOD, Mr. MCINTOSH, Mr. HASTERT, and Mr. LEWIS of California.
H.R. 1571: Mr. JEFFERSON, Mr. MATSUI, and Mr. SCHUMER.
H.R. 1619: Mr. PAUL.
H.R. 2202: Ms. CARSON, Mr. BROWN of Ohio, Mr. LANTOS, Ms. LEE, and Mr. MCGOVERN.
H.R. 2222: Ms. NORTON.
H.R. 2250: Mr. HOSTETTLER.
H.R. 2523: Mr. KUCINICH.
H.R. 2568: Mr. HUTCHINSON.
H.R. 2612: Mr. HOBSON.
H.R. 2675: Mr. BOUCHER, Mr. PETERSON of Minnesota, Mr. MANTON, Mr. FAWELL, Ms. LEE, and Mr. WATT of North Carolina.
H.R. 2699: Mr. DIXON.
H.R. 2844: Mr. HERGER.
H.R. 2888: Mr. HOLDEN and Mr. DOOLITTLE.
H.R. 2908: Mr. MASCARA, Mrs. JOHNSON of Connecticut, and Mr. HULSHOF.
H.R. 2938: Mr. GRAHAM.
H.R. 2939: Mr. BENTSEN.
H.R. 3014: Mr. COX of California.
H.R. 3053: Mr. HINOJOSA, Mr. STOKES, Mr. BLUMENAUER, Ms. PELOSI, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 3126: Ms. PELOSI.
H.R. 3134: Mr. ABERCROMBIE, Mr. GUTIERREZ, Mr. GEJDENSON, Ms. STABENOW, Ms. DELAURO, and Mr. EDWARDS.
H.R. 3140: Mr. STENHOLM, Mr. PETERSON of Pennsylvania, and Mr. SPENCE.
H.R. 3156: Mr. DINGELL, Mr. REGULA, Mr. DOYLE, Mr. WISE, and Mr. BOYD.
H.R. 3185: Mr. PITTS, Mrs. MYRICK, Mr. PETERSON of Minnesota, Ms. DUNN of Washington, Mr. CRAMER, and Mr. BARR of Georgia.
H.R. 3270: Mr. WYNN and Ms. SANCHEZ.
H.R. 3274: Mr. WYNN and Ms. SANCHEZ.
H.R. 3304: Mr. FRANKS of New Jersey.
H.R. 3331: Mrs. BONO.
H.R. 3351: Mr. POMEROY.
H.R. 3379: Ms. PELOSI, Ms. LOFGREN, and Mr. SABO.
H.R. 3396: Mr. GRAHAM, Mr. CAMPBELL, Mr. MASCARA, Ms. PELOSI, Ms. KAPTUR, Ms. DELAURO, Mr. PETERSON of Pennsylvania, Mr. WATKINS, Mr. EHLERS, Mr. BUYER, Mr. LIVINGSTON, Mr. JEFFERSON, Mr. SCARBOROUGH, and Mr. GOSS.
H.R. 3435: Mr. HASTINGS of Washington.
H.R. 3494: Mr. TALENT.
H.R. 3506: Mr. BUYER, Ms. KAPTUR, Mr. BONIOR, Mr. TAYLOR of North Carolina, Mr. PARKER, Mr. HULSHOF, and Mr. BOYD.
H.R. 3514: Mr. FARR of California.
H.R. 3526: Mr. HOUGHTON.
H.R. 3539: Mr. CANNON and Mr. MCINNIS.
H.R. 3553: Ms. NORTON, Mr. FILNER, and Mrs. MORELLA.
H.R. 3566: Mr. GEKAS.
H.R. 3567: Mr. HOEKSTRA.
H.R. 3596: Ms. JACKSON-LEE, Ms. KILPATRICK, Ms. CARSON, Mr. DAVIS of Illinois, Mr. WYNN, Mr. HASTINGS of Florida, Ms. NORTON, Mr. MEEKS of New York, Mr. OWENS, Ms. LEE, Ms. BROWN of Florida, Ms. ROS-LEHTINEN, Mr. HILLIARD, and Mr. FRANK of Massachusetts.
H.R. 3613: Mr. LUCAS of Oklahoma.
H.R. 3624: Ms. PELOSI, Mr. ROMERO-BARCELÓ, Mr. COSTELLO, Mr. EVANS, Mr. HINCHEY, Mr. MCGOVERN, Mr. UNDERWOOD, and Mr. COYNE.
H.R. 3634: Mr. FOX of Pennsylvania, Mr. BONILLA, Mr. MCHUGH, Mr. METCALF, Mr. WICKER, Mr. MCINNIS, Mr. PETERSON of Pennsylvania, Mr. HUTCHINSON, Mr. BAKER, Mr. LEWIS of California, Mr. LUCAS of Oklahoma, Mr. WATKINS, Mr. BROWN of California, and Mr. STEARNS.
H.R. 3644: Mr. RANGEL.
H.R. 3648: Mr. BOEHNER, Mr. COLLINS, and Mr. SAM JOHNSON.
H.R. 3659: Mr. ADERHOLT, Mr. DOOLITTLE, Mr. PITTS, Mr. STUMP, Mr. LAFALCE, and Mr. PAUL.
H.R. 3681: Mr. NETHERCUTT.
H.R. 3682: Mr. FOSSELLA and Mr. COX of California.
H.R. 3690: Mr. CHABOT.
H.R. 3700: Mr. THOMPSON, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. MILLENDER-MCDONALD.
H.R. 3701: Mr. THOMPSON, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. MILLENDER-MCDONALD.
H.R. 3710: Mr. CALVERT, Mr. REDMOND, Mr. METCALF, Mr. KENNEDY of Rhode Island, Mr. WAMP, Mr. UNDERWOOD, Mr. PEASE, Mr. BONIOR, Mr. PORTER, Ms. RIVERS, Mr. GEJDENSON, Mr. TOWNS, Ms. ESHOO, Mr. BURTON of Indiana, and Mr. MILLER of Florida.
H.R. 3726: Mr. MARTINEZ, Mr. MENENDEZ, Mr. ORTIZ, Mr. ROMERO-BARCELO, Mr. UNDERWOOD, Mr. PASTOR, Mr. REYES, Mr. HINOJOSA, Ms. SANCHEZ, Ms. VELAZQUEZ, Mr. TORRES, Mr. BECERRA, Mr. RODRIGUEZ, and Ms. ROYBAL-ALLARD.
H.R. 3733: Mr. MORAN of Kansas, Mr. SNOWBARGER, Mr. TIAHRT, Mr. ENGLISH of Pennsylvania, and Mr. KUCINICH.
H.R. 3744: Mr. MCHUGH, Mr. MORAN of Virginia, and Mr. JOHN.
H.R. 3749: Mr. BALDACCI.
H.R. 3774: Mr. ENGLISH of Pennsylvania, Mr. FROST, Mr. MATSUI, Mr. MARTINEZ, and Mr. OBERSTAR.
H.R. 3775: Mr. ETHERIDGE.
H.R. 3807: Mr. BARRETT of Nebraska, Mr. CANADY of Florida, Ms. DANNER, Mr. DOYLE, Mr. HOEKSTRA, Mr. NEY, Mr. SMITH of Michigan, and Mr. UPTON.
H.R. 3820: Mr. SKAGGS and Mr. BONIOR.
H.R. 3829: Mr. CASTLE, Mr. BEREUTER, and Mr. SHUSTER.
H.R. 3841: Mr. TIERNEY.
H. Con. Res. 112: Mr. LEWIS of Georgia.
H. Con. Res. 125: Mr. ETHERIDGE.
H. Con. Res. 188: Mr. PASCRELL.
H. Con. Res. 210: Mr. BALDACCI.
H. Con. Res. 241: Mr. YATES, Mr. FROST, Mr. GUTIERREZ, and Mr. CLEMENT.
H. Con. Res. 264: Mr. PETERSON of Pennsylvania, Mr. MORAN of Kansas, Ms. WOOLSEY, Mr. SAM JOHNSON, and Mr. MALONEY of Connecticut.
H. Con. Res. 270: Mr. BROWN of Ohio.
H. Con. Res. 271: Mr. ROGAN and Mr. FILNER.
H. Res. 144: Mr. BARR of Georgia, Mr. DEAL of Georgia, Mr. PETERSON of Pennsylvania, Mr. SESSIONS, Mr. LEACH, Mr. CHAMBLISS, Mr. SMITH of Michigan, Mr. CAMP, Mr. SUNUNU, Mrs. NORTHUP, Mr. GUTKNECHT, Mr. WICKER, Mr. PICKERING, and Mr. WELDON of Florida.
H. Res. 399: Mr. MCKEON and Mr. SPRATT.
H. Res. 418: Mr. WALSH, Ms. KAPTUR, Mr. RAMSTAD, Mrs. THURMAN, Mr. GILLMOR, Mr. KIND of Wisconsin, Mr. LUTHER, Mr. VENTO, Mr. SABO, and Mr. BARCIA of Michigan.
H. Res. 421: Mr. ARCHER and Mr. KENNEDY of Massachusetts.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3721

