SENATE—*Wednesday, May 13, 1998*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND.]

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of all life, You have shown us that a great life is an accumulation of days lived to the fullest, one at a time, by Your grace and for Your glory. Thank You for the strength and vitality that surge within us when we open the floodgates of our minds and hearts and allow Your Spirit to empower us. When we invite You to be the unseen but enabling Presence in everything, we experience greater creativity, we think more clearly, we speak more lucidly, and we accomplish more with less strain and stress.

Make us so secure in Your love, Lord, that we live this day with more concern for the future of our Nation than for the future of our careers, with more concern for our success together than for personal success, and with more dedication to honest debate with civility than to winning arguments. We commit ourselves to press on with crucial issues on the agenda. Give us a renewed sense of our calling to serve You and a deeper trust in Your faithfulness to give us exactly what we need in each hour. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the Senator from Mississippi is recognized.

SCHEDULE

Mr. COCHRAN. Mr. President, at the request of the majority leader, I am pleased to advise all Senators of the schedule of legislative business for today's session of the Senate. This morning, between now and 11:30 a.m., the Senate will debate the motion to proceed to the missile defense bill. Following that debate, the Senate will proceed to vote on the motion to invoke cloture on the motion to proceed to the missile defense bill. And following that vote, the Senate will begin consideration of S. 1244, the charitable contributions bill, under a short time agreement. At the conclusion or yielding back of the time, the Senate will proceed to a vote on passage of that bill.

Following that vote, it is the leader's intention to begin consideration of the Department of Defense authorization bill. Therefore, Members should expect votes throughout today's session with the first votes occurring at approximately 11:30 a.m. As a reminder to all Members, several time agreements were reached last night with respect to two high-tech bills, and those may be considered at some point this week.

Mr. President, may I inquire of the Parliamentarian if there is a time agreement for the consideration and debate of the motion to proceed to the missile defense bill.

The PRESIDING OFFICER (Mr. BROWNBACK). The time is to be evenly divided until 11:30 on the motion to proceed, and then there will be a cloture vote.

Mr. COCHRAN. I assume that under that agreement this Senator is in charge of the time for the proponents of the bill and the distinguished Senator from Michigan, Mr. LEVIN, is in charge of the time for the opponents of the motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. I thank the Chair.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

AMERICAN MISSILE PROTECTION ACT OF 1998—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1873, and the time until 11:30 a.m. will be equally divided.

The clerk will now report.

The bill clerk read as follows:

Motion to proceed to the consideration of Calendar No. 345 (S. 1873), a bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

The Senate resumed consideration of the motion to proceed.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent the privilege of the floor be extended to Dr. Anne Vopatek, a fellow on my staff, during the consideration of S. 1873 and all relevant motions thereto.

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

Mr. COCHRAN. Mr. President, it should be noticed by those who are interested in the subject of missile defense that what we are actually debating and deciding this morning is whether or not the Senate should proceed to consider the bill that has been introduced by me and the distinguished Senator from Hawaii, Mr. INOUYE.

This bill is not going to be voted on up or down today; what we will have a vote on at 11:30 is whether or not to proceed to consider the bill. When the majority leader decided to call up this legislation, there was an objection made to proceeding to consider the bill. So under the procedures of the Senate, the majority leader, who is in charge of making decisions about the schedule of the Senate and how we take up legislation in the Senate, was obligated to file a motion to proceed to consider the bill. That motion is debatable.

Under notice from the opponents of the bill, it was clear that motion would be debated at length. So to get to the bill, it was decided by the majority leader that a cloture motion should be filed on the motion to proceed, bringing debate on the motion to a close. If we get 60 votes on that cloture motion, then we can proceed to consider the bill and it can be open for amendment, and Senators who have alternative ideas, or think that the current policy is the policy we should have for missile defense, can make those points and the Senate can consider those views. But until this cloture motion is approved, we can't get to that point. We can't get to the point of considering this bill on its merits and considering any amendments which Senators would have.

So I am trying to put in context what is before the Senate, what the issue is here. The issue this morning is whether or not the Senate thinks this is a matter of such seriousness and consequence to our national security that we ought to consider it, that we ought to debate it, that we ought to let the Senate work its will on a proposal to change our policy with respect to national missile defense. I can't think of a more interesting and serious time, given the events which are occurring in the world today, for the consideration of this issue. It is on everybody's mind, Mr. President, because of the tests which have been undertaken in India of a nuclear warhead. India now announces to the world they are prepared to use this as a part of their nuclear weapons arsenal, that they have it available, and that they are a nuclear weapons state. This is a dramatic change in the situation in India. It is a dramatic change in the security interests of the entire world.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

At this time, we find the United States relying upon a policy with respect to missile defense of developing a national missile defense system in two stages, unlike any other defense acquisition program that we have ever had, or that we now have. We have a technology program—one that is developing the capabilities to have an effective defense system, but we do not have any policy with respect to ever putting that system in the field, or to integrating it into our national defense structure. That decision hasn't been made. We are suggesting in offering this bill that the time has come for the United States to say to the world we are going to develop and deploy a national missile defense system.

We are going to protect the security interests of the United States and the territory of the United States. As a matter of national policy, the Federal Government is going to obligate itself to undertake to protect the security interests of the citizens of the United States and the United States itself from ballistic missile attack. It seems to me that is an obligation that is very clear for us, in moral terms, as a government.

With India having a missile capability of a range of about 1,400 miles already, according to recent reports that are available to the Senate, Pakistan having tested for the first time on April 6 a new medium-range missile with a range of 1,500 kilometers, and India announcing that it is concerned that Pakistan is a covert nuclear weapon state, although it hasn't announced that, we are seeing evidence that around the world—in North Korea, in Iran, and, of course, in Russia and China—there are nation states that are developing, or now have, longer range missile capabilities than ever before. Some have the added capability of nuclear weapons and, some have other weapons of mass destruction that can be delivered with those long-range missile systems. And the United States is defenseless against attack from long-range ballistic missiles.

It has been our policy up until now to have the capacity to destroy any nation that would think about using a nuclear weapon against us. Russia and the United States have had over a period of time this mutual assured destruction relationship: If you destroy me, you can be assured I will destroy you. That confrontation and that balance of power has prevented any use of a missile system or nuclear weapon against the territory of the United States, even though that is not a very happy relationship to have.

Now, we hope, we are moving toward a better and more stable relationship, but there is still always the chance of an unauthorized launch even from Russia. We are working to destroy and build down the weapons stockpile. That is good. But we are not yet to the point where there is no risk. This is not a risk-free relationship with Russia. There could be an accidental launch. If there is, we have no defense whatsoever.

With respect to China, it is certainly unlikely that we are going to have any missile attack from there. Nonetheless, there is an emerging long-range missile system capability in China that is growing more sophisticated, that is going to continue to grow and develop more lethality and longer ranges, and it presents a threat—unlikely, but, nonetheless, there could be an unauthorized or accidental launch of a missile from China.

Already we are seeing the North Koreans developing—and already deploying—some medium-range missile systems. They are now developing, we are told, a missile with a range of 6,000 kilometers. That missile could reach Alaska. It could reach Hawaii. Who knows what their plans are for continuing to develop missiles with increased ranges.

We found out, through a year-long series of hearings that we conducted last year in our Subcommittee on International Security, Proliferation, and Federal Services, that it is much easier now than ever before for nation states who want to improve and develop their missile systems, and to give them longer ranges, to do so with the access they have to information from the Internet and to experts in Russia and other nation states where they already have the capabilities.

Iran provides an example of the surprises we face. One surprise occurred when we found out that Iran had acquired the technology, the components, and the expertise to put together a medium-range missile system. They are in the process of doing that now. One State Department official said that they could have that missile system available by the end of this year.

Last year, when we had the Director of Central Intelligence before a committee of the Senate talking about the advancements that had been made in Iran, he said that he thought—this is in 1997—that it would be up to 10 years before Iran would have medium-range missile system capability. Then he sent word up, that because of new developments and the acquisition of expertise and components from Russia, Iran had made surprising advances and they would have the capability to deploy such a system much sooner. It is because of gaps and uncertainties, he said, that you can't predict when people are going to get these technologies and other equipment from foreign sources, or how quickly they can develop an ICBM threat—you just can't predict that.

So we have seen in Pakistan now, in India, of course, in China, Russia, in Iran, and in North Korea solid evidence of what we are talking about today. And that is that there is in the world today a real threat to the security of this Nation because of the emerging capabilities and technologies for developing and deploying long-range missiles, that there are available in these countries weapons of mass destruction that can be carried by these missiles over long ranges, and that it is time for the United States to acknowledge this threat and say as a matter of policy that we are going to deploy a national missile defense system.

That is what this bill says. It doesn't set out what kind of architecture the missile defense system should have or any deadlines for doing it. We would rely upon the orderly processes of authorization and appropriation, as we have for all other defense acquisition programs, to determine how soon it is developed and when it is deployed. But what we are saying today is that, as a matter of policy, we are going to deploy a national missile defense system.

I think it is also important to notice that this does not require a violation of any existing arms control agreement. In our early discussions of this legislation, we heard others say that this puts in jeopardy the ABM—the antiballistic missile—agreement. It does not. That agreement contemplates that a party to the agreement could have a national missile defense system. It permits a single site for interceptor rockets. We have been proceeding under the current administration plan that this is the kind of a system that would be developed, and eventually, if—under the administration's policy—a threat is perceived to exist, then an effort would be made to deploy the system.

So the real difference in what we are presenting to the Senate today is that this is a policy that is announced to the world and to rogue states that may be saying, "Look, the United States is defenseless. We have an opportunity to put some pressure on them by developing a missile system that is capable of striking the United States. We can coerce them, intimidate them, and blackmail them because they are not at this point considering deploying a defense against intercontinental ballistic missiles." We would end that kind of thinking in nations who may be taking that approach by saying, "Yes, we are. You are not going to see the United States any longer taking a wait-and-see approach." And that is what the administration's policy is—to wait and see if a threat develops.

We are saying, "Mr. President, you have signed Executive orders over the last 4 years, starting in 1994, saying that the United States is confronted with a national emergency because of the proliferation of weapons of mass destruction and missile systems around the world." The President has acknowledged that, and he signed Executive orders that say that. But now it is time to say we are going to do something about it, we are going to do

something to protect our security interests against this national emergency that exists. Up until now, we have said we will wait and see if there is a real threat. That puts us at risk here in the United States.

I am saying that we had better get busy. We had better get busy and develop and deploy a system. It would be much better for all of us if we deployed a system that may be a year or two years early getting to the field than waiting until it is a year too late.

That is the issue and it is important given what is happening in the world today, given the fact that our intelligence agencies were not able to even detect that this test in India was about to take place, given that they weren't able to detect, as far as I know, that Pakistan was going to test, or even had, the new missile they tested in April, and given they weren't able to detect that Iran was going to be able to put together a medium-range ballistic missile within 1 year rather than within as many as 10 years. The latest assessment was as many as 10 years; now it is perhaps within 1 year. These are not the only surprises, they are just the most recent ones. Some of us have known about these surprises before now, but now the whole world knows about them. They are acknowledged at the highest levels of our Government. If we can't detect that India is about to test a nuclear warhead, if we can't detect that Pakistan has a missile system that has a range five times greater than what we thought they had, if we can't detect that Iran is developing a medium-range missile with technology and components imported from other countries, and they will be able to put that in the field as many as 9 years earlier than we had thought 1 year ago, then we need to change our policy and quit assuming that we are going to be able to detect the development of an intercontinental ballistic missile system somewhere in the world that can threaten the territory of the United States.

That is the point of this legislation. We can't be sure. And if we can't be sure that we can detect the threat, we need to be prepared to defend against that threat. The Senate ought to consider this issue, and so today we are going to vote on cloture on the motion to proceed to consider that issue. I urge the Senate to vote to invoke cloture. We don't need to drag out a debate on a motion to proceed to this issue. Sure, there are other things that are on the schedule for today, and the leader has committed to taking up other bills after this vote, but I am optimistic that we will have enough Senators who understand the seriousness of this and the urgency of this for us to turn to the missile defense bill. I hope Senators will consider this, and I am happy to yield to other Senators.

I know the distinguished Senator from Michigan is in the Chamber. We have had a number of Senators who have asked for time. I hope my friend from Michigan will allow me to yield to the Senator from Oklahoma, who has another commitment at 10 o'clock, for whatever time he may consume between now and 10 o'clock.

Mr. President, I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from the great State of Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me say that I applaud the senior Senator from Mississippi for bringing this up. Yesterday I spent some time in the Chamber and evaluated the arguments against this so that I could respond to those arguments. And I will just take a couple moments because I am supposed to be presiding, and I would like to respond to those objections to this legislation that came from the floor.

First of all—and I think this has been discussed already by the senior Senator from Mississippi—the possible effect this would have on the ABM Treaty. I know he presents a very persuasive case that it would not have any threat. Quite frankly, even if it did have a threat to the ABM Treaty of 1972, I would still be supporting this, because I think when you talk to most people who were around in 1972, back when we had two superpowers—we had the U.S.S.R. and the United States—it was not the threat in the world, quite frankly, that it is now, because it was more predictable; we knew what the U.S.S.R. had, and they knew what we had. We had an agreement that I didn't agree with back then. It was called mutually assured destruction; that is, we agree we won't defend ourself and you agree you won't defend yourself. And then, of course, you shoot us, we shoot you, everybody dies, and nobody is happy.

That was a philosophy we lived by which I didn't agree with at the time. And I have to hasten to say, this came in a Republican administration. This was Henry Kissinger and Richard Nixon. But regardless of how flawed that might have been as a policy at that time, certainly now it should not have any application. In fact, I have quoted many times Henry Kissinger on this floor. When I asked him the question: Do you feel with the changing threat that's out there and the environment we are in right now, with some 25 nations with weapons of mass destruction, biological, chemical and nuclear, that it still makes sense to abide by the ABM Treaty? And he said—this is a quote—"It's nuts to make a virtue out of your vulnerability."

That is Henry Kissinger. He was the architect of this ABM Treaty. Of course, I was one who voted against the START II Treaty and even said in the Chamber we had no indication that Russia was going to be signing this anyway. And, of course, we know what is happened since that time. So I think that argument on the ABM Treaty, even if it did offend that treaty, I would still support this legislation from the Senator from Mississippi.

The second objection yesterday was the cost. They said—and this is a quote—"We don't know how much it will cost since the bill does not specify any particular system." Well, it doesn't. And I am glad this bill does not specify a specific system. I have a preference. Mine would be the upper-tier system. The upper-tier system is very close to where we would be able to deploy this thing. We have a $50 billion investment in 22 Aegis ships that are floating around out there today. They have a capability of knocking down missiles, but they can't go beyond the upper tier. So it doesn't do us any good except with short-range missiles that stay in the atmosphere.

If you have from North Korea a missile coming over here that takes 30 minutes to get here, it is only in the last minute and a half that we would be able to use any current technology to knock it down, and then we couldn't do it because we don't have anything that would be that fast, so we are naked.

And the cost is not that great. The opponents of defending America by having a national missile defense system keep saying over and over again that it is going to cost billions and billions. I have heard $100 billion, a whole range. And I suggest to you that we have some specific costs. With that $50 billion investment, it would be about $4 billion more to reach the upper tier with the Navy upper-tier system. There might be another billion and a half on Brilliant Eyes so we would be able to accurately detect where in the world one would be deployed.

And anyone who is among the 81 who supported last week the expansion of NATO—I was one who did not support it—you might keep in mind that if you are concerned about not having an accurate cost figure for this program to defend America from a missile attack, look what we voted on last week in ratifying NATO expansion. We agreed that we are going to expand that to the three countries, and the cost figures had a range from $400 million to $125 billion. Now, I can assure you we are a lot closer to being able to determine what this cost would be.

The last thing, I think, is that when this is all over and the dust settles, maybe what happened yesterday in India and this morning in India might really be a blessing, because at least now we can diffuse the argument that was quoted of General Shelton when he said there is no serious threat emerging, and he said our intelligence said that we will have at least 3 years' warning of such a threat. Well, that is the same intelligence that did not know what India was doing.

If you try everything else and that does not work, let's just look at what is common sense. We know that we have these countries that have weapons of mass destruction. We know that both China and Russia and perhaps other countries have missiles that will reach all the way to any place in the United States of America today. Using the polar route, they can reach any place in the United States of America. And with that out there, why would we assume that China would not do it, or that it would not be an accidental launch, or with some of this technology they are selling to countries like Iran, that other countries wouldn't use it? I am not willing to put the lives of my seven grandchildren at stake by assuming that somehow we are going to have 3 years' warning. I think that is totally absurd.

Lastly, I would only share with you that I went through a personal experience with our explosion in Oklahoma City, which I think everyone is aware of, that took 168 lives. And as tragic as that was, and what a disaster that was—and as I walked through there and I saw the firemen and all of them risking their lives to try to save one or two people after some time had gone by—and you have to have been there, not just seeing it on TV, to really get the full impact on this—the explosive power that blew up the Murrah Federal Office Building in Oklahoma City is one-tenth the power, the explosive power, of the smallest nuclear warhead known today.

So I just think my only regret is that we didn't do this 3 years ago or 4 years ago, because somebody back in 1983 was pretty smart when they said we need to have a system that could be deployed for a limited attack by fiscal year 1998. Here we are, and we are overdue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for his excellent remarks.

Mr. President, if the distinguished Senator from Texas is prepared to speak, I am prepared to yield to her 10 minutes.

I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from the great State of Texas is recognized for up to 10 minutes.

Mrs. HUTCHISON. Mr. President, I thank the distinguished senior Senator from Mississippi, who has provided great leadership in this area. In fact, I said to the Senator from Mississippi yesterday, if I am ever going to need a consultant on the timing of introducing bills, I am going to call him immediately, because, of course, what has happened just in the last 5 days, proves how absolutely correct the Senator from Mississippi has been in pursuing this very important legislation. I thank the Senator from Mississippi for his leadership.

It is clear that the greatest security threat the United States faces today is that we do not have a defense for incoming ballistic missiles. In fact, if you look back at the latest war that we have had, the gulf war, the largest number of casualties in that war was from a single ballistic missile attack.

We had the Patriot, and the Patriot was actually a missile that was supposed to hit airplanes. We quickly tried to make the Patriot into something that would hit missiles, and, phenomenally, it actually had a 30-percent success rate. But when we have our troops in the field and we have the capability to do better than 30 percent, how could we even think of not going full force to protect our troops in any theater where they might be, anywhere in the world, and to protect the citizens of the United States within the sovereign territory of our country? How could we be sitting on technology without saying this is our highest defense priority?

Today, we have a chance to say this is our highest defense priority. Because if we cannot protect our citizens in our country and our troops in the field, we are leaving ourselves open. And we don't have to do that. Today, we know that over 30 countries in the world have ballistic missile technology. The Senator from Mississippi has gone through what some of these countries now have. Just in the last 5 days, we have seen North Korea threaten to go back on the agreement they made and refuel their nuclear reactors. We have seen, in the last few weeks, that China has been buying our technology without our permission—except for the President letting people do it, presumably because they contributed to his campaign. Pakistan is now deploying a missile with a 1,500 kilometer range. India, as we know, in the last 2 days has actually—has actually—tested nuclear weapons. So, of course, the arms race between Pakistan and India has been rekindled.

Iraq—we fought the Desert Storm war because Iraq was getting ballistic missile technology, and we know they have chemical and biological weapons. Iran—they are receiving assistance from the Russians to develop missile systems. Russia is willing to export a good part of their scientific basis for nuclear weapons, and we don't know how secure is what is left in Russia.

So, how can we look at the facts and not address them vigorously, if we are doing what is right for the American people? We have the capability to do this if we make it a priority. The Senator from Mississippi is introducing a bill that basically says this is a priority, that we will go forward full bore with the capabilities that we have, doing the technological research, doing the testing. All of us are very disappointed that the recent THAAD test was not successful. But we should not back away from it. We should be going forward full bore to try to make sure that we have a national missile defense system, an intercontinental missile system, and a theater missile ballistic system that would defend against any incoming missiles.

Let me make another argument, and that is, as we are going through all of the countries that we know are now building ballistic missile capability with chemical, biological, and nuclear weapons, what would be the very best deterrence from them making that investment? What would be the best deterrence, so India would not feel that it is necessary for their security to test ballistic missiles? The best deterrence would be the capability to deter a launched missile in its boost phase. Simply put, if we can take a missile as it is just being launched and turn it back on the country that is trying to send that missile, isn't that the best deterrence for that country not to send the missile in the first place? Because, obviously, no country is going to launch a ballistic missile if it is going to come back on its own people.

So, if we can get that defense technology, perhaps that is the best way to stop this arms race. Most certainly, the joint threat to us, and to our allies, should be our highest priority. This bill establishes missile defense as a top priority because it says we are going to fund ballistic missile defenses and we are going to deploy them as soon as the technology is there.

The argument against it is incomprehensible to me, although I do not in any way suggest that those making the argument aren't doing it with good faith. I am positive that they believe they are doing the right thing. But to say that the world's greatest superpower is going to wait and see what other countries might get, what ballistic missile technology, and then set on a program full bore that would defend against that—they could not be talking as representatives of the only superpower left in the world. They cannot be thinking what a superpower must do, which is to do what no one else in this world has the capability to do. We are the only country that has the capability to put the resources behind a ballistic missile defense capability. We are the only country that can do that. Why would we hesitate for one moment? Why would we leave one of our troops in the field unprotected for one more moment than is absolutely necessary? There is no excuse. Why would we leave the people of our country unprotected for one more moment than is necessary, when we have the resources to go full force?

It is not an argument from the superpower to say when we know that someone has perfected a technology that could reach the United States then we will deploy our full forces. How many people will die or be maimed because we are not going full force right now?

What better quality-of-life issue is there for our military than to give them every safety precaution, protecting them in the field that we have the capability to do?

We are the leadership of the greatest superpower in the world. We must say we cannot wait for one more moment for the full priority to be given to missile defense technology and capability for our country, for the people who live here, from potential terrorist attacks, and for anyone representing the United States of America in the field.

When our young men and women pledge their lives for our freedom, how can we not give them every protection they deserve to have when they are, in fact, defending our ability to speak on this floor today?

Mr. President, I hope our colleagues on both sides of the aisle will in a very bipartisan vote say, "We will not walk away from our responsibility to provide the protection to our people that they expect and the protection of our troops in the field, wherever they might be, fighting for our freedom or for the freedom of oppressed people in other places." We must give them the protection that we have the capability to do. It is a very clear-cut issue. Thank you, Mr. President.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Texas for her excellent statement and thank her for her assistance in the development of this legislation and our policies on missile defense.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that James Nielsen of Senator KYL's staff be granted the privilege of the floor during the debate on the motion on S. 1873.

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

The bill before us could lessen the security of this Nation, and that is the reason so many of us oppose it. Will the bill add to our security by committing us to deploy a system before it is even developed, threatening the abrogation of a treaty between ourselves and the Russians which have allowed significant reductions in the number of nuclear weapons in this world?

In my judgment—more important, in the judgment of the uniform and civilian military leaders of this country—this bill does not contribute to our security. This bill risks a reduction in the security of this Nation. This bill could contribute to the proliferation of weapons of mass destruction, in this case, nuclear weapons which is the greatest threat that this Nation faces. It is the proliferation of weapons of mass destruction, in this case, nuclear weapons, which is the greatest threat that this Nation faces. And yet this bill, which purportedly is aimed at a defense against ballistic missiles, could, because it threatens a very significant treaty between us and the Russians which has allowed for significant reduction of nuclear weapons, increase the threat to this Nation from nuclear weapons proliferation.

That is not me saying it, although I believe it; that is Secretary Cohen saying it, that is General Shelton saying it, that is the military leadership of this Nation saying it.

I think we all believe in the security of this Nation with equal passion. I don't doubt that for 1 minute. I think everybody in this Chamber, everybody who serves in this Senate has an equal commitment to the security of this Nation. The issue here is how do we contribute to the security of this Nation?

The answer comes, it seems to me, from General Shelton in a letter which he wrote to me on April 21. He is the Chairman of the Joint Chiefs of Staff, as we all know. What he says is the following:

> Thank you for the opportunity to comment on the American Missile Protection Act of 1998 (S. 1873). I agree that the proliferation of weapons of mass destruction and their delivery systems poses a major threat to our forces, allies, and other friendly nations. U.S. missile systems play a critical role in our strategy to deter these threats, and the current National Missile Defense Deployment Readiness Program (3+3) is structured to provide a defense against them when required.
>
> The bill and the NMD program—

And he is referring to our current program—

> are consistent on many points; however, the following differences make it difficult to support enactment.

Then he goes through those differences, why it is that he does not support enactment of the bill before us; why it is that the Chairman of the Joint Chiefs of Staff does not support enactment of this bill.

One of the things that we hear from the proponents of this bill is that there is no policy on missile defense in this country. There is no policy to deploy a missile defense. We hear that over and over. Here is what General Shelton says, as his second reason for not being able to support this bill:

> Second, the bill asserts that the United States has no policy to deploy [a national missile defense] system. In fact, the [national missile defense] effort is currently a robust research and development program that provides the flexibility to deploy an initial capability within 3 years of a deployment decision. This prudent hedge ensures that the United States will be capable of meeting the need for missile defenses with the latest technology when a threat emerges.

So his second reason for not supporting this bill is this bill says we don't have a policy to deploy a system. In fact, General Shelton writes, we have a current robust research and development program that gives us the flexibility to deploy a system at the right time. That is what is called a prudent hedge strategy. That is the 3+3 Program. That is the 3+3 policy which we adopted in the Senate 2 years ago.

Section 233 of that bill says:

> It is the policy of the United States to—
>
> (1) deploy as soon as possible affordable and operationally effective theater missile defenses capable of countering existing and emerging theater ballistic missiles;
>
> (2)(A) develop for deployment a multiple site national missile system that: (i) is affordable and operationally effective against limited, accidental, and unauthorized ballistic missile attacks on the territory of the United States, and (ii) can be augmented over time as the threat changes to provide a layered defense against limited, accidental, or unauthorized ballistic missile threats;
>
> (B) initiate negotiations with the Russian Federation as necessary to provide for the national missile defense systems. . .
>
> (C) consider, if those negotiations fail, the option of withdrawing from the ABM Treaty in accordance with the provisions of Article XV of the Treaty. . .
>
> (3) ensure congressional review, prior to a decision to deploy the system developed for deployment under paragraph (2), of: (A) the affordability and operational effectiveness of such a system; (B) the threat to be countered by such a system; and (C) ABM Treaty considerations with respect to such a system.

There is a policy. And the policy is a prudent hedge strategy. The policy, most importantly, is to develop a national missile defense system as quickly as we can so we can be in a position to make a deployment decision as quickly as possible. We have a policy. That is not me saying it. That is General Shelton saying it.

Our policy is to put the horse before the cart. This bill would put the cart before the horse, because what this bill does is say—not just develop and make a decision after you have developed whether to deploy, depending on the circumstances which exist—this bill says commit yourself now to deploy a system no matter what the consequences are, no matter what the circumstances are, as soon as you have something which is technologically feasible.

Now, what is wrong with that? Why not do what we have never done in history, which is to commit ourselves to deploy a system before we have even developed it? What is wrong with that? What is wrong with it is that, No. 1, there is no consideration of the costs of the system. We do not even know what the system is. We are developing it as quickly as possible, but we do not know what the costs of that system are. We do not know what the threats are at the time when we have a system developed.

We do know that North Korea could—could—have a capability to hit parts of this Nation as early as 2005. We know that is a possibility. But we do not know that that threat will continue. It

depends on whether they can successfully test a long-range missile.

But what is really critical here, in terms of our battle against proliferation, is that what this bill commits us to is to deploy a system which almost certainly will violate a treaty between us and the Russians. Do we care? Do we care if we breach a treaty called the ABM Treaty? Is it just a cold war relic, that ABM Treaty? Or is it a real deal between us and Russia, a deal that matters, and the breaking of which will have consequences? And the consequences will be that they will not ratify START II, will not negotiate START III and will, therefore, not reduce the number of weapons that threaten us.

I ask unanimous consent for an additional 5 minutes.

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

Mr. LEVIN. The consequences of committing ourselves to deploy a system which almost certainly will violate that agreement are real-world consequences. They threaten our security. They will contribute to the proliferation of weapons of mass destruction. Is that me saying it? Yes. More importantly, is it Secretary Cohen saying it and General Shelton saying it? Yes.

This is what General Shelton said in his final reason for not supporting this bill. The Chairman of our Joint Chiefs says:

> Finally, the bill does not consider affordability or the impact a deployment would have on arms control agreements and nuclear arms reductions. Both points are addressed [he says] in the [current national missile defense program] and should be included in any bill on [national missile defense].

Our highest military officer is telling us that the impact that a deployment will have on arms control agreements and nuclear arms reductions should be included in any bill on national missile defense.

Well, Mr. President, they are not included in this bill. And they should be. The security of this Nation requires that we at least consider the impact of deployment of a system on arms reduction, because if we commit to deploy a system, and that commitment destroys a treaty between us and the Russians, and leads to nonratification of START II and the reversal of START I and the nonnegotiation of START III—and that is the fear here that General Shalikashvili has expressed in a letter that he wrote when he was Chairman of the Joint Chiefs—we have done severe damage to the security of this Nation.

For what reason would we take that risk? In order to develop a system? No. We are developing that system right now. And we should. We are developing a national missile defense system. And we should. It is the commitment to deploy which risks the security of this Nation without consideration of the impact on arms reduction.

That is the mistake that this bill makes. That is what General Shalikashvili pointed out in his letter to Senator Nunn in May of 1996 when he said:

> . . . efforts which suggest changes to or withdraw from the ABM Treaty may jeopardize Russian ratification of START II and, as articulated in the Soviet Statement to the United States of 13 June 1991, could prompt Russia to withdraw from START I. I am concerned [General Shalikashvili said] that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons thereby increasing both the costs and risks we may face.
>
> We can reduce the possibility of facing these increased costs and risks by planning an NMD system consistent with the ABM treaty.

That is General Shalikashvili. Is this resolution consistent with the ABM Treaty? Probably not. It is very unlikely we could deploy a system consistent with the ABM Treaty which defends the entire continental United States. But there is an easy way to do it, if that is the intent of the resolution: Just put down "treaty compliant" system in the resolution. Just add those two words, "treaty compliant" system. Put the words "treaty compliant" before the word "deployment," and that would solve that problem.

Those words are missing, and they are not missing inadvertently. It is obvious that many supporters of this resolution do not care whether or not there would be a violation of the ABM Treaty because they believe that we should unanimously withdraw from that treaty. But such an action will lead to exactly the result which we should dread as much as anything, which is the increase in the number of nuclear weapons on the face of this Earth.

Finally, Mr. President, on the ABM Treaty—how many minutes do I have left?

The PRESIDING OFFICER. The Senator has used his additional 5 minutes. The Senator has 42 minutes remaining.

Mr. LEVIN. I thank the Chair. Mr. President, I yield myself 3 additional minutes.

Mr. President, the ABM Treaty is not some abstract relic. It is a living commitment which has been reasserted at the highest levels at a summit in Helsinki in 1997.

President Clinton and President Yeltsin issued the following joint statement. Now, this isn't some person writing an op-ed piece in some newspaper. These are the Presidents of two nations with the largest nuclear inventories in the world, President Clinton and President Yeltsin, expressing their commitment to strengthen the strategic stability and international security, emphasizing the importance of further reductions in strategic offensive arms, and recognizing the fundamental significance of the Anti-Ballistic Missile Treaty for these objectives, as well as the necessity for effective theater missile defense systems, considered their common task to preserve the ABM Treaty, prevent circumvention of it, and enhance its viability.

Then later in that same statement, both Presidents state that the United States and Russia have recently devoted special attention to developing measures aimed at assuring confidence of the parties that their ballistic missile defense activities will not lead to circumvention of the ABM Treaty, to which the parties have repeatedly reaffirmed their adherence.

This bill before the Senate, where there is a motion to proceed pending, surely will undermine the confidence of Russia that we are adhering to a treaty. Since the commitment which this bill makes to deploy missile defenses will almost certainly—almost certainly—violate that treaty—and again I emphasize, if that is not the intent and if that is to be precluded, then the words "treaty compliant" should be added. But I think, as we all know because we debated this issue so many times, that is not the intent of this resolution.

Mr. President, I hope the words of our top military officers will be heeded and that the danger of this bill will be considered. Its intent, obviously, is to contribute to the security, but its effect is to lessen the security of this Nation. We simply cannot afford that risk.

Mr. COCHRAN. Mr. President, I have agreed to yield 5 minutes to the chairman of the full committee at some point. I hope he can be recognized soon.