OFFERED BY: MR. BASS

(Amendment in the Nature of a Substitute to H.R. 2183)

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Real Campaign Reform Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.
Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Civil penalty.
Sec. 203. Reporting requirements for certain independent expenditures.
Sec. 204. Independent versus coordinated expenditures by party.
Sec. 205. Coordination with candidates.

TITLE III—DISCLOSURE

Sec. 301. Filing of reports using computers and facsimile machines.
Sec. 302. Prohibition of deposit of contributions with incomplete contributor information.
Sec. 303. Audits.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Use of candidates' names.
Sec. 306. Prohibition of false representation to solicit contributions.
Sec. 307. Soft money of persons other than political parties.
Sec. 308. Campaign advertising.

TITLE IV—PERSONAL WEALTH OPTION

Sec. 401. Voluntary personal funds expenditure limit.

Sec. 402. Political party committee coordinated expenditures.

TITLE V—MISCELLANEOUS

Sec. 501. Prohibiting involuntary use of funds of employees of corporations and other employers and members of unions and organizations for political activities.
Sec. 502. Use of contributed amounts for certain purposes.
Sec. 503. Limit on congressional use of the franking privilege.
Sec. 504. Prohibition of fundraising on Federal property.
Sec. 505. Penalties for knowing and willful violations.
Sec. 506. Strengthening foreign money ban.
Sec. 507. Prohibition of contributions by minors.
Sec. 508. Expedited procedures.
Sec. 509. Initiation of enforcement proceeding.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.
Sec. 604. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

''(a) NATIONAL COMMITTEES.—

''(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) FEDERAL ELECTION ACTIVITY.—

''(A) IN GENERAL.—The term 'Federal election activity' means—

''(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

''(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

''(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

''(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

''(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

''(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

''(iii) the costs of a State, district, or local political convention;

''(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

''(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

''(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

''(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Secretary of the Internal Revenue Service for determination of tax-exemption under such section).

''(e) CANDIDATES.—

''(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds for a Federal election activity on behalf of such candidate, individual, agent or any other person, unless the funds are subject to the limitation, prohibitions, and reporting requirements of this Act.

''(2) STATE LAW.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for any activity other than a Federal election activity.

''(3) FUNDRAISING EVENTS.—Paragraph (1) does not apply in the case of a candidate who attends, speaks, or is a featured guest at a fundraising event sponsored by a State, district, or local committee of a political party.''.

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C)—

(A) by inserting ''(other than a committee described in subparagraph (D))'' after ''committee''; and

(B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000''.

(b) AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUAL.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking ''$25,000'' and inserting ''$30,000''.

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 203) is amended by inserting after subsection (d) the following:

''(e) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

''(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—A political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in subparagraphs (A) and (B)(v) of section 323(b)(2).

''(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

''(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

''(17) INDEPENDENT EXPENDITURE.—

''(A) IN GENERAL.—The term 'independent expenditure' means an expenditure by a person—

''(i) for a communication that is express advocacy; and

''(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.''.

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) EXPRESS ADVOCACY.—

''(A) IN GENERAL.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

''(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

''(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is broadcast by a radio broadcast station or a television broadcast station within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

''(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a hole and with limited reference to external events, such as proximity to an election.

''(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

''(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

''(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

''(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.''.

(c) DEFINTIION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) a payment for a communication that is express advocacy; and

''(iv) a payment made by a person for a communication that—

''(I) refers to a clearly identified candidate;

''(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

''(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).''.

SEC. 202. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking ''clause (ii)'' and inserting ''clauses (ii) and (iii)''; and

(ii) by adding at the end the following:

(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A).''; and

''(B) in paragraph (6)(B), by inserting ''(except an action instituted in connection with a knowing and willful violation of section 304(c))'' after ''subparagraph (A)''; and (2) in subsection (d)(1)—

(A) in subparagraph (A), by striking ''Any person'' and inserting ''Except as provided in subparagraph (D), any person''; and

(B) by adding at the end the following:

''(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.''.

SEC. 203. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

''(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

''(1) EXPENDITURES AGGREGATING $1,000.—

''(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

''(2) EXPENDITURES AGGREGATING $10,000.—

''(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

''(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

''(A) shall be filed with the Commission; and

''(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.''.

SEC. 204. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking ''and (3)'' and inserting '', (3), and (4)''; and

(2) by adding at the end the following:

''(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

''(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

''(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certificate, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

''(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

''(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.''.

SEC. 205. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''or'' at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting ''; or''; and

(iii) by adding at the end the following:

''(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office.''; and

(B) by adding at the end the following:

''(C) The term 'provided in coordination with a candidate' includes—

''(i) a payment made by a person in cooperation, consultation, or concern with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

''(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

''(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

''(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

''(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

''(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

''(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

''(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

''(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisors, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

''(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

''(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

''(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.''.

(2) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

''(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking ''shall include'' and inserting ''includes a contribution or expenditure, as those terms are defined in section 301, and also includes''.

TITLE III—DISCLOSURE

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

''(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

''(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

''(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

''(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

''(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.''.

SEC. 302. PROHIBITION OF DEPOSIT OF CONTRIBUTIONS WITH INCOMPLETE CONTRIBUTOR INFORMATION.

Section 302 of Federal Election Campaign Act of 1971 (2. U.S.C. 432) is amended by adding at the end the following:

''(j) DEPOSIT OF CONTRIBUTIONS.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.''.

SEC. 303. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''The Commission''; and

(2) by adding at the end the following:

''(2) RANDOM AUDITS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least 4 members of the Commission.