Mr. LEVIN. How much time does the Senator desire?

Mr. COCHRAN. Five minutes.

Mr. BINGAMAN. Mr. President, I will consume 10 minutes. I have no objection to Senator THOMPSON speaking now if he would like.

Mr. COCHRAN. I thank the Senator.

I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. THOMPSON. Thank you.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank my colleagues.

Mr. President, in his State of the Union Address, President Clinton underscored the importance of foresight. He said, "preparing for a far off storm that may reach our shores is far wiser than ignoring the thunder until the clouds are just overhead." He was not talking about weapons proliferation and national missile defense, but he could have been—and he probably should have been.

Well, we are hearing the thunder now. It is coming from Iran, where the Shahab-3 missile program made up years of development time in just one year, reminding us that some countries

are more technically clever than we give them credit for, and that outside assistance can dramatically accelerate technical progress.

It is coming from Pakistan which has now launched a missile with five times greater range than their next most capable missile, and five times what the United States had given them credit for just six months earlier.

It's coming from North Korea, where the Taepo-Dong 2, capable of striking Alaska and Hawaii, is nearing flight testing, and where the No-Dong is now being deployed, despite the administration's assurances that North Korea would never deploy that missile after only one flight test.

It is coming from Russia, where the government appears either disinclined, or incapable of controlling the flood of hardware and technical assistance flowing to rogue states around the globe.

It is coming from India, where this week their government exploded five nuclear weapons, to the complete and admitted surprise of the United States policy-making and intelligence community.

It is coming from China, where the government repeatedly breaks its non-proliferation promises, and is then rewarded with technology transfers from the U.S.

Despite these and other ominous examples, the United States continues to maintain a non-proliferation policy of self-delusion and a missile defense policy of vain hope. For years, we convinced ourselves that developing countries could not, or would not, fully develop nuclear and other weapons of mass destruction, or the missiles to effectively deliver. Now we know they have. They continue to hope that maybe rogue states will prove less clever than they have in the past, or that our intelligence community will prove more clever, or that our luck just holds out.

My friends, it is time to wake up. The technology to develop nuclear and other weapons of mass destruction is widely available. Many nations, some quite hostile to the U.S. now possess them and are on a crash course to acquire the missiles to carry them to America. And third countries, Russia and China in particular, appear happy to help. Weapons of mass destruction are not going away. The United States will soon face this threat and it's time to prepare.

When the day arrives that America is handcuffed by our vulnerability to ballistic missile attack, when our world leadership is in question because of that vulnerability, or when—heaven help us—an attack actually occurs, what will we tell the American people? That we had hoped this would not happen? That we believed the threat was not so serious?

It should now be clear to all that our present non-proliferation and missile defense policies are out-dated and insufficient. We must prepare now for that "far-off storm." The first step in doing so is to pass S. 1873, the America Missile Protection Act, and commit the United States to a policy of deploying national missile defenses. I commend Senator COCHRAN for his thoughtful leadership on this bill and the many hours he has spent working as Chairman of the International Security and Proliferation Subcommittee to highlight America's vulnerabilities in this area.

Mr. LEVIN. I yield 10 minutes to Senator BINGAMAN.

Mr. BINGAMAN. Thank you.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent two fellows in my office, Bill Monahan and John Jennings, be given floor privileges during consideration of this bill.

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

Mr. BINGAMAN. Mr. President, I want to join Senator LEVIN in expressing my opposition to Senate bill 1873, the American Missile Protection Act. The policy expressed in this bill of putting the United States in a position where we are required to deploy a national missile defense system as soon as it is technologically possible I think is a major mistake and undermines our long-term security. We are rushing prematurely—if this legislation becomes law, we will be rushing prematurely to deploy a national missile defense system where that is not necessary and where it could undermine our real security interests.

Why do I say it is not necessary? I say it is not necessary to pass this legislation because we already have in place a program to develop a national missile defense for this country. The administration is committed to the development of a national missile defense over 3 years, so that by the year 2000 the United States will be positioned to deploy an initial capability within 3 years after that, if it is warranted by the threat. We need to continue to assess this threat as we move ahead.

The Cochran bill, which we are considering here, seeks to commit our country to deploy the first available missile defense technology, national missile defense technology, regardless of a whole variety of issues. Let me just discuss those briefly.

The first set of issues that this bill would sidestep entirely is the issues that we have required the Pentagon to take into account in all weapons systems that we develop. We have had a long history, even in the time I have been here in the Senate, of developing weapons systems when we had not adequately considered the cost and we find out they are costing substantially more than we committed to, where we had not adequately considered the performance capability of the system and we find out the system doesn't work as we earlier hoped it would. And we have put in place, and we have required the Department of Defense to put in place, procedures to assure that they keep a sensible balance in the development of their weapons programs. There is a Defense Department directive, which is No. 5000.1. It sets out the Department's basic guidance on weapons system acquisition. It spells out the regulations governing procurement and states: "All programs need to strike a sensible balance among cost, schedule, and performance considerations given affordability constraints." What we would be saying in this legislation is that none of that is required with regard to this program. That would be shortsighted and would undermine our real long-term security needs.

The bill threatens to exacerbate the scheduling and technical risks already present in this national missile defense program. The Armed Services Committee, about a month ago, heard testimony from General Larry Welch, who is the former Chief of Staff of the Air Force. He led a panel of experts to review U.S. missile defense programs at the request of the Pentagon. That panel found that pressures to deploy systems as quickly as possible have led to very high levels of risk in the test programs of THAAD, the theater high-altitude air defense system. It is a theater missile defense system, not a national missile defense system. They pointed out the high levels of risk and failure in that program and in other missile defense systems. This confirmed similar findings in a GAO study that Senator LEVIN and I requested earlier.

This Senate bill we are considering today, S. 1873, would generate the same pressures to hastily field a national missile defense system that have resulted in what General Welch referred to as the "rush to failure" in the THAAD program. That program is now 4 years behind schedule. It is still waiting for the first intercept, as was proposed when the program was designed. They have had five unsuccessful intercept tests. The most recent was yesterday in my home State of New Mexico, at White Sands Missile Range. Despite the delay in the THAAD development program of over a year since the previous test flights, they still have not been able to have a successful test. Now, national missile defense involves even more complex and technological challenges that will risk failure if we rush to deploy that system as well. What we need to do is to take the lessons General Welch is trying to teach us, by pointing to the problems in the THAAD program, and use those lessons to do better in the development of a national missile defense program.

Secretary Cohen's letter has been referred to by Senator LEVIN and, of course, the position of the Chief of the

Joint Chiefs of Staff. This is one of these cases where the Pentagon clearly is opposed to the legislation we are considering. Yet, we, in our ultimate wisdom on the Senate floor, believe that we know better what is in the national security interests of the country than do the people in charge of implementing that national security policy. I think it is shortsighted on our part.

Senator LEVIN also pointed out that not only does this legislation put us in a position where we are mandating pursuit of this program, regardless of the various factors we believe are important in developing of any system, but we are also pursuing it without adequate consideration of the arms control implications. There is no question that in this world we need to have the cooperation of the Russians in order to effectively limit proliferation of nuclear and other types of weapons of mass destruction. If we take action in this Congress and in this country to abrogate the ABM Treaty at this point, it is almost a certainty that the START II Treaty will not be ratified by the Duma and that our ability to continue to build down the nuclear weapons arsenals of the two countries will be substantially impeded.

I believe it is clearly in our best interest to defeat this bill, to vote against cloture, and not to even proceed to full debate of this bill. The administration has indicated its strong opposition to the legislation, as have the Pentagon and various former members of our national security policy team.

So, Mr. President, I hope that when the final vote comes here—I gather it will be in about 45 minutes or an hour—Senators will join in resisting the effort to move ahead with this legislation.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from New Hampshire, Mr. SMITH.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

PRIVILEGE OF THE FLOOR

Mr. SMITH of New Hampshire. Mr. President, first of all, I ask unanimous consent that Mr. Brad Lovelace, a fellow in my office, be granted floor privileges throughout debate on both S. 1873 and S. 2060, the fiscal year 1999 DOD authorization bill.

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

Mr. SMITH of New Hampshire. Mr. President, yesterday, India conducted three underground nuclear tests, further destabilizing relations among Pakistan, India, and China. Today, two more tests were conducted.

The whole world was caught by surprise—including the U.S. intelligence community and the Clinton administration. In fact, administration officials were quoted in the Washington Times yesterday saying that, "Our overhead [satellites] saw nothing, and we had zero warning."

The most ominous response came from Pakistan, which recently tested its newest ballistic missile, with a range of 1,500 kilometers, and now says it may conduct a nuclear test of its own.

It is against this very stark backdrop that we are today, this week, considering the American Missile Protection Act of 1998.

I want to commend my colleague, Senator COCHRAN, for his long-time leadership on this issue. He deserves a lot of credit. It is a very timely situation, I must say.

S. 1873 would establish a U.S. policy of deploying a national missile defense system capable of defending the territory of the United States against a limited ballistic missile attack as soon as is technologically possible. How could anyone be opposed to that? It is irresponsible to be opposed to it.

The current administration plan for "3+3" means that an NMD system will be developed for 3 years. And when a threat is acknowledged, this system will be deployed in 3 years. It is a naive plan. It assumes that we see all emerging threats and that when we see one, we can confidently deploy a complex system in 3 years. It is just not feasible.

Well, we saw how easy it was to see three nuclear devices that were tested by India yesterday. We didn't know about it. We didn't know they were coming. Even John Pike of the Federation of American Scientists, a long-time critic of missile defense, says it is "the intelligence failure of the decade." Mike McCurry said, "We had no advance notification of the tests."

According to administration officials quoted in the Washington Times, the United States has been "watching this site fairly carefully and on a fairly regular basis." If that is careful and regular and we don't know about it, I don't know how we can possibly expect to be able to deploy missiles 3 years after we know they are being produced. If we can't detect in advance activities at facilities that we are watching, what is going on at facilities we don't know anything about and are not watching? This is extremely dangerous policy, Mr. President.

How can this administration continue to believe that we will have advance warning and plenty of time to respond to a missile threat when we cannot even detect in advance three unanticipated nuclear tests?

This week's failure to predict India's nuclear tests is part of a pattern.

Pakistan—in a 1997 U.S. Defense Department report on proliferation, Pakistan was only credited with a missile that could fly 300 kilometers. Yet, they tested one at 1,500 kilometers. Here again, the United States was unable to predict the appearance of a new ballistic missile system.

Iran—the DCI told the Senate a few months ago that the intelligence community was surprised at the progress made on this Shahab-3 because of Iranian indigenous advances and help received from Russia.

The Director of Central Intelligence told the Senate that, "Gaps and uncertainties preclude a good projection of when the 'rest of the world' countries will deploy ICBM's," thereby explaining why we might be surprised in the future.

From an intelligence standpoint, there is nothing fundamentally different between medium- and long-range missiles—nothing. We will be just as surprised by ICBM developments as we have been with Iran and Pakistan's shorter-range missiles.

These questions and failures, combined with yesterday's events in India, completely invalidate the administration's approach to NMD. The fact is, we don't know where all of the threats will come from and how fast they will develop. It is irresponsible to stand on this floor and oppose a policy that says we ought to produce this system when it is technologically feasible.

According to Tom Collina of the Union of Concerned Scientists, India tests were designed to "finalize a warhead for delivery on a missile." Mr. Collina added that "it will not take long for India to take the next steps to have a fully deployed, fielded system."

Yet, the administration persists in misleading the American people, and in a Senate hearing on May 1 of this year, the Director of the Arms Control and Disarmament Agency [ACDA] stated that the Defense Department will design a system as the threat emerges, to answer that threat.

How will the Director of ACDA know when the threat is emerging or has emerged?

Trying to deploy an NMD system in 3 years is difficult and extremely risky. It requires doing everything at once—impossible to run a low risk test program to make sure everything fits together first. It leaves no margin for failure or problems—if one thing goes wrong the whole program could collapse. It is a dangerous way to approach defense.

The events in south Asia confirm once and for all that we cannot base the security of the United States on rosy assumptions about our ability to detect and predict existing or emerging threats around the world.

North Korea: In addition to the news out of south Asia, I find that today's New York Times reports that North Korea has announced they are suspending their compliance with the 1994 Nuclear Freeze Agreement that was intended to dismantle that country's nuclear program.

Who will tell the citizens of a destroyed Los Angeles or New York that they were left undefended from ballistic missiles because their Government "did not see an emerging threat"?

With our inability to track and detect ballistic missile development and nuclear tests, and the inherent challenges of fielding highly complex defense systems, we must support the American Missile Protection Act of 1998.

I thank my colleague for yielding.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, with the permission of the Senator from Michigan, I yield myself 8 minutes.

Mr. President, I support the strongest possible defense against the most credible threats to our Nation s security. But I do not support this legislation, and I want to explain why.

Nearly 30 years ago, the Department of Defense spent $21 billion in today's dollars on an antiballistic missile system. It was built in my State of North Dakota. The military declared that antiballistic missile system operational on October 1, 1975. On October 2, 1975, the next day, the U.S. House of Representatives voted to close it—mothball it. It was too expensive to run, and it didn't offer us much in the way of more security. It wouldn't protect this country. Mr. President, $21 billion for what?

The bill on the floor today would require us to deploy a system as soon as it is technologically possible. A quarter century ago it was technologically possible to spend $21 billion and build an antiballistic missile site in North Dakota. That system had interceptor missiles with nuclear warheads on them. That was technologically possible. It was completely irresponsible, but it was technologically possible.

I don't know whether this bill relates to that technology. The bill itself doesn't tell us what kind of technology we'd be required to deploy.

I assume it relates to a hit-to-kill technology, where you try to hit one bullet with another bullet. The failure on Monday of a test flight for THAAD, a theater missile defense system, suggests that hit-to-kill is not nearly as possible as some suggest, at least not now.

But I would ask the question: If it was technologically possible to create an antiballistic missile system in Nekoma, ND, a quarter century ago, it is technologically possible now, using the nuclear interceptor approach. Does this bill, then, require immediate deployment?

Let's step back a bit and look at this bill in the context of the security threats this country faces. One threat is, indeed, a rogue nation, or a terrorist group, or an adversary getting an intercontinental ballistic missile and putting a nuclear warhead on it and having the wherewithal to aim it and fire it at this country. That is, in my judgment, a less likely threat than, for example, a terrorist group or a rogue nation getting a suitcase-sized nuclear device, putting it in the rusty trunk of a Yugo, parked on a New York City dock, and saying, "By the way, we now threaten the United States of America with a nuclear device."

The threat of a truck bomb or suitcase bomb, is that addressed by this bill's requirement to deploy a national missile defense system? No, this system doesn't defend us against that. How about a chemical weapon attack in the United States? No, this wouldn't defend us against a chemical weapons attack. A biological weapon attack here? No. A cruise missile attack, which is far more likely than an ICBM—a cruise missile attack? Cruise missiles are proliferating all around the world. Putting a nuclear device on the tip of a cruise missile and aiming at this country, would this bill defend us against that? No. It wouldn't defend us against that threat, either. A bomber attack, dropping a nuclear bomb? No. Loose nuclear weapons inside the old Soviet Union that must be controlled and we must be concerned about, does this deal with that? No.

Obviously, this bill deals with one threat. And it is probably the less likely threat—an ICBM with a nuclear warhead aimed at this country by a rogue nation or by a terrorist group.

But this bill tells us to deploy as soon as technologically possible—notwithstanding cost, whatever the cost. No matter that the cost estimates from the Congressional Budget Office range up to nearly $200 billion to construct and maintain a national missile defense system. Cost is not relevant here, according to this bill. It requires us to deploy when technologically possible.

This bill also requires us to deploy notwithstanding the impact on arms control. The fact is that strategic weapons are being destroyed, nuclear weapons are being destroyed. Different systems are being destroyed today in the Soviet Union as a result of arms control: arms control has destroyed 4,700 nuclear warheads; destroyed 293 ICBMs and 252 ICBM silos; cut the wings off of 37 former Soviet bombers; eliminated 80 submarine missile launch tubes; and sealed 95 nuclear warhead test tunnels.

That is an awfully good way to meet the threat—destroy the missile before it leaves the ground. Arms control is giving us missile defense that works right now.

I have shown my colleagues this before, and with permission I will do it again. This is a piece of metal from a silo in Pervomaisk, Ukraine. The silo held a Soviet missile aimed at the United States of America. There is no missile there anymore. The warhead is gone. The missile is gone. The silo is destroyed. And where this piece of metal used to be, in a silo holding a missile aimed at this country, there are now sunflowers planted. Not the missile—sunflowers. How did that happen? By accident? No. By arms control agreements, by treaties.

But this bill says, deploy a national missile defense system notwithstanding what it might mean to our treaties, notwithstanding what it might mean to future arms control agreements, notwithstanding what it might mean to arms reductions that occur now under the Nunn-Lugar money that we appropriate, which has resulted in sawing off bombers' wings, resulted in digging up missiles buried in the soil of Ukraine and Russia.

I just do not understand the rationale here. How can we get this notion of defending against a small part of the threats our country faces? This bill doesn't address the cruise missile threat, or the suitcase bomb threat, or a range of other threats. It just tries to address this sliver of threat.

And this bill requires us to deploy a system as soon as technologically possible notwithstanding any other consideration, notwithstanding how much money we are going to ask the taxpayer to pay, notwithstanding what the credible threat is at the moment, notwithstanding the impact on arms control agreements. I just do not understand that logic.

I must say I have the greatest respect for the author of this legislation. I think he is a wonderful legislator. I hate to oppose him on this, but I just feel very strongly that we should continue with the national missile defense research program. I might add that the Administration is seeking over $900 million for research funding for this program this coming year. We should continue that aggressive research.

We ought to continue working on a range of defense mechanisms to deal with threats, not just ICBMs, but cruise missile threats and a range of other threats, including the terrorist threat of a suitcase nuclear device in this country. But we ought not decide that one of those threats ought to be addressed at the expense of defending against other threats.

Mr. President, let me make one final point. I have told this story twice before on this floor because I think it is important for people to understand what is being done in the area of arms control and missile defense right now—not what is proposed to be done in this bill.

On December 3 of last year, in the dark hours of the early morning, north of Norway in the Barents Sea, several Russian antiballistic submarines surfaced and prepared to fire SS–20 missiles. Each of these missiles can carry 10 nuclear warheads and travel 5,000

miles, and can reach the United States from the Barents Sea.

Those submarines, last December 3, launched 20 missiles that soared skyward, and all of our alert systems knew it and saw them immediately and tracked them at Cheyenne Mountain, NORAD, you name it.

And in a few moments at 30,000 feet all of those missiles exploded.

Why? Because this was not a Russian missile attack on the United States. In fact, seven American weapons inspectors were watching the submarines from a nearby ship. These self-destruct launches were a quick and inexpensive way for Russia to destroy submarine-launched ballistic missiles, which it was required to do under our START I arms reduction treaty.

On the morning of December 3 of last year when, at 30,000 feet, those Russian missiles exploded, it was not an accident. And it was not a threat to our country. It was a result of arms control agreements that said we must reduce the threat of nuclear weapons, we must reduce delivery systems. The fact is, the Nunn-Lugar program, which we fund each year in order to further these arms reductions, is working.

We also should, as we make certain Nunn-Lugar continues, be concerned about the ABM Treaty, be concerned about a range of other threats, and we ought to invest money in research and development on the ballistic missile defense system.

But we ought not under any set of circumstances say a system here must be deployed no matter what its cost, no matter what the threat and no matter what its consequences to arms control agreements. That is not in this country's interests. That is not in the taxpayers' interests.

Does our country need to worry about the proliferation of nuclear weapons? Of course we do. The nuclear tests by India in just the last 2 days demonstrate once again that we have a serious problem in this world with respect to the proliferation of nuclear devices.

But what it ought to tell us is that we need to be very, very aggressive as a Nation to lead in the area of nonproliferation. We need to make certain that this club that possesses nuclear weapons on this Earth does not expand. We need to do everything we possibly can do in foreign policy to try to see that our children and grandchildren are not victims of the proliferation, wide proliferation of nuclear weapons that then hold the rest of the world hostage.

But in dealing with the various threats we face, it seems to me the question for all of us is what kind of threats exist? And what kind of credible defense that is both technologically possible and financially reasonable can be constructed to respond to those threats? This bill is not the answer to those questions.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Arizona.

Mr. KYL. I thank the Chair. I thank the Senator from Mississippi.

Mr. President, the administration's position on defending the American people is essentially twofold: One, wait until there is a threat; and, two, we will then develop a defense. There are two things wrong with this approach: First, as the Indian nuclear testing has just demonstrated to us, we won't necessarily know when there is a threat. In fact, we always seem to underestimate the threat. Secondly, it always seems to take longer than we anticipate to develop complex systems, and this is particularly true with respect to missile defenses.

So the legislation introduced by the Senator from Mississippi is a much better idea, to protect the American people, Mr. President. It simply says that it is our policy to deploy a national missile defense as soon as it is technologically possible.

Now, what could be more straightforward and more protective for the American people? The American people demand no less.

I would note that the argument of the Senator from North Dakota just a moment ago illustrates, I believe, the lack of ideas to oppose this simple legislation of the Senator from Mississippi. His primary argument was that we need to continue research because, after all, there are other threats, too, like the suitcase bomb. Of course, there are other threats. And our position has always been to prepare to defend against all of the threats but not to ignore one very big threat just because there are other threats as well.

There have been other charges that the adoption of the American Missile Protection Act is somehow going to wreck arms agreements that the United States has entered into. First, there is the complaint about the ABM Treaty that we heard which is particularly puzzling since the words, ABM Treaty don't appear anywhere in this legislation. The bill doesn't require any violation of the ABM Treaty as a matter of fact. It doesn't specify the number of sites, where they would be, or what kind of interceptors or missiles we would have. So that argument is specious.

Secondly, we have heard the argument that if the United States decides to deploy an NMD even against limited threats, the Russians will refuse to ratify START II or negotiate START III. How many times do we have to pay for START II? I count about eight different things that the Russians have said we have to do in order for them to ratify START II or fully implement START I or START II. And we could list those but I am going to put them in the RECORD.

The point is the United States needs to take its defense into its own hands. We cannot simply rely upon a piece of paper with another country, particularly where in the case of, first, the Soviet Union, and now Russia, after that piece of paper is signed—and remember we are putting our safety in the hands of people across the sea who have signed that piece of paper with us—we find that they have changed their mind and tell us that they can't implement that piece of paper until we do other things.

First of all, it was that we had to address concerns regarding NATO expansion and then the CFE Treaty had to be modified. Then they could not afford to dismantle their weapons, and on and on and on. The point here is we should not place our reliance upon pieces of paper signed with other countries but upon what we can do for ourselves to protect the American people.

We heard the argument that the United States must refrain from exercising our rights under the ABM Treaty to deploy even a limited missile defense lest we upset the Russians, the same Russians who operate the world's only current ABM system. Should we take from this suggestion that the Russians have a right not only to defend themselves but to insist that we do not? And yet that is precisely what the opponents of this legislation are saying.

Mr. President, the defense of America should not be subject to a Russian veto. Linking the deployment of national missile defenses to some hoped-for arms control agreement is to be expected from the Russians, but it is unconscionable to be offered by Representatives of this Congress. Arms control for the sake of arms control is not in the national interest, and the Constitution does not allow us to substitute pieces of paper for the real measures which must be taken to protect America.

Then there is an argument that committing to deploy an ABM system will cause the sky to fall on offensive arms control agreements. Let me quote the Senator from Michigan on this issue:

> Nothing in this bill says that the national missile defense system that it commits us to deploy will be compliant with the Anti-Ballistic Missile Treaty. That is a treaty, a solemn agreement between us and Russia. If we threaten to break out of that treaty unilaterally, we threaten the security of this Nation because that treaty permits Russia to ratify the START II agreement and to negotiate a START III agreement, reducing the number of warheads that they have on their missiles and warheads that could also potentially proliferate around the world and threaten any number of places, including us.

This statement is incorrect in several ways. First, the ABM Treaty is not a

"solemn agreement between us and Russia." The ABM Treaty was signed by the United States and the Soviet Union. That country no longer exists, and the administration spent four years in negotiations to see who would replace the Soviet Union as parties to that treaty. The President has certified that he will submit the results of those negotiations to the Senate for advice and consent. When and if the Senate agrees, then the ABM Treaty may become "a solemn agreement between us and Russia," but not until then.

Second, S. 1873 does not require "break out" from the ABM treaty. In fact, as I have already pointed out, it allows for deployment of exactly the system being developed under the administration's so-called 3+3 program. And there is nothing in any legislation that calls for that system to be treaty compliant. To the contrary, a non-compliant system is explicitly contemplated by the Defense Department. Here is what the Department of Defense said about its 3+3 program in the Secretary's 1998 report to Congress: "a deployed NMD system either could be compliant with the ABM Treaty as written, or might require amendment of the treaty's provisions." So according to the Secretary of Defense, the system DoD is developing now may not comply with the ABM treaty. And so this arms control argument is nothing but a strawman, erected to be knocked down though it bears no resemblance to anything in this bill.

Senator LEVIN cites as an authority for this odd proposition, the Chairman of the Joint Chiefs of Staff, who, in a letter commenting on S. 1873, said the bill doesn't consider "the impact a deployment would have on arms control agreements and nuclear arms reductions." Let's think about what General Shelton is saying here. The United States has a right to deploy a national missile defense system under the ABM Treaty, and S. 1873 merely calls for a commitment to exercise that right. But General Shelton is saying that our decision to exercise that right should be conditioned on the possible impact a deployment would have on future arms control agreements, meaning, presumably, Russian objections. So General Shelton is saying that our right to deploy a system to protect our citizens—even the severely constrained right embodied in the ABM treaty—should be subject to further negotiation with, and the approval of, the Russian Federation.

I would find this an extraordinary argument under any circumstances, and extraordinarily disturbing coming from the Chairman of the Joint Chiefs of Staff. It can't be comforting to the people of the United States to know that their Chairman believes their defense should be subject to the veto of the Russians. When one considers that the Russians have exercised their right to defend themselves with the only operational ABM system in the world, the position of the Chairman becomes downright bizarre.

The complaints about arms control from opponents of the Cochran-Inouye bill are without merit. They spring from this administration's infatuation with paper agreements, no matter how disconnected from reality those agreements may be. We have a paper arms control agreement called START I, which the Russians are routinely violating. We have START II, which was negotiated, then renegotiated to give the Russians a better deal, and still it lies before the Duma unratified. Yet opponents of this bill would have the United States forego the defense of its people against a threat wholly unrelated to any of these agreements, simply because they fear the Russians will insist upon it.

Mr. President, I urge my colleagues to support S. 1873, the American Missile Protection Act. This is a simple bill which merely states that due to the increasing ballistic missile threat we face, "It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)." Outside of the title and findings of the legislation, this is the only sentence in the bill.

As a matter of fact, S. 1873 is noteworthy for the things it does not say. The bill does not say what kind of system architecture the missile defense system should have. It does not say where such a system should be located, or more generally, whether it should be based on land, at sea, or in space. It does not specify a date by which such a system should be deployed, or when we believe specific missile threats to the United States will materialize.

And the bill is silent on arms control issues. It does not address whether continued adherence to the ABM Treaty is in the best interests of the United States or whether the treaty should be modified. Nor does the bill discuss the merits of any future arms control agreements. All of these issues will have to be debated another day. I am disappointed, however, that we are still debating whether the United States should deploy a national missile defense system at some point in the future.

THE THREAT

The ballistic missile threat facing the U.S. is real and growing. Russia and China already have ballistic missiles capable of reaching our shores and several other nations, including North Korea and Iran are developing missiles with increasing ranges.

CHINA

In November 1997, the Defense Department published a report titled, Proliferation: Threat and Response in which it said China already has over 100 nuclear warheads deployed operationally on ballistic missiles. According to this report, Beijing has "embarked on a ballistic missile modernization program," and "while adding more missiles and launchers to its inventory, [is] concentrating on replacing liquid-propellant missiles with mobile solid-propellant missiles, reflecting concerns for survivability, maintenance, and reliability."

Details about this modernization program have been published in the press. The Washington Times reported on May 23, 1997, that a new Chinese road-mobile ICBM, called the Dong Feng-31, is in the late stages of development and may be deployed around the year 2000. This missile's 8,000 kilometer range is sufficient to reach the entire U.S. West Coast and several Rocky Mountain states and it will reportedly utilize reentry vehicle decoys, complicating missile defense. China is also developing the JL–2 SLBM with a 7,300 kilometer range, according to Defense Week. That publication reported last April that the JL–2 is likely to be deployed by the year 2007 and will allow China to target the U.S. from operating areas near the Chinese coast. And finally, on May 1st, the Washington Times disclosed that a Top Secret CIA report indicated 13 of China's 18 nuclear-tipped CSS–4 ICBM's are targeted at American cities. These missiles are reportedly being improved as well, with the addition of upgraded guidance systems.

In addition to its modernization efforts, I am also concerned that Beijing has shown a willingness to use ballistic missiles to intimidate its neighbors. For example, during Taiwan's national legislative elections in 1995, China fired six M–9 ballistic missiles to an area about 160 kilometers north of the island. Less than a year later, on the eve of Taiwan's first democratic presidential election, China again launched M–9 missiles to areas within 50 kilometers north and south of the island, establishing a virtual blockade of Taiwan's two primary ports.

RUSSIA

Russia retains over 6,000 strategic nuclear warheads, which still pose the greatest threat to our nation. While we do not believe Russia has hostile intentions, we must be cautious because its evolution is incomplete. For example, Russia is continuing to modernize its strategic nuclear forces. According to the Washington Times, Russian R&D spending on strategic weapons has soared nearly six-fold over the past three years and Moscow is developing an upgraded version of the SS–25 ICBM, as well as a new strategic nuclear submarine armed with a new nuclear-tipped SLBM.

At the same time Russia is spending precious resources on its modernization effort, its nuclear command and

control complex continues to deteriorate. Although unlikely, the threat of an unauthorized or accidental launch of a Russian ICBM has increased in recent years as Russia's armed forces have undergone difficult changes. For example, last March the Wall Street Journal reported that, according to a Russian colonel who spent much of his 33 year career in the Strategic Rocket Forces, Russian nuclear command and control equipment began breaking down 10 years ago and on several occasions parts of the system spontaneously went into "combat mode." Even more troubling were comments made by Russian Defense Minister Rodionov last February, who in a departure from previous assurances that Moscow's nuclear forces were under tight control stated, "Today, no one can guarantee the reliability of our systems of control . . . Russia might soon reach the threshold beyond which its rockets and nuclear systems cannot be controlled."

ROGUE NATIONS

Although Russia and China are the only countries that currently possess missiles capable of reaching the United States, several rogue states such as North Korea and Iran are aggressively developing long-range ballistic missiles.

NORTH KOREA

According to the Defense Department's November report, since its missile program began in the early 1980's, "North Korea has pursued an aggressive program which has steadily progressed from producing and exporting Scud short range ballistic missiles (SRBMs) to work on development of medium and long range missiles." North Korea has deployed several hundred Scud B and C missiles with sufficient range to target all of South Korea, and has completed development of the 1,000 kilometer range No Dong MRBM, which can reach targets in nearly all of Japan, according to the report. In addition, recent press reports indicate North Korea has begun deploying the No Dong missile.

More ominously, North Korea is developing the Taepo Dong 1 missile with an estimated range of 2,000 kilometers which will be capable of striking U.S. military bases in Guam and the Taepo Dong 2 missile, with an estimated range of 4,000 to 6,000 kilometers that could reach Alaska and Hawaii. On April 27th, the Washington Post reported that development of the Taepo Dong 2 missile could be completed "within the next several years."

IRAN

Iran has an ambitious missile program and is currently capable of producing both the 300 kilometer range Scud B and the 500 kilometer range Scud C missiles. This program is becoming increasingly advanced and less vulnerable to supply disruptions. As the Defense Department said in its November 1997 report, "Iran has made significant progress in the last few years toward its goal of becoming self-sufficient in ballistic missile production."

Tehran has made particularly rapid progress over the past year, however, due to the infusion of Russian hardware and know-how which has significantly accelerated the pace of the Iranian program. This Russian assistance has been well documented in the press.

According to these reports, numerous institutes and companies that once were an integral part of the state-owned military complex of the former Soviet Union have provided a variety of equipment and material that can be used to design and manufacture ballistic missiles. They are also helping Iran develop two new ballistic missiles, the Shahab-3 and Shahab-4. The Shahab-3 is reportedly based on North Korea's No Dong ballistic missile and will have a range of 1,300 kilometers with a 700 kilogram payload, sufficient to target Israel and U.S. forces in the region. Seven months ago, on September 18, 1997, Assistant Secretary of State for Near Eastern Affairs Martin Indyk testified to the Senate that Iran could complete development of the Shahab-3 in as little as 12 to 18 months.