''(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

''(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking ''$200'' and inserting ''$50''; and

(2) by striking the semicolon and inserting '', except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;''.

SEC. 305. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not—

''(i) include the name of any candidate in its name; or

''(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. 306. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after ''SEC. 322.'' the following: ''(a) IN GENERAL.—''; and

(2) by adding at the end the following:

''(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.''.

SEC. 307. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103(c) and section 203) is amended by adding at the end the following:

''(g) DISBURSEMENTS OF PERSONS OTHER THAN POLITICAL PARTIES.—

''(1) IN GENERAL.—A person, other than a political committee or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

''(A) on a monthly basis as described in subsection (a)(4)(B); or

''(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

''(2) ACTIVITY.—The activity described in this paragraph is—

''(A) Federal election activity;

''(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; and

''(C) an activity described in subparagraph (C) of section 316(b)(2).

''(3) APPLICABILITY.—This subsection does not apply to—

''(A) a candidate or a candidate's authorized committees; or

''(B) an independent expenditure.

''(4) CONTENTS.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

''(A) the aggregate amount of disbursements made;

''(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

''(C) the date made, amount, and purpose of the disbursement; and

''(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.''.

(b) DEFINITION OF GENERIC CAMPAIGN ACTIVITY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is further amended by adding at the end the following:

''(21) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.''.

SEC. 308. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(ii) by striking ''an expenditure'' and inserting ''a disbursement''; and

(iii) by striking ''direct''; and

(B) in paragraph (3), by inserting ''and permanent street address'' after ''name''; and

(2) by adding at the end the following:

''(c) Any printed communication described in subsection (a) shall—

''(1) be of sufficient type size to be clearly readable by the recipient of the communication;

''(2) be contained in a printed box set apart from the other contents of the communication; and

''(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in paragraphs (1) or (2) of subsection (a) shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

''(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in paragraph (3) of subsection (a) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '_____ is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

TITLE IV—PERSONAL WEALTH OPTION

SEC. 401. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 101) is amended by adding at the end the following:

''SEC. 324. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMITS.

''(a) ELIGIBLE HOUSE CANDIDATE.—

''(1) PRIMARY ELECTION.—

''(A) DECLARATION.—A candidate is an eligible primary election House candidate if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

''(B) TIME TO FILE.—The declaration under subparagraph (A) shall be field not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

''(2) GENERAL ELECTION.—

(a) DECLARATION.—A candidate is an eligible general election House candidate if the candidate files with the Commission—

''(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

''(ii) a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

''(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

''(i) the date on which the candidate qualifies for the general election ballot under State law; or

''(ii) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

''(b) PERSONAL FUNDS EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The aggregate amount of expenditures that may be made in connection with an election by an eligible House candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

''(2) SOURCES.—A source is described in this paragraph if the source is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

''(c) CERTIFICATION BY THE COMMISSION.—

''(1) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible House candidate.

''(2) TIME FOR CERTIFICATION.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible House candidate.

''(3) REVOCATION.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

''(4) DETERMINATIONS BY COMMISSION.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

''(d) PENALTY.—If the Commission revokes the certification of an eligible House candidate—

''(1) the Commission shall notify the candidate of the revocation; and

''(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).''.

SEC. 402. POLITICAL PARTY COMMITTEE COORDINATED EXPENDITURES

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) (as amended by section 204) is amended by adding at the end the following:

''(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for the House of Representatives who is not an eligible House candidate (as defined in section 324(a)).''.

TITLE V—MISCELLANEOUS

SEC. 501. PROHIBITING INVOLUNTARY USE OF FUNDS OF EMPLOYEES OF CORPORATIONS AND OTHER EMPLOYERS AND MEMBERS OF UNIONS AND ORGANIZATIONS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

''(c)(1)(A) Except with the separate, prior, written, voluntary authorization of the individual involved, it shall be unlawful—

''(i) for any national bank or corporation described in this section to collect from or assess a stockholder or employee any portion of any dues, initiation fee, or other payment made as a condition of employment which will be used for political activity in which the national bank or corporation is engaged; and

''(ii) for any labor organization described in this section to collect from or assess a member or non-member any portion of any dues, initiation fee, or other payment which will be used for political activity in which the labor organization is engaged.

''(B) An authorization described in subparagraph (A) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such subparagraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

''(2)(A) Prior to the beginning of any 12-month period (as determined by the corporation), each corporation described in this section shall provide each of its shareholders with a notice containing the following:

''(i) The proposed aggregate amount for disbursements for political activities by the corporation for the period.

''(ii) The individual's applicable percentage and applicable pro rata amount for the period.

''(iii) A form that the individual may complete and return to the corporation to indicate the individual's objection to the disbursement of amounts for political activities during the period.

''(B) It shall be unlawful for a corporation to which subparagraph (A) applies to make disbursements for political activities during the 12-month period described in such subparagraph in an amount greater than——

''(i) the proposed aggregate amount for such disbursements for the period, as specified in the notice provided under subparagraph (A); reduced by

''(ii) the sum of the applicable pro rata amounts for such period of all shareholders who return the form described in subparagraph (A)(iii) to the corporation prior to the beginning of the period.

''(C) In this paragraph, the following definitions shall apply

''(i) The term 'applicable percentage' means, with respect to a shareholder of a corporation, the amount (expressed as a percentage) equal to the number of shares of the corporation (within a particular class or type of stock) owned by the shareholder at the time the notice described in subparagraph (A) is provided, divided by the aggregate number of such shares owned by all shareholders of the corporation at such time.

''(ii) The term 'applicable pro rata amount' means, with respect to a shareholder for a 12-month period, the product of the shareholder's applicable percentage for the period and the proposed aggregate amount for disbursements for political activities by the corporation for the period, as specified in the notice provided under subparagraph (A).

''(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

SEC. 502. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

''SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

''(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

''(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

''(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

''(3) for contributions to an organization described in section 170(e) of the Internal Revenue Code of 1986; or

''(4) for transfers to a national, State, or local committee of a political party.

''(b) PROHIBITED USE.—

''(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

''(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

''(A) a home mortgage, rent, or utility payment;

''(B) a clothing purchase;

''(C) a noncampaign-related automobile expense;

''(D) a country club membership;

''(E) a vacation or other noncampaign-related trip;

''(F) a household food item;

''(G) a tuition payment;

''(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

''(I) dues, fees, and other payments to a health club or recreational facility.''.

SEC. 503. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) A Member of Congress shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that Office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that year or for election to any other Federal office.''.

SEC. 504. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—

''(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value of a political committee or a candidate for Federal, State or local office from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value for a political committee or candidate for Federal, State or local office, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

''(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both.''; and

(2) by inserting in subsection (b) after ''Congress'' ''or Executive Office of the President''.

SEC. 505. PENALTIES FOR KNOWING AND WILLFUL VIOLATIONS.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking ''$5,000'' and inserting ''$10,000''; and

(2) in paragraphs (b)(B) and (6)(C), by striking ''$10,000 or an amount equal to 200 percent'' and inserting ''$20,000 or an amount equal to 300 percent''.

(b) EQUITABLE REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting '', and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).''.

(c) AUTOMATIC PENALTY FOR LATE FILING.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

''(13) LTY FOR LATE FILING.—

''(A) IN GENERAL.—

''(i) MONETARY PENALTIES.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

''(ii) REQUIRED FILING.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

''(iii) PROCEDURE.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

''(B) FILING AN EXCEPTION.—

''(i) TIME TO FILE.—A political committee shall have 30 days after the imposition of a penalty or filing requirement by the Commission under this paragraph in which to file an exception with the Commission.

''(ii) TIME FOR COMMISSION TO RULE.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.'';

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: ''In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A).''; and

(B) by inserting before the period at the end of the last sentence the following: ''or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)''; and

(3) in paragraph (6)(A), by striking ''paragraph (4)(A)'' and inserting ''paragraph (4)(A) or (13)''.

SEC. 506. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: ''CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS''; and

(2) by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—It shall be unlawful for—

''(1) a foreign national, directly or indirectly, to make—

''(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election to a political committee or a candidate for Federal office; or

''(ii) a contribution or donation to a committee of a political party; or

''(B) for a person to solicit, accept, or receive such contribution or donation from a foreign national.''.

SEC. 507. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by sections 101 and 401) is amended by adding at the end the following:

''SEC. 325. PROHIBITION OF CONTRIBUTIONS BY MINORS.

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.''.

SEC. 508. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 505(c)) is amended by adding at the end the following:

''(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

''(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under

paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

''(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.''.

(b) REFERRAL TO ATTORNEY GENERAL.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

''(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.''.

SEC. 509. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking ''reason to believe that'' and inserting ''reason to investigate whether''.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 604. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.

H.R. 3721

OFFERED BY MR. CAMPBELL

(Amendment in the Nature of a Substitute to H.R. 2183)

AMENDMENT NO. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Can't Vote, Can't Contribute Campaign Reform Act of 1998''.

TITLE I—LIMITATIONS ON CONTRIBUTIONS

SEC. 101. LIMITATION ON AMOUNT OF CONTRIBUTIONS TO CANDIDATES BY INDIVIDUALS NOT ELIGIBLE TO VOTE IN STATE OR DISTRICT INVOLVED.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking ''in the aggregate, exceed $1,000;'' and inserting the following: ''in the aggregate—

''(i) in the case of contributions made to a candidate for election for Senator or for Representative in or Delegate or Resident Commissioner to the Congress by an individual who is not eligible to vote in the State or Congressional district involved (as the case may be) at the time the contribution is made (other than an individual who would be eligible to vote at such time but for the failure of the individual to register to vote), exceed $100; or

''(ii) in the case of any other contributions, exceed $1,000;''.

SEC. 102. BAN ON ACCEPTANCE OF CONTRIBUTIONS MADE BY NONPARTY POLITICAL ACTION COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i)(1) Notwithstanding any other provision of this Act, no candidate for election for Federal office may accept any contribution from a political action committee.

''(2) In this subsection, the term 'political action committee' means any political committee which is not—

''(A) the principal campaign committee of a candidate; or

''(B) a national, State, local, or district committee of a political party, including any subordinate committee thereof.''.

TITLE II—ENSURING VOLUNTARINESS OF CONTRIBUTIONS OF CORPORATIONS, UNIONS, AND OTHER MEMBERSHIP ORGANIZATIONS

SEC. 201. PROHIBITING INVOLUNTARY USE OF FUNDS OF EMPLOYEES OF CORPORATIONS AND OTHER EMPLOYERS AND MEMBERS OF UNIONS AND ORGANIZATIONS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

''(c)(1)(A) Except with the separate, prior, written, voluntary authorization of the individual involved, it shall be unlawful—

''(i) for any national bank or corporation described in this section (other than a corporation exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986) to collect from or assess a stockholder or employee any portion of any dues, initiation fee, or other payment made as a condition of employment which will be used for political activity in which the national bank or corporation is engaged; and

''(ii) for any labor organization described in this section to collect from or assess a member or nonmember any portion of any dues, initiation fee, or other payment which will be used for political activity in which the labor organization is engaged.

''(B) An authorization described in subparagraph (A) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such subparagraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

''(2)(A) Prior to the beginning of any 12-month period (as determined by the corporation), each corporation to which paragraph (1) applies shall provide each of its shareholders with a notice containing the following:

''(i) The proposed aggregate amount for disbursements for political activities by the corporation for the period.

''(ii) The individual's applicable percentage and applicable pro rata amount for the period.

''(iii) A form that the individual may complete and return to the corporation to indicate the individual's objection to or approval of the disbursement of amounts for political activities during the period.

''(B) It shall be unlawful for a corporation to which subparagraph (A) applies to make disbursements for political activities during the 12-month period described in such subparagraph in an amount greater than the sum of the applicable pro rata amounts for such period of all shareholders who return the form described in subparagraph (A)(iii) to the corporation prior to the beginning of the period and indicate their approval of such disbursements.

''(C) In this paragraph, the following definitions shall apply:

''(i) The term 'applicable percentage' means, with respect to a shareholder of a corporation, the amount (expressed as a percentage) equal to the number of shares of the corporation (within a particular class or type of stock) owned by the shareholder at the time the notice described in subparagraph (A) is provided, divided by the aggregate number of such shares owned by all shareholders of the corporation at such time.

''(ii) The term 'applicable pro rata amount' means, with respect to a shareholder for a 12-month period, the product of the shareholder's applicable percentage for the period and the proposed aggregate amount for disbursements for political activities by the corporation for the period, as specified in the notice provided under subparagraph (A).

''(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

TITLE III—RESTRICTIONS ON SOFT MONEY

SEC. 301. BAN ON SOFT MONEY OF NATIONAL POLITICAL PARTIES AND CANDIDATES; BAN ON USE OF SOFT MONEY BY STATE POLITICAL PARTIES FOR FEDERAL ELECTION ACTIVITY.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''RESTRICTIONS ON USE OF SOFT MONEY BY POLITICAL PARTIES AND CANDIDATES

''SEC. 323. (a) BAN ON USE BY NATIONAL PARTIES.—

''(1) IN GENERAL.—No political committee of a national political party may solicit, receive, or direct any contributions, donations, or transfers of funds, or spend any funds, which are not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) APPLICABILITY.—Paragraph (1) shall apply to any entity which is established, financed, maintained, or controlled (directly or indirectly) by, or which acts on behalf of, a political committee of a national political party, including any national congressional campaign committee of such a party and any officer or agent of such an entity or committee.

''(b) CANDIDATES.—

''(1) IN GENERAL.—No candidate for Federal office, individual holding Federal office, or any agent of such a candidate or officeholder may solicit, receive, or direct—

''(A) any funds in connection with any Federal election unless the funds are subject to

the limitations, prohibitions and reporting requirements of this Act;

''(B) any funds that are to be expended in connection with any election for other than a Federal office unless the funds are not in excess of the applicable amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a), and are not from sources prohibited from making contributions by this Act with respect to elections for Federal office; or

''(C) any funds on behalf of any person which are not subject to the limitations, prohibitions, and reporting requirements of this Act if such funds are for the purpose of financing any activity on behalf of a candidate for election for Federal office or any communication which refers to a clearly identified candidate for election for Federal office.