The Shahab-4 is reportedly based on the Russian SS-4 medium-range ballistic missile and will have a range of 2,000 kilometers with a payload over 1,000 kilograms. When completed, the Shahab-4's longer range will enable Tehran to reach targets as far away as Central Europe. According to the Washington Times, an Israeli intelligence report indicates the Shahab-4 could be completed in as little as three years. Israeli intelligence sources reportedly also told Defense News that the long-term goals of Iran's missile program are to develop missiles with ranges of 4,500 and 10,000 kilometers. The latter missile could reach the East Coast of the United States.

OTHER NATIONS

In addition to North Korea and Iran, roughly two dozen other countries, including Iraq and Libya either possess or are developing ballistic missiles. The clear trend in these missile programs is toward systems with greater ranges, and as Iran has demonstrated, foreign assistance can greatly reduce the time needed to develop a new missile.

RESPONDING TO THE MISSILE THREAT

The time has come for the United States to defend itself from the increasing missile threat that I have just described. The Cochran bill is the first step on this path.

Some opponents of the bill have pointed to the Administration's so-called "3+3" program as a better way to deal with the missile threat. I have grave concerns about the basic premise of the "3+3" program, which essentially states that the United States should continue to experiment with a variety of missile defense technologies indefinitely, and then, at some time after the year 2000, deploy an NMD system within three years. It is significant that the "3+3" program is the only Major Defense Acquisition Program that takes this wait-and-see approach and assumes a deployment can occur within three years of a decision to deploy.

The development of a complex weapons system, such as a new fighter aircraft or an NMD system can be technically challenging, which is why we structure development programs with clear goals and milestones. We do not continue to tinker indefinitely with the technology needed for the F-22, which will be the next-generation fighter aircraft for the Air Force, or the technology for the next version of the M-1 Abrams tank until some future date awaiting a decision to deploy. Why should we adopt this approach for national missile defense?

Studies on the "3+3" program have faulted the Administration's plan and its execution. For example, a recent study chaired by retired Air Force General Larry Welch criticized the "3+3" program stating that a successful NMD program should have "a clear set of requirements, consistent resource support (which includes an adequate number of test assets), well-defined milestones, and a rigorous test plan. The study group believes that the current NMD program is not characterized by these features and is on a high-risk vector."

Last December, the GAO published a study that also was critical of the "3+3" program due to its high risk and its acquisition schedule, which the study said was half as long as that for America's Safeguard national missile defense system that was developed between 1963 and 1975 and deployed at Grand Forks, North Dakota. The GAO stated that the acquisition schedule for the "3+3" program was "shorter than the average time projected to acquire and field 59 other major weapon systems that we examined" and went on to note, "these systems are projected to take an average of just under 10 years from the beginning of their development until they reach an initial operating capability date."

Mr. President, the general approach underlying the "3+3" program is flawed and due to the delays the program has already encountered I do not think we should stake our future on the premise that the system can be fielded within three years after a decision to deploy. As the GAO said in its study, "Since the 3+3 program was approved, BMDO [the Ballistic Missile Defense Organization] has experienced a 7-month delay in establishing the joint program office to manage the acquisition and a 6-

month delay in awarding concept definition contracts leading to the selection of a prime contractor. Also, a sensor flight-test failure resulted in a 6-month testing delay."

As my colleagues know all too well, unfortunately, it is not uncommon for U.S. weapons development programs to experience delays. For example, despite the best efforts of the Congress and the Administration to quickly field the THAAD theater missile defense system, that program is currently projected to reach its first unit equipped milestone 13 years after development began. Experience tells us that we cannot keep national missile defense technology in a circling pattern and expect to snap our fingers and successfully move to deployment in a very short period of time. Nothing in our history suggests this is a sensible approach.

Mr. President, we need to get on with the task of constructing an effective missile defense system to protect the American people. Like other Senators, I have strong views on the disadvantages of the ABM Treaty and other related missile defense issues, but unfortunately those debates will have to wait for another day. The United States government has a fundamental obligation to provide for our citizens defense. The bill offered by Senator COCHRAN will help ensure that we fulfill this obligation, by committing us to deploying a defense against the growing ballistic missile threat we face. I urge my colleagues to support its passage.

Mr. KERRY. Mr. President, in the early hours yesterday morning on the New Mexican desert, there was an event that brought home in a very practical way one of the series of considered arguments made against the legislation the Senate is considering this morning.

The Army Missile Command, the prime contractor, and dozens of subcontractors had been painstakingly preparing for the fifth intercept test of the Theater High Altitude Area Defense, or THAAD, theater missile defense system. No effort was spared in these preparations, because program officials and Department of Defense officials acknowledged openly that this would be widely viewed as a "make or break" test for the system following its unfortunate string of previous intercept failures.

To the dismay of all involved, this fifth test, too, was a failure.

Mr. President, we nominally are debating a different matter this morning. The bill before the Senate involves an immediate decision to abandon the so-called "3 plus 3" strategy for national missile defense and establish a policy to move as rapidly as possible not only to develop an effective national missile defense technology, but to deploy such a system at the earliest possible time. But the White Sands test yesterday morning should be hoisting another red flag for the Senate to consider as we vote on this bill.

I take a back seat to no one in my support for development of effective missile defense technology. I have a strong record of support for developing and fielding theater missile defense systems, for the protection of our ground forces, our naval forces, and other national interests in theater. We know—and we hear and read on virtually a daily basis—of the efforts underway in a number of nations to develop ever more capable short range ballistic missiles capable of carrying weapons of mass destruction, nuclear, chemical, or biological. Missiles of this type have been used previously. This threat is real, it is immediate, and it is substantial.

But this legislation, Mr. President, does not address either of these key policy matters. We have in place an established policy to develop and field as rapidly as possible theater missile defense systems. The Administration and the Congress have increased the funding for this effort again and again. We have in place an established policy to develop and perfect as rapidly as possible the technology that would be necessary for a national missile defense system, and to bring that effort to a stage where, in three years from a green light, it could be fielded and operational.

As has occurred not infrequently in the course of human history, our aspirations are getting ahead of our scientific expertise and our ability to manipulate the laws of physics to accomplish our objectives. Some may mistakenly believe, Mr. President, that developing effective anti-missile technology is a simple proposition, and that wishing for it is to obtain it. Unfortunately that is not the case. To grossly oversimplify this, this is a task of spotting a warhead, or fragments of a warhead, hundreds if not thousands of miles away, and while it moves at several thousand miles per hour, determining which is the real target, launching another missile in its direction, guiding that missile also traveling at hypersonic speed to a collision point in the great expanse just inside or outside of the upper reaches of the earth's atmosphere, and precisely maneuvering the interceptor to collide with the warhead.

It should be self evident that this is a daunting challenge, given that billions of dollars, thousands of hours of the most capable scientists and program managers our military and private sector can focus on this task, and the most advanced equipment and technology money can buy have produced five successive failures in the THAAD program.

Those who have spoken before me today have identified a host of reasons why we should not rush to judgment today to decide we will spend somewhere between $30 and $60 billion to deploy a national missile defense system that has neither been developed nor proven. If the Senate moves to proceed to the consideration of this legislation, I expect to have something to say about many of those other considerations.

But at this moment, I want to mention to the Senate only two of those considerations. The first is that it would be irresponsible to make a decision of this magnitude—which might cost U.S. taxpayers upwards of $50 billion—before the Senate knows that there is a workable technology. That is even more irresponsible in my judgment when one looks at the intelligence estimates of the ballistic missile threat that faces the U.S. The simple truth, Mr. President, is that only Russia and China have such missiles, and despite the fact that some rogue nations such as North Korea have been working to develop more advanced ballistic missiles, our intelligence and military leaders do not expect those threats to materialize for a decade or more.

Let me reiterate, Mr. President, that the choice the Senate will make today is not about whether we should make a herculean effort to develop anti-missile technology. We are doing that and spending multi-billions of dollars to do it as rapidly and well as our best minds can do so. The vote today will not alter that mission or our commitment to it.

The vote today is about whether—at a time before a real ballistic missile threat from sources other than Russia and China exists, at a time before we perfect the anti-missile technology on which we have been energetically working for years so that we know it is ready to be deployed—we will make a national commitment of scores of billions of dollars to field the nonexistent system against nonexistent threats.

That, Mr. President, would be an unwise decision of great magnitude, particularly at a time when we face very real threats to our national security and when we are struggling to provide the resources to ensure our military and intelligence capabilities are both appropriate and adequate to address those threats. It also ignores the possibility that we will rush pell mell to deploy a national missile defense system based on today's technology when, if we delay the deployment decision until we believe a real threat is looming, we can then deploy the latest technology—the most reliable technology then available—to meet the threat.

The urgency that the bill's proponents are voicing is a false urgency, Mr. President. I hope the Senate will look at this carefully and will choose the prudent course by rejecting the bill before us.

Mr. ALLARD. Mr. President, I rise today as a co-sponsor and supporter of

S. 1873, The American Missile Protection Act of 1998. This important legislation will remove present barriers to the deployment of an effective, reliable missile defense system, so that our citizens will be free from the threat of an attack by missiles launched from across oceans. Prudence demands that we deploy a domestic missile defense system as soon as we possess the technology to do so.

Missile technology developed during the Cold War has forever neutralized what was once our greatest domestic security asset—distance. As a result, today many of our citizens have never known a world in which nuclear missiles were not pointed at their families.

It is unconscionable that now, after years of being in the shadow of nuclear threat, the most powerful nation in the world still cannot defend its own soil against even one ballistic missile attack.

In the post-Cold War era, a multiple array of new threats exist. Not only do we still face the possibility of accidental launch from a nuclear state—a possibility not without precedent—but now the proliferation of missile components and technology compounds the threat beyond even Cold War-levels. The capability of a rogue state to bypass years of development by clandestinely obtaining nuclear, chemical, and biological materials and long-range ballistic missile technology poses a new, more sinister threat. Procurement by rogue nations—especially by those who have a demonstrated desire to use force outside their own borders—cripples our ability to calculate emerging strategic threats with any degree of certainty.

Just as a policy of total vulnerability will no longer suffice, neither will a policy characterized by the "gaps and uncertainty" due to the underestimation of the technological capabilities of states like North Korea, Iran, Iraq, China, and now India.

Refusing to implement a National Missile Defense system as soon as it is technologically possible will render Americans vulnerable to the whims of any rogue regime that manages to procure ICBM technology.

Bearing in mind that this bill itself violates no treaties, nor seeks to mandate the particulars of implementing a missile defense system, S. 1873 is important bipartisan legislation that should be passed. By eliminating a dependence on underestimated capabilities, this bill is a decisive affirmation that our country is indeed committed to ensuring the security of the American people.

I urge all my colleagues to support S. 1873.

Mr. MURKOWSKI. Mr. President, I rise today in support of S. 1873, the American Missile Protection Act. This bill is simple; but extremely important. It makes it clear that it is the policy of the United States to deploy, as soon as technologically possible, a national missile defense system which is capable of defending the entire territory of the United States against limited ballistic missile attack.

Alaskans have been justifiably concerned with this issue for some time. I ask unanimous consent to have printed in the RECORD at this time a resolution passed by the Alaska State Legislature which calls on the Administration to include Alaska and Hawaii in all future assessments of the threat of a ballistic missile attack on the United States. More than 20% of our domestic oil comes from Alaska, all of it through the Trans-Alaska Pipeline. Alaskans are concerned, as should the rest of the country be concerned, that a strike at the pipeline could have dire consequences to our domestic energy production.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

LEGISLATIVE RESOLVE NO. 36

Whereas Alaska is the 49th state to enter the federal union of the United States of America and is entitled to all of the rights, privileges, and obligations that the union affords and requires; and

Whereas Alaska possesses natural resources, including energy, mineral, and human resources, vital to the prosperity and national security of the United States; and

Whereas the people of Alaska are conscious of the state's remote northern location and proximity to Northeast Asia and the Eurasian land mass, and of how that unique location places the state in a more vulnerable position than other states with regard to missiles that could be launched in Asia and Europe; and

Whereas the people of Alaska recognize the changing nature of the international political structure and the evolution and proliferation of missile delivery systems and weapons of mass destruction as foreign states seek the military means to deter the power of the United States in international affairs; and

Whereas there is a growing threat to Alaska by potential aggressors in these nations and in rogue nations that are seeking nuclear weapons capability and that have sponsored international terrorism; and

Whereas a National Intelligence Estimate to assess missile threats to the United States left Alaska and Hawaii out of the assessment and estimate; and

Whereas one of the primary reasons for joining the Union of the United States of America was to gain security for the people of Alaska and for the common regulation of foreign affairs on the basis of an equitable membership in the United States federation; and

Whereas the United States plans to field a national missile defense, perhaps as early as 2003; this national missile defense plan will provide only a fragile defense for Alaska, the state most likely to be threatened by new missile powers that are emerging in Northeast Asia;

Be it Resolved, That the Alaska State Legislature respectfully requests the President of the United States to take all actions necessary, within the considerable limits of the resources of the United States, to protect on an equal basis all peoples and resources of this great Union from threat of missile attack regardless of the physical location of the member state; and be it

Further Resolved, That the Alaska State Legislature respectfully requests that Alaska be included in every National Intelligence Estimate conducted by the United States joint intelligence agencies; and be it

Further Resolved, That the Alaska State Legislature respectfully requests the President of the United States to include Alaska and Hawaii, not just the contiguous 48 states, in every National Intelligence Estimate of missile threat to the United States; and be it

Further Resolved, That the Alaska State Legislature urges the United States government to take necessary measures to ensure that Alaska is protected against foreseeable threats, nuclear and otherwise, posed by foreign aggressors, including deployment of a ballistic missile defense system to protect Alaska; and be it

Further Resolved, That the Alaska State Legislature conveys to the President of the United States expectations that Alaska's safety and security take priority over any international treaty or obligation and that the President take whatever action is necessary to ensure that Alaska can be defended against limited missile attacks with the same degree of assurance as that provided to all other states; and be it

Further Resolved, That the Alaska State Legislature respectfully requests that the appropriate Congressional committees hold hearings in Alaska that include defense experts and administration officials to help Alaskans understand their risks, their level of security, and Alaska's vulnerability.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Ted Stevens, Chair of the U.S. Senate Committee on Appropriations; the Honorable Bob Livingston, Chair of the U.S. House of Representatives Committee on Appropriations; the Honorable Strom Thurmond, Chair of the U.S. Senate Committee on Armed Services; the Honorable Floyd Spence, Chair of the U.S. House of Representatives Committee on National Security; and to the Honorable Frank Murkowski, U.S. Senator, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Mr. MURKOWSKI. Mr. President, last year North Korean defectors indicated that the North Korean missile development program already poses a verifiable threat to American forces in Okinawa and seems on track to threaten parts of Alaska by the turn of the Century. The Taepodong missile, which is under development, would have a range of about 3,100 miles. From certain parts of North Korea, this weapon could easily target many of the Aleutian islands in western Alaska, including the former Adak Naval Air Base.

The Washington Times reported last week that the Chinese have 13 of 18 long-range strategic missiles armed with nuclear warheads aimed at American cities. This is incredible, Mr. President. Opponents to the motion to invoke cloture somehow fail to understand that this threat is real and that

we have a responsibility to protect the United States from attack, be it deliberate or accidental. Without question, the threat of an attack on the United States is increasingly real, and we must act now so that we can construct a national missile defense system with the capability of intercepting and deterring an aggressive strike against American soil from all parts of the United States.

Mr. President, I support the motion to invoke cloture and hope that my colleagues will vote overwhelmingly in favor of this legislation in the near future.

Mr. KENNEDY. Mr. President, I oppose this legislation and I urge the Senate not to invoke cloture.

Star Wars was a bad idea in the 1980s, and it is a bad idea today. Developing and deploying a national missile defense system has an enormous cost—billions of dollars a year to develop the system, and billions more to deploy it.

In addition, it ignores more likely threats to our security, especially the danger of terrorist attacks on our territory and our citizens.

Intelligence estimates suggest that there will not be a new, intercontinental ballistic missile threat from any rogue nation until at least 2010. At a time when we are trying to balance the budget and meet the essential readiness and modernization needs of our armed forces, it would be a mistake to spend additional billions of dollars on the proposed missile defense system.

Throughout the Cold War, when the Soviet Union had a far larger nuclear arsenal than today, we decided not to deploy missile defenses because the cost did not justify the protection provided. Now, the Cold War is over. We have far more cooperative relations with Russia and other nations of the former Soviet Union, and they have a much smaller nuclear arsenal. The Secretary of Defense and the Joint Chiefs of Staff tell us that now is not the time to deploy a national missile defense. It makes no sense to reject that advice and push ahead on this costly system.

Declaring our intention to deploy a missile defense system now will also put U.S. policy on a collision course with the Anti-Ballistic Missile Treaty. Such a step would send a strong signal to Russia that cooperation on nuclear arms reductions is not a U.S. priority.

In fact, members of the Russian Parliament have stated that they will oppose ratification of the START II Treaty if the United States begins to develop or deploy ballistic missile defenses in violation of the ABM Treaty. By endangering the prospects for START II ratification by Russia, this bill will ensure that we will face many thousands more Russian nuclear weapons in the near future than we will face if arms reductions are implemented.

This bill also fails to address the most pressing threats to American security. As the World Trade Center bombing and the Oklahoma City bombing make clear, we do face a serious threat of terrorist attacks. But, it is far more likely, for example, that a terrorist will use nuclear, chemical or biological weapons on American soil than that we will be the target of an ICBM attack from a foreign nation. Loose controls on nuclear materials in the former Soviet Union raise the serious threat that such materials can find their way into the hands of extremists bent on using them. This bill fails to address these far more likely threats.

We should continue to do all we can to prevent the spread of nuclear weapons materials. The Nunn-Lugar Cooperative Threat Reduction Program has removed thousands of nuclear warheads from former Soviet arsenals, destroyed hundreds of missile launchers, and has safeguarded vulnerable stockpiles of nuclear materials. The nuclear tests conducted by India earlier this week are a wake-up call to the United States and all nations that our efforts to prevent nuclear proliferation are inadequate. We should do nothing to undermine that high priority even further.

This body has also rightly funded systems to protect our troops from ballistic missile threats and cruise missile threats. To deal with the possibility of future ballistic missile threats to U.S. territory, we have worked with the Administration to prepare a plan that will give us ample time to deploy a missile defense system if the need is clear. Our military leaders continue to agree that this plan is the most sensible way to protect the nation against potential future missile threats.

We need a strong defense, but we must give the highest priority to meeting the most serious threats. Failure to do so will waste billions of taxpayer dollars, and leave the nation less secure. I urge my colleagues to oppose this bill.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, we reserve the remainder of our time on this side of the aisle.

The PRESIDING OFFICER. If neither side yields time, then time will be charged equally to both sides.

Mr. COCHRAN. Mr. President, I appeal to the Chair for a different ruling on that. We are prepared to use our 5 minutes and then proceed to hear from the other side. If I speak now, we have used up our 5 minutes and then they have 20 minutes to complete debate. That is not fair.

The PRESIDING OFFICER. The ruling of the Chair reflects the precedence of the Senate.

Mr. COCHRAN. Mr. President, under the ruling of the Chair, if we do not speak, then we are not going to have any time to speak in about 10 minutes. That is the way I understand the ruling of the Chair.

I ask unanimous consent the running of the time be charged against the opposition, the opponents of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, first of all, let me compliment the distinguished manager of the bill and the ranking member for the level of debate that has already occurred on this important piece of legislation. I have extraordinary respect for both Senators and I appreciate the manner in which they have presented this critical matter to the U.S. Senate.

In listening to the debate on S. 1873, I am struck by the appearance that rigid adherence to ideology seems to be trumping the sound judgment of this Nation's senior military leaders.

The proponents of this latest attempt to deploy ballistic missile defenses at any cost have entitled this bill the American Missile Protection Act. But I think it is important that we be clear as to what this really legislation does. The only thing S. 1873 protects, is the opportunity for defense contractors to move far ahead of where we ought to be with regard to a commitment to develop and deploy national ballistic missile defenses. As stated by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in their letters opposing S. 1873, deployment of national missile defenses at this time is unnecessary, premature and could end our arms control efforts.

S. 1873, in spite of my great admiration for its author and the manager of this bill, is the wrong bill at the wrong time, and I ask my colleagues, this morning to vote against cloture.

S. 1873 would commit the United States to deploy national missile defenses based on a single criterion—technical feasibility.

Quoting from the bill, the United States should "deploy as soon as is technologically possible an effective national missile defense system."

In the eyes of the sponsors of this bill, the only standard that must be met in deciding whether to deploy defenses is that they be technologically possible.

Mr. President, I cannot find a clear definition of effective defenses in S. 1873.

And yet, many of the same people who demand that important domestic programs meet stringent standards before they can receive funding stay

strangely silent when it comes to establishing even the most minimal performance requirements for ballistic missile defenses.

This irony is not lost on just this Senator. In fact, the proponents' attitude is cavalier even by the standards of defense programs. Research by the Department of Defense shows that S. 1873 would make history. For the first time ever, we would be committing this nation to deploy a weapons system before it had even been developed, let alone thoroughly tested.

We need look no further than today's Washington Post to see the folly of this approach.

In a story entitled, "Antimissile Test Yields 5th Failure In a Row," it is pointed out that the THAAD system, a high priority theater anti-missile defense effort, failed yet again and is now 0 for 5 in tests.

Supporters of national defense may argue that the fifth consecutive failure of a theater missile defense system is not relevant to a debate on national missile defenses.

However, as underscored in the Post article, "the repeated inability to demonstrate that THAAD's interceptors can hit incoming warheads has implications beyond battlefield defense. The same hit-to-kill concept is at the core of the even more ambitious national antimissile system."

Moreover, most experts believe that a rush to judgment on ballistic missile defenses will not necessarily lead to the deployment of the most effective system.

According to General John Shalikashvili, former Chairman of the Joint Chiefs of Staff,

> if the decision is made to deploy a national missile defense system in the near term, then the system fielded would provide a very limited capability. If deploying a system in the near term can be avoided, the Defense Department can continue to enhance the technology base and the commensurate capability of the missile defense system that could be fielded on a later deployment schedule.

Not a word in S. 1873, Mr. President, about the costs of this system. The Congressional Budget Office estimates that deployment of even a very limited system could cost tens of billions of dollars.

Given that so much of the technology necessary remains unproven, history tells us the real cost could be much more. Despite the hefty price tag and the technological uncertainty, the proponents of this bill essentially say, "costs be damned, full speed ahead".

Yet, when it comes to proven proposals to improve our nations' schools, increase the quality of health care, or enhance our environment, the first question out of the mouths of many of the proponents of S. 1873 is, "how much does it cost?"

Not a sentence in this bill, Mr. President, about the need for this defense system or the threats it is designed to counter. According to the intelligence community, deployment of defenses is not justified by the rogue nation ballistic missile threat.

In his Annual Report to the President and Congress, Secretary Cohen stated that, with one possible exception, "no country will develop or otherwise acquire a ballistic missile in the next 15 years that could threaten the United States."

The only possible exception is North Korea, a country that is on the verge of collapsing upon itself. Even here, the intelligence community rightly says the probability of North Korea acquiring such a missile by 2005 is, "very low."

Mr. President, S. 1873 says absolutely nothing about how a U.S. deployment of missile defenses would affect existing and future arms control treaties. It is clear from statements made by Russian President Yeltsin and other top officials that if the United States unilaterally abrogates the ABM Treaty, the Russians will effectively end a decades-long effort to reduce strategic nuclear weapons. They will back out of START I. They will not ratify START II. And they will not negotiate START III.

In other words, unilateral U.S. deployment of missile defenses could end the prospect for reducing Russia's nuclear arsenal from its current level of about 9,000 weapons down to as few as 2,000. This is much too steep a price to pay for a course of action that is unproven, unaffordable, and unnecessary.

Finally, Mr. President, I would like to say a few words about the procedure by which this bill is being brought to the floor.

All too frequently these past few months, we have seen bills taken from the Republican agenda and immediately scheduled for floor time under parliamentary procedures that severely limit debate and the opportunity to offer amendments.

When Democrats try to bring up issues important to all Americans—reducing school class size and protecting patients from insurance company abuses—we are told there is no time or they resort to these same parliamentary tactics to stifle our efforts.

The decision to bring up S. 1873 is only the latest manifestation of this practice. Just one day after refusing to set a date to take up patient protection legislation, we find the Senate has time to vote on a bill that should be known as "Son of Star Wars."

Mr. President, I ask my colleagues to reflect on the advice of the Secretary of Defense and the Joint Chiefs of Staff and vote against cloture on S. 1873.

Let us think carefully and thoughtfully about its ramifications. Let us recognize the dangerous implications for arms control, for the federal budget, and, because of the necessity to choose priorities within this budget, for what it means to the Defense Department itself. This is the wrong bill at the wrong time, and I hope we will defeat cloture when the opportunity presents itself, in 10 minutes.

Mr. President, I ask that my time be taken from my leader time, and not from the time accorded the debate on the motion.

The PRESIDING OFFICER. The Senator has that right.

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, may I inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator from Mississippi has 5 minutes and the Democratic side has about 12 minutes remaining.

Mr. COCHRAN. I yield 3 minutes to the distinguished Senator from Virginia, Mr. WARNER.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the manager of the bill.

Mr. President, the world has been working in a responsible way for years to try to halt the proliferation of weapons of mass destruction—nuclear, biological and chemical. India's decision both yesterday and today to detonate five underground nuclear explosions has blown a hole in the dyke of the world's nonproliferation efforts. The flood waters are now running. This tragic development should bring into sharper focus both the threat that our nation, and indeed all nations of the world, face from the spread of weapons of mass destruction; and the need for defenses to protect us from that threat. The bill before us offers such protection.

Mr. President, on April 21, the Senate Armed Services Committee voted to favorably report to the Senate S. 1873, the American Missile Protection Act of 1998. I am proud to be an original cosponsor of this legislation. This bipartisan bill, whose principal sponsors are Senator COCHRAN and Senator INOUYE, currently has 50 cosponsors in the Senate. I regret to say that the vote in the Armed Services Committee was along party lines.

The American Missile Protection Act which is before the Senate today is very simple. It states that, "It is the policy of the United States to deploy as soon as is technologically possible a National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized or deliberate)."

This bill is a compromise—a step back from earlier Republican national missile defense (NMD) efforts in that it does not specify a date certain for deployment of an NMD system. As my colleagues will recall, the National

Missile Defense Act of 1997, introduced last January by the Majority Leader, called for deployment of an NMD system by 2003. Many Republicans joined the Majority Leader in his effort last year. Would we still like to see a system deployed by 2003? Of course we would. But the intent of this year's legislation is to build a more bipartisan consensus for deploying a national missile defense system capable of defending the United States.

I have long been a strong supporter of providing Americans here at home, and our troops deployed overseas, with the most effective missile defense systems possible. In my view, there is no greater obligation of a government than to provide for the protection of its people. The Persian Gulf War should have made clear to all Americans our vulnerability to the proliferation of ballistic missiles around the world, and the dire need to develop and deploy effective defenses as soon as possible.

What are the objections to this simple, and seemingly obvious goal? The arguments we have heard from Members on the other side of the aisle are mainly three-fold: (1) a threat does not currently exist—and may not exist for the foreseeable future—that would justify the deployment of an NMD system; (2) we should not commit ourselves to the deployment of such a system when we do not know what that system would cost; and (3) we may be locking ourselves into a technologically inferior system by making a deployment decision today. I will respond to these arguments in turn.

First and foremost, the threat. I respectfully disagree with my Democrat colleagues. In my view, the threat exists today and is growing. Recent events in India are but the latest proof.

In my view, the biggest current threat we face is instability in Russia and the impact that instability could have on Russian command and control of the thousands of intercontinental ballistic missiles capable of reaching this country. A recent segment on ABC's "World News with Peter Jennings," highlighted this problem. I quote one statement: "A crushing lack of funds means Russia's entire 30-year-old nuclear command and control system is becoming unreliable."

I remind my colleagues that with this legislation we are not seeking to deploy a Star Wars-type umbrella over the U.S. which would protect us from a massive strike by the Russians. We are seeking protection from a very limited, unauthorized or accidental attack. That scenario, unfortunately, could happen today.

And what of threats beyond Russia? By the Administration's our admission, the North Koreans will be able to deploy—in the near term—a ballistic missile with a range capable of striking Alaska and Hawaii. And other rogue nations are clamoring to get this type of technology. According to a recent report by the Air Force, "Ballistic missiles are already in widespread use and will continue to increase in number and variety. The employment of weapons of mass destruction on many ballistic missiles vastly increases the significance of the threat."

I believe we have proof enough today that a threat exists which justifies deploying an NMD system. But what if—for the sake of argument—we are wrong? What if a system is not needed for many more years? I would rather err on the side of deploying defense sooner than they might be needed, rather than being caught defenseless if nations move even faster than the Administration expects to develop the capability to attack our shores.

Many of my Democrat colleagues are—quite properly—very concerned about what an NMD system might cost. My reply to that is, what is the cost of not deploying a system? What if even one ballistic missile strikes the United States? What is the cost in terms of loss of life and damage to our nation? That is a cost which must be factored into this debate. That is a cost we should never have to pay.

Who would we answer to the American people in the aftermath of such an attack when they ask why their government failed to provide them with any defenses? We know the threat exists—it will only grow in the years ahead. It is time to stop debating, and time to deploy systems to protect our people.

And finally, the issue of technology. The argument has been made that we should put off a deployment decision until we have the best possible technology for an NMD system. Well, that is an argument that will result in putting off a deployment decision indefinitely. There will always be better technology down the road. That is true for all of our weapons systems. That should not be used as an excuse for not deploying a system which is needed. Our focus instead should be on designing a system which can incorporate technological advances as they become available.

Another point which we must keep in mind as we debate this legislation is that we are not locking ourselves into a particular architecture or a deployment decision that will then just go on "auto-pilot." We are making a broad policy statement that the U.S. should deploy a National Missile Defense system as soon as possible. That is our goal. Subsequent Congresses will decide—through the normal authorization and appropriation process—the details of the type of system to be deployed and the cost of that system. This bill is not the end of the process—it is the beginning.

And finally, there has been discussion about the impact of this bill on arms control agreements with the Russians—particularly the 1972 ABM Treaty. Dire consequences have been predicted if we were to pass this bill which, according to one of our Committee Members, would "violate the ABM Treaty." I would just point out that a statement of policy does not—in and of itself—violate a treaty. Until actual deployment of a system were to take place—which would be years in the future—no violation of a treaty would occur. In the meantime, the United States should be talking to the Russians about modifying the ABM treaty to deal with current realities.

We are no longer living in the world envisioned by the ABM Treaty—a world with two superpowers with missiles targeted on each other. Russia is no longer the only threat we face. We are in a world where an increasing number of nations are acquiring the means to strike others with ballistic missiles. If the Russians would look around their borders they would realize that they have just as much, if not more, need for effective missiles defenses as we do. Regardless, if the Russians do not agree to modifications of this 26-year old treaty, we should not let this document stand in the way of protecting our people from attack.

I urge my colleagues to join us in our effort to provide effective defenses for our country.

Mr. President, in summary, the Nation owes a debt of gratitude to the Senator from Mississippi, Mr. COCHRAN, and the Senator from Hawaii, Mr. INOUYE, for, again, showing the leadership to bring America closer and closer to a system which is absolutely essential for our defense.

When the tragic news unfolded about the resumption of testing by India, I think in the hearts of most Americans two thoughts came about: First, "Well, that's far away, no threat to us;" secondly, "Well, we already have a system which will protect us."

Neither is true, and this tragedy brings into sharper focus the need for the U.S. Senate to move forward on this issue. I hope that sharper focus induces Senators to support moving this bill forward.

Another argument that is frequently brought up is, "Well, what about Russia and the ABM Treaty?" The ABM Treaty in 1972 is against a background of two superpowers who possessed arsenals. That is not the case today. Unfortunately, as a consequence of proliferation, the arsenals that we find in many countries, and with the news in India, that could even expand now the number of countries. Why should not Americans have their prayers answered: Just give us what is necessary to protect against a limited attack from a single or two or three missiles as a consequence of terrorism, as a consequence of a miscalculation, as a consequence of failure of equipment? To me, that is a very reasonable request,

and that is the essence of this legislation. I urge it be supported.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield 5 minutes to my friend from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, S. 1873 calls for deployment of a limited national missile defense system as soon as is technologically possible.