''(2) EXCEPTION FOR CERTAIN ACTIVITIES.—Paragraph (1) shall not apply to—

''(A) the solicitation, receipt, or direction of funds by an individual who is a candidate for a non-Federal office if such activity is permitted under State law for such individual's non-Federal campaign committee; or

''(B) the attendance by an individual who holds Federal office at a fundraising event for a State or local committee of a political party of the State which the individual represents as a Federal officeholder, if the event is held in such State.

''(c) STATE PARTIES.—

''(1) IN GENERAL.—Any payment by a State committee of a political party for a mixed political activity—

''(A) shall be subject to limitation and reporting under this Act as if such payment were an expenditure; and

''(B) may be paid only from an account that is subject to the requirements of this Act.

''(2) MIXED POLITICAL ACTIVITY DEFINED.—As used in this section, the term 'mixed political activity' means, with respect to a payment by a State committee of a political party, an activity (such as a voter registration program, a get-out-the-vote drive, or general political advertising) that is both for the purpose of influencing an election for Federal office and for any purpose unrelated to influencing an election for Federal office.

''(d) PROHIBITING TRANSFERS OF NON-FEDERAL FUNDS BETWEEN STATE PARTIES.—A State committee of a political party may not transfer any funds to a State committee of a political party of another State unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

''(e) APPLICABILITY TO FUNDS FROM ALL SOURCES.—This section shall apply with respect to funds of any individual, corporation, labor organization, or other person.''.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this Act shall apply with respect to elections occurring after January 1999.

OFFERED BY MR. OBEY

Amendment in the Nature of a Substitute to H.R. 2183

AMENDMENT NO. 3: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDING.

(a) SHORT TITLE.—This Act may be cited as the ''Let the Public Decide Campaign Finance Reform Act''.

(b) FINDING.—The Congress finds that the existing system of private political contributions has become a fundamental threat to the integrity of the national election process and that the provisions contained in this Act are necessary to prevent the corruption of the public's faith in the Nation's system of governance.

TITLE I—EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

SEC. 101. NEW TITLE OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

''TITLE V—EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

SEC. 501. LIMITATION ON EXPENDITURES IN HOUSE OF REPRESENTATIVES GENERAL ELECTIONS.

''A candidate in a House of Representatives general election may not make expenditures other than as provided in this title.

SEC. 502. SOURCES OF AMOUNTS FOR EXPENDITURES BY CANDIDATES IN HOUSE OF REPRESENTATIVES GENERAL ELECTIONS.

''The only sources of amounts for expenditures by candidates in House of Representatives general elections shall be—

''(1) the Grassroots Good Citizenship Fund, under section 505; and

''(2) additional amounts from State and national party committees under section 506.

SEC. 503. DISTRICT LIMITATION ON EXPENDITURES BY MAJOR PARTY CANDIDATES.

''(a) IN GENERAL.—Except as provided in section 506, the maximum amounts of expenditures by major party candidates in House of Representatives general elections shall be based on the median household income of the districts involved, as provided for in subsections (b) and (c).

''(b) MAXIMUM FOR WEALTHIEST DISTRICT.—In the congressional district with the highest median household income, maximum combined expenditures for all major party candidates with respect to a House of Representatives general election shall be a total of $1,000,000.

''(c) MAXIMUM FOR OTHER DISTRICTS.—In each congressional district, other than the district referred to in subsection (b), the maximum combined expenditures for all major party candidates with respect to a House of Representatives general election shall be an amount equal to—

''(1) the maximum amount referred to in subsection (b), less

''(2) the amount equal to—

''(A) ⅔ of the percentage difference between the median household income of the district involved and the median household income of the district referred to in subsection (b), times

''(B) the maximum amount referred to in subsection (b).

''(d) ALLOCATION.—The maximum expenditure for a major party candidate in a congressional district shall be 50 percent of the maximum amount under subsection (b) or (c), as applicable.

SEC. 504. DISTRICT LIMITATION ON EXPENDITURES BY THIRD PARTY AND INDEPENDENT CANDIDATES.

''(a) IN GENERAL.—Except as provided in section 506, the maximum amounts of expenditures by third party and independent candidates in House of Representatives general elections shall be the amount allocated under subsection (b).

''(b) ALLOCATION.—The maximum expenditure for a third party or independent candidate in a congressional district shall be—

''(1) the amount that bears the same ratio to the maximum amount under subsection (b) or (c) of section 503, as applicable, as the total popular vote in the district for candidates of the third party or for all independent candidates (as the case may be) bears to the total popular vote for all candidates in the 5 preceding general elections; or

''(2) in the case of a candidate in a district in which no third party or independent candidates (as the case may be) received votes in the 5 preceding general elections, the amount corresponding to the number of signatures presented to and verified by the Commission according to the following table:

''20,000 signatures	$75,000
30,000 signatures	100,000
40,000 signatures	150,000
50,000 signatures	200,000

SEC. 505. GRASSROOTS GOOD CITIZENSHIP FUND.

''(a) CREATION OF FUND.—There is established in the Treasury a trust fund to be known as the 'Grassroots Good Citizenship Fund', consisting of such amounts as may be credited to such fund as provided in this section.

''(b) DISTRICT ACCOUNTS.—There shall be established within the Grassroots Good Citizenship Fund an account for each congressional district. The accounts so established shall be administered by the Commission for the purpose of distributing amounts under this title.

''(c) PAYMENTS TO CANDIDATES.—Subject to subsection (d), the Commission shall pay to each candidate from the Grassroots Good Citizenship Fund the maximum amount calculated for such candidate under section 503 or 504.

''(d) INSUFFICIENT AMOUNTS.—If, as determined by the Commission, there are insufficient amounts in the Grassroots Good Citizenship Fund for payments under subsection (c), the Commission may reduce payments to candidates so that each candidate receives a pro rata portion of the amounts that are available.

''(e) TRANSFERS TO FUND.—There are hereby credited to the Grassroots Good Citizenship Fund amounts equivalent to the amounts designated under section 6097 of the Internal Revenue Code of 1986.

''(f) EXPENDITURES.—Amounts in the Grassroots Good Citizenship Fund shall be available for the purpose of providing amounts for expenditure by candidates in House of Representatives general elections in accordance with this title.

SEC. 506. ADDITIONAL AMOUNTS FROM STATE AND NATIONAL PARTY COMMITTEES.

''(a) CONTRIBUTIONS.—In addition to amounts made available under section 503 or 504, in the case of a candidate in a House of Representatives general election who is the candidate of a political party, the State and national committees of that political party may make contributions to the candidate totaling not more than 5 percent of the maximum expenditure applicable to the candidate under section 503 or section 504.

''(b) EXPENDITURES.—A House of Representatives candidate who is the candidate of a political party may make expenditures of the amounts received under subsection (a).

SEC. 507. PUBLIC SERVICE ANNOUNCEMENTS.

''(a) IN GENERAL.—Beginning on January 15, and continuing through April 15 of each year, the Commission shall carry out a program, utilizing broadcast announcements and other appropriate means, to inform the public of the existence and purpose of the Grassroots Good Citizenship Fund and the role that individual citizens can play in the election process by voluntarily contributing to the fund. The announcements shall be broadcast during prime time viewing hours in 30-second advertising segments equivalent to 200 gross rating points per network per week. The Commission shall ensure that the

maximum number of taxpayers shall be exposed to these announcements. Television networks, as defined by the Federal Communications Commission, shall provide the broadcast time under this section as part of their obligations in the public interest under the Communications Act of 1934. The Federal Election Commission shall encourage broadcast outlets other than the above mentioned television networks including radio to provide similar announcements.