Although a case can be made for near-term deployment of this type of capability, I do not believe it is a wise policy to pursue a limited national missile defense system absent any considerations of costs, cost-effectiveness, or treaty implications. In fact, if this legislation were to become law in its current form and unilaterally breach the ABM Treaty, the international condemnation India is receiving for its nuclear testing during the last 48 hours could quickly shift to the United States.

There is no question that an accidental or unauthorized ICBM or SLBM launch by the Russians or PRC, however remote the possibility, would have devastating consequences. Such a threat alone, it could be argued, merits a limited national defense system. Indeed, there were extensive debates in the late eighties in the Senate regarding ALPS, or accidental launch protection system, as proposed by Senator Nunn.

But even in the debate over ALPS, it was understood that we should only go forward if it could be made affordable and cost-effective and deployed within the constraints of the ABM Treaty or a variant of this treaty, as agreed to by the Russians.

Admittedly, the threat situation has changed since the late 1980s. A new ICBM threat, such as a North Korean capability, could present itself in less than 20 years—a relatively short timeframe for deploying and refining a system as complex as a national missile defense. Such threats would become even more ominous in the event technology were transferred in part or in whole to a rogue regime, which is unlikely but not impossible.

Having a viable national missile defense system would not only provide a limited capability for meeting these threats but, far more importantly, it could serve to deter a rogue regime from even expending scarce resources on developing a long-range delivery system.

And rogue regimes would not be the only nations deterred. One of the most troubling strategic developments of the next century will be the rapid expansion of the PRC's strategic nuclear force through MIRVing—placing multiple warheads on each of its ICBMs—thus multiplying its nuclear strike capability many times over. This is not a remote possibility. MIRV technology is over 20 years old, and press reports indicate that, in fact, the Chinese are testing a MIRV capability. Facing a limited U.S. missile defense system which could, if necessary, be expanded to meet a potential Chinese threat, Beijing might choose to abandon any thought of pursuing this destabilizing course.

A limited national missile defense could also serve to deter a breakout by signatories, including the United States, Russia, China, Britain, and France, to future arms limitation agreements, especially those involving a very low number of offensive systems where temptations could be high for rapidly rebuilding capabilities in a crisis.

But we cannot simply dictate deployment of a national missile defense without consideration of costs and treaty implications. Despite decades of multibillion-dollar research and development and testing efforts, we have not yet demonstrated an ability to effectively and consistently hit a bullet with a bullet in either our national or theater missile defense programs, as was demonstrated even yesterday, even in controlled settings against relatively easy threats.

The reality may be that we can get there only with exorbitant expenditures that will siphon funding excessively from U.S. military programs for other more pressing threats. S. 1873 makes no account of costs and is, therefore, not, in my judgment, a prudent policy.

A limited capability could probably be achieved within the confines of the ABM Treaty or a slightly modified treaty. But to call for a defense system without regard to the arms control consequences is very shortsighted.

If our rush to deploy a national missile defense system undermines Russian ratification of START II and, worse yet, pushes the Russians to abrogate START I, the gains of a national missile defense system will be offset overwhelmingly by a restoration of a very costly and destabilizing offensive nuclear arms race. This, again, supports the condition that S. 1873 is simply not a prudent policy.

Legislation similar to S. 1873, but calling for a cost-effective and treaty-compliant limited national missile defense system, would be a much more sensible and responsible approach.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan has 7 minutes remaining.

Mr. LEVIN. I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator from Michigan.

Mr. President, there are good ideas and bad ideas. There are timely ideas and untimely ones. Whatever our views on a nation-wide ballistic missile defense, S. 1873 is both bad and untimely.

I urge my colleagues—on both sides of the aisle—to look closely at this bill and ask whether we should really be spending our time on it. Once they consider its implications we can reject cloture and get back to real work.

What would it mean to make it U.S. policy "to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)"?

For starters, we would have to deploy a national missile defense even if it broke the bank, the budget agreement, and the U.S. economy. And it might do just that, especially if the bill is interpreted as requiring defense of U.S. territories in addition to every square inch of the 50 states.

This bill would also require deployment before we know the precise nature of the threat—indeed, before we are actually threatened by any strategic missiles other than Russia's and China's, which have posed that threat for years. That raises the distinct risk that we would deploy the wrong defense for the real threats we may someday face.

Worse yet, we would spend the taxpayer's hard-earned money on the first technology, rather than the best technology. And the first technology may not stop missiles with penetration aids, which Russia and others already have.

In addition, by putting pressure on the Pentagon to deploy the first feasible technology, this bill will very likely worsen what General Welch's panel recently called a "rush to failure." Yesterday's fifth consecutive test failure with one of our theater defense missiles is a reminder of how difficult it is to develop any middle defense. Opting to deploy the first system that looks feasible is simply not a prescription for success.

Worst of all, this bill does not require—or even permit—consideration of negative consequences resulting from deployment.

Will the march to deployment destroy the Anti-Ballistic Missile Treaty? Too bad. That's precisely what some of our colleagues want.

Will the adoption of this objective torpedo implementation of START II and block any further reduction of strategic missiles or nuclear warheads? Too bad, again. Some people find "star wars" an easier solution than the hard, patient work of reducing great power armaments and stabilizing our forces.

Will renunciation of the ABM Treaty and the START process lead to a collapse of the Non-Proliferation Treaty? That is a real risk. But once again, too bad.

Do not focus on the Non-Proliferation Treaty's failings, and overlook its

successes. What would the world be like if the countries that have stopped short of developing nuclear weapons were to give up on the commitment of the nuclear powers to reduce their forces? Would we really be safer if all those other countries were to go nuclear?

That is a real risk, if we march willy-nilly to deploy a national missile defense. Remember: when Egypt developed a better defense against Israeli attack on its forces, it was able to mount an offensive attack in the Yom Kippur War. The same thing applies to a national missile defense. We may see it as a defense. But the rest of the world will see it as a second-strike defense that enables us to mount first-strike nuclear attacks.

Some day, we may really need a nation-wide ballistic missile defense. That is why the Defense Department is pursuing the 3+3 policy of finding a technology that would permit deployment within three years of determining that there was a serious threat on the horizon.

Some of my colleagues truly believe that we can't wait for that, and I respect their views—although I respectfully believe that they are wrong. Others may be frustrated because they feel the President is trying to steal their issue. "Life is unfair," as another Democrat once said.

But frustration and distrust do not make for good policy. And the policy that this bill would establish is simply too much, too soon. Let's get behind 3+3—make it effective, rather than forcing the Defense Department into an even more unrealistic schedule.

Sensible policy on ballistic missile defense is perfectly feasible. But S. 1873 isn't it. Let's stop wasting the Senate's time with it.

Mr. President, I am confused as the devil what my friends from Mississippi, Virginia, and others are doing here. Again, there are good ideas, there are bad ideas, there are timely ideas and untimely ideas. This is a bad, untimely idea. I truly am confused.

No. 1, we don't have any system that works. No. 2, there is no clear analysis of what the threat is that we are going to defend against. That usually goes hand in hand. We say we are going to build a system and here is the threat.

My friend, the senior Senator from Virginia, says, "Well, you know, the threat may come from terrorist organizations or from specific rogue countries and single-warhead systems." Fine, that is one kind of system. My friend, the junior Senator from Virginia, stands up and points out, if we come up with a missile defense system for a single warhead that is able to be dealt with, do you think the Chinese are not going to sit there and say, "You know, by golly, we're not going to build any MIRV'd warheads, we're not going to do that"?

Right now they may not do that. It is clearly against their interests.

We have this treaty with the Russians, the former Soviet Union, to do away with all multiple warhead missiles because we know they are so pernicious. This will encourage the Chinese to move. No. 1, we don't have an analysis of a threat. No. 2, my conservative friends, who are all budget-conscious guys, like we all are here, have no notion what the cost will be. They are ready to sign on and say, "Deploy. As soon as we find it, deploy it. If it breaks the budget deal, if it causes a deficit, if it breaks the bank, deploy." No. 3, the idea that the ABM Treaty may or may not be impacted upon by this seems to be of no consequence. And No. 4, my friend, the senior Senator from Virginia, and others stood up on the floor when we were dealing with NATO expansion and said, "JOE, JOE, JOE, the Russians, let's worry about how the Russians are going to think about being isolated; let's worry about how this could impact on Russia. Look, JOE, if you go ahead and do this and expand, what's going to happen is that all arms control agreements are going to come to a screeching halt."

Well, let me tell you something. You want to make sure they come to a screeching halt? Pass this, pass this beauty. This will be doing it real well. Bang. All of a sudden, the Duma saying, "Now look, we are going to commit to go to START II, which means we have no multiple warhead weapons, which means we're only going to go to single warhead weapons, which means that, by the way, the U.S. Senate"—and they think we are even smarter than we think we are—"the U.S. Senate just said, 'Go ahead and deploy as soon as you have a feasible system.'"

Now, what do you think those good old boys in the Duma are going to do? They are going to say, "You know, let's continue to destroy our multiple warhead weapons. The only thing we know for sure, these guys can't stop."

Look, what is viewed as good for somebody is viewed as poison for other people on occasion. And let me point out to you, we are sitting here thinking—and we mean it—that what we want to do is we are going to defend the American people. And we do. But you sit there on the other side of the ocean, the other side of the world, and say, "These guys, these Americans, the only people, by the way, who ever did drop an atomic weapon, these guys are building a system that is going to render them impervious to being hit by nuclear weapons. We think they are building that system for a second-strike capability. They can affirmatively strike us knowing they can't be struck back."

Now, don't you think the guys that don't like us might think that? Don't you think that might cross their minds as reasonable planners? And what are we doing this for? What are we doing this for? We have no technology that works now. We are spending $3 billion a year, which I support, on theater and national missile defense research—$3 billion a year. I am for it. We should not get behind the curve so there is a breakout. But to deploy as soon as feasible? So I have only come to one conclusion here, Mr. President. This has to do with either trying to get rid of ABM, which is one of the reasons why some of my friends on the right think it is a bad idea or, No. 2, the President stole the march on the missile defense from them and they are not going to let it happen. This makes no sense.

I thank the Chair.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Who yields time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Does the Senator from North Dakota want a minute at this point? I yield a minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise as a strong supporter of national missile defense. I have introduced legislation on this subject. I strongly believe in it. Just as strongly, I oppose what is before us. I oppose it because, No. 1, I believe it undermines congressional responsibility. I believe there are common-sense criteria we need to apply on any decision of what we deploy. We need treaty compatibility. The ABM and START must not be jeopardized. We need affordability. A balanced budget must be maintained. We should have maximum utilization of existing technology to prevent increased costs.

Mr. President, S. 1873 gives the Pentagon no guidance on all of these issues. In addition to that, our military leadership is telling us that S. 1873 might undermine our Nation's security.

The PRESIDING OFFICER. The Senator has spoken for 1 minute.

Mr. CONRAD. I ask for an additional 30 seconds.

Mr. LEVIN. I ask unanimous consent for an additional minute for this side.

Mr. COCHRAN. No objection.

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

Mr. CONRAD. Mr. President, let us listen to our leadership, our military leadership, General Shelton, the current Chairman of the Joint Chiefs of Staff.

The effect NMD "deployment would have on our arms control agreements and nuclear arms reductions * * * should be included in any bill on national missile defense."

General Shalikashvili, the former Chairman of the Joint Chiefs: Efforts that imply "withdrawal in the ABM Treaty may jeopardize Russian ratification of START II and * * * could

prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons, thereby increasing both costs and risks we may face."

Mr. President, I am in favor of NMD, national missile defense. I am opposed to this legislation.

The PRESIDING OFFICER. The Senator from Michigan has 1 minute 30 seconds remaining.

Mr. LEVIN. Mr. President, this is more of an "NMC" bill than an NMD. This is a "Never Mind the Consequence" bill.

General Shelton, our top military leader in the uniform of this country, has said he cannot support this bill for a number of reasons.

The question has been asked, "How can anybody oppose this bill?" A lot of people oppose this bill for a lot of reasons. But the people who support this bill ought to ask themselves, "How is it that our top military leadership oppose it?" And General Shelton, for many reasons, says he cannot support it. And one of the reasons is the one that Senator CONRAD just read. And I want to repeat it. Any bill should "consider affordability [and] the impact a deployment would have on arms control agreements and nuclear arms reductions."

When you commit to deploy a system which will breach in almost dead certainty a treaty between us and the Russians, and cause them to quit cutting the number of nuclear weapons and to start increasing again, we are jeopardizing the security of this Nation and contributing to the proliferation of nuclear weapons.

That is one of the big problems of this bill. That is why our top military leadership do not support this bill.

I ask unanimous consent, Mr. President, that the letters of General Shelton, General Shalikashvili and Secretary Cohen in opposition to this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, April 21, 1998.

Hon. CARL M. LEVIN,
Ranking Minority Member, Committee on Armed Services, Washington, DC.

DEAR SENATOR LEVIN: Thank you for the opportunity to comment on the American Missile Protection Act of 1998 (S. 1873). I agree that the proliferation of weapons of mass destruction (WMD) and their delivery systems poses a major threat to our forces, allies, and other friendly nations. US missile systems play a critical role in our strategy to deter these threats, and the current National Missile Defense (NMD) Deployment Readiness Program (3+3) is structured to provide a defense against them when required.

The bill and the NMD program are consistent on many points; however, the following differences make it difficult to support enactment. First and most fundamental are the conditions necessary for deployment. The bill would establish a policy to deploy as soon as technology allows. The NMD program, on the other hand, requires an emerging ballistic missile threat as well as the achievement of a technological capability for an effective defense before deployment of missile defenses.

Second, the bill asserts that the United States has no policy to deploy an NMD system. In fact, the NMD effort is currently a robust research and development program that provides the flexibility to deploy an initial capability within 3 years of a deployment decision. This prudent hedge ensures that the United States will be capable of meeting the need for missile defenses with the latest technology when a threat emerges.

Third, I disagree with the bill's contention that the US ability to anticipate future ballistic missile threats is questionable. It is possible, of course, that there could be surprises, particularly were a rogue state to receive outside assistance. However, given the substantial intelligence resources being devoted to this issue, I am confident that we will have the 3 years' warning on which our strategy is based.

Fourth, the bill uses the phrase "system capable of defending the territory of the United States." The NMD program calls for defense of only the 50 states. Expanding performance coverage to include all US territories would have considerable cost, design, and location implications.

Finally, the bill does not consider affordability or the impact a deployment would have on arms control agreements and nuclear arms reductions. Both points are addressed in the NMD Deployment Readiness Program and should be included in any bill on NMD.

Please be assured that I remain committed to those programs that discourage hostile nations from the proliferation of WMD and the missiles that deliver them. In that regard, I am confident that our current NMD program provides a comprehensive policy to counter future ballistic missile threats with the best technology when deployment is determined necessary.

Sincerely,

HENRY H. SHELTON,
Chairman, Joint Chiefs of Staff.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 1, 1996.

Hon. SAM NUNN,
U.S. Senate, Committee on Armed Services, Washington, DC.

DEAR SENATOR NUNN: In response to your recent letter on the Defend America Act of 1996, I share Congressional concern with regard to the proliferation of ballistic missiles and the potential threat these missiles may present to the United States and our allies. My staff, along with CINCs, Services and the Ballistic Missile Defense Organization (BMDO), is actively reviewing proposed systems to ensure we are prepared to field the most technologically capable systems available. We also need to take into account the parallel initiatives ongoing to reduce the ballistic missile threat.

In this regard, efforts which suggest changes to or withdrawal from the ABM Treaty may jeopardize Russian ratification of START II and, as articulated in the Soviet Statement to the United States of 13 June 1991, could prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons thereby increasing both the costs and risks we may face.

We can reduce the possibility of facing these increased costs and risks by planning an NMD system consistent with the ABM treaty. The current National Missile Defense Deployment Readiness Program (NDRP), which is consistent with the ABM treaty, will help provide stability in our strategic relationship with Russia as well as reducing future risks from rogue countries.

In closing let me assure you, Senator Nunn, that I will use my office to ensure a timely national missile defense deployment decision is made when warranted. I have discussed the above position with the Joint Chiefs and the appropriate CINCs, and all are in agreement.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman, Joint Chiefs of Staff.

THE SECRETARY OF DEFENSE,
Washington, DC, April 21, 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your request for the views of the Department of Defense on S. 1873, the American Missile Protection Act of 1998.

The Department of Defense is committed to ensuring that we properly protect the American people and America's national security interests. This requires that we have a carefully balanced defense program that ensures that we are able to meet threats to our people and vital interests wherever and whenever they arise. A key element of our defense program is our National Missile Defense (NMD) program, which as you know was restructured under Secretary Perry and with the support of Congress as a "3+3" deployment readiness program. Under this approach, by 2000 the United States is to be in a position to make a deployment decision if warranted by the threat, and if a decision to deploy were made at that time the initial NMD system would be deployed by 2003. If in 2000 the threat assessment does not warrant a deployment decision, improvements in NMD system component technology will continue, while an ability is maintained to deploy a system within three years of a decision.

The Quadrennial Defense Review reaffirmed this approach, although it also determined that the "3+3" program was inadequately funded to meet its objectives. Accordingly, I directed that an additional $2.3 billion be programmed for NMD over the Future Years Defense Plan. It must be emphasized, though, that even with this additional funding, NMD remains a high risk program because the compressed schedule necessitates a high degree of concurrency.

I share with Congress a commitment to ensuring the American people receive protection from missile threats how and when they need it. S. 1873, however, would alter the "3+3" strategy so as to eliminate taking into account the nature of the threat when making a deployment decision. This could lead to the deployment of an inferior system less capable of defending the American people if and when a threat emerges. Because of this, I am compelled to oppose the adoption of the bill.

Please be assured, however, that I will continue to work closely with the Senate and House of Representatives to ensure that our

NMD program and all of our defense programs are designed and carried out in a manner that provides the best possible defense of our people and interests.

Sincerely,

BILL COHEN.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, there are two criticisms of this bill that I have heard during the debate from the opponents. The distinguished Senator from Michigan says that the bill should include the words "treaty compliant" and that it is therefore vulnerable to criticism and ought to be rejected. The distinguished Democratic leader says the bill uses the phrase "effective national missile defense system." He says "effective" is not defined in the bill.

Well, my suggestion is, if amendments ought to be offered to this bill we should vote for cloture so that we can get to the bill and amendments will be in order. Criticizing the bill because we are not considering amendments at this time is begging the question. The question is, should the Senate turn to the consideration of the American Missile Protection Act? We are suggesting yes. But the Democrats objected.

It is like when President Clinton, 2 years ago with the authorization bill before the Congress, held the bill up, held it up arguing over missile defense because there was a provision in it that suggested we ought to have a national missile defense, we ought to develop and deploy. They changed the words finally to "develop for deployment," and then that was taken out of the bill in conference.

The point is this administration is taking a wait-and-see attitude, wait until there is a threat. The reality is the threat exists now. We need to debate this issue. We need to debate this bill. The Democrat leadership are opposing that. We hope the Senate will vote cloture. Let us proceed to the consideration of the American Missile Protection Act. If Senators have amendments, suggestions, that is when they will be in order. They cannot be considered now until we invoke cloture. I hope the Senate will vote to invoke cloture on the motion to proceed to consider the bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 345, S. 1873, the missile defense system legislation:

Trent Lott, Thad Cochran, Strom Thurmond, Jon Kyl, Conrad Burns, Dirk Kempthorne, Pat Roberts, Larry Craig, Ted Stevens, Rick Santorum, Judd Gregg, Tim Hutchinson, Jim Inhofe, Connie Mack, R.F. Bennett, and Jeff Sessions.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is: Is it the sense of the Senate that debate on the motion to proceed to S. 1873, the missile defense bill, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 59, nays 41, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—59

Abraham	Frist	Mack
Akaka	Gorton	McCain
Allard	Gramm	McConnell
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hagel	Roth
Burns	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hollings	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Coverdell	Inouye	Specter
Craig	Jeffords	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lieberman	Thurmond
Enzi	Lott	Warner
Faircloth	Lugar	

NAYS—41

Baucus	Feingold	Levin
Biden	Feinstein	Mikulski
Bingaman	Ford	Moseley-Braun
Boxer	Glenn	Moynihan
Breaux	Graham	Murray
Bryan	Harkin	Reed
Bumpers	Johnson	Reid
Byrd	Kennedy	Robb
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, let me yield to my colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask that the Senate now proceed to the consideration of S. 1244 under the consent order.

RELIGIOUS LIBERTY AND CHARITABLE DONATION PROTECTION ACT OF 1998

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1244) to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Liberty and Charitable Donation Protection Act of 1998".

SEC. 2. DEFINITIONS.

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

"(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

"(A) is made by a natural person; and

"(B) consists of—

"(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

"(ii) cash.

"(4) In this section, the term 'qualified religious or charitable entity or organization' means—

"(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

"(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.".

SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "(1) made" and inserting "(A) made";

(3) by striking "(2)(A)" and inserting "(B)(i);

(4) by striking "(B)(i)" and inserting "(ii)(I)";

(5) by striking "(ii) was" and inserting "(II) was";

(6) by striking "(iii)" and inserting "(III)"; and

(7) by adding at the end the following:

"(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

"(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

"(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.".

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking "(b) The trustee" and inserting "(b)(1) Except as provided in paragraph (2), the trustee"; and

(2) by adding at the end the following:

"(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.".

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(B) by striking "548(a)(1)" and inserting "548(a)(1)(A)";

(2) in subsection (f)—

(A) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(B) by striking "548(a)(1)" and inserting "548(a)(1)(A)"; and

(3) in subsection (g)—

(A) by striking "section 548(a)(1)" each place it appears and inserting "section 548(a)(1)(A)"; and

(B) by striking "548(a)(2)" and inserting "548(a)(1)(B)".

SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: ", including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made".

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: "In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).".

SEC. 5. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

The PRESIDING OFFICER. Under the previous order, there are 10 minutes equally divided on each side.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise in strong support of S. 1244, The Religious Liberty and Charitable Donation Protection Act, which I introduced in October of last year.

When I held hearings on this bill before my subcommittee, I learned that churches and charities around the country are experiencing a spate of lawsuits by bankruptcy trustees trying to undo tithes or charitable donations. Under provisions of the Bankruptcy Code originally designed to fight fraudulent transfers of assets or money on the eve of bankruptcy, bankruptcy trustees have begun to sue churches when one of their parishioners declares bankruptcy, charging that tithes are fraud.

Of course, this puts the fiscal health of many churches at serious risk. Most churches and charities don't have big bank accounts. Having to pay back money that has been received and already spent is a real hardship for churches which often live on a shoestring budget. S. 1244 will protect against that.

Protecting churches and charities from baseless bankruptcy lawsuits will protect key players in the delivery of services to the poor. What do churches do with tithes? What do charities do with contributions?

They feed the poor with soup kitchens. They collect used clothing and help provide shelter for the homeless. And they do it with a minimal amount of Government assistance. In this day and age, where Congress is seeking to trim the Federal Government to its appropriately limited role, we must protect the important work of churches and charities. Mr. President, S. 1244 is a giant step in that direction.

This bill doesn't amend Section 548(A)(1) of the Bankruptcy Code. This means that any transfer of assets on the eve of bankruptcy which is intended to hinder, delay or defraud anyone is still prohibited. Only genuine charitable contributions and tithes are protected by S. 1244. Accordingly, a transfer of assets which looks like a tithe or a charitable donation, but which is actually fraud, can still be set aside. For example, if someone who is about to declare bankruptcy gives away all of his assets in donations of less than 15 percent of his income, that would be strong evidence of real fraud and real fraud can't be tolerated.

Mr. President, my legislation also permits debtors in chapter 13 repayment plans to tithe during the course of their repayment plan. Under current law, people who declare bankruptcy under chapter 13 must show that they are using all of their disposable income to repay their creditors. The term disposable income has been interpreted by the courts to allow debtors to have a reasonable entertainment budget during their repayment period. But these same courts won't let people tithe. So, a debtor could budget money for movies or meals at restaurants, but they couldn't use that same money to tithe to their church. This is a direct and outrageous assault on religious freedom. And I think it's quite clearly contrary to Congress' intent in enacting chapter 13. I doubt anyone would have supported the idea that debtors could pay money to a gambling casino for entertainment but could not give the same money to a church as a tithe.

Mr. President, S. 1244 is necessary at this time because the Supreme Court struck down the Religious Freedom Restoration Act as unconstitutional last summer. A badly-divided panel of the Eighth Circuit Court of Appeals has recently ruled that RFRA protects tithes, even after the Supreme Court case. But that decision is being appealed to the Supreme Court. No matter what the Court does, we need to pass this bill now, and to subject churches to uncertainty and harassment by bankruptcy trustees.

Mr. President, I think it's important to remember that my bill protects donations to churches as well as other types of nonprofit charities. I did this because many well-respected constitutional scholars believe that protecting only religiously-motivated donations from the reach of the Bankruptcy Code would violate the establishment clause of the first amendment.

Now a concern was recently raised that S. 1244 doesn't protect unincorporated churches. That just isn't so. Professor Douglas Laycock, perhaps the leading scholar on religious freedom, has written to me on this topic and has concluded that unincorporated churches would in fact be protected. I ask unanimous consent that his letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. GRASSLEY. Mr. President, I would like to close on this note. When I chaired a hearing on tithing and bankruptcy before my subcommittee late last year, I heard from the pastor of Crystal Free Evangelical Church. This church is the one fighting right now in the Eighth Circuit Court of Appeals to keep the bankruptcy court out of its church coffers. Pastor Goold testified in a very compelling way about the practical difficulties his church has faced because of the Bankruptcy Code. As Pastor Goold put it, when there's a conflict between the bankruptcy laws and the laws of God, we should change the bankruptcy laws because God's laws aren't going to change.

Whether someone believes in tithing or not, it's clear that many Americans feel that tithing is an act of worship, required by divine law. It's completely unacceptable to have the bankruptcy code undo an act of worship.

EXHIBIT 1

UNIVERSITY OF TEXAS AT AUSTIN,
SCHOOL OF LAW,
Austin, TX, May 6, 1998.

Hon. CHARLES E. GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY: The question has arisen whether S. 1244 and H.R. 2604 would protect unincorporated churches. The answer is yes; unincorporated churches would be protected.

These bills protect organizations defined in §170(c)(2) of the Internal Revenue Code,

which includes any "corporation, trust, or community chest, fund, or foundation" organized and operated exclusively for charitable, religious, or other listed purposes. The Internal Revenue Code defines "corporation" to include an "association." 26 U.S.C. §7701(a)(3). An unincorporated association may also be a "fund."

The language of §170(c)(2) dates to shortly after World War I. Related sections drafted more recently use the word "organization," which more obviously includes unincorporated associations. See, e.g., §170b and §§502–511. The implementing regulations under §170 and §501(c)(3) also used the word "organization." 26 C.F.R. §§1.170 and 1.501. "Organization" does not appear to be a defined term. But Treasury Regulations define "articles of organization" in inclusive terms: "The term articles of organization or articles includes the trust instrument, the corporate charter, *the articles of association*, or any other written instrument by which an organization is created." 26 C.F.R. §1.501(c)(3)(b)(2) (emphasis added) "Articles of association" clearly seems designed to include unincorporated associations.

The clearest statement from the Internal Revenue Service appears to be Revenue Procedure 82–2 (attached), which sets out certain rules for different categories of tax exempt organizations. Section 3.04 provides a rule for "Unincorporated Nonprofit Associations." This Procedure treats the question as utterly settled and noncontroversial.

Tax scholars agree that §170 includes unincorporated associations. The conclusion appears to be so universally accepted that there has been no litigation and no need to elaborate the explanation. The leading treatise on tax-exempt organizations states: "An unincorporated association or trust can qualify under this provision, presumably as a fund or foundation or perhaps, as noted, as a corporation." Bruce R. Hopkins, The Law of Tax-Exempt Organizations §4.1 at 52 (7th ed. 1997).

Borris Bittker of Yale and Lawrence Lokken of NYU says: "Since the term corporation includes associations and fund or foundation as used in IRC §501(c)(3) is construed to include trusts, the technical form in which a charitable organization is clothed rarely results in disqualification." Boris I. Bittker & Lawrence Lokken, 4 Federal Taxation of Income, Estates and Gifts ¶100.1.2 at 100–6 (2d ed. 1989).

Closely related provisions of the Code expressly cover churches. I.R.C. §170(b)(1) states special rules for a subset of organizations defined in §170(c), including "a church, or a convention or association of churches." I.R.C. §508(c)(1) provides that "churches, their integrated auxiliaries, and conventions or associations of churches" do not have to apply for tax exemption. These provisions plainly contemplate that churches are covered; they also prevent the accumulation of IRS decisions granting tax exempt status to unincorporated churches. These churches are simply presumed to be exempt.

There are tens of thousands of unincorporated churches in America. I am not aware that any of these churches has ever had difficulty with tax exemption or tax deductibility of contributions because of their unincorporated status. I work with many church lawyers and religious leaders, and none of them has ever mentioned such a problem. There are no reported cases indicating litigation over such a problem. If unincorporated churches were having this problem, Congress would have heard demands for constituent help or corrective legislation.

The fact is that legitimate unincorporated churches that otherwise qualify for tax deductibility under §170 and for tax exemption under §501(c)(3) are not rendered ineligible by their failure to incorporate. There is so little doubt about that that neither Congress, the IRS, nor the courts has ever had to expressly elaborate on the rule that everyone knows. This is a question that can be safely dealt with in legislative history affirming Congress's understanding that unincorporated associations are included in §170(c)(2) and Congress's intention that they be protected by these bills.

I consulted informally with Deirdre Halloran, the expert on tax exempt organizations at the United States Catholic Conference, and with tax professors here and elsewhere, who confirmed these conclusions. Ms. Halloran would be happy to respond to inquiries from your office if you need a second opinion.

Very truly yours,

DOUGLAS LAYCOCK.

Mr. GRASSLEY. I yield the floor.

Mr. HATCH. I compliment the distinguished Senator from Iowa and the distinguished Senator from Illinois for their work on this bill.

This is called the Religious Liberty and Charitable Donations Act of 1998, and I urge all of my colleagues to vote for its passage.

S. 1244 will help spell out the safe harbors for tithe-payers or others who contribute to charitable organizations and then find themselves in bankruptcy. It will work, together with the Religious Freedom Restoration Act in this area, to relieve burdens on often strained organizations that provide important services to our society. It will relieve an untenable burden on the religious rights of tithe-payers throughout America.

Mr. President, the issue of the status of tithes paid to churches by religiously motivated Americans who find themselves in bankruptcy proceedings has vexed tithe-payers and our courts for a number of years now. Vigilant, and some might say over-zealous, bankruptcy trustees have tried to recover tithes paid to churches as fraudulent conveyances under the bankruptcy code. Hundreds, if not thousands, of such claims for recovery against churches have been filed over the last few years. This has imperiled many churches, which operate on the offerings they receive as they come in. By the time a bankruptcy claim is filed, the money has been spent feeding the poor or otherwise serving the needs of the congregation. Many churches find it very difficult to make up money that has already been spent, and when they can, it weakens their ability to do the charitable and spiritual work that is part of the grand tradition of religious charity in America.

Not only are the churches themselves imperiled, but many believers are told by the government that they can no longer pay tithes once they have been in bankruptcy, even if a believing debtor wishes to forgo allowable entertainment expenses to pay the tithing they believe God requires of them. This is an unsupportable interposition of Uncle Sam and the bankruptcy system between believing Americans and God.

I believe we fixed the problem in 1993, when we passed the Religious Freedom Restoration Act ("RFRA"), which gave greater protections to religious activities across the board than the courts were affording at that time. An early bankruptcy case under that law, however, and the position the Clinton Justice Department took in that case, risked undermining those protections. Under pressure from me and others in Congress, the Justice Department reversed itself on direct orders from the President. And, luckily, the 8th Circuit Court of Appeals applied RFRA's stronger protections to the case. When that decision was appealed to the Supreme Court, however, it was vacated and remanded by the Supreme Court for further proceedings in light of the Court's decision in *City of Boerne* v. *Flores*,—U.S.—,117 S. Ct. 2157 (1997), in which it held that RFRA was unconstitutional as applied to the states. Upon the review of the Young case, I filed an amicus brief in the 8th Circuit, arguing with others that Boerne had no effect on questions of federal law such as bankruptcy, and so RFRA was constitutional and should apply in the bankruptcy context. I am pleased to report that the case of *Christians* v. *Crystal Evangelical Free Church*, 1998 WL 166642 (8th Cir. (Minn.)), decided last month, held RFRA to be constitutional for federal law purposes and protective of tithes in bankruptcy proceedings.

The uncertainty caused by Boerne accelerated the challenging of tithes as fraudulent conveyances, and in turn spurred our efforts to clarify the law. I am glad that RFRA will continue to be of service in this area, but I am also pleased that we will have targeted legislation to clear up any remaining confusion without undue confusion during further litigation. S. 1244 will help spell out the safe harbors or tithe payers or others who contribute to charitable organizations and then find themselves in bankruptcy. It will relieve burdens on often-strained organizations that provide important services in our society, and relieve an untenable burden on the religious rights of tithe payers across America.

Let me thank all of those who worked on this legislation, especially Senator GRASSLEY and Senator DURBIN, who are leaders on bankruptcy issues on the Judiciary Committee, and, in the case of at least Senator GRASSLEY and I believe Senator DURBIN, are strong supporters of the religious rights of our people. I thank both of them for the work in this area. We have worked to make this legislation useful and efficacious. So I urge all of our colleagues to vote for its passage.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Alabama.

Mr. GRASSLEY. I yield to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I rise to speak on behalf of the Religious Liberty and Charitable Donation Protection Act of 1998. It is an honor to work with my good friend from Iowa on this important piece of legislation, and I thank him for his leadership on this issue.

In an important 1970 Supreme Court case upholding tax exemptions for churches, Chief Justice Burger spoke of the Government's relationship with religion as being a relationship of "benevolent neutrality". It seems more and more that the Government's "benevolent neutrality" is becoming harder to discern, often being replaced with what appears to be "outright hostility".

A good example of this is found in Federal bankruptcy law. In the 1995 case of "In re Tessier," a couple filed for bankruptcy under Chapter 13. Out of their net monthly income of $1,610, they proposed to continue making contributions to their church in the amount of $100 per month. This couple had deeply-held religious convictions about donating to the church as part of the exercise of their religious faith. They proposed spending only $200 per month on food, and nothing on entertainment, recreation, health insurance, life insurance, cable television, telephone, or even electrical utility service. Nevertheless, the Bankruptcy Court ruled that during the 5 year duration of their Chapter 13 plan, this couple could not make the proposed contributions to their church. This was in spite of the fact that the Court would probably have allowed them to spend that sum of money on entertainment or recreational expenses.

The matter of pre-bankruptcy contributions to a church or charity is also a matter of much concern. Several courts have actually interpreted the bankruptcy law to require churches to refund donations made to them in the year prior to a debtor filing bankruptcy. In making such rulings, the courts hold that donations to the church are "fraudulent conveyances"—that is, by giving the money to the church without (according to the courts) receiving something economically valuable in return, they are defrauding their creditors. In reality, there is no fraud involved. And of course you can imagine the potential burden on small churches that may be just getting by financially—churches that have done nothing wrong—to find that they are required to repay a year's worth of contributions received from a faithful contributor.

The Grassley-Sessions bill is a commonsense bill that would clarify the Bankruptcy law to ensure that our courts will no longer make the sort of rulings that I have described.

Under our bill, contributions of up to 15% of a person's income, or a higher amount that is consistent with an individual's past practice of giving, will not be considered fraudulent when made during the year prior to filing bankruptcy. Consequently, innocent churches and charities would not have to repay such contributions.

Secondly, our bill will allow debtors under Chapter 13 repayment plans to make charitable contributions of up to 15% of their income. If bankruptcy law allows for spending on recreational expenses while under a Chapter 13 repayment plan, it should also allow an individual to tithe to their church or make reasonable charitable contributions.

Mr. President, this is an important bill which will help to restore the Government to its rightful position of benevolent neutrality toward religion. It will provide necessary legislative guidance in an area of bankruptcy law that has gotten off track. I urge my colleagues to join with me in support of this legislation.

Mr. President, I am honored to support this legislation. Senator GRASSLEY has done an excellent job in identifying an unfair component of the Bankruptcy Act. If an individual pays money to a nightclub, a casino, or to any other recreational activity whatsoever, that person who received the money does not have to give it back to the bankruptcy court. If they had given money to a charitable enterprise or a church, they could be required to give it back. And in chapter 13 where an individual pays out their debts on a regular basis, the courts have denied them the right to give money to charitable institutions as part of their regular payments while at the same time allowing them substantial amounts of money for recreational expenditures. We think that is unfair. We think this bill is a sound way to correct that problem.

I am honored to work with Senator GRASSLEY and support him in this effort.

Mr. DURBIN. Mr. President, it is a pleasure to stand in support of this legislation. Senator GRASSLEY and I have worked on it, but I want to give him the lion's share of the credit because this was his notion, his concept, and he has developed it into a very good piece of legislation.

We work closely together on these bankruptcy issues, and for those who are interested in bankruptcy stay tuned; there is more to follow. But I think you will find this bill noncontroversial and certainly one everyone should be able to support.

The bottom line here is whether or not you are dealing with a fraudulent conveyance. Someone in anticipation of bankruptcy may give away money and it is said by the court that you cannot do that; if you are going to give money away for nothing, then we are going to come back later on in the bankruptcy court and recover it. But Senator GRASSLEY has pointed out, I think appropriately, the situation where people give money to a charity or a church, and he says that should be considered in a different category. And I agree. As he has mentioned in the opening statement, there is a limitation in the law of 15 percent of your annual income that can be given in this fashion. So we don't anticipate any type of abuse in this area.

I thank Senator GRASSLEY. It is a pleasure to serve with him and work with him. We have more to follow on the bankruptcy issue, but I am anxious to encourage my Democratic colleagues today to join with us in voting for this legislation.

Mr. SARBANES. Will the Senator yield?

Mr. DURBIN. I will be happy to yield to the Senator from Maryland.

Mr. SARBANES. I am prompted by something the ranking member of the subcommittee said which leads me to put an inquiry to him and to Senator GRASSLEY.

There are a number of bankruptcy districts in the country that are facing very serious problems in handling their caseload. I have been in frequent communication with the subcommittee about this, and obviously my district is one of them. It has consistently now, for 4 or 5 years, ranked at the very top of case overload of all bankruptcy districts in the United States. Every study that has been made has recommended additional bankruptcy judges, and I note for a fact that the existing bankruptcy judges in my district are severely overworked. This is denying economic justice to both creditors and debtors. It is a matter which needs to be addressed. It is a pressing crisis.

Now, the House sent over to us some time ago legislation providing for some additional judges based on comprehensive studies undertaken by the Administrative Office of the Courts and by others. This session is moving along. If we don't get some relief, we are going to continue to have this extraordinary situation which exists in quite a number of districts across the country in terms of reducing their backlog. It is a very severe problem in a number of districts.

I am prompted by Senator DURBIN's reference, and Senator GRASSLEY's assent to it, as I understood it, there is more to follow. So I just put the inquiry whether this is one of the matters to follow. I would certainly hope so.

Mr. DURBIN. Mr. President, if I might say in response to my friend, the Senator from Maryland, I agree with him completely. We now know that the caseload in bankruptcy courts has been

growing every single year. It really taxes the system, and if not in this legislation, in the following bill I hope we will provide the resources to make sure the bankruptcy courts can respond.

Mr. GRAMS. Mr. President, I rise in strong support of Senator GRASSLEY's bill, S. 1244, which exempts individual tithes to churches from bankruptcy proceedings. The exemption is up to 15 percent of income to prevent abuse.

This problem was brought to my attention by the Crystal Evangelical Free Church in Minnesota, which prompted my cosponsor of this important legislation. The Church was sued and required to repay tithes given to it by individuals who had declared bankruptcy. Churches depend on tithes for their income to operate effectively. They should not be liable for debt repayment of their parishioners.

This legislation is needed to protect churches from this kind of abuse. It is the right thing to do. I commend the Senator from Iowa for his effective leadership on this issue.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There seems to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the committee amendment is agreed to and the bill is read the third time. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—99

Abraham	Faircloth	Lott
Akaka	Feingold	Lugar
Allard	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Burns	Hatch	Roberts
Byrd	Helms	Rockefeller
Campbell	Hollings	Roth
Chafee	Hutchinson	Santorum
Cleland	Hutchison	Sarbanes
Coats	Inhofe	Sessions
Cochran	Inouye	Shelby
Collins	Jeffords	Smith (NH)
Conrad	Johnson	Smith (OR)
Coverdell	Kempthorne	Snowe
Craig	Kennedy	Specter
D'Amato	Kerrey	Stevens
Daschle	Kerry	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Warner
Durbin	Levin	Wellstone
Enzi	Lieberman	Wyden

NAYS—1

Kohl

The bill (S. 1244), as amended, was passed.

Mr. SESSIONS. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business until the hour of 2 p.m. today, with Senators permitted to speak for up to 10 minutes each.

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

UNANIMOUS-CONSENT AGREEMENT—S. 1260

Mr. DOMENICI. Mr. President, I ask unanimous consent that at 2 o'clock, the Senate begin consideration of S. 1260 under the consent agreement.

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2072 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

EQUITY IN PRESCRIPTION AND CONTRACEPTION COVERAGE ACT

Mr. REID. Mr. President, yesterday's USA Today headline: "Viagra heightens insurance hopes for comfort care." The first paragraph says:

> While health insurers try to decide whether to pay for the impotence drug Viagra, a poll shows half of Americans think men should pay for it themselves.

Mr. President, I will bet those half are women. Women have really been treated unfairly in this. Senator OLYMPIA SNOWE and I introduced legislation last May, the Equity in Prescription and Contraception Coverage Act, which in effect said that health care providers that provide prescription drugs should also provide contraceptives.

We have waited a year. We have not been able to even get a hearing on this. The reason I am here today is to speak for American women who have been treated so unfairly by male-dominated legislatures for the last many decades.

Women pay about 70 percent more for their health care than do men, mostly related to reproductive problems. We have a situation where we have 3.6 million unintended pregnancies in this country every year. And 45 percent of them wind up in abortions. We find these insurance companies, these health care providers, will pay for a tubal ligation, they will pay for abortions, they will pay for a vasectomy, but they will not provide money for the pill.

An average pregnancy, unintended pregnancy, in this country costs an average of about $1,700. I say, why can't we talk about something other than what helps men? Viagra is in all the newspapers, trying to make a decision as to whether or not insurance companies should pay for this. Why don't we talk about why insurance companies shouldn't pay for contraceptives, health care providers shouldn't pay for contraceptives? It seems that would be a step in the right direction. Over half of the insurance companies, health care providers, do not cover this.

Our legislation, that of the senior Senator from Maine and me, would require insurers, HMOs, and employee health benefit plans that offer prescription drug benefits to cover contraceptive drugs approved by the FDA. This is long overdue.

I am just telling everyone here that if we do not have the benefit of some hearings on this—the senior Senator from Maine and I have written letters, and we have asked people, and we cannot get the benefit of a hearing. This should not be. It would seem to me we should have a hearing with the Labor and Human Resources Committee.

I have had the benefit of speaking to the senior Senator from Pennsylvania, who has been very concerned about issues like this in the past. And at last resort, we will go to the Appropriations Committee and have a hearing there. We should not have it there, but at last resort we will have it there. I do not think it is appropriate that we have to legislate on appropriations bills, but as a member of the Appropriations Committee, on this, I am going to offer an amendment on the appropriate bill if we do not get some action by the proper authorizing committee. This is simply unfair—unfair—what is going on.

The same newspaper yesterday, in a different article, said:

> Health insurers that cover the new impotence drug Viagra but don't pay for female contraception are guilty of "gender bias," says the American College of Obstetricians and Gynecologists today.
>
> "Pregnancy is a medical condition, just like impotence. And the cost benefit of preventing pregnancy is much greater than treating impotence," says ACOG spokeswoman Luella Klein of Emory University.

Mr. President, it simply is unfair. Over this last decade, we have moved forward a little bit with the help of the junior Senator from Maryland, Senator MIKULSKI. She and I have worked together. We now have a program at the

National Institutes of Health that deals with women's conditions.

But, Mr. President, over the years diseases that afflict women have been ignored. Interstitial cystitis—it is a disease that afflicts 500,000 women in America, a very serious disease of the bladder—until 8 years ago, there was not a penny spent on it for research. They said it was in a woman's head. They learned that is not the case. Now, as a result of work done at the National Institutes of Health, they have a drug that cures the effects of this on 40 percent of the women.

Multiple sclerosis, intercervical and ovarian cancer, and breast cancer, and lupus—these diseases, for research, are basically ignored because they are diseases basically related to women principally.

I am saying here, this is really unfair what is going on here. We are spending so much time with all kinds of jokes on all the talk radio programs, all the TV programs, about Viagra. But it is not a joke that we have over 3.6 million unintended pregnancies, with 44 percent ending in abortion, in this country. And a lot of them are caused simply—in fact, the majority of them—simply because women cannot afford things like the pill.

We have to do something. Not only does it affect that, Mr. President, but a reduction in unintended pregnancies will lead to a reduction in infant mortality, low-birth-weight babies, and maternal morbidity. In fact, the National Commission to Prevent Infant Mortality determined that, "Infant mortality could be reduced by [more than] 10 percent if all women not desiring pregnancy used contraception."

So I think it is, again, unfair that tubal ligation, abortion, vasectomies, are covered and the pill, contraceptives, and contraceptive devices are not covered. In my opinion, we need to move this forward. We have the support of approximately 35 Senators in this body. We need a hearing, and we need to have this legislation passed.

I express my appreciation to the Senator from New York for allowing me to go before him.

The PRESIDING OFFICER. The Senator from New York is recognized.

NUCLEAR TESTING IN INDIA

Mr. MOYNIHAN. Mr. President, as the Senate will know, the Government of India has announced that two further underground nuclear tests occurred at 3:51, eastern daylight time, this morning. These follow the three underground explosions announced on Monday.

Now, this might at first seem a reckless act on the part of the Government of India. But, sir, I would call attention to a statement in an Associated Press report which reads, "The Government said its testing was now complete and it was prepared to consider a ban on such nuclear testing."

Sir, this could be a statement of transcendent importance. It would be useful at this time, when tempers—and I use the word "temper"—are rising in the West, to recall the outrage when France carried out a series of underwater tests in the South Pacific in Mururoa Atoll on September 5, 1995, to the indignation of many other nations, but thereupon signed the Comprehensive Test Ban Treaty the following year. And, sir, it has not only signed that treaty, it has ratified it.

The United States was among the convening nations in 1996 that signed the treaty, but this Senate has not ratified the treaty. The People's Republic of China followed much the same course in completing a series of tests and then agreeing to the test ban treaty.

Just now the press is reporting all manner of administration officials are distressed that the Central Intelligence Agency did not report indications that these tests were about to take place and that somehow we were taken off guard. But I repeat a comment I made to Tim Weiner of the New York Times yesterday that it might help if the American foreign relations community would learn to read.

The BJP Party, the Bharatiya Janata Party—now in office for essentially the first time—leads the ruling coalition and has long been militantly asserting that India was going to be a nuclear power like the other great powers of the world. It is the second most populous nation. In the election platform—technically, a manifesto in the Indian-English usage—issued before the last election, the BJP had this to say: "The BJP rejects the notion of nuclear apartheid and will actively oppose attempts to impose a hegemonistic nuclear regime. . . We will not be dictated to by anybody in matters of security requirements and in the exercise of the nuclear option."

This is hugely important, as is indicated by the enormous ground swell of support in India itself in the aftermath of Monday's explosion.

In the platform put together by the coalition that now governs in India, there is a statement, not quite as assertive, but not less so. This is the National Agenda for Governance, issued 18 March 1998. It says, "To ensure the security, territorial integrity and unity of India we will take all necessary steps and exercise all available options. Toward that end we will reevaluate the nuclear policy and exercise the option to induct nuclear weapons." That is an Indian-English term, "induct," as in induction into the military. It means to bring them into an active place in the Nation's military arsenal.

Now, the President, who is in Germany, announced today that we would impose the sanctions required under law, the Glenn amendment of 1994, directed against non-declared nuclear nations that begin nuclear testing. This is the law and the Indians knew it perfectly well, even if we have, perhaps, been insufficiently attentive to bringing to their minds the implications of the law. Chancellor Kohl—Germany being a large supplier of aid to India—was with President Clinton when this was said. We should not underestimate the degree to which this might just arouse further resentment in India.

The law is there, but also the resentment is there. In this National Agenda for Governance that I just recited, there are a number of platform "planks," you might say principles. The second on economy reads: "We will continue with the reform process to give a strong Swadeshi thrust to ensure that the national economy grows on the principle that India shall be built by Indians." Swadeshi is a turn of the century term of the independence movement meaning self-reliance, use indigenous materials, sweep imports out.

They are not going to be as intimidated by sanctions as we may suppose. This is the first Hindu government in India in perhaps 800 years. We tend to forget that. When we go to visit India, distinguished persons are taken to view the Taj Mahal, the Red Fort, the India Gate. All those are monuments by conquerors—Islamic, then English. It is something we don't notice. They do. And after 50 years of Indian independence, founded by a secular government which denied all those things, there is now a Hindu government and its sensibilities need to be attended to if only as a matter of common sense.

Do we want India in a system of nuclear arms control or don't we? I think we do. I think we ought to encourage them and explore the implications of the statement reported by the Associated Press. And while we are at it, it would do no great harm to ratify the Comprehensive Test Ban Treaty ourselves.

I see my friend from Nebraska is on the floor. I look forward to a comment he might make.

Mr. KERREY. Mr. President, I want to ask the Senator a question. First of all, I don't think there is anybody in the Senate who has been more consistently critical of the Central Intelligence Agency and has been more diligent in trying to change the way we classify documents. I find both of them to be a bit connected to his comments.

One of the concerns I have in all this is that we look for a scapegoat. Now, one of the things that citizens need to understand is that increasingly we are getting our intelligence through open sources. That is good because when you get your information through open sources there is a debate. Is what somebody said true or not true—and you debate such things.

I quite agree with what the Senator said earlier that for us to be going at the CIA right now because they didn't report this is a little ridiculous. All we have to do is read articles of John Burns over a half dozen months.

Mr. MOYNIHAN. Of the New York Times.

Mr. KERREY. If we head in the direction of finding a scapegoat here what we will miss is an opportunity to debate what our policy ought to be toward the largest democracy on Earth. In addition to the other things that the Senator said about India, this is also the largest democracy. A billion people live in India. Not an easy country to govern.

They have a Hindu nationalist party that campaigned on a platform, and that platform was that nuclear testing would resume. They were not secretive about that. They did not operate in the shadows on that. They were upfront and they followed through.

It seems to me we should blame ourselves for not paying attention to what is going on there and blame ourselves for not giving enough consideration or concern about the direction of the largest democracy on Earth.

The PRESIDING OFFICER. The Chair advises the Senator his 10 minutes has expired.

Mr. MOYNIHAN. I ask for an additional 5 minutes.

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

Mr. KERREY. I am at the end of my question, Mr. President.

I just wanted, in addition to making the point that the distinguished Senator has been very critical of the CIA—and I think he is quite right in this particular instance to say though we may need some questions answered, the biggest question is why didn't anybody in either the administration or in this Congress notice that the Hindu nationalist party had campaigned on a promise to make India a nuclear power. What does the distinguished Senator from New York think this Congress needs to do to make certain that we are paying attention in the aftermath of these sanctions to what India is doing, to make certain that, first, we don't miss an opportunity to get them to ratify this treaty, and in addition, to get them to do a number of other things that not only would be in their best interests, but to be in our best interests, as well, since a third of the Earth's population lives between India and China in this very, very volatile region to which we obviously have not paid a sufficient amount of attention.

Mr. MOYNIHAN. Well, I would say to my gallant, able friend that the Intelligence Committee could do worse than inviting some of the administration officials who are so indignant that the CIA didn't tell them what was going to happen up to say: have you read any Indian newspaper recently? Do you happen to know what the largest democracy in the world is and who they elected in the last election? Have you looked into their party platforms.

Mr. KERREY. Personally, I think it would be a waste of money to direct the CIA to read the New York Times and report to us what is contained in there relevant to any part of the world, let alone in India.

Mr. MOYNIHAN. I much agree. May I say to my friend that I was Ambassador to India on May 18, 1974, when the Indians exploded a "peaceful" nuclear explosion, as they said, in India on the same testing grounds used this time. It fell on me to call on then Prime Minister Gandhi to express our concerns. I have to say that Secretary Kissinger was mild; he toned down the indignation that came from the Department of State in his draft statement. I did say to Mr. Gandhi on that occasion, speaking for myself, without instructions, that India had made a great mistake, that it was the No. 1 country in south Asia, the hegemonic country in South Asia, Pakistan No. 3, if you like, then you go down to the Maldives, Bangladesh, and Sri Lanka; but in 25 years time there would be a Mongol general in Islamabad with a nuclear capacity, saying, I have got four bombs and I want the Punjab back and I want this region or that region, the Kashmir, or else I will drop them on what was then Bombay, New Delhi, Madras and Calcutta.

Well, something like that is happening and we better see that it doesn't go forward. So to explore the Indian offer here, suggesting the offer, seems to me, a matter of huge importance. We could see the end of the cold war, followed by a nuclear proliferation of a kind we never conceived. We can see China, North Korea, and Pakistan arming in nuclear modes against India and Russia and us looking at an Armageddonic future that we had felt was behind us.

Mr. KERREY. Mr. President, I know the distinguished Senator from Pennsylvania has come here for other reasons. He used to be chairman of the Intelligence Committee. I know from listening to him that he has an active interest in this issue as well. I have heard him comment many times. In fact, he asked the administration officials why they don't attempt to resolve the conflicts between India and Pakistan and India and China, and why do we not pay more attention to it. I suspect the Senator from Pennsylvania would rather not spend too much time commenting on it, but by coincidence, we have another individual on the floor who has an active interest in this issue.

Mr. MOYNIHAN. Mr. President, I thank my friend. I ask unanimous consent that the time from 1:45 p.m. to 2 o'clock be reserved for the Senator from Minnesota, Mr. WELLSTONE.

The PRESIDING OFFICER (Mr. GREGG). Is there objection?

Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair and yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

NUCLEAR PROLIFERATION

Mr. SPECTER. Mr. President, I commend my colleague from New York for his comments about the problems with nuclear proliferation. I thank my colleague from Nebraska for commenting about discussions that we have had over the years about the issues of proliferation of weapons of mass destruction.

I intend to speak directly to a subject that I had talked to the Senator from Nebraska about, and that is the need to have activism by the President of the United States in trying to deal with nuclear proliferation on the subcontinent. In fact, Senator Hank Brown and I had visited with Indian Prime Minister Rao in August of 1995 and also with Pakistani Prime Minister Benazir Bhutto. I then wrote to the President on this precise subject. I intend to discuss that at some length during the course of the remarks that I am about to make.

I believe that the nuclear detonation in India makes it more important than ever that the United States move ahead with leadership to try to defuse the proliferation of weapons of mass destruction, and that the Senate should act promptly to ratify the Comprehensive Test Ban Treaty.

We have had, already, in the course of the last 24 hours, indications of a chain reaction. We have had a response from Pakistan that they may well, too, test nuclear weapons. We have had a report from North Korea, which appears in this morning's press, that "North Korean officials have announced that they are suspending their efforts to carry out the 1994 nuclear freeze agreement that was intended to dismantle North Korea's nuclear program. United States officials said the program was intended to produce weapons in North Korea."

So we see what is happening on the international scene. There needs to be a very positive response by the United States to the likes of these very, very threatening developments.

As I started to comment earlier, Mr. President, Senator Hank Brown and I had occasion to meet with both the Indian Prime Minister and the Pakistani Prime Minister back on August 26 and 27 of 1995. It is summarized best in a letter that I wrote to the President from Damascus, dated August 28, 1995, which reads as follows:

I think it important to call to your personal attention the substance of meetings which Senator Hank Brown and I have had in

the last two days with Indian Prime Minister Rao and Pakistan Prime Minister Benazir Bhutto.

Prime Minister Rao stated that he would be very interested in negotiations which would lead to the elimination of any nuclear weapons on his subcontinent within ten or fifteen years including renouncing first use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks or a regional conference which would include the United States, China and Russia in addition to India and Pakistan.

When we mentioned this conversation to Prime Minister Bhutto this morning, she expressed great interest in such negotiations. When we told her of our conversation with Prime Minister Rao, she asked if we could get him to put that in writing.

When we asked Prime Minister Bhutto when she had last talked to Prime Minister Rao, she said that she had no conversations with him during her tenure as Prime Minister. Prime Minister Bhutto did say that she had initiated a contact through an intermediary but that was terminated when a new controversy arose between Pakistan and India.

From our conversations with Prime Minister Rao and Prime Minister Bhutto, it is my sense that both would be very receptive to discussions initiated and brokered by the United States as to nuclear weapons and also delivery missile systems.

I am dictating this letter to you by telephone from Damascus so that you will have it at the earliest moment. I am also telefaxing a copy of this letter to Secretary of State Warren Christopher.

When the news broke about the action by the government of India in detonating the nuclear weapon, I wrote to the President yesterday as follows:

With this letter, I am enclosing a copy of a letter I sent to you on August 28, 1995, concerning the United States brokering arrangements between India and Pakistan to make their subcontinent nuclear free.

You may recall that I have discussed this issue with you on several occasions after I sent you that letter. In light of the news reports today that India has set off nuclear devices, I again urge you to act to try to head off or otherwise deal with the India-Pakistan nuclear arms race.

I continue to believe that an invitation from you to the Prime Ministers of India and Pakistan to meet in the Oval Office, after appropriate preparations, could ameliorate this very serious problem.

I am taking the liberty of sending a copy of this letter to Secretary Albright.

Sincerely.

When I discussed the meeting which Senator BROWN and I had with both Prime Ministers in late 1995, the President said that was an item which he would put on his agenda following the 1996 elections. Since those elections, I have had occasion again to talk to the President about this subject, and he expressed concern as to what the response of the Senate would be and what would happen with respect to the concerns of China. I expressed the opinion to President Clinton that I thought our colleagues in the Senate would be very interested in moving ahead to try to diffuse the obvious tension between India and Pakistan on nuclear weapons.

That is all prolog. What we have now is a testing of a nuclear device by India as a matter of national pride. And I think that is what it is.

The new Government of India did give adequate notice, although, here again, I believe there might have been some sharp focus of attention by the CIA. Perhaps it is necessary to talk to the White House even about columns which appear in the New York Times, or some formal way to warn of this threat in a more precise and focused manner, although I quite agree with what the Senator from Nebraska, Senator KERREY, said—that it was obvious what the Government of India had intended to do.

But as I say, that is prolog. Now I think there is an urgent necessity for leadership from the President to try to diffuse this situation. At the same time, Mr. President, I think there is an urgent need that the Senate of the United States proceed to the consideration and ratification of the Comprehensive Test Ban Treaty. The essence of that treaty provides that it is an obligation not to carry out any nuclear weapon test explosion or any other nuclear explosion. That treaty has been considered by a number of countries, has been ratified by many countries, but it is still awaiting action by the United States.

The Senate Governmental Affairs Subcommittee on International Security, Proliferation and Federal Services held a hearing on this subject on October 27, of last year and March 18, of this year, and the Senate Appropriations Subcommittee on Energy and Water Development held a similar hearing on October 29 of last year. But as yet, there has been no action by the Foreign Relations Committee. It seems to me imperative that the matter be brought to the Senate floor as early as possible and whatever hearings are deemed necessary be held so that the Senate may consider this matter.

There are some considerations as to objections to the treaty as to whether we can know in a comprehensive way the adequacy of our nuclear weapons. But it seems to me that whatever the arguments may be, they ought to be aired in a hearing process before the Foreign Relations Committee and on the floor of this Senate and then brought for a vote by the U.S. Senate.

This is a matter of life and death. When we talk about nuclear weapons, we are talking about the force and the power which can destroy civilization as we know it. During the tenure that I had as chairman of the Senate Intelligence Committee, I took a look at the governmental structure in the United States on weapons of mass destruction, saw that some 96 separate agencies had operations, and, in conjunction with the then-Director John Deutch, inserted the provision to establish the commission to consider the governmental structure of the United States in dealing with weapons of mass destruction. That commission is now in operation. John Deutch is the chairman and I serve as vice chairman.

But it is certainly necessary that matters of this magnitude receive early attention at all levels of the government, including the President and the U.S. Senate. Where there is concern in the Senate on the subject of testing to know the capabilities of our weapons, it should be noted that article X of the Comprehensive Test Ban Treaty does provide for the right to withdraw if the Government decides that extraordinary events relating to the subject matter of this treaty would jeopardize the supreme interests, referring to the supreme interests of any nation. President Clinton has stated that he would consider withdrawing if we came to that kind of a situation.

President Clinton signed the Comprehensive Test Ban Treaty on September 24, 1996. Now we are more than a year and a half later without any real significant action having been taken by the U.S. Senate.

The 149 states have signed the treaty, and 13 have ratified it as of April of 1998. There is obviously a problem with what is going to happen with Iraq, Iran, or other countries which seek to develop nuclear weapons. There is obviously a problem with other nations which have nuclear weapons. But the ban on nuclear testing would certainly be a significant step forward in diffusing the situation and in acting to try to have comprehensive arms control on this very, very important subject.

I urge the President to take action, to use his good offices with sufficient preparation, as noted in my letter to him of yesterday, for a meeting in the Oval Office. Very few foreign leaders decline meetings in the Oval Office. That should be of the highest priority on the President's agenda, and similarly on the Senate agenda. Consideration and ratification of the Comprehensive Test Ban Treaty ought to be a very high priority on the Senate's agenda.

Mr. President, in the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SECURITY OF ISRAEL

Mr. SPECTER. Mr. President, I have again sought recognition to comment on the issue relating to the conditions which have been set by the U.S. Government on a further meeting with

Israeli Prime Minister Netanyahu and the difference of opinion of what is adequate to handle the security interests of the State of Israel. It is my view that it was inappropriate and counterproductive for the U.S. Government to deliver what I consider to be an ultimatum to Prime Minister Netanyahu that he accept the further redeployment of Israeli forces as a precondition to come to Washington to meet with the President on last Monday, May 11.

Secretary of State Albright briefed a number of Senators yesterday in a room, S. 407, where we have secret discussions, and at that time the Secretary of State said that she had not delivered an ultimatum but instead had stated conditions which would have to be met before the United States would continue to carry forward with the peace process on the current track.

I responded to the Secretary of State that I thought it wasn't even a difference of semantics to say that a condition on further discussions did not constitute an ultimatum, that in fact it was clearly an ultimatum in those discussions.

If the diplomacy is carried out in a quiet way, so be it. But when diplomacy is carried out publicly and where the Prime Minister of another country is put in the position where the Prime Minister has to back down, it seems to me totally counterproductive and unlikely to produce a result where there will be agreement or compliance even if Prime Minister Netanyahu had wanted to do that.

When it comes to the question of the security interests of Israel, I do not believe that anybody can second-guess the security interests of Israel except the Israelis and their Government. The view from the Potomac is a lot different than the view from the Jordan River as it has been said on many, many occasions. And Israel has been fighting more than 100 million Arabs for more than 50 years. They have won quite a number of wars, but they only have to lose one war before it is all over.

Secretary of Defense William Cohen appeared today before the Defense Appropriations Subcommittee, and I asked the Secretary of Defense whether he or anybody in his department had carried out an analysis as to the adequacy of security for Israel if Israel agreed to the proposal of the administration. I commented in the course of that question that I would not think, even if the United States had made that kind of a determination, it would be binding and might not even be relevant as to what Israel thought was necessary for its own security. Secretary of Defense Cohen said that no such analysis had been made on his part. But it would seem to me that as an indispensable prerequisite for the U.S. Government to take a position that Israel ought to have certain withdrawal at least there ought to be a professional determination that the withdrawal would be consistent with Israel's security interests. But as I say, the Secretary of Defense had not undertaken that kind of an analysis.

I submit that the issue of Israel's security is something that has to be judged by the Government of Israel. There is no doubt about the friendship and support of President Clinton's administration for Israel. I do not question that for a minute. But where you have the negotiations at a very, very critical point and public statements are made as a precondition which is realistically viewed an ultimatum, pure and simple, that is totally wholly inappropriate. It is my hope that these peace negotiations can be put back on track. I know that the Secretary of State is going to be meeting with Prime Minister Netanyahu later today. The Appropriations Committee has a meeting scheduled with Prime Minister Netanyahu tomorrow. I hope we can find our way through these negotiations and put the peace negotiations back on track.

I think it is a very difficult matter because while the administration is pressing Israel for a certain level of withdrawal, there are many items which are not being taken care of by the Palestinian authority.

Last year, Prime Minister Netanyahu had said that Arafat had given a green light to certain terrorist activities by the Palestinian Authority. And when Secretary of State Albright was before the Foreign Operations Subcommittee, I asked the question as to whether there had been, in fact, a green light given by Chairman Arafat, as charged by Prime Minister Netanyahu. Secretary of State Albright made the statement that it wasn't a green light, but there wasn't a red light either.