''(b) GROSS RATING POINT.—The term 'gross rating point' is a measure of the total gross weight delivered. It is the sum of the ratings for individual programs. Since a household rating period is 1 percent of the coverage base, 200 gross rating points means 2 messages a week per average household.

''SEC. 508. DEFINITIONS.

''As used in this title—

''(1) the term 'House of Representatives candidate' means a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress;

''(2) the term 'median household income' means, with respect to a congressional district, the median household income of that district, as determined by the Commission, using the most current data from the Bureau of the Census;

''(3) the term 'major party' means, with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

''(4) the term 'third party' means with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, less than 25 percent of the total number of popular votes received by all candidates for such office;

''(5) the term 'independent candidate' means, with respect to a House of Representatives general election, a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not the candidate of a major party or a third party; and

''(6) the term 'House of Representatives general election' means a general election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.''.

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 201. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

''PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND

''Sec. 6097. Designation of overpayments for Grassroots Good Citizenship Fund.

SEC. 6097. DESIGNATION OF OVERPAYMENTS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

''(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

''(1) a specified portion (not less than $1 or more than $10,000, and not less than $1 or more than $20,000 in the case of a joint return) of any overpayment of tax for such taxable year, and

''(2) any contribution which the taxpayer includes with such return,

shall be paid over to the Grassroots Good Citizenship Fund under section 505 of the Federal Election Campaign Act of 1971.

''(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for such taxable year. Such designation shall be made on the 1st page of the return.

''(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed.''

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

''Part IX. Designation of overpayments and contributions for certain purposes relating to House of Representatives elections.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 202. INCREASE IN CORPORATE INCOME TAX ON TAXABLE INCOME ABOVE $10,000,000.

(a) IN GENERAL.—Paragraph (4) of subsection (b) of section 11 of the Internal Revenue Code of 1986 is amended by striking ''35 percent'' and inserting ''35.1 percent''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(c) USE OF AMOUNTS RECEIVED.—Amounts received by reason of the amendment made by subsection (a) shall be paid over to the Grassroots Good Citizenship Fund under section 505 of the Federal Election Campaign Act of 1971.

TITLE III—BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES

SEC. 301. BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''BAN ON USE OF NON-REGULATED FUNDS BY HOUSE CANDIDATES

''SEC. 323. (a) IN GENERAL.—No funds may be solicited, disbursed, or otherwise used with respect to any House of Representatives election unless the funds are subject to the limitations and prohibitions of this Act.

''(b) HOUSE OF REPRESENTATIVES ELECTION DEFINED.—In this section, the term 'House of Representatives election' means any election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.''.

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. BAN ON INDEPENDENT EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection;

''(i) No person may make any independent expenditure with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.''.

(b) CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.—

(1) IN GENERAL.—Section 301 of such Act (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following new paragraphs:

''(17) The term 'independent expenditure' means an expenditure for a communication (other than a communication which is described in clause (i) or clause (iii) of paragraph (9)(B) or which would be described in such clause if the communication were otherwise treated as an expenditure under this title)—

''(A) which is made during the 90-day period ending on the date of a general election for Federal office and which identifies a candidate for election for such office by name, image, or likeness; or

''(B) which contains express advocacy and is made without the participation or cooperation of, or consultation with, a candidate or a candidate's representative.

''(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or an expression which would reasonably be construed as intending to influence the outcome of an election.''.

(2) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of such Act (2 U.S.C. 431(8)(A)) is amended—

(A) in clause (i), by striking ''or'' after the semicolon at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following new clause:

''(iii) any payment or other transaction referred to in paragraph (17)(A) that does not qualify as an independent expenditure under paragraph (17)(B).''.

SEC. 402. BAN ON USE OF SOFT MONEY FOR CERTAIN EXPENDITURES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

''BAN ON USE OF NON-FEDERAL FUNDS FOR CERTAIN EXPENDITURES

''SEC. 324. (a) IN GENERAL.—No person may disburse any funds for any expenditure described in subsection (b) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

''(b) EXPENDITURES DESCRIBED.—The expenditures described in this subsection are as follows:

''(1) An expenditure made by an authorized committee of a candidate for Federal office or a political committee of a political party.

''(2) An expenditure made by a person who, during the election cycle, has made a contribution to a candidate, where the expenditure is in support of that candidate or in opposition to another candidate for the same office.

''(3) An expenditure made by a person, or a political committee established, maintained or controlled by such person, who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register.

''(4) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

''(5) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

''(A) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

''(B) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.''.

TITLE V—PROVISIONS RELATING TO HOUSE OF REPRESENTATIVES PRIMARY ELECTIONS

SEC. 501. LIMITATION ON EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS OTHER THAN GENERAL ELECTIONS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

''(j)(1) The maximum expenditures for a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in any election other than a general election may not exceed ⅓ of the maximum applicable to the candidate in a general election under title V.

''(2) For purposes of limitations under this Act, any expenditure by a candidate referred to in paragraph (1), including an expenditure for the preparation, production, or presentation of communications through electronic media or in written form, shall, regardless of when the expenditure is made, be attributed to the appropriate general election, unless such expenditure is made solely for an election other than a general election.''.

SEC. 502. LIMITATION ON ACCEPTANCE OF LARGE DONOR MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 401 and 501, is further amended by adding at the end the following new subsection:

''(k)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and the authorized political committees of such candidate, may not, with respect to an election other than a general election, accept contributions from large donor multicandidate political committees in excess of 20 percent of the maximum amount which the candidate may expend with respect to the election under subsection (j).

''(2) In paragraph (1), the term 'large donor multicandidate political committee' means a multicandidate political committee that accepts contributions totaling more than $200 from any single source in a calendar year.''.

TITLE VI—CONSIDERATION OF CONSTITUTIONAL AMENDMENT

SEC. 601. EXPEDITED CONSIDERATION OF CONSTITUTIONAL AMENDMENT.

(a) IN GENERAL.—If any provision of this Act or any amendment made by this Act is found unconstitutional by the Supreme Court, the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in section 602 in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) SPECIAL RULES.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on the Judiciary of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on the Judiciary of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Supreme Court finds a provision of this Act or an amendment made by this Act unconstitutional.

SEC. 602. CONSTITUTIONAL AMENDMENT DESCRIBED.

For purposes of section 601, a joint resolution described in this section is a joint resolution proposing the following text as an amendment to the Constitution of the United States:

''ARTICLE —

''SECTION 1. Congress may provide for reasonable restrictions on contributions and expenditures in campaigns for election for Federal office as necessary to protect the integrity of the electoral process.

''SEC. 2. Congress shall have power to enforce this article by appropriate legislation. No legislation enacted to enforce this article shall apply with respect to any election held after the last day of the year of the third Presidential election held after the date of the enactment of the legislation, unless the period in which such legislation is in effect is extended by an Act of Congress which is signed into law by the President.''.

H.R. 3721

OFFERED BY: MR. OBEY OF WISCONSIN

Amendment in the Nature of a Substitute to H.R. 2183

AMENDMENT NO. 4: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDING.

(a) SHORT TITLE.—This Act may be cited as the ''Let the Public Decide Campaign Finance Reform Act''.