I think it is mandatory that the Palestinian Authority give such a red light. They cannot be guarantors, but a red light and their maximum effort to stop terrorism is required. Under the provisions of an amendment introduced by Senator SHELBY and myself, that kind of a maximum effort against terrorism is a precondition for getting any aid from the United States.

So, these matters are obviously delicate. They require a lot of diplomatic tact. It is my hope that the current stalemate can be surmounted, but I think it can be surmounted only if there is a recognition, as former Secretary of State Warren Christopher had, that security is a matter for the discretion of Israel—it is Israel's security—and that no ultimatum be issued, or at least no precondition be issued, before the Prime Minister of Israel can proceed to have a meeting or negotiations with the United States.

In the absence of any other Senator on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COATS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL URBAN LEAGUE ENDORSES FAIR MINIMUM WAGE

Mr. KENNEDY. Mr. President, President Clinton and Democrats in Congress strongly support a fair increase in the minimum wage. The economy is in a period of record growth. The stock markets are at an all time high. Unemployment continues to fall to its lowest level in a quarter century. Yet, too many workers on the bottom rungs of the economic ladder are not receiving their fare share of this prosperity.

Most Americans recognize that the minimum wage is not yet a living wage. According to an April NBC/Wall Street Journal Poll, 79 percent of those questioned support an increase.

Time and again, opponents state that increases in the minimum wage are harmful to the economy, and especially harmful to minority communities. But such statements have no basis in fact, as the current evidence makes clear.

In his recent "To Be Equal" column published in over 300 African-American newspapers across the country, Hugh Price, President of the National Urban League, strongly endorses the increase in the minimum wage that many of us have proposed, from its current level of $5.15 an hour to $5.65 an hour on January 1, 1999 and to $6.15 an hour on January 1, 2000. The National Urban League has played a prominent role in the civil rights community for over 80 years. Its 114 affiliates in 34 states and the District of Columbia are at the forefront of the battle for economic and social justice for all Americans.

Raising the minimum wage is a central part of the civil rights agenda to improve the economic condition of the working poor. I am proud that our legislation has the strong support of this renowned organization, and I ask unanimous consent that Hugh Price's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

A DECENT INCOME FOR LOW-WAGE WORKERS

(By Hugh B. Price)

With all the hurrahs over the astonishing current performance of the American economy—the so-called Long Boom—it's easy to forget that portion of the nation's workforce which has hardly shared in the general prosperity: the 12 million Americans who wages range from the current minimum wage of $5.15 an hour up to $6.14 an hour.

That sum, earned by people who work in such low-skill positions as fast-food worker and teacher's aide, adds up to a paltry annual income indeed. The average American

worker's hourly wage is $12.64 an hour. But an individual working at the minimum wage for 40 hours a week, 52 weeks a year, earns only $10,712 annually—an income that is $2,600 below the federal government's poverty line for a family of three.

That fact, coupled with recent cuts in welfare and Food Stamps programs, has driven increasing numbers of the working poor to emergency food banks and pantries: A 1996 U.S. Conference of Mayors survey found that 38 percent of those seeking emergency food aid hold jobs, up from 23 percent in 1994; and more and more private charities are saying they can't meet the greater demand on their resources.

We must help Americans who work but often endure great privation move closer to a decent, livable wage. We can do that by supporting legislation in Congress raising the minimum wage to a threshold of $6.15 an hour. Senator Ted Kennedy (D.-Mass.) will try to bring the measure, which has President Clinton's backing, before the Senate after Memorial Day Congressional recess. Representative David Bonior (D.-Mich.) will lead the effort for it in the House. The proposed law would raise the minimum wage by 50 cents each year for 1999 and 2000.

We should raise the minimum wage because it's only fair: hard work deserves just compensation at the bottom as well as the top of the salary ladder.

We know from the experience of the 90-cents minimum-wage hike President Clinton signed into law in 1996 that minimum-wage increases benefit the people who need it most—hardworking adults in low-income families. Based on federal labor department statistics, the Economic Policy Institute, a Washington think tank, found that nearly 60 percent of the gains from that minimum wage hike has gone to workers in the bottom 40 percent of the income ladder. Raising the minimum wage by $1 will help insure that parents who work hard and play by the rules, and who utilize the Earned Income Tax Credit, can bring up their children out of poverty.

Contrary to a widespread view, federal statistics show that most workers earning the minimum wage are adults, not teenagers. Half of them work full time, and another third work at least 20 hours a week. Sixty percent of those earning the minimum wage are women; 15 percent are African-American, and 14 percent are Hispanic.

Our recent experience has shown that raising the minimum wage in an era of strong and balanced economic expansion won't undermine job growth. The hike President Clinton signed into law in August 1996 increased the wages of 10 million workers. Since then, the economy has created new jobs at the very rapid pace of 250,000 per month, inflation has declined from 2.9 percent to 1.6 percent, and the unemployment rate has fallen to 4.6 percent—its lowest level in nearly 25 years.

Some have expressed concern that raising the minimum wage will make it even harder than it routinely is for young black males to find work. Of course, the unemployment rate of black males 16 to 19 years of age remains dangerously high: for 1997 it was 36.5 percent. But the minimum wage itself is hardly a significant cause of this decades-old problem, as we've noted before. Keeping the wages of all low-income workers at subsistence levels will likely only exacerbate the employment problems of young black males—and of the communities they live in.

Increasing the minimum wage now would restore its real value to the level it last held in 1981, before the inflation of the 1980s drove it down. We further recommend that Congress index the minimum wage to inflation starting in the year 2001 to prevent a further erosion of its value. Low-wage workers should be treated no differently than other, higher-income workers who annually receive at least cost-of-living increases in their salaries. With our economy in such glowing health, there could be no better time to raise the minimum wage. As President Clinton urged in his State of the Union Address: "In an economy that honors opportunity, all Americans must be able to reap the rewards of prosperity. Because these times are good, we can afford to take one simple, sensible step to help millions of workers struggling to provide for their families: We should raise the minimum wage."

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 12, 1998, the federal debt stood at $5,491,841,497,777.68 (Five trillion, four hundred ninety-one billion, eight hundred forty-one million, four hundred ninety-seven thousand, seven hundred seventy-seven dollars and sixty-eight cents).

One year ago, May 12, 1997, the federal debt stood at $5,334,445,000,000 (Five trillion, three hundred thirty-four billion, four hundred forty-five million).

Five years ago, May 12, 1993, the federal debt stood at $4,245,570,000,000 (Four trillion, two hundred forty-five billion, five hundred seventy million).

Ten years ago, May 12, 1988, the federal debt stood at $2,510,382,000,000 (Two trillion, five hundred ten billion, three hundred eighty-two million).

Fifteen years ago, May 12, 1983, the federal debt stood at $1,258,875,000,000 (One trillion, two hundred fifty-eight billion, eight hundred seventy-five million) which reflects a debt increase of more than $4 trillion—$4,232,966,497,777.68 (Four trillion, two hundred thirty-two billion, nine hundred sixty-six million, four hundred ninety-seven thousand, seven hundred seventy-seven dollars and sixty-eight cents) during the past 15 years.

Mr. WELLSTONE. Mr. President, I believe that I have reserved 15 minutes, up to 2 o'clock, to speak. I ask unanimous consent that I be able to use this 20 minutes, up to 2, to speak as in morning business.

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

Mr. WELLSTONE. Mr. President, there are two topics that I would like to cover. I have been trying to get to the floor for 2 days. I will not give either one of them the justice they deserve, but I shall do my best.

The PRESIDING OFFICER. The Senator is recognized.

THE MIDDLE EAST PEACE PROCESS

Mr. WELLSTONE. Mr. President, as a long-time supporter of Israel and her security, and as a fierce advocate of the Middle East peace process, I commend President Clinton, Secretary Albright, Ambassador Ross, and Assistant Secretary Indyk for their ongoing efforts to preserve and even reinvigorate the stalled peace process. As a member of the Foreign Relations Committee, as a Jewish Senator, as someone who loves Israel, I have followed this latest round of negotiations carefully. I care fiercely about what happens. And I thank the administration for staying engaged and for making a commitment to a peace process that Prime Minister Rabin gave his life for. I will never forget my visit to Israel for his funeral service. It was so moving to hear his granddaughter speak about him. I really hope and pray that we will have a peaceful resolution in the Middle East. I think it will be important for the Israeli children and the Palestinian children, and the children of other Middle Eastern countries as well.

I have watched with growing concern, over the past several weeks, as some critics of the administration's policy toward Israel here in the Congress have launched fierce partisan attacks on the policy. Speaker GINGRICH last week was even quoted as saying, in a press conference in which he criticized the administration's recent handling of the peace process, "America's strong-arm tactics would send a clear signal to the supporters of terrorism that their murderous actions are an effective tool in forcing concessions from Israel."

Mr. President, I think that is a demagogic accusation leveled at the President. I believe that the administration is trying to do the right thing. I point out that public opinion polls show that the majority of the people in our country believe that the administration is doing the right thing by continuing to put proposals out there, by trying to get this peace process going.

The administration has presented no ultimatums. It cannot force either party to do what it has no intention of doing. But I think this is courageous on the part of the administration. Quite often I am critical of this President, but I believe they are doing the right thing. The majority of the people in the country believe so, and the majority of the American-Jewish community, of which I am proud to be a member, also believe they are doing the right thing.

President Netanyahu is meeting with Secretary Albright. It is my hope that they will have fruitful discussions. I think it is terribly important that this happen.

Let me make three points by way of conclusion: First of all, the administration, as I mentioned a moment ago, is not issuing threats. However, the Bush administration—and I don't mean this as a partisan point, but the Bush administration in connection with policy

on settlements did threaten to cut off aid to Israel. There have been no conditions of this kind, putting aside whether the Bush administration was right or wrong to do that.

I also remind colleagues that this peace process is critically important, that it is important that we bridge the gaps, that the United States be a neutral mediator, that we continue to be a third party to which both parties can speak.

Finally, I will simply say that all of us ought to contemplate for a moment what will happen if the administration does not press to preserve this process and if this peace process collapses. I think the alternative scenario, which I shudder to think about, would be an escalation of terrorist attacks, with Israel facing newly hostile Arab neighbors on all sides and increased pressure from the Arab street for violent action against her. It is frightening to consider. I don't think that stalemate or the status quo is acceptable—I believe it is unthinkable. I think it is terribly important the United States continues to show leadership in this process.

Mr. President, this recent crisis in the peace negotiations coincides with Israel's celebration of her 50-year jubilee, an occasion of great joy for all of us who love Israel.

With the founding of modern Israel, the children of Abraham and Sarah, survivors of over 2,000 years of persecution and exile, were home at last and they were free at last. But the dream of Israel's founder, David Ben-Gurion, and that of his allies was not simply to provide a safe haven from centuries of Jewish suffering, it was also about fulfilling Isaiah's prophecy of making Israel "a light unto the nations," a powerful sign and symbol of justice and compassion to all people of the world.

Although it is fitting to pause to celebrate what all the people of Israel have accomplished over the last 50 years, we must also look forward to the tasks which face her in the next millennium, chief among them the task of building a just, secure and lasting peace.

It is my deepest prayer that our children and grandchildren, 50 years from this year, will be able to say with gratitude that we were the generation which overcame ancient hatreds and enabled them to achieve a just and lasting peace which has by then embraced the entire region and all the peoples. That is a vision worthy of Israel's founder and of all of us who come after. It is a vision for which we should and we must be willing to struggle, to fight for and for which all of us must take risks.

I come to the floor to say that I do not believe there would be anything more important than to forge a just and lasting peace for the region. This would truly be worthy of the dream of Israel's founder.

Mr. President, I speak out on the Middle East peace process, again, because I think there has been entirely too much personal attack and I believe it is terribly important that all of us who are committed to the peace process not be silent.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 2074 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WELLSTONE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has approximately 2 minutes left.

Mr. WELLSTONE. In the 2 minutes I have left, I am going to take advantage of being on the floor of the Senate. After all, I always say to my family, you know, I get to speak on the floor of the Senate. That is a huge honor.

PERSECUTION IN INDONESIA

Mr. WELLSTONE. Mr. President, let me just point out to colleagues that six students were murdered by the Suharto regime. I came out on the floor 2 days ago and talked about the fact that this could happen. These students committed no crime except to courageously say there ought to be freedom in that country. They have had the courage to challenge this government and to speak up for freedom for citizens in Indonesia and for democracy, and to end the persecution against people. And for that, they now have been murdered.

I believe that our Government ought to—we ought to use our maximum leverage with international institutions, the International Monetary Fund, the World Bank, to make it clear to Suharto that he does not get financial assistance when he murders his citizens.

We ought to, as a government, speak up on this. We should not be silent. And we should support these courageous students in Indonesia. I want those students to know they have my full support as a Senator from Minnesota.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—S. 1723

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 1723. I further ask consent that there be 2 hours of general debate on the bill, equally divided in the usual form.

I further ask consent that the following be the only first-degree amendments in order, other than the committee-reported substitute, that the first-degree amendments be subject to relevant second-degree amendments; that with respect to any time limit on the first-degree amendment, any second-degree thereto be limited to the same time limits:

Bingaman, relevant;

Bumpers, EB5 visas, 90 minutes equally divided;

Kennedy, layoffs, 40 minutes equally divided; recruit home, 40 minutes equally divided; whistle-blower protection;

Reed of Rhode Island, strike SSIG provision;

Reid of Nevada, international child abduction;

Wellstone, job training;

McCain, relevant;

Warner relevant;

That upon disposition of all amendments the committee substitute be agreed to, the bill be read a third time, and the Senate then proceed to vote on passage without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 1260.

The assistant legislative clerk read as follows:

A bill (S. 1260) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Litigation Uniform Standards Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Private Securities Litigation Reform Act of 1995 sought to prevent abuses in private securities fraud lawsuits;

(2) since enactment of that legislation, considerable evidence has been presented to Congress that a number of securities class action lawsuits have shifted from Federal to State courts;

(3) this shift has prevented that Act from fully achieving its objectives;

(4) State securities regulation is of continuing importance, together with Federal regulation of securities, to protect investors and promote strong financial markets; and

(5) in order to prevent certain State private securities class action lawsuits alleging fraud from being used to frustrate the objectives of the Private Securities Litigation Reform Act of 1995, it is appropriate to enact national standards for securities class action lawsuits involving nationally traded securities, while preserving the appropriate enforcement powers of State securities regulators and not changing the current treatment of individual lawsuits.

SEC. 3. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), a class action described in paragraph (2) of this subsection that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(2) PERMISSIBLE ACTIONS.—A class action is described in this paragraph if it involves—

"(A) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(B) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

"(i) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(ii) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(f) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(B) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(3) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.".

(2) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting "except as provided in section 16 with respect to class actions," after "Territorial courts,"; and

(B) by striking "No case" and inserting "Except as provided in section 16(c), no case".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(1) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

(2) by adding at the end the following new subsection:

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) PRESERVATION OF CERTAIN ACTIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(5) DEFINITIONS.—For purposes of this subsection the following definitions shall apply:

"(A) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(B) CLASS ACTION.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(D) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.".

SEC. 4. APPLICABILITY.

The amendments made by this Act shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, today we begin consideration of S. 1260, the Securities Litigation Uniform Standards Act of 1998.

The Banking Committee reported this bill on April 29 by an overwhelming vote of 14–4. This bill has strong bipartisan support. It comes as no surprise to anybody who has followed the progress of this legislation. This bill is the product of a great deal of hard work. It has been refined through the incorporation of comments from many sources, including the Securities and Exchange Commission. As a result of this process, this bill not only has been improved, but it actually enjoys the support of the Securities Exchange Commission and the White House.

Mr. President, I am not going to ask unanimous consent now that letters from the SEC and the White House be printed in the RECORD as if read, which is something we generally do. I think it is so important that I am going to take the time to refer to both letters and read what has been said, so that my colleagues can hear, and those who are interested in this debate can follow.

This is a letter, dated March 24, from the Securities and Exchange Commission, addressed to me as Chairman of the Banking Committee; Senator GRAMM, Chairman of the Subcommittee; and Senator DODD, who is the ranking member.

Let me read it:

Dear Chairman D'AMATO, Chairman GRAMM, and Senator DODD:

You have requested our views on S. 1260, the Securities Litigation Uniform Standards Act of 1997, and amendments to the legislation which you intend to offer when the bill is marked up by the Banking Committee. This letter will present the Commission's position on the bill and proposed amendments.

The purpose of this bill is to help ensure that securities fraud class actions involving certain securities traded on national markets are governed by a single set of uniform standards."

I think that is important, Mr. President. We should understand that those securities traded on national exchanges are governed by a uniform standard. I think that makes ample sense.

While preserving the right of individual investors to bring securities lawsuits wherever they choose. . .

So we should underscore that, as a premise, the SEC says, we are going to look for a single standard, but we will preserve the rights of individuals to bring securities lawsuits wherever they choose.

. . . the bill generally provides that class actions can be brought only in Federal Court where they will be governed by federal law.

As you know, when the Commission testified before the Securities Subcommittee of the Senate Banking Committee in October 1997, we identified several concerns about S. 1260. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to recover losses attributable to reckless misconduct would jeopardize the integrity of the securities market. In light of this profound concern, we were gratified by the language in your letter of today agreeing to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the well-recognized and critically important scienter standard.

So, Mr. President, we have a concern that was expressed as it existed in the 1995 law, and what the Securities and Exchange Commission said is, look, we want in the new proposal, as it relates to uniform standards, to clearly identify that you did not do away with, but will recognize the scienter standards. That has been accomplished. And I will go back to that.

Our October 1997 testimony also pointed out that S. 1260 could be interpreted to preempt certain state corporate governance claims, a consequence that we believe was neither intended nor desirable. In addition, we expressed concern that S. 1260's definition of class action appeared to be unnecessarily broad. We are grateful for your responsiveness to these concerns and believe that the amendments you propose to offer at the Banking Committee markup, as attached to your letter, will successfully resolve these issues.

So I think it is obvious that there has been considerable ongoing dialog and work between the Chairman of the Subcommittee, Senator GRAMM of Texas, the ranking member, Senator DODD, the Banking Committee staff and the SEC, to look and to deal with what is not only the proposals that we put forth for the first time, but to deal with some of the imperfections and some of the unintended consequences that may have evolved as a result of the 1995 act.

The ongoing dialog between our staffs has been constructive. The result of this dialogue, we believe, is an improved bill with legislative history that makes clear, by reference to the legislative debate in 1995, that Congress did not alter in any way the recklessness standard when it enacted the Reform Act. This will help to diminish confusion in the courts about the proper interpretation of that Act and add important assurances that the uniform standards provided by S. 1260 will contain this vital investor protection.

We support enactment of S. 1260 with these changes and with its important legislative history.

We appreciate the opportunity to comment on the legislation, and of course remain committed to working with the Committee as S. 1260 moves through the legislative process.

Sincerely,

ARTHUR LEVITT,
Chairman;
ISAAC C. HUNT,
Commissioner;
LAURA S. UNGER,
Commissioner.

Mr. D'AMATO. At this time, I ask unanimous consent that the letter be printed in the RECORD so that it can be viewed in its entirety.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Dear Chairman D'Amato, Chairman Gramm, and Senator Dodd: You have requested our views on S. 1260, the Securities Litigation Uniform Standards Act of 1997, and amendments to the legislation which you intend to offer when the bill is marked up by the Banking Committee. This letter will present the Commission's position on the bill and proposed amendments.*

The purpose of the bill is to help ensure that securities fraud class actions involving certain securities traded on national markets are governed by a single set of uniform standards. While preserving the right of individual investors to bring securities lawsuits wherever they choose, the bill generally provides that class actions can be brought only in federal court where they will be governed by federal law.

As you know, when the Commission testified before the Securities Subcommittee of the Senate Banking Committee in October 1997, we identified several concerns about S. 1260. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to recover losses attributable to reckless misconduct would jeopardize the integrity of the securities markets. In light of this profound concern, we were gratified by the language in your letter of today agreeing to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the well-recognized and critically important scienter standard.

Our October 1997 testimony also pointed out that S. 1260 could be interpreted to preempt certain state corporate governance claims, a consequence that we believed was neither intended nor desirable. In addition, we expressed concern that S. 1260's definition of class action appeared to be unnecessarily broad. We are grateful for your responsiveness to these concerns and believe that the amendments you propose to offer at the Banking Committee mark-up, as attached to your letter, will successfully resolve these issues.

The ongoing dialogue between our staffs has been constructive. The result of this dialogue, we believe, is an improved bill with legislative history that makes clear, by reference to the legislative debate in 1995, that Congress did not alter in any way the recklessness standard when it enacted the Reform Act. This will help to diminish confusion in the courts about the proper interpretation of that Act and add important assurances that the uniform standards provided by S. 1260 will contain this vital investor protection.

We support enactment of S. 1260 with these changes and with this important legislative history.

We appreciate the opportunity to comment on the legislation, and of course remain committed to working with the Committee as S. 1260 moves through the legislative process.

Sincerely,

ARTHUR LEVITT,
Chairman;
ISSAC C. HUNT, JR.,
Commissioner;
LAURA S. UNGER,
Commissioner.

Mr. D'AMATO. Mr. President, I took the time to go through this because I think it is important that we understand that this has not been the product of one staff or two staffs. This has not been the product of just the Banking Committee and those in industry who have come to express their concern as to how it is that their class actions are being brought in a frivolous manner, using the State courts to get around what Congress debated and what Congress voted overwhelmingly to bring, which is a standard of conduct that will discourage a race to the courthouse, simply to bring a suit and simply to extort moneys from those who have deep pockets, because these suits can be long, they can be frivolous, and they can be dragged out. The cost factor to the people being sued is enormous—the time, the distraction, particularly to startup companies, and

*We understand that Commissioner Johnson will write separately to express his differing views. Commissioner Carey is not participating.

particularly those who want to let people know what they are doing, but who felt restricted as a result of the suits that were brought.

I am not going to bother going into the history and the comments that have been made by many. But indeed there have been many, which clearly are a stain on the rightful practice of law to ensure the rights of those who have been aggrieved and would hold people responsible for actions that are not tortious, malicious, malevolent, and indeed when there are no actions that should be sustained under any court, but because of the cost involved would have insurance carriers, accountants firms, securities firms, manufacturers, and others, be held to a situation where they have to settle. Who do they settle with? They settle with the moneys that come from the little guy—their stockholders. So while we say "stockholder derivative actions," the people hurt are indeed the stockholders.

Mr. President, I mentioned two letters. Let me read a second letter.

The second letter is dated a month later to myself as Chairman of the Banking Committee, Senator GRAMM as Chairman of the Subcommittee on Securities, Senator DODD as ranking Member of that Committee, from the White House, dated April 28, 1998.

DEAR CHAIRMAN D'AMATO, CHAIRMAN GRAMM, AND SENATOR DODD: We understand that you have had productive discussions with the Securities and Exchange Commission (SEC) about S. 1260, the Securities Litigation Uniform Standards Act of 1997. The Administration applauds the constructive approach that you have taken to resolve the SEC's concerns.

We support the amendments to clarify that the bill will not preempt certain corporate governance claims and to narrow the definition of class action. More importantly, we are pleased to see your commitment, by letter dated March 24, 1998, to Chairman Levitt and members of the Commission, to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the Scienter standard for securities fraud actions.

As you know, uncertainty about the impact of the Reform Act on the scienter standard was one of the President's greatest concerns. The legislative history and floor statements that you have promised the SEC and will accompany S. 1260 should reduce confusion in the courts about the proper interpretation of the Reform Act. Since the uniform standards provided by S. 1260 will provide that class actions generally can be brought only in federal court, where they will be governed by federal law, it is particularly important to the President that you be clear that the federal law to be applied includes recklessness as a basis for pleading and liability in securities fraud class actions.

So long as the amendments designed to address the SEC's concerns are added to the legislation and the appropriate legislative history and floor statements on the subject of legislative intent are included in the legislative record, the Administration would support enactment of S. 1260.

Sincerely,

BRUCE LINDSEY,
Assistant to the President and Deputy Counsel;
GENE SPERLING,
Assistant to the President for Economic Policy.

Mr. President, I make note that the SEC informed the Banking Committee and the Subcommittee Chairman and ranking member on March 24. It was fully a month thereafter, on April 28, that again the President reaffirmed his support for this action, and in so doing went out of his way to point out that we, indeed, will improve the present state of the law because of the colloquy that will take place and because of the manner in which the law was written.

So here the President of the United States and the SEC and his Commissioner are saying you are improving upon the law as it stands now, in addition—we will talk about that—to closing a loophole that has been used by those who rush to the courts to bring suits because they are looking to enrich themselves, not to protect the little guy or the small investors. They are costing the little guy and small investors money. I think the broad-based support that this bill enjoys is a tribute to Senator GRAMM. I want to say that for the record. He is here. He worked hard. His staff has worked hard. They have been reasonable. The chief sponsors of this legislation, Senators GRAMM and DODD have put together a tight bill intended to address a specific serious problem.

The problem to which I refer is a loophole that strike lawyers have found in the 1995 Private Securities Litigation Reform Bill which was fashioned again on the most part by Senators GRAMM, DODD, and DOMENICI.

Mr. President, the 1995 Act was passed in the last Congress in response to a wave of harassment litigation that threatened the efficiency and the integrity of our national stock markets, as well as the value of stock portfolios of individual investors. That is what is being hurt—the little guy, the small individual investor in whose companies they had a share in were diminished in value as a result of these suits. This threat was particularly debilitating to the so-called high-tech companies who desperately needed access to our capital markets to raise the money needed for research, development, and production of cutting-edge technology. These companies, which have spearheaded our economy's resurgence, are particularly susceptible to strike suits because of the volatility of the price of their stock. Strike lawyers thrive on stock price fluctuations regardless of whether there is even a shred of evidence of fraud.

Mr. President, this is the crux of the matter: That ultimately the cost of strike suits are borne by shareholders, including ordinary people saving for their children's education, or for their retirement. The average American goes into the stock market for long-term appreciation—i.e., to earn solid rates of return. They do not buy a stock simply to be positioned for a class action when the stock's price drops. It is those people, the ordinary investors, who foot the bill for high-priced settlements of harassment litigation.

We are not talking about preventing legitimate litigation. Real plaintiffs with legitimate claims deserve their day in court. And we preserve that in this bill. But what we have seen in our Federal courts, and what we are now seeing in our State courts is little more than a judicially sanctioned shakedown that only benefits the lawyers. We are talking about lawsuits in which we have nominal plaintiffs, and the lawyers are the only real winners. One of these strike lawyers drove this point home best, one of the biggest and one of the largest, when he bragged that he had "the perfect practice". Why did he say that? He bragged about it. He said he has the "perfect practice." This is the fellow who has the largest, has brought more suits, hundreds of millions of dollars, who said he has "the perfect practice" because he has "no clients."

Isn't that incredible? He has no clients. He recovers hundreds of millions of dollars. When it is recovered, who gets most of it? The lawyers do. The so-called clients get hurt because the company which they have stock in loses value. It loses time. It pays millions of dollars. It has higher insurance costs, higher costs for auditing. The auditors have to charge more because they get sued. The insurance companies have to charge more for their premiums because they wind up paying more. Who do you think gets hurt? The little guy. Who benefits? The fellow who says "I have got the perfect practice."

Now, let me say this to you. This is a very, very, very small part of the law practice, is very specialized, relatively a handful of attorneys who have this, but let me tell you they hold hostage the companies of America, the private sector of America, as a result of what they can do by bringing these suits, suits that have no merit.

As I have previously mentioned, harassment lawyers found a loophole in which to ply their trade—the State court system. In the time since the 1995 Act was passed, we have seen these class-action lawyers rush to State courthouses. One witness before the Securities Subcommittee summarized this phenomenon well when he testified that the single fact is that State court class actions involving nationally traded securities were virtually unknown. In other words, prior to our 1995 Act, they just were not known. Now they are brought with some frequency.

This is a national problem. Regardless of where class actions are brought, they impact on the national stock markets. Money is moved away from job-creating, high-tech firms. Money is taken from shareholders in the form of stock price decline as a result of litigation. And where does this money go? It goes into the pockets of a very select cadre of these attorneys.

In addition, these lawsuits have a chilling, a chilling effect on one of the most important provisions in the 1995 Act and that is called the safe harbor provision. Until this loophole is closed, no company can safely risk issuing any forecast, even though the market desperately wants it. So you cannot get a company to say: "This is what we predict; this is what we see," because they are subject to litigation. To do so is to invite a class action and a high-dollar settlement.

If someone makes a prediction and he is off by a little bit, he is sued. If someone makes a prediction, he says: "We think we are going to increase profits or sales by one-third," and he doesn't hit that target, he has a smaller than anticipated increase, that company is going to be sued. And so you cannot get the kind of advice that investors are looking for.

That is not what we want today. The bill's detractors are wrong. It will not prevent shareholder derivative actions or individual lawsuits or lawsuits by school districts or municipalities or State securities regulator enforcement actions or lawsuits relating to "microcap" or "penny" stock fraud. Those actions will still be permitted.

This is important legislation, and it is narrowly drawn to address a specific and serious problem. Time is short. There are very few legislative days remaining in the session, and I encourage my colleagues on both sides of the aisle not only to support this bill and to support the sponsors of this bill, but also that we move forward in a manner which can see that it is speedily enacted. Every day that we delay occasions more of these suits which needlessly cost consumers and stockholders and the American public millions and millions of dollars.

Again, I commend the architects of this legislation, Senators DODD, GRAMM, and DOMENICI, and I also, again, would point out that we have worked very closely with the Securities and Exchange Commission and with the White House in coming to this point.

I yield the floor.

Mr. SARBANES. Mr. President, I think it is important at the outset of this debate to try to dispel three misconceptions that surround S. 1260. The first is that class-action lawsuits alleging securities fraud have migrated from Federal court to State court since 1995 and the enactment of the earlier legislation.

In fact, as I will describe in some detail shortly, every study indicates that the number of securities fraud class actions brought in State courts, while it increased in 1996, then declined in 1997. So the numbers do not support that assertion.

The next misconception is that this bill would preempt only class-action lawsuits from being brought in State court. In fact, this bill likely will deprive individual investors of their own opportunities to bring their actions in State courts separate and apart from class actions.

The final misperception about this bill, which is suggested, is that it enjoys widespread support. In reality, a broad coalition of State and local officials, senior citizen groups, labor unions, academics, and consumer groups oppose this bill. They oppose it because it goes too far. It will deprive defrauded investors of remedies.

Once again, we have this classic example of being able to sort of try to address a problem and, instead of narrowly dealing with the problem, swinging the pendulum well beyond the problem and taking the so-called corrective legislation so far out that in and of itself it creates additional problems.

Let me turn to the first misperception, the notion that securities fraud class actions are being brought in State court in order to avoid the provisions of the Litigation Act of 1995.

It is correct that the number of such cases went up in 1996, the first year the Litigation Act was effective, but every available study shows that the number declined in 1997. For example, a study done by the National Economic Research Associates, a consulting firm, found that the number of securities class-action suits filed in State courts during the first 10 months of 1996 increased to 79 from 48 filed during the same period in 1995.

In an update released in the summer of 1997, however, NERA found that the number of securities class actions filed in State courts during the first 4 months of 1997 declined to 19, down from 40 in the same period in 1996. So the number actually declined very significantly by more than half the first 4 months of 1997.

These numbers are cited in a report that was prepared by the Congressional Research Service. In July 1997, Professors Joseph Grundfest and Michael Perino of Stanford University Law School testified before the Securities Subcommittee, and in their testimony they show that the number of issuers sued only in State class actions declined from 33 in 1996 to an annualized rate of 18 in 1997. A Price Waterhouse securities litigation study posted by that accounting firm on its Internet site corroborated NERA's findings. Using data compiled by Securities Class Action Alert, based on the number of defendants sued, Price Waterhouse reported that the number of State court actions increased from 52 in 1995 to 66 in 1996 but then declined to 44 in 1997. That was lower than the number of such actions in 1991 or 1993.

The study went on to find that the total number of cases filed in 1997 showed little or no change—little or no change—from the average number of lawsuits filed in the period 1991 through 1995.

Data provided to the committee by Price Waterhouse on February 20, 1998, also demonstrated that State court filings declined in 1997. Measured by the number of cases filed, the number of State securities class actions declined from 71 in 1996 to 39 in 1997. So much for this assertion of a rising number of suits being brought in the State courts. This really is a piece of legislation in search of a problem. And when you look at the facts, when you look at the numbers, the problem is not there.

Now let me turn to the notion that this bill addresses only class-action lawsuits. I think most people understand a class-action lawsuit to refer to lawsuits brought by one person on behalf of himself and all other people similarly situated, an anonymous and potentially large group of people. For class actions to be certified in Federal court, the Federal Rules of Civil Procedure require that the class be so numerous that joinder of all members is impracticable. In Federal court, a judge normally must find that common questions of law and fact predominate over questions only affecting individual members.

Class actions are a tool that allow plaintiffs to share the cost of a lawsuit when it might not be economical for any one of them to bring an action. But, because they can be brought on behalf of potentially an enormous class, they also carry with them the possibility of being misused to coerce defendants into settlement.

This is the sort of situation that is ordinarily described by the proponents of such legislation as requiring a legislative enactment. But when you examine the legislation that comes in behind that assertion, you invariably find that the breadth of the legislation far exceeds this problem which they have identified, and which they constantly use in the discussion and the debate as the example of what they are trying to deal with. If we could limit the legislation to the examples that are cited, we might really come close to obtaining a consensus in this body about corrective measures. But the legislation goes far beyond the examples that are ordinarily used as constituting the basis for legislative enactment, and it is that expanded application of the legislative language, not the specific examples that are generally used, which creates the problem.

This bill is another example of that. It addresses more than the type of

class-action case which is ordinarily cited as constituting a potential abuse of the legal process. This bill contains a definition of class action broad enough to pick up individual investors against their will. The bill would amend the Federal Securities laws to include a new definition of class action. It would include as class action any group of lawsuits in which damages are sought on behalf of more than 50 persons if those lawsuits are pending in the same court, involve common questions of law or fact, and have been consolidated as a single action for any purpose.

Even if the lawsuits are brought by separate lawyers without coordination—in other words, you have 50 different investors who feel they have been cheated and want to bring a lawsuit—there is no interplay or interaction amongst them, even if the common questions do not predominate—which is a requirement in class-action suits, but weakened in this legislation—those lawsuits, under this legislation, may qualify as a class action and thus be preempted.

So if an individual investor chooses to bring his own lawsuit in State court, to bear the expenses of litigation himself, he can be forced into Federal court. He can be made to abide by the Federal Rules if 50 other investors make the same decision about bringing a lawsuit, 50 other separate investors. Indeed, the bill provides an incentive for defendants to collude with parties to ensure that the preemption threshold is reached. Such a result goes well beyond ending abuses associated with class-action lawsuits. It deprives individual investors of their remedies.

The definition of class action in the bill would preempt other types of lawsuits as well. It includes as a class action any lawsuit in which damages are sought on behalf of more than 50 persons and common questions of law or fact predominate. The bill specifies that the predomination inquiry be made without reference to issues of individualized reliance on an alleged misstatement or omission. This would ensure that the investor receives the worst of both worlds. While the investor could not bring a class action under State law, because each investor must prove his or her reliance, they nonetheless constitute a class action under the bill and their suit is preempted.

Finally, let me turn to the assertion that there is little or no opposition to this bill. In fact, the bill is opposed by State and local officials very vigorously, as a matter of fact. I note there that Orange County has just begun the first of its recoveries, in terms of being defrauded. Senior citizens groups, labor unions, consumer groups, columnists and editors, legal practitioners and academics have all weighed in on this debate. The headline of a column by Ben Stein in USA Today on April 28, summarizes this opposition: "Investors, beware: Last door to fight fraud could close."

"Investors, beware: Last door to fight fraud could close." He wrote of this bill, the legislation before us:

State remedies would simply vanish, and anyone who wanted to sue would have to go into Federal court where impossible standards exist.

He warns:

This is serious business for the whole investing public.

Mr. President, I ask unanimous consent that this entire column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, Apr. 28, 1998]

INVESTORS, BEWARE: LAST DOOR TO FIGHT FRAUD COULD CLOSE

(By Ben Stein)

If you come home from vacation and find that your house has been broken into, you know who to call. You call the police and then your insurance agent to make up the loss.

If someone misuses your credit card, you also know what to do. You call MasterCard or Visa or whoever it is, and the company takes the fraudulent charge off your card.

But what if you open the newspaper one day to find you have been defrauded about the stocks and bonds you own? Who do you call for help if management of a company in which you hold stock has lied to the world about a product or its prospects, induced you to buy stock, and then fled with your money?

You can file a report with the Securities and Exchange Commission, but we all know how slowly even the best bureaucracies work. You can go to your state securities commission. They might be great people, but they also work slowly—in general taking years or decades—and they often are geared more to punishing the wrongdoer than to getting a recovery for the victims.

Also, both the feds and state bureaucracies will be totally overwhelmed and understaffed as a matter of course. You could sue the fraudmeisters yourself, but that kind of suit costs a fortune, literally millions of dollars, and that exceeds most people's losses, not to mention their life savings.

So, who will possibly stand up for you and sue to get your money back? The private class-action securities bar.

These people are not Matt Dillon or Wyatt Earp, but their livelihood is wholly dependent upon getting results for defrauded investors. They aggregate claims by all of the cheated investors in a corporation and sue to get redress. They almost never make any money unless they get a chunk for the defrauded little guy. They are not angels, and they are not saints. They do it for the money. But they get money when you do, so they have to be persistent, aggressive and ruthless against the cheaters.

The people who have done the fraud hate class-action lawyers. So, even more, do accountants and insurance companies. Accountants have often been involved in the fraud or at least ignored it or missed it. They're still around when the business management has gone, so they—the accountants—often get sued successfully. Likewise, the companies that insure accountants for malpractice totally hate the class-action bar for the same reason.

In the 1980's, there was a national upheaval in fraud—junk bonds, S&Ls high-tech fraud. There were some large federal class-action suits under decades-old consumer protection laws from New Deal days. Naturally, these upset the accountants, the insurers and the high-tech firms. There were some large recoveries.

No surprise, then, that the accountants, high-tech firms and insurance companies did what any smart and government-wise group of rich, unhappy people would do. They lobbied Congress, giving immense contributions to representatives and senators. And they got the federal law changed drastically so that it became extremely hard to sue for securities fraud as a class. There was a bar on suits against accountants except in very rare cases, stringent limits on discovering evidence of fraud, and an almost totally impossible level of pleading about how much defendants had to have known.

When those who wanted to protect the small investor—and there were such principled men and women in Congress—complained, the friends of the accountants and fraud makers said, "Hey, maybe the federal law is a bit harsh, but no problem. You can still sue in state court. You still have state remedies." President Clinton vetoed the bill, but it was passed, over his veto, by a Republican Congress that I generally love but that sold out totally here. That was in 1995.

There has yet to be a single recovery for investors in a suit brought under the 1995 law. Now it's 1998, and guess what's happening: congress is racing toward passage of a law proposed by Chris Dodd, senator for Hartford, Conn., insurance capital of the world. The bill, which Congress is to vote on before summer, would spring the trap opened in 1995: It would bar all state class-action securities cases.

The state remedies that were supposed to remain in place would simply vanish, and anyone who wanted to sue would have to go into federal court, where those same impossible standards exist. The excuse of the accountants and high-tech pooh-bahs is that there has been a huge upsurge in state class-action cases since the 1995 law went into effect. The uncontroverted fact, however, is that the number of state court cases of class-action suits has fallen—not risen—since 1995 in the nation and has fallen in all but three states since 1995.

Of course, if you have money in Congress, you don't need no stinking facts. And, the juggernaut of the accountants in Congress is powerful, indeed. They have even managed to get the chairman of the Securities and Exchange Commission, Arthur Levitt, to change his mind. Levitt in recent weeks was saying that state remedies should stay in place until he saw how the 1995 law worked out. He now endorses closing the state courthouse door to small class-action litigants if some changes in the standard of reckless misconduct required for liability are altered slightly.

This is not abstruse stuff for law teachers. This is serious business for the whole investing public. The goal of the accountants and their pals in Hartford is to simply kill the class-action bar. They're gambling that their contributions, plus a general resentment against lawyers, will do the trick. But if it does, next time you're defrauded, you'll be plumb out of luck. You can call, but the phone will just ring and ring and ring, and you'll be all alone at 3 a.m., wondering how you can possibly have such a bitter loss without anyone to help.

Mr. SARBANES. A number of groups representing State and Government officials, including the National League

of Cities, the National Association of Counties, the Government Finance Officers Association, and the U.S. Conference of Mayors, oppose this bill, as do the National League of Cities National Association of Counties, Government Finance Officers Association, and the U.S. Conference of Mayors. I ask unanimous consent that a May 11, 1998, letter from these and other groups be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA), MUNICIPAL TREASURERS' ASSOCIATION (MTA), NATIONAL ASSOCIATION OF COUNTIES (NACO), NATIONAL ASSOCIATION OF COUNTY TREASURERS AND FINANCE OFFICERS (NACTFO), NATIONAL ASSOCIATION OF STATE RETIREMENT ADMINISTRATORS (NASRA), NATIONAL CONFERENCE ON PUBLIC EMPLOYEE RETIREMENT SYSTEMS (NCPERS), NATIONAL LEAGUE OF CITIES (NLC), U.S. CONFERENCE OF MAYORS (USCM),

May 11, 1998.

Hon. PAUL S. SARBANES,
U.S. Senate, Hart Senate Office Building.
Re: S. 1260, Securities Litigation Uniform Standards Act of 1998.

DEAR SENATOR SARBANES: The state and local government organizations listed above write in opposition to S. 1260, the Securities Litigation Uniform Standards Act of 1998, as reported by the Senate Committee on Banking, Housing and Urban Affairs, which we understand will be considered by the full Senate this week. We urge you to support amendments to the bill which would (1) narrow the definition of class action to follow the Federal Rules of Civil Procedure; (2) allow plaintiffs to carry state statute of limitations laws with them in cases filed in state court which are removed to federal court; and (3) provide an exemption for classes comprised of state and local governments. We also ask that you oppose this legislation if the final version too closely resembles the current version of S. 1260. Our most significant concerns are the following:

The consequences for public pension funds and state and local governments which are unable to recover losses in state courts will be significant. If defrauded state or local pension funds are barred from recovering from corporate wrongdoers in state court (having already had many remedies foreclosed in federal court), the state or local government and its taxpayers may be required to make up losses in the fund. Not only would this jeopardize general revenue, leading to a likely loss of jobs and services to the public, but it could also severely damage a jurisdiction's credit rating. This could result in a higher cost of borrowing in the debt market to fund capital and operating expenses.

S. 1260 fails to reinstate liability for secondary wrongdoers who aid and abet securities fraud. Despite two opportunities to do so since the Supreme Court struck down for private actions aiding and abetting liability for wrongdoers who assist in perpetrating securities fraud, the current version of S. 1260 does not reinstate such liability. An amendment offered in the Banking Committee which would have allowed defrauded investors to carry with their federal claim the state law regarding aiding and abetting was defeated.

S. 1260 fails to reinstate a more reasonable statute of limitations for defrauded investors to file a claim. As in the case of aiding and abetting, Congress has now had two opportunities to reinstate a longer, more reasonable statute of limitations for defrauded investors to bring suit. Many frauds are not discovered within this shortened time period, but the Banking Committee again missed an opportunity to make wronged investors whole by defeating an amendment that would have allowed defrauded investors to carry with them in federal suits the state statute of limitations.

The definition of "class action" contained in S. 1260 is overly broad. The definition of class action in S. 1260 would allow single suits filed in the same or different state courts to be rolled into a larger class action that was never contemplated or desired by individual plaintiffs and have it removed to federal court. Claims by the bill's proponents that individual plaintiffs would still be able to bring suit in federal court are belied by this provision.

There have been few state securities class actions filed since the Private Securities Litigation Act (PSLRA) passed. Despite the claims of the bill's proponents, tracking by the Price Waterhouse accounting firm shows that only 44 securities class actions were filed in state court for all of 1997, compared with 67 in 1994 and 52 in 1995. Most of these cases were filed in California, indicating that, if there is a problem in that state, it is one which should be dealt with at the state level. Citizens of the other 49 states should not be penalized as a result of a unique situation in a single state.

The PSLRA was opposed by state and local governments because the legislation did not strike an appropriate balance, and this legislation extends that mistake to state courts. As both issuers of debt and investors of public funds, state and local governments seek to not only reduce frivolous lawsuits but to protect state and local government investors who are defrauded in securities transactions. The full impact of that statute on investor rights and remedies remains unsettled because even now many parts of the PSLRA have not been fully litigated; however, this untested law would now be extended to state courts.

The above organizations believe that states must be able to protect state and local government funds and their taxpayers and that S. 1260 inhibits these protections. We urge you to oppose preemption efforts which interfere with the ability of states to protect their public investors and to maintain investor protections for both public investors and their citizens.

Mr. SARBANES. Why are these public officials concerned about this bill? Why are these associations that represent public officials all across our Nation concerned about this bill? Because these public officials invest taxpayers' funds and public employees' pension funds in securities. And they fear they will be left without remedies if they are defrauded.

Testifying before the Senate Banking Committee, Mayor Harry Smith of Greenwood, MS, warned:

The most potent protection investors have is the private right of action. To remove that protection could have grave consequences. We oppose taking such a risk. We oppose preemption of traditional State and local rights created to protect our citizens and taxpayers. This bill is inconsistent with Congress' renewed commitment to the preservation of federalism, and reduces protections for our retirees, employees, and taxpayers.

Over two dozen law professors, including such nationally recognized securities law experts as John Coffee, Jr., Joel Seligman and Marc Steinberg, expressed their opposition in a letter earlier this year. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 23, 1998.

DEAR SENATORS AND MEMBERS OF CONGRESS: We are professors of securities regulation and corporate law at law schools throughout the United States. Our teaching and scholarship focus on the coexistent federal and state systems for the regulation of securities, an extraordinary example of cooperation between the public and private sectors that has created for American businesses the largest capital market in the world, and for investors one of the safest. As events elsewhere in the world over the past few weeks so aptly demonstrate, the stability and integrity of our capital markets is one of our most important national accomplishments.

We are very concerned about legislation now pending in Congress that would preempt private rights of action for securities fraud in class actions brought under the statutes and common law of all fifty states.[1] This sweeping federal preemption of state law is being proposed less than one year after the National Securities Markets Improvement Act of 1996 preempted state "merit review" of most securities offerings, and two years after the federal litigation system itself was overhauled by the Private Securities Litigation Reform Act of 1995 (the "1995 Act"), which made it more difficult for investors to recover for securities fraud in federal court. Defendants in securities fraud suits now argue that the 1995 Act contained a "loophole" because it did not overturn Congress's decision in 1933 and 1934 to leave state fraud remedies intact.[2]

Arthur Levitt, the Chairman of the Securities and Exchange Commission, however, has strongly urged Congress to wait until more is known about the impact of the 1995 Act on litigation in federal and state courts before considering legislation preempting state rights of action.[3] We also believe that Congress should wait to ascertain the effects of the 1995 Act, as well as the direction of state law, before enacting any legislation that would undercut the longstanding role that state law has had in protecting investors from securities fraud. The complex relationship between federal and state securities laws needs to be more fully understood before investors are denied the protection of either body of law.

We therefore urge you and your colleagues at this time not to support S. 1260, H.R. 1689, or any other legislation that would deny investors their right to sue for securities fraud under state law.

Very truly yours,

Ian Ayres, Yale University; Stephen M. Bainbridge, University of California at Los Angeles; Douglas M. Branson, University of Pittsburgh; William W. Bratton, Rutgers University; John C. Coffee, Jr., Columbia University; James D. Cox, Duke University; Charles M. Elson, Stetson University; Merritt B. Fox, University of Michigan;

Tamar Frankel, Boston University; Theresa A. Gabaldon, George Washington University; Nicholas L Georgakopoulos, University of Connecticut; James J. Hanks, Jr., Cornell Law School; Kimberly D. Krawiec, University of Tulsa; Fred S. McChesney, Cornell Law School; Lawrence E. Mitchell, George Washington University; Donna M. Nagy, University of Cincinnati; Jennifer O'Hare, University of Missouri, Kansas City; Richard W. Painter, University of Illinois; William H. Painter, George Washington University; Margaret V. Sachs, University of Georgia; Joel Seligman, University of Arizona; D. Gordon Smith, Lewis and Clark; Marc I. Steinberg, Southern Methodist University; Celia R. Taylor, University of Denver; Robert B. Thompson, Washington University; Manning G. Warren III, University of Louisville; Cynthia A. Williams, University of Illinois.

[1] See S. 1260, 105th Congress, 1st Sess. (1997) (the Securities Litigation Uniform Standards Act of 1997) (the "Gramm-Dodd bill"); and H.R. 1689, 105th Congress, 1st Sess. (1997) (the "White-Eshoo bill").

[2] See Section 16 of the 1933 Act, 15 U.S.C. §77p (1996), and Section 28(a) of the 1934 Act, 15 U.S.C. §78bb(a) (1996).

[3] Prepared Statement of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission Before the Senate Committee on Banking, Housing and Urban Affairs Subcommittee on Securities Concerning the Impact of the Private Securities Litigation Reform Act of 1995, July 24, 1997.

Mr. SARBANES. These distinguished law professors stated:

> We . . . believe that Congress should wait to ascertain the effects of the 1995 Act, as well as the direction of state law, before enacting any legislation that would undercut the longstanding role that state law has had in protecting investors from securities fraud.

These distinguished academics oppose any legislation that would deny investors their right to sue for securities fraud under State law.

Similarly, the New York State Bar Association opposes this bill. A report prepared by the Bar Association Section on Commercial and Federal Litigation concluded: "The existing data does not establish a need for the legislation," and, "the proposed solution far exceeds any appropriate level of remedy for the perceived problem."

Let me repeat that quote from the report prepared by the New York State Bar Association Section on Commercial and Federal Litigation:

> The proposed solution far exceeds any appropriate level of remedy for the perceived problem.

The opposition goes on. As additional examples, I cite a March 30, 1998, editorial from the National Law Journal entitled "What's the Rush?" This editorial concludes:

> The Senate should pause before it neutralizes State laws that still stand as a bulwark protecting investors against flimflam artists.

Mr. President, I ask unanimous consent that this editorial from the National Law Journal entitled "What's the Rush?" and concluding by saying, "The Senate should pause before it neutralizes State laws that still stand as a bulwark protecting investors against flimflam artists," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the National Law Journal, Mar. 30, 1998]

WHAT'S THE RUSH?

You would expect Congress to think long and hard before passing laws that foreclose the right of potential litigants to bring their complaints in the courts. But Capitol Hill is moving swiftly on legislation that would block investor class actions in the state courts, though principles of federalism are in themselves reasons for Congress to proceed with caution.

Bills to amend the Private Securities Litigation Reform Act of 1995, which put strict limits on federal class actions, have enormous support: The Senate bill, S. 1260, already has 30 sponsors, and a virtually identical bill in the House, H.R. 1689, has 193 sponsors. The Senate Banking Committee is expected to mark up the bill this month, and Senate Majority Leader Trent Lott, R-Miss., has promised to bring the bill to a floor vote before the Easter recess, which begins April 3.

The Senate should slow down—and take a careful look at the evidence. Lobbyists for the high-technology companies that have been pushing for pre-emption claim that plaintiffs' lawyers such as San Diego's William S. Lerach, of New York's Milberg Weiss Bershad Hynes & Lerach L.L.P., are making an "end run" around the federal law by bringing their lawsuits in state court. But data collected by Price Waterhouse Inc., a key supporter of pre-emption, show a steep drop in the number of suits brought in state court: In 1996, 71 class actions were filed; in 1997, the number dropped to 39.

But this is more than a numbers story. The federal courts have just begun to interpret the 1995 law, which passed after rancorous debate in the House and Senate, and only after Congress overrode a presidential veto. A ruling in one of the first cases filed under the new law, a class action that Mr. Lerach brought against Mountain View, Calif.'s Silicon Graphics Inc., threatens to wipe out "recklessness" as a sufficient standard of intent in securities fraud cases.

The Securities and Exchange Commission is supporting Mr. Lerach's appeal of this ruling to the 9th U.S. Circuit Court of Appeals, but the court won't hear arguments until next year. By then, Congress may have already blocked state court suits, leaving plaintiffs in investor suits without a forum to assert reckless conduct and, ergo, leaving corporate wrongdoers free to behave irresponsibly.

Other protections available in state court would also be lost. In 33 states, the statutes of limitation on filing suit are longer than the one-year federal limit. Liability for "aiding and abetting" a securities fraud—which was eliminated in federal court actions by a 1994 U.S. Supreme Court ruling—also exists in most states.

Before the Senate rushes to wipe out state fraud actions, it should recall the words of Sen. Pete V. Domenici, R-N.M., who co-sponsored the 1995 act. Addressing criticisms that the new law would allow financiers like Lincoln Savings & Loan's Charles V. Keating to escape liability, Senator Domenici pointed out that Mr. Keating had been sued under many provisions of state law—"laws untouched" by his proposed reforms.

The Senate should pause before it neutralizes state laws that still stand as a bulwark, protecting investors against flimflam artists.

Mr. SARBANES. Mr. President, I would like to point out also the opposition of the American Association of Retired Persons, the Consumer Federation of America, the AFL-CIO, the American Federation of State, County and Municipal Employees, and the United Mine Workers. I ask unanimous consent that letters from these groups expressing their opposition to this bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AFL-CIO,
Washington, DC, May 11, 1998.

DEAR SENATOR: Labor unions have an enormous stake in protecting workers' hard-earned retirement savings from securities fraud. Over $300 billion in union members' pension assets are invested in the stock market. Thus, as shareholders and investors, unions and employees count on the protection of both state and federal laws and regulations to protect their investments and to preserve the integrity of the market. For this reason, the AFL-CIO urges you to oppose S. 1260, the Securities Litigation Uniform Standards Act.

State laws can and do provide even greater protection for small investors than is provided by the federal securities laws. Until now, it has been up to each state to decide whether and how to offer enhanced antifraud protections to its citizens.

This well established, dual system of state and federal protection is now threatened, however, S. 1260 preempts investor-friendly state laws and substitutes the federal Private Securities Litigation Reform Act (PSLRA), which would significantly limit the liability of fraud defendants.

In particular, the bill would hurt individual investors, including workers and pensioners, by denying them the ability to pursue effective redress through a class action. In broadly held publicly traded companies, class action litigation is the only economically feasible way in which shareholders can bring security fraud claims. Generally, even the largest institutional shareholders will not pursue a valid claim individually, because their possible individual benefit will not compensate for the costs incurred in bringing such litigation. In light of the SEC's limited resources, private class action litigation has always been the primary means for both institutions and individual shareholders to recoup losses from securities fraud and has been a powerful deterrent to managerial impropriety.

Tampering with the state's antifraud authority would place at risk the retirement savings of tens of millions of Americans. Aside from the obvious flaws, the proposed legislation also disturbs the state/federal balance by removing an important state role in the antifraud field without any sound justification. The AFL-CIO asks you to oppose this bill.

Sincerely,

PEGGY TAYLOR,
Director,
Department of Legislation.

CONSUMER FEDERATION OF AMERICA,
Washington, May 7, 1998.

DEAR SENATOR: It is our understanding that the Senate will vote next week on S.

1260, "The Securities Litigation Uniform Standards Act of 1997." I am writing on behalf of Consumer Federation of America to reiterate our strong opposition to this anti-investor legislation and to urge you to oppose it.

Our opposition is based on a simple principle: Congress should not extend federal standards to securities fraud class action lawsuits being brought in state court until we know whether those federal standards are preventing meritorious cases from being brought or reducing victims' recoveries. Caution is particularly warranted in this case since both the Securities and Exchange Commission and the state securities regulators opposed the Private Securities Litigation Reform Act on the grounds that it would tip the balance too far in favor of fraud defendants.

The jury is still out on the PSLRA, since its major provisions have yet to be defined in court and there has yet to be a single recovery for investors under the 1995 law. It would be nothing short of irresponsible, in our view, for Congress to preempt state laws without first knowing the full effects of the federal law on meritorious lawsuits.

Supporters have made much of the fact that Securities and Exchange Commission Arthur Levitt now supports S. 1260, having announced his change of heart at his confirmation hearing in April. It is important to understand that nothing in the few cosmetic changes negotiated by Chairman Levitt alters the fundamentally anti-investor nature of this bill.

Furthermore, even as he made his unfortunate decision to endorse the legislation, Chairman Levitt did not withdraw earlier statements that the current federal law tilts the balance too far in favor of securities fraud defendants. Nor did he withdraw statements that this legislation is premature based on the limited data now available. Most importantly, he did not withdraw his assessment, expressed in October testimony before the Senate Banking Committee ". . . that the bill would deprive investors of important protections, such as aiding and abetting liability and longer statutes of limitation, that are only available under state law" and that "great care should be taken to safeguard the benefits of our dual system of federal and state law, which has served investors well for over 60 years."

During the Banking Committee's mark-up of the bill, amendments were offered that would have allowed defrauded investors to rely on longer statutes of limitations and aiding and abetting liability where they were available in state law and would have prevented state courts from consolidating individual lawsuits brought against a common defendant for the purposes of forcing the case into federal court. While these amendments alone cannot alter the fundamental flaws in this legislation, they would ameliorate some of the bill's most onerous effects. CFA believes these pro-investor changes are the minimum necessary to provide a modicum of balance to the bill. Should similar amendments be offered on the Senate floor, we urge you to support them.

As you consider this legislation, keep in mind that just under half of all American households now invest in the stock market directly or through mutual funds. Their primary reason for investing is to provide a decent standard of living for themselves in retirement. When the current bull market comes to its inevitable end, and the frauds that have been perpetrated under its cover are exposed, investors who find their retirement savings decimated by fraud should not be left without any means of recovering those losses.

Because it threatens to further restrict defrauded investors' access to justice, CFA urges you to vote against S. 1260.

Respectfully submitted,

BARBARA ROPER,
Director of Investor Protection.

Mr. SARBANES. Mr. President, much will be made during the debate on this bill of the support it is asserted it enjoys from the Securities and Exchange Commission. But it seems to me that citing the support of the SEC tells only part of the story—only part of the story.

First, SEC Commissioner Norman Johnson has written to express his opposition to the bill. His March 24, 1998, letter concludes:

I believe that much more conclusive evidence than currently exists should be required before state courthouse doors are closed to small investors through the preclusion of state class actions for securities fraud.

I ask unanimous consent to have Commissioner Johnson's letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, March 24, 1998.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Hart Office Building, Washington, DC.

Hon. PHIL GRAMM,
Chairman, Subcommittee on Securities, U.S. Senate, Senate Russell Office Building, Washington, DC.

Hon. CHRISTOPHER J. DODD,
Ranking Member, Subcommittee on Securities, U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR CHAIRMAN D'AMATO, CHAIRMAN GRAMM, AND SENATOR DODD: It is with regret that I find myself unable to join in the views expressed by my esteemed colleagues in their letter of today's date. For that reason I feel compelled to write separately to express my own differing views.

Consistent with the opinion the Commission and its staff have repeatedly taken, I believe that there has been inadequate time to determine the overall effects of the Private Securities Litigation Reform Act of 1995, and that the proponents of further litigation reform have not demonstrated the need for preemption of state remedies or causes of action at this time.

In the last few years, we have experienced a sustained bull market virtually unmatched at any time during this nation's history. I therefore question the necessity of the displacement of state law in favor of a single set of uniform federal standards for securities class action litigation. The Commission is the federal agency charged with protecting the rights of investors. In my opinion, S. 1260, the Securities Litigation Uniform Standards Act of 1997, does not promote investors' rights. I share in the views of 27 of this country's most respected securities and corporate law scholars who have urged you and your colleagues not to support S. 1260 or any other legislation that would deny investors their right to sue for securities fraud under state law.

In addition, data amassed by the Commission's staff, compiled in unbiased external studies, indicate that the number of state securities class actions has declined during the last year to pre-Reform Act levels. Indeed, a report by the National Economic Research Associates concluded that the number of state court filings in 1996 was "transient." Under these circumstances, S. 1260 seems premature at the least.

This country has a distinguished history of concurrent federal and state securities regulation that dates back well over 60 years. Given that history, as well as the strong federalism concerns that S. 1260 raises, I believe that much more conclusive evidence than currently exists should be required before state courthouse doors are closed to small investors through the preclusion of state class actions for securities fraud.

Sincerely,

NORMAN S. JOHNSON,
Commissioner.

Mr. SARBANES. Secondly, the SEC supports changes to the Federal antifraud standard to make it more protective of investors. In other words, if the SEC is going to be cited, as the proponents of this legislation have done, in support of their position, surely then they ought to pay attention to the SEC position which has been asserted seeking changes in the Federal antifraud standard to make it more protective. Let me give you a few examples.

The SEC supports a longer statute of limitations so that fraud artists do not escape liability by successfully concealing their frauds. The SEC supports the restoration of liability for aiders and abetters of securities fraud so that those who give substantial assistance to fraud artists do not escape liability.

The SEC supports codification of liability—codification of liability—for reckless conduct to ensure that professionals, such as accountants and underwriters, carry out their responsibilities under the Federal securities laws. In fact, Chairman Levitt reiterated his support for these provisions as recently as 6 weeks ago when he appeared before the Banking Committee for his renomination hearing. Nonetheless, these provisions are nowhere to be found in this bill.

The supporters of this legislation argue the desirability of a uniform antifraud standard for securities traded on national securities exchanges, but they fail to address directly the question which we need to ask, whether the current Federal antifraud standard, as reflected by the 1995 act, deserves to be the uniform standard. Is the current antifraud standard, which they are now going to use to bring cases up from the State courts and deny investors the remedies under the State systems, is that standard adequate to protect investors?

I voted against the 1995 act because I was concerned that it did not establish an appropriate standard. I was worried that it did not strike the proper balance between deterring frivolous securities suits and protecting investors

who are victimized by securities fraud. None of us is in favor of frivolous securities suits, these so-called strike suits. But at the same time, I, for one, at least, do not want to go so far in trying to deal with that problem that I cease to protect investors who are victimized by securities fraud. There is a line in between, actually, I have asserted many times, I think, on which a consensus can be reached, but the legislation that keeps coming forward always overreaches—it overreaches—and therefore, I think, jeopardizes the protections that are available to investors who are innocent victims of securities frauds.

A number of securities law experts warn that the safe harbor for forward-looking statements enacted by that act could protect fraud. In addition, the proportionate liability provisions leave innocent victims suffering a loss while shielding those who participate in securities fraud. Of course, the 1995 act omitted the statute of limitations in aiding and abetting provisions recommended by the SEC, still recommended by the SEC, and, of course, not included in this legislation.

Since the reform act was enacted, another concern has developed. Some district courts have relied on the legislative history of that act in concluding that the act's pleading standards eliminated liability for reckless conduct. Imagine, eliminating liability for reckless conduct.

If that view prevails in the circuit courts, and if the Congress preempts, as this legislation proposes to do, causes of action under State laws, investors will be left with no remedies—I underscore that, with no remedies—against those whose reckless conduct makes a securities fraud possible.

It is for these reasons that the associations and various commentators I have cited are opposing this bill. They oppose this bill both because of its overly broad reach—clearly because of its overly broad reach—and because its sponsors fail to take this opportunity to correct the flaws of the earlier legislation. If the sponsors are going to eliminate recourse in the State courts, it becomes even more incumbent upon them to correct the Federal standard with respect to the shortcomings which have been identified in it and continue to be identified by the Securities and Exchange Commission.

Mr. BRYAN. Will the Senator yield for a question?

Mr. SARBANES. I yield to my colleague.

Mr. BRYAN. The question I have is with reference to the Senator's observation about standard for reckless misconduct.

As I understand, we have actual knowledge, we can have simple or ordinary negligence, we can have gross negligence, and then we can have a standard of reckless conduct which is an utter disregard of the facts. Is the Senator saying that the legislation that we are processing today does not clarify in the findings of this committee that we want to reaffirm that reckless misconduct ought to be a cause of action for those who are defrauded by investors?

Mr. SARBANES. I say to my colleague, as I understand it, this is what transpired. The 1995 act was being interpreted at the district court level, the Federal district court level—the legislative history of it—that the act's pleading standards eliminated liability for reckless conduct.

Now, the SEC has come to us and said we should codify a reckless conduct right of action into the Federal standard. The legislation before us does not have such a codification.

Now, there is language in the report, but we do not have a codification. So you have the problem about the legislative history for the 1998 act. And it is not quite clear to me how it will supplant the legislative history for the 1995 act. A codification would do that but that is not in this bill.

Mr. BRYAN. We are talking about, if I understand, conduct that is more egregious even than gross negligence. We are talking about an utter disregard of the facts and the consequences that flow from that?

Mr. SARBANES. That is right. If you want to talk about where you put the balance, how in the world would you drive the balance so far over that an investor who was the victim of reckless conduct would not have a remedy? It just defies any equitable striking of the balances with respect to, quote, "frivolous" lawsuits on the one hand, and investor protection on the other.