(b) FINDING.—The Congress finds that the existing system of private political contributions has become a fundamental threat to the integrity of the national election process and that the provisions contained in this Act are necessary to prevent the corruption of the public's faith in the Nation's system of governance.

TITLE I—VOLUNTARY EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

SEC. 101. NEW TITLE OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

''TITLE V—VOLUNTARY EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

''Subtitle A—Public Financing for Certified House Candidates

''SEC. 501. PUBLIC FINANCING FOR CERTIFIED HOUSE CANDIDATES.

''A certified House candidate in a House of Representatives general election shall be entitled to payments from the Grassroots Good Citizenship Fund under section 521.

''SEC. 502. PROCEDURES FOR CERTIFICATION.

''(a) IN GENERAL.—The Commission shall certify that a candidate initially meets the requirements for a certified House candidate under if the candidate submits to the Commission in writing a statement with the following information and assurances:

''(1) An agreement to obtain and furnish to the Commission such evidence as it may request to ensure that the candidate meets the requirements relating to limitations on expenditures under subtitle B.

''(2) An agreement to keep and furnish to the Commission such records, books, and other information as it may request.

''(3) An agreement to audit and examination by the Commission and to the payment of any amounts found to be paid erroneously to the candidate under this title.

''(4) Such other information and assurances as the Commission may require.

''(b) AUTHORITY OF COMMISSION TO REJECT OR REVOKE CERTIFICATION.—The Commission may reject a candidate's application for treatment as a certified House candidate or revoke a candidate's status as a certified House candidate if the candidate knowingly and willfully violates or has violated any of the applicable requirements of this title with respect to the election involved or any previous election.

''Subtitle B—Limitations on Expenditures by Certified House Candidates

''SEC. 511. LIMITATION ON EXPENDITURES.

''A certified House candidate in a House of Representatives general election may not make expenditures other than as provided in this subtitle.

''SEC. 512. SOURCES OF AMOUNTS FOR EXPENDITURES BY CERTIFIED HOUSE CANDIDATES.

''The only sources of amounts for expenditures by certified House candidates in House of Representatives general elections shall be—

''(1) the Grassroots Good Citizenship Fund, under section 521; and

''(2) additional amounts from State and national party committees under section 522.

''SEC. 513. DISTRICT LIMITATION ON EXPENDITURES BY MAJOR PARTY CANDIDATES.

''(a) IN GENERAL.—Except as provided in section 515 and section 522, the maximum amounts of expenditures by certified House candidates in House of Representatives general elections who are major party candidates shall be based on the median household income of the districts involved, as provided for in subsections (b) and (c).

''(b) MAXIMUM FOR WEALTHIEST DISTRICT.—In the congressional district with the highest median household income, maximum combined expenditures for all certified House candidates who are major party candidates with respect to a House of Representatives general election shall be a total of $1,000,000.

''(c) MAXIMUM FOR OTHER DISTRICTS.—In each congressional district, other than the district referred to in subsection (b), the maximum combined expenditures for all certified House candidates who are major party candidates with respect to a House of Representatives general election shall be an amount equal to—

''(1) the maximum amount referred to in subsection (b), less

''(2) the amount equal to—

''(A) ⅔ of the percentage difference between the median household income of the district involved and the median household income of the district referred to in subsection (b), times

''(B) the maximum amount referred to in subsection (b).

''(d) ALLOCATION.—The maximum expenditure for a certified House candidate who is a major party candidate in a congressional district shall be 50 percent of the maximum amount under subsection (b) or (c), as applicable.

''SEC. 514. DISTRICT LIMITATION ON EXPENDITURES BY THIRD PARTY AND INDEPENDENT CANDIDATES.

''(a) IN GENERAL.—Except as provided in section 515 and section 522, the maximum amounts of expenditures by certified House candidates who are third party and independent candidates in House of Representatives general elections shall be the amount allocated under subsection (b).

''(b) ALLOCATION.—The maximum expenditure for a certified House candidate who is a

third party or independent candidate in a congressional district shall be—

''(1) the amount that bears the same ratio to the maximum amount under subsection (b) or (c) of section 503, as applicable, as the total popular vote in the district for candidates of the third party or for all independent candidates (as the case may be) bears to the total popular vote for all candidates in the 5 preceding general elections; or

''(2) in the case of a candidate in a district in which no third party or independent candidates (as the case may be) received votes in the 5 preceding general elections, the amount corresponding to the number of signatures presented to and verified by the Commission according to the following table:

''20,000 signatures	$75,000
30,000 signatures	100,000
40,000 signatures	150,000
50,000 signatures	200,000

''SEC. 515. INCREASE IN AMOUNT FOR CANDIDATES WITH NONPARTICIPATING OPPONENT.

''In the case of a certified House candidate in a House of Representatives general election with an opponent who is a major party candidate who is not a certified House candidate, the amount otherwise provided in section 513 or section 514 (as the case may be) shall be increased by 100 percent.

''Subtitle C—Payments to Certified House Candidates

''SEC. 521. GRASSROOTS GOOD CITIZENSHIP FUND.

''(a) CREATION OF FUND.—There is established in the Treasury a trust fund to be known as the 'Grassroots Good Citizenship Fund', consisting of such amounts as may be credited to such fund as provided in this section.

''(b) DISTRICT ACCOUNTS.—There shall be established within the Grassroots Good Citizenship Fund an account for each congressional district. The accounts so established shall be administered by the Commission for the purpose of distributing amounts under this title.

''(c) PAYMENTS TO CANDIDATES.—Subject to subsection (d), the Commission shall pay to each certified House candidate from the Grassroots Good Citizenship Fund the maximum amount calculated for such candidate under section 513 or 514.

''(d) INSUFFICIENT AMOUNTS.—If, as determined by the Commission, there are insufficient amounts in the Grassroots Good Citizenship Fund for payments under subsection (c), the Commission may reduce payments to certified House candidates so that each candidate receives a pro rata portion of the amounts that are available.

''(e) TRANSFERS TO FUND.—There are hereby credited to the Grassroots Good Citizenship Fund amounts equivalent to the amounts designated under section 6097 of the Internal Revenue Code of 1986.

''(f) EXPENDITURES.—Amounts in the Grassroots Good Citizenship Fund shall be available for the purpose of providing amounts for expenditure by certified House candidates in House of Representatives general elections in accordance with this title.

''SEC. 522. ADDITIONAL AMOUNTS FROM STATE AND NATIONAL PARTY COMMITTEES.

''(a) CONTRIBUTIONS.—In addition to amounts made available under section 521, in the case of a certified House candidate in a House of Representatives general election who is the candidate of a political party, the State and national committees of that political party may make contributions to the candidate totaling not more than 5 percent of the maximum expenditure applicable to the candidate under section 513 or section 514.

''(b) EXPENDITURES.—A certified House candidate who is the candidate of a political party may make expenditures of the amounts received under subsection (a).

''Subtitle D—Miscellaneous Provisions

''SEC. 531. PUBLIC SERVICE ANNOUNCEMENTS.

''(a) IN GENERAL.—Beginning on January 15, and continuing through April 15 of each year, the Commission shall carry out a program, utilizing broadcast announcements and other appropriate means, to inform the public of the existence and purpose of the Grassroots Good Citizenship Fund and the role that individual citizens can play in the election process by voluntarily contributing to the fund. The announcements shall be broadcast during prime time viewing hours in 30-second advertising segments equivalent to 200 gross rating points per network per week. The Commission shall ensure that the maximum number of taxpayers shall be exposed to these announcements. Television networks, as defined by the Federal Communications Commission, shall provide the broadcast time under this section as part of their obligations in the public interest under the Communications Act of 1934. The Federal Election Commission shall encourage broadcast outlets other than the above mentioned television networks including radio to provide similar announcements.

''(b) GROSS RATING POINT.—The term 'gross rating point' is a measure of the total gross weight delivered. It is the sum of the ratings for individual programs. Since a household rating period is 1 percent of the coverage base, 200 gross rating points means 2 messages a week per average household.

''SEC. 532. DEFINITIONS.

''As used in this title—

''(1) the term 'certified House candidate' means, with respect to a House of Representatives general election, a candidate in such election who is certified by the Commission under subtitle A as meeting the requirements for receiving public financing under this title;

''(2) the term 'median household income' means, with respect to a congressional district, the median household income of that district, as determined by the Commission, using the most current data from the Bureau of the Census;

''(3) the term 'major party' means, with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

''(4) the term 'third party' means with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, less than 25 percent of the total number of popular votes received by all candidates for such office;

''(5) the term 'independent candidate' means, with respect to a House of Representatives general election, a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not the candidate of a major party or a third party; and

''(6) the term 'House of Representatives general election' means a general election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.''.

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 201. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

''PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND

''Sec. 6097. Designation of overpayments for Grassroots Good Citizenship Fund.

''SEC. 6097. DESIGNATION OF OVERPAYMENTS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

''(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

''(1) a specified portion (not less than $1 or more than $10,000, and not less than $1 or more than $20,000 in the case of a joint return) of any overpayment of tax for such taxable year, and

''(2) any contribution which the taxpayer includes with such return,

shall be paid over to the Grassroots Good Citizenship Fund under section 521 of the Federal Election Campaign Act of 1971.

''(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for such taxable year. Such designation shall be made on the 1st page of the return.

''(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed.''

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

''Part IX. Designation of overpayments and contributions for certain purposes relating to House of Representatives elections.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 202. INCREASE IN CORPORATE INCOME TAX ON TAXABLE INCOME ABOVE $10,000,000.

(a) IN GENERAL.—Paragraph (4) of subsection (b) of section 11 of the Internal Revenue Code of 1986 is amended by striking ''35 percent'' and inserting ''35.1 percent''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(c) USE OF AMOUNTS RECEIVED.—Amounts received by reason of the amendment made by subsection (a) shall be paid over to the Grassroots Good Citizenship Fund under section 521 of the Federal Election Campaign Act of 1971.

TITLE III—BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES

SEC. 301. BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''BAN ON USE OF NON-REGULATED FUNDS BY HOUSE CANDIDATES

''SEC. 323. (a) IN GENERAL.—No funds may be solicited, disbursed, or otherwise used

with respect to any House of Representatives election unless the funds are subject to the limitations and prohibitions of this Act.

''(b) HOUSE OF REPRESENTATIVES ELECTION DEFINED.—In this section, the term 'House of Representatives election' means any election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.''.

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. BAN ON INDEPENDENT EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection;

''(i) No person may make any independent expenditure with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.''.

(b) CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.—

(1) IN GENERAL.—Section 301 of such Act (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following new paragraphs:

''(17) The term 'independent expenditure' means an expenditure for a communication (other than a communication which is described in clause (i) or clause (iii) of paragraph (9)(B) or which would be described in such clause if the communication were otherwise treated as an expenditure under this title)—

''(A) which is made during the 90-day period ending on the date of a general election for Federal office and which identifies a candidate for election for such office by name, image, or likeness; or

''(B) which contains express advocacy and is made without the participation or cooperation of, or consultation with, a candidate or a candidate's representative.

''(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or an expression which would reasonably be construed as intending to influence the outcome of an election.''.

(2) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of such Act (2 U.S.C. 431(8)(A)) is amended—

(A) in clause (i), by striking ''or'' after the semicolon at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following new clause:

''(iii) any payment or other transaction referred to in paragraph (17)(A) that does not qualify as an independent expenditure under paragraph (17)(B).''.

SEC. 402. BAN ON USE OF SOFT MONEY FOR CERTAIN EXPENDITURES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

''BAN ON USE OF NON-FEDERAL FUNDS FOR CERTAIN EXPENDITURES

''SEC. 324. (a) IN GENERAL.—No person may disburse any funds for any expenditure described in subsection (b) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

''(b) EXPENDITURES DESCRIBED.—The expenditures described in this subsection are as follows:

''(1) An expenditure made by an authorized committee of a candidate for Federal office or a political committee of a political party.

''(2) An expenditure made by a person who, during the election cycle, has made a contribution to a candidate, where the expenditure is in support of that candidate or in opposition to another candidate for the same office.

''(3) An expenditure made by a person, or a political committee established, maintained or controlled by such person, who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register.

''(4) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

''(5) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

''(A) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

''(B) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.''.

TITLE V—LIMITATIONS ON ACCEPTANCE OF LARGE DONOR PAC CONTRIBUTIONS IN HOUSE OF REPRESENTATIVES PRIMARY ELECTIONS

SEC. 501. LIMITATION ON ACCEPTANCE OF LARGE DONOR MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

''(j)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not a certified House candidate under title V (and the authorized political committees of such candidate) may not, with respect to an election other than a general election, accept contributions from large donor multicandidate political committees in excess of 20 percent of the maximum amount which a certified House candidate may expend with respect to the general election under title V.

''(2) In paragraph (1), the term 'large donor multicandidate political committee' means a multicandidate political committee that accepts contributions totaling more than $200 from any single source in a calendar year.''.

TITLE VI—CONSIDERATION OF CONSTITUTIONAL AMENDMENT

SEC. 601. EXPEDITED CONSIDERATION OF CONSTITUTIONAL AMENDMENT.

(a) IN GENERAL.—If any provision of this Act or any amendment made by this Act is found unconstitutional by the Supreme Court, the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in section 602 in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) SPECIAL RULES.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on the Judiciary of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on the Judiciary of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Supreme Court finds a provision of this Act or an amendment made by this Act unconstitutional.

SEC. 602. CONSTITUTIONAL AMENDMENT DESCRIBED.

For purposes of section 601, a joint resolution described in this section is a joint resolution proposing the following text as an amendment to the Constitution of the United States:

''ARTICLE—

''SECTION 1. In campaigns for election for Federal office, as necessary to protect the integrity of the electoral process, Congress may provide for reasonable restrictions on the making of independent expenditures for public communications made during the 90-day period ending on the date of a general election and on the making of expenditures for public communications which contain express advocacy.

''SEC. 2. Nothing in clause 1 may be construed to affect the validity of any restrictions on expenditures in campaigns for election for Federal office which are in effect prior to the adoption of this article.

''SEC. 3. Congress shall have power to enforce this article by appropriate legislation. No legislation enacted to enforce this article shall apply with respect to any election held after the last day of the year of the third Presidential election held after the date of the enactment of the legislation, unless the period in which such legislation is in effect is extended by an Act of Congress which is signed into law by the President.''.