Mr. BRYAN. So if I understand the Senator's position, if S. 1260 is passed, we preempt State class actions so that small investors would not have the advantage of a longer statute of limitations that a number of States—I believe 33 out of the 50—provide to investors suing at the State level class actions.

We would deprive the small investor of his or her opportunity to go against the accomplices, the lawyers, the accountants, and others who conspired with the primary perpetrator of fraud. That protection is taken away. And we also eliminate the ability to move and to obtain a joint and several liability judgment against those offenders. They are all things which I understand currently exist to the benefit of small investors as class actions at the State level in most States, if I am not mistaken.

Mr. SARBANES. The Senator is correct. Currently, what happened is we set a Federal standard in the 1995 act in the Federal courts. That still left to an investor the option of going into a State court to seek remedy.

Now the proponents of this bill said, "Well, everyone who is going into Federal court bringing the so-called frivolous suits are now going to migrate into the State courts." The numbers show that has not happened. You have a little increase in 1996. The numbers came back down in 1997. The projected numbers are down. So you do not have that flood of litigation into the State courts, and yet investors had available to them State court remedies.

Well, now what they are going to do is they are going to preempt the ability to bring the action in the State courts. Well, then, the proponents will say, "Well, we are just preempting it for these class actions. If you are an individual investor and you want to hire your lawyer, you will still be able to go into State court." But they define a class action in this bill in such a way, so broadly that it will sweep up individual investors who are really not part of a class-action suit.

Those individual investors will then discover—I mean, what is going to happen here, my prediction on this is that what is going to come before the Congress down the road, if this legislation passes, is small investors showing up in the Congress and saying, "This happened to me. And now I discover, because of the legislation which you all enacted, I can't get any remedy. And this isn't right." And Members are going to be looking at that, and they are going to say it is not right.

That is why we are urging Members to pause and take a careful look at this before they put it into law. You can have a situation in which an individual investor goes in under State law within the statute of limitations. Often you do not discover these things. They are concealed. That is what fraud is all about. So he is within the statute of limitations. Other investors do the same thing.

So let us say it is New York or California or Illinois, and a whole wide group of people have been defrauded by some fraud artist. Well, if 50 of them come in and bring some kind of suit against this artist, they can be swept up into a class action, removed into the Federal court. They will go over to the Federal court, and then they say to them, "Well, our statute of limitations is shorter than your State statute of limitations under which you filed this action," which was timely filed in the State court.

They acted on their rights within the time limitation of the State court. They had no idea they were going to get swept up the way this bill permits. And so all of a sudden they are over in Federal court, and they say to them "It's too bad. The statute of limitations has run. And you don't have an action. You don't have a cause of action." You are shut out of the courthouse.

Now, where is the fairness in that? I defy anyone to show me the fairness in that process.

Mr. BRYAN. Is the Senator also suggesting that a remedy available at the State court level against an accomplice, whether it be a lawyer or an accountant, that would be available to the investor under State law, if removed under the process of the Federal court, which the Senator has just described, would preclude that small investor from a recovery against an accomplice who had participated in the fraud that resulted in the investor's loss?

Mr. SARBANES. The Senator is exactly on point. That is exactly what would happen, which would be exactly what would be permitted to take place under this legislation.

When the 1995 bill was passed, people said, "Well, we are defining this Federal standard. People can still go into the State court, the individual investor, and get a remedy."

Now they come along and they say, "Well, we're going to preempt the State courts in quote, 'class actions,'" but then they define class actions so broadly that it will sweep up individual investors. It can sweep up people who are not bringing what we traditionally recognize and know as a class action.

So it is once again an example of overreaching, as this mayor indicated from Greenwood, MS, that removing these protections would have grave consequences. This thing goes beyond anything that is required to deal with—the New York State Bar Association quote, I think, is the best on this very point when they said, "The proposed solution far exceeds any appropriate level of remedy for the perceived problem."

I am saying to the opponents, look, let us examine what you assert as the problem. And we will hear examples of a problem that will be cited. Most of those examples, I am sure I would think something needs to be done about them. But the solution, the proposed solution here will far exceed the examples. What is going to happen is eventually—and that is why I think these people are opposing this legislation I have cited.

I think Senators need to be cautious. This, in effect, is an investor's beware legislation—investors beware. I think in the future we are going to be petitioned or importuned in the Congress to correct this overreaching because innocent people will have been denied their remedy against fraud artists who have cheated them out of their life savings.

Let me just note that we are at a time of record high in our Nation's stock market. The current bull market is the longest in history. Stocks are trading at a price-earnings ratio that exceed even those reported in the 1920s. The level of participation in the stock market by America's families is also at a record level, both directly through ownership of stocks and indirectly through pension funds and mutual funds. History suggests that at some point the bull market will end, and history also suggests that when that occurs is when securities fraud will be exposed. You don't get that much exposure in a rising market.

Should this bill be enacted, at that time many investors will find their State court remedies eliminated. In too many cases investors will be left without any effective remedies at all. Such a result can only harm innocent investors, undermine public confidence in the securities market, and ultimately raise the cost of capital for deserving American businesses.

I urge my colleagues to think long and hard about this legislation, to be very careful about it. It far exceeds what needs to be done in terms of addressing any perceived problem. I think we need to be extremely sensitive to it.

I expect a number of amendments to be offered to this bill as we proceed with its consideration. I look forward to discussing those at the appropriate time as we seek to correct what I think are some of the more obvious and egregious flaws in this legislation.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Connecticut is recognized.

Mr. DODD. Madam President, let me begin by thanking my chairman of the committee, Senator D'AMATO, and Senator GRAMM with whom I authored this particular proposal.

Senator DOMENICI has been very involved in this issue, going back a number of years when the issue first arose, trying to deal with this sinister practice going on of strike lawsuits and predator law firms. I will share briefly some news out this morning as to how the law firms that we are trying to deal with operate, where the issue of fraudulent behavior is hardly their motivation; it has to do with simple stock fluctuation. Some Internet activity today will highlight that in categorical terms, as early as about 4 or 5 hours ago. This is a pervasive problem that needs to be addressed.

We passed this bill out of our committee 14–4 on a strong bipartisan vote. The bill is endorsed by the Securities and Exchange Commission, supported by this administration, the Clinton administration. We will be happy to entertain the amendments as they are offered that come up that were raised in committee. We had hearings on this matter—not a lengthy markup, but an extensive markup—with an opportunity to vote a lot of the issues.

I will pick up on some of the concluding comments and remarks of my two colleagues from Maryland and Nevada with regard to the recklessness standard. We received a letter of endorsement and support from the Securities and Exchange Commission, signed by Chairman Arthur Levitt, Isaac Hunt, and Laura Unger, March 24. This letter, I believe, has been introduced in the RECORD by Chairman D'AMATO, but I am, at this juncture, going to highlight two paragraphs of this letter because they go right to the heart of what was raised a few moments ago when it comes to the recklessness standard. I will address this more directly in my remarks. Let me quote two paragraphs in this letter.

> As you know, when the Commission testified before the Securities Subcommittee of the Senate Banking Committee in October 1997, we identified several concerns about S. 1260. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to cover losses attributable to reckless misconduct would jeopardize the integrity of the securities markets. In light of this profound concern, we are gratified by the language in your letter of today agreeing to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the well-recognized and critically important scienter standard.

Jumping down another paragraph,

> The ongoing dialog between our staffs has been constructive. The result of this dialog, we believe, is an improved bill with legislative history that makes clear, by reference to the legislative debate in 1995, that Congress did not alter in any way the recklessness standard when it enacted the Reform Act.

Then it goes on to complete the paragraph.

I don't know if anything can be more clear in this letter. Certainly the intent, stated in committee, stated on the floor previously, stated in this letter, and we stated again here on the floor today as to what the intentions were of those of us who crafted this legislation when it comes to "recklessness."

Now I agree. I mentioned earlier, some courts, a few district courts, have read otherwise. That happens. But we will try to make it clear that was aberrational behavior, erroneous behavior, in my view, rather than what we intended.

I see my colleague from New York is rising.

Mr. D'AMATO. If the Senator will yield for a question, is it not true, if we were to set aside this legislation and not go forward, there might be a question and that, indeed, what both the White House and the SEC are saying, as a result of our coming forward, we may be eliminating that question, that ambiguity, by moving forward in the way that we proposed in this legislation?

Mr. DODD. I think the chairman of committee raises an excellent point, that in fact our legislative history included with S. 1260, the debate we have had, makes it quite clear what the intent of the committee was in 1995, what the intent of the committee in this legislation is today.

In the absence of that, I think you might have courts ruling otherwise, even though we may have not drawn that conclusion in the earlier legislation.

Mr. SARBANES. Will the Senator yield?

Mr. DODD. I will make my comments, and then I will be glad to yield for a debate, but I want to finish my opening statement.

Mr. SARBANES. Would the Senator have any objection to codifying this standard?

Mr. DODD. I will do that in my remarks.

There is a very difficult problem codifying the standard on recklessness. Congress has wrestled with this over the years. We were not the first committee to try. We thought leaving the standard as it has been in the courts, making sure we are not trying to make any change to that standard here, any way other than what has been an accepted standard, was a better way to proceed, based on the advice we received.

We certainly did not change that standard, as has been the suggestion, either with this act or the act of 1995 despite the fact that some courts may have read it otherwise. I can't preclude a court from misinterpreting the decisions of a Congress.

But the recklessness standard has been a good standard over the years and ought not to be tampered with, in my opinion.

Mr. BRYAN. Will the Senator yield? I don't want to interrupt his presentation. I am always happy to wait, but we are talking of the reckless standard.

If I might inquire of the Senator, the SEC, as I understand it, has sent over a definition of "reckless." If that could be included in the findings of fact as opposed to the report language, I think it would strengthen what we all seek to do, and that is to retain the reckless standard, which I know is the objective of the Senator from Connecticut.

As the Senator knows far better than I, report language is fairly thin gruel compared to the findings of fact which are included or other issues which the sponsors of the legislation—I wonder if the Senator would consider including that definition.

Mr. DODD. The problem has been, as you start trying to codify, we—I will take a look at what the Senator has. I haven't seen it.

The suggestion has been made—what I was trying to respond to, prior to rising here, was that the suggestion was made that somehow this piece of legislation and '95 Act had undone the standard of recklessness that had been used.

We made it quite clear—at least I thought we did—in 1995 that we were not altering the standard. Certainly the SEC believes that was what we intend. This legislative history and this debate on today's bill makes it clear it was not the intent. What I objected to was the suggestion that somehow we had changed the scienter standard. We had not done that. And the letter from the three members of the Securities and Exchange Commission, I think, reinforces the point—not whether or not you add something in the statement of facts or whether or not you have it in the legislative history where I believe it is most appropriate—about addressing the underlying concern and issue. And that is whether or not this legislation in any way, or the 1995 Reform Act in any way, tried to fool around with the standard of recklessness. We didn't then, and we aren't now.

So what I am saying here today, what the chairman of the committee has said, and others, this is raising a red herring. It doesn't exist. It is difficult enough to debate where there is a legitimate disagreement, and there will be amendments offered where clearly there are provisions in the bill which my colleagues, including my distinguished friend from Nevada, disagree with. It is a fundamental difference here. Recklessness, as a matter of this legislation, is not a problem. It is trying to raise an issue that really does not exist. That is the reason I felt I should address that issue prior to making my general comments and statements about what I think is a valuable piece of legislation.

Now, Madam President, let me, if I may, proceed here. It has been said, in the sense that we get the pendulum swings and the proposals are offered, in a sense, this is a very narrow bill. It is not designed to be all-encompassing and all-sweeping, yet it is being received by certain quarters as if it were a wide, sweeping piece of legislation. It is dealing with an underlying problem that still exists. The facts bear out the necessity of us trying to move with nationally traded securities on the national exchanges to see to it that we can set some standards here so we don't continue to end up with a proliferation of lawsuits chasing forums all over this country to satisfy a trial bar at the expense of jobs, investors in these companies out there. That is what has been happening. That is what we try to address with this bill.

At the beginning of the debate today on S. 1260, the securities litigation reform standards, marks, in a sense, an anniversary, Madam President. It was almost 3 years ago that we took the floor of this body, many of my colleagues, in support of the Private Securities Litigation Reform Act of 1995. That bill, overwhelmingly enacted into law by Congress, was designed to curb abuses in the field of private securities class action lawsuits.

Let me pause, if I can, to note just how important the private litigation system has been in maintaining integrity of our capital markets. It is highly questionable whether our markets would be as deep, as liquid, as strong, or as transparent were it not for our system of maintaining private rights of action against those who commit fraud. America's markets are the envy of the world because of the tremendous confidence that American and foreign investors have in the regulatory system that supports those markets.

But it is precisely because of the vital importance of the private litigation system that the depths to which it had sunk by 1995 had become so damaging. The system was no longer an avenue for aggrieved investors to seek justice and restitution, but it had become, instead, a pathway for a few enterprising attorneys to manipulate its procedures for their own considerable profit, to the detriment of legitimate companies and investors all across our Nation.

If we needed a reminder about how abusive that system had become, we received yet another example of it last week, with the conclusion of one of the last lawsuits filed under that old system. This litigation against a Massachusetts biotech company called Biogen, lasted more than 3 years, cost that company, in direct litigation expenses alone, more than $3 million.

But even more than the direct costs, the lawsuit enacted an untold loss on the company because of the time and resources devoted by its top management and their scientists to defending themselves.

The conclusion to this litigation on May 6 came in swift contrast to the lengthy and expensive lawsuit itself, as reported by Reuters:

> A Federal jury has ruled as baseless a class-action shareholder lawsuit accusing Biogen, Inc. and its chairman of misleading investors . . . The 10-member jury took less than three hours to reach their verdict. . . .

So this week's debate marks not only the opening of Congress' effort to establish strong national standards of liability for nationally-traded securities, but also allows us to mark the close of an era in securities litigation that perversely offered more comfort to those filing abusive and frivolous lawsuits than it offered to redress to those who had been legitimately defrauded.

But the very success of the 1995 reform act in shutting down avenues of abuse on the Federal level has created a new home for such kinds of litigation in State courts.

Throughout 1996, the first year of the reform act, reports were coming to Congress that there was a dramatic increase in the number of cases filed in State courts. Prior to enactment of the '95 reform act, it was extremely unusual, extremely unusual, for a securities fraud class action case to be brought in a State court anywhere in this country.

But by the end of 1996, it had become clear from both the number of cases

filed in State court, and the nature of those claims, that a significant shift was underfoot, as some attorneys sought to evade the provisions of the reform act that made it more difficult to coerce a settlement, which was what was going on.

John Olson, the noted securities law expert, testified in February before the subcommittee on securities that:

> In the years 1992 through 1994, only six issuers of publicly traded securities were sued for fraud in State court class actions. In contrast, at least 77 publicly traded issuers were sued in State court class actions between January 1, 1996, and June 30, 1997. Indeed, the increase in State court filings may even be greater than indicated by these dramatic statistics. Obtaining an accurate count of State court class actions is extraordinarily difficult, because there is no central repository of such data and plaintiffs are under no obligation to provide notice of the filing of such suits.

In April, 1997, the Securities and Exchange Commission staff reported to the Congress, and the President found that:

> Many of the State cases are filed parallel to a Federal court case in an apparent attempt to avoid some of the procedures imposed by the reform act, particularly the stay of discovery pending a motion to dismiss. This may be the most significant development in securities litigation post-reform act.

Even though the number of State class actions filed in 1997 was down from the high of 1996, it was still 50 percent higher than the average number filed in the 5 years prior to the reform act, and it represented a significant jump in the number of parallel cases filed.

So there was a significant increase. It did drop in 1997. But if you are going to use the bar of when the reform act was passed, it was still substantially higher. It was a rare occasion indeed when people ran to State courts. We didn't think we would need this bill. We honestly thought that dealing with this problem at the Federal level would work. That is where the cases were brought. Why are we here today? We are here because these enterprising attorneys, as the chairman of the committee pointed out—many without clients, by the way—discovered that if they ran into a State court here, they could avoid the legislation that we adopted and passed so overwhelmingly here in 1995. But there are other reasons as well. It isn't just an increase in the caseload. That would not, in my view, necessarily warrant moving today. There are other issues.

This change in the number and nature of the cases filed has had two measurable, negative impacts that I think our colleagues ought to take very good note of.

First, for those companies hit with potentially frivolous or abusive State court class actions, all of the cost and expense that the '95 reform act sought to prevent are once again incurred. So, in effect, we did nothing. Today, all of that cost and discovery, and so forth, before a motion to dismiss could be filed—today you have to go do it all over again. It is as if the '95 act were never passed. That is what happened here.

Some might question whether a State class action can carry with it the same type of incentives to settle even frivolous lawsuits that existed on the Federal level prior to 1995.

Allow me to provide one example of how this is so. Adobe Systems, Inc. wrote to the Banking Committee on April 23, 1998, this year, about its experience with State class action lawsuits.

One of the key components of the 1995 reform act was to allow judges to rule on a motion to dismiss prior to the commencement of the discovery process. This is not precedent-setting procedure. That is normally, in many cases, how you deal with it, a motion to dismiss coming up early. Under the old system, Adobe had won a motion for summary dismissal, but only after months of discovery by the plaintiffs that cost the company more than $2 million in legal expenses and untold time and energy by officials to produce the tens of thousands of documents and numerous depositions.

With the 1995 act in place, those kinds of expenses are far less likely to occur at the Federal level.

But in an ongoing securities class action suit filed in California state court since 1995, Adobe has had to spend more than $1 million in legal expenses and has had to produce more than 44,000 pages of documents, all before the state judge is even able to entertain a motion for summary dismissal.

In fact, in an April 23rd, letter to Chairman D'AMATO, Colleen Pouliot, Adobe's General Counsel, noted that:

> There are a number of California judicial decisions which permit a plaintiff to obtain discovery for the very purpose of amending a complaint to cure its legal insufficiencies.

This one example makes clear that while Adobe, which has the resources for a costly and lengthy legal battle, might fight a meritless suit, these costs provide a powerful incentive for most companies without that kind of wherewithal to settle these suits rather than incur such expenses.

The second clear impact of the migration of class action suits to state court is that it has caused companies to continue to avoid using the safe harbor for forward looking statements that was a critical component of the '95 reform act.

In this increasingly competitive market, investors are demanding more and more information from company officials about where it thinks that the company is going, and what is likely to happen.

In fact, today we have more investors in our markets than ever before. People want more information. The safe harbor provisions which we crafted were designed to encourage companies to step forward and to tell us where they were going. Clearly, there can be some who decide it would be deceitful. In no way do we try to protect anybody who is lying or cheating in the process. We are trying to encourage companies to tell us more about where they are going so those investors can make good decisions. But what has happened as a result of this rush to State courts is that the very companies that said they need the safe harbor provisions are not writing the safe harbor provisions because they know they don't have the same protection in State court, which is where these cases are running.

So after all the encouragement of the 1995 act to have the safe harbor, companies haven't been putting it in. So investors out there trying to make decisions of where to put their hard-earned dollars don't have the benefit of that safe harbor language, which may give them a better idea in which companies to make those investments.

The California Public Employees Pension System, one of the biggest institutional investors in the Nation stated that "forward-looking statements provide extremely valuable and relevant information to investors."

SEC Chairman Arthur Levitt also noted the importance of such information in the marketplace in 1995:

> Our capital markets are built on the foundation of full and fair disclosure. . . . The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process.

In recent years, the Securities and Exchange Commission, in recognition of this fact, sought to find ways to encourage companies to put such forward-looking statements into the marketplace. Congress too sought to encourage this and this effort ultimately culminated in the creation of a statutory safe harbor, so that companies need not fear a lawsuit if they did not meet their good-faith projections about future performance.

Unfortunately, the simple fact is that the fear of State court litigation is preventing companies from effectively using the safe harbor.

Again, the SEC's April 1997 study found that "companies have been reluctant to provide significantly more forward looking disclosure than they had prior to enactment of the safe harbor." (p. 24); the report went on to cite the fear of State court litigation as one of the principal reasons for this failure.

Stanford Law School lecturer Michael Perino stated the case very well in a forthcoming law review article:

> If one or more states do not have similar safe harbors, then issuers face potential state court lawsuits and liability for actions that do not violate federal standards. . . . for disclosures that are . . . released to market participants nationwide, the state with the

most plaintiff-favorable rules for forward looking disclosures, rather than the Federal Government, is likely to set the standard to which corporations will conform.

If the migration of cases to state court were just a temporary phenomenon, then perhaps it would be appropriate for Congress to tell these companies and their millions of investors to simply grin and bear it, that it will all be over soon.

But the SEC report contains the warning that this is no temporary trend: "If state law provides advantages to plaintiffs in a particular case, it is reasonable to expect that plaintiffs' counsel will file suit in state court." The plain English translation of that is that any plaintiff's lawyer worth his salt is going to file in state court if he feels it advantageous for his case; since most state courts do not provide the stay of discovery or a safe harbor, we're confronted with a likelihood of continued state court class actions.

While the frustration of the objectives of the 1995 Reform Act provide compelling reasons for congressional action, it is equally important to consider whether the proposition of creating a national standard of liability for nationally-traded securities makes sense in it's own right.

I certainly believe it does.

In 1996, Congress passed the "National Securities Markets Improvement Act" which established a precedent of national treatment for securities that are nationally-traded.

In that act, Congress clearly and explicitly recognized that our securities markets were national in scope and that requiring that the securities that trade on those national markets comply with 52 separate jurisdictional requirements both afforded little extra protection to investors and imposed unnecessarily steep costs on raising capital.

Last July, then-Securities Commissioner Steven Wallman submitted testimony to the Securities Subcommittee in which he said:

> Disparate, and shifting, state litigation procedures may expose issuers to the potential for significant liability that cannot be easily evaluated in advance, or assessed when a statement is made. At a time when we are increasingly experiencing and encouraging national and international securities offerings and listing, and expending great effort to rationalize and streamline our securities markets, this fragmentation of investor remedies potentially imposes costs that outweigh the benefits. Rather than permit or foster fragmentation of our national system of securities litigation, we should give due consideration to the benefits flowing to investors from a uniform national approach.

That is what we are trying to do with this bill.

At that same hearing, Keith Paul Bishop, then-California's top state securities regulator testified along the same lines that:

> California believes in the federal system and the primary role of the states within that system. However, California does not believe that federal standards are improper when dealing with truly national markets. California businesses, their stockholders and their employees are all hurt by inordinate burdens on national markets. Our businesses must compete in a world market and they will be disadvantaged if they must continue to contend with 51 or more litigation standards.

SEC Chairman Arthur Levitt, at his reconfirmation hearing before the Banking Committee on March 26, 1998, said that the legislation we are debating today:

> Addresses an issue that . . . deals with a certain level of irrationality. That to have to two separate standards is not unlike if you had, in the state of Virginia, two speed limits, one for 60 miles an hour and one for 40 miles an hour. I think the havoc that would create with drivers is not dissimilar from the kind of disruption created by two separate standards [of litigation] and I have long felt that in some areas a single standard is desirable.

which is all we are trying to do here with this bill, to set one speed limit, if you will, on a national debate on trading securities and on markets. That is all, one speed limit, not two, to live up to the fact of what we tried to do with the 1995 bill.

The message from all of these sources is clear and unequivocal: A uniform, national standard of litigation is both sensible and appropriate.

The legislation under consideration today accomplishes that goal in the narrowest, most balanced way possible.

Before I discuss what the legislation will do, let me point out a few things that it won't do:

It will not affect the ability of any state agency to bring any kind of enforcement action against any player in the securities markets;

It will not affect the ability of any individual, or even a small group of individuals, to bring a suit in state court against any security, nationally traded or not;

It will not affect any suit, class action or otherwise, against penny stocks or any stock that is not traded on a national exchange.

It will not affect any suits based upon corporate disclosure to existing shareholders required by state fiduciary duty laws;

And it will not alter the national scienter requirement to prevent shareholders from bringing suits against issuers or others who act recklessly.

There has been a lot of talk about this last point, so let me address it head-on.

It is true that in 1995, Congress wrestled with the idea of trying to establish a uniform definition of recklessness; but ultimately, the 1995 Private Securities Litigation Reform Act was silent on the question of recklessness. While the act requires that plaintiffs plead "Facts giving rise to a strong inference that the defendant acted with the requisite state of mind . . ."

The act at no point attempts to define that state of mind. Congress left that to courts to apply, just as they had been applying their definition of state of mind prior to 1995.

Unfortunately, a minority of district courts have tried to read into some of the legislative history of the reform act an intent to do away with recklessness as an actionable standard.

I believe that these decisions are erroneous and cannot be supported by either the black letter of the statute nor by any meaningful examination of the legislative history.

There are several definitions of recklessness that operate in our courts today, and some of them are looser than others. But I agree with those who believe that reckless behavior is an extreme departure from the standards of ordinary care; a departure that is so blatant that the danger it presents to investors is either known to the defendant or is so obvious that he or she must have been aware of it.

The notion that Congress would condone such behavior by closing off private lawsuits against those who fall within that definition is just ludicrous.

And if, by some process of mischance and misunderstanding, investors lost their ability to bring suits based on that kind of scienter standard, I would be the first, though certainly not the last, Senator to introduce legislation to restore that standard.

As I mentioned a moment ago, Mr. President, S. 1260 is a moderate, balanced and common sense approach to establishing a uniform national standard of litigation that will end the practice of meritless class action suits being brought in state court.

This legislation keeps a very tight definition of class action and applies it's standards only to those securities that have been previously defined in law as trading on a national exchange.

That is why the Securities and Exchange Commission has stated that "We support enactment of S. 1260;" That is why the Clinton administration has also indicated it's support for the legislation.

In the final analysis, it is both the millions of Americans who have invested their hard-earned dollars in these nationally-traded companies and the men and women who will hold the new jobs that will be created as a result of newly available resources, whom we hope will be the real beneficiaries of the action that we take here today.

I strongly urge my colleagues to join the Securities and Exchange Commission, dozens of our colleagues, the Clinton administration, dozens of governors, state legislators and state securities regulators in supporting passage of the Securities Litigation Uniform Standards Act of 1998.

Madam President, I see my colleague.

How much time remains?

The PRESIDING OFFICER. The Senator from New York controls the time. There are 10 minutes 30 seconds remaining.

Mr. D'AMATO. I wonder if I might ask my friend and colleague. I know we are going to have some extended debate with some of the amendments. Senator GRAMM, who has worked with the Senator from Connecticut, would like to be heard, and Senator FEINGOLD has been waiting. He has an amendment that I believe is a very substantive amendment, and is one that might take hours to debate. But I believe we can dispose of it in a relatively short period of time if we were to permit the Senator to proceed.

Mr. DODD. I didn't realize how much time had already gone on. My colleague from Texas is chairman of the Securities Subcommittee and the principal author of the bill, of which I am proud to be a cosponsor.

While he is in the Chamber, let me commend and congratulate my colleague from Texas on this issue. This is a strong bipartisan bill, 14 to 4, coming out of this committee. It took a long time to go through all of this. We have had extensive hearings on it. We have listened to an awful lot of people. This is a good piece of legislation. It is needed out there, if we are going to in this day and age, with so many people wanting to get into this market, get more information to them, having a single standard here. Jobs and investors are affected when you have a handful of attorneys out there deciding they are going to act in a way that really brings great danger to our markets. And so I urge adoption of the legislation.

I yield the floor at this point.

Mr. D'AMATO. Madam President, I yield up to 3 minutes to the Senator from Texas and ask unanimous consent that Senator FEINGOLD from Wisconsin be recognized thereafter for the purposes of introducing an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Reserving my right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I certainly do not want in any way to interfere with the presentation of the amendment of the Senator from Wisconsin, but we are in a time limit where we have an hour on each side and I want to make sure that I do not lose my——

Mr. D'AMATO. It was never the Senator's intent nor would this impinge on the Senator's time. It was an effort to accommodate one of our colleagues.

Mr. BRYAN. I am happy to do that. Can we include one proviso in the proposed unanimous consent that after the Senator from Texas is allowed the time as requested by my friend, the distinguished chairman, and after the Senator from Wisconsin is recognized for purposes of an amendment, will the Senator from Nevada then be next recognized, if that would be agreeable?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Madam President, I often find myself having to speak at length in the Chamber when I do not have the votes. On this bill, I am in the happy position that we have the votes. We are going to win. We are going to defeat all of the amendments, because we have a good bill, and we have a very broad base of support. So I have often found that when you have the votes, it is best not to speak at length.

However, as the author of the legislation, I wanted to say just a couple of things. First, I thank Chairman D'AMATO for his leadership. I want people to know that without his principal leadership on this bill, we would not be here. He was instrumental in helping us pull the coalition together. He set a time schedule on bringing the bill before the full committee, and I thank him for his leadership.

I believe this legislation will benefit the country. I think we will create jobs, growth, and opportunity from enactment of the bill, and I think that Chairman D'AMATO is due a lion's share of the credit.

I thank Senator DODD. I don't think anybody in the Senate has a better, more cooperative ranking member than I do as chairman of the Securities Subcommittee. I thank Senator DODD for his leadership.

The bottom line on this bill is that in 1995 we sought to act to deal with the problem of economic piracy through the courts. We had found ourselves in a position where lawsuits were being filed against companies if their stock price went up, if their stock price went down, if their stock price did not change. New, emerging companies were the special targets of these lawsuits. These are the companies that had great technical ideas but did not have a whole bevy of lawyers on their payroll, and they were finding themselves basically being extorted, as people filed lawsuits that often were just boilerplate documents. These suits were so boilerplate that at times the name of the company being sued was confused in the documents filed in the court.

And so we stepped in to try to do something about it, and we passed a bill called the Private Securities Litigation Reform Act, Public Law 104–67. That legislation basically did five things. No. 1, it said that you had to have a client; that you could not have a lawyer who filed a bunch of motions representing nobody in reality and just collecting a whole bunch of money. The legislation said that there had to be genuine clients, and the client that stood the most to gain could be the lead client and had the privilege to choose the lawyer, and the lawyer had to be accountable to the people who were filing the lawsuit.

You all heard the statement that our chairman quoted, about the bragging of the lead lawyer in this area.

Are my 3 minutes up?

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. D'AMATO. I request an additional 2 minutes.

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

Mr. GRAMM. So we required that you have real people filing a real lawsuit. We also required that if you are going to file a lawsuit, you have to say specifically what the company did wrong. We further established a procedure whereby you did not have to go through this lengthy and expensive discovery process while the court was considering whether there was even enough merit in the case to proceed further with it. We also eliminated the ability to go after the people that had deep pockets, even though they had no real, substantive liability. Finally, where it was clear that the lawsuit was frivolous, we gave the judge the responsibility to require that the people who filed the lawsuit paid the legal expenses of those who found themselves pulled into court.

It was a good bill, and it is beginning to have an impact. Our problem is that in trying to circumvent it, the same people filing the same lawsuits started to move into State court. So we have written a bill that tries to set uniform national standards. It applies only to class-action suits. It applies only to stocks that are traded nationally.

It is eminently reasonable. It is clearly within the purview of the interstate commerce clause of the Constitution. This is a bill that needs to be passed. I thank everybody who has been involved in it for their leadership.

We will have a series of amendments. We voted on every one of them in committee. Every one of these amendments is aimed at killing the bill by undercutting the basic premise of the bill, which is when you are dealing with nationally traded securities, you need national standards. So I hope our colleagues will join us in the process of defeating these amendments and approving the bill.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Chair. I thank the manager, the Senator from New York.

AMENDMENT NO. 2394

(Purpose: To amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes)

Mr. FEINGOLD. At this point I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2394.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. ___. CIVIL RIGHTS PROCEDURES PROTECTIONS.

(a) SHORT TITLE.—This section may be cited as the "Civil Rights Procedures Protection Act of 1998".

(b) AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"SEC. 719. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(c) AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"SEC. 16. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under section 501, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(e) AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(f) AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES.—Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal law (other than a Federal law that expressly refers to this section) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim concerning making and enforcing a contract of employment under this section, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(g) AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this subsection, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(h) AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended—

(1) by redesignating section 405 as section 406; and

(2) by inserting after section 404 the following new section:

"SEC. 405. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or under an amendment made by this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(i) AMENDMENT TO TITLE 9, UNITED STATES CODE.—Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

(j) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to claims arising on and after the date of enactment of this Act.

Mr. FEINGOLD. Madam President, I rise today to offer an amendment, which is actually a bill I have worked on for some time, the Civil Rights Procedures Protection Act, S. 63, a measure cosponsored by Senators KENNEDY, LEAHY, and TORRICELLI.

What this legislation does is address the rapidly growing and troubling practice of employers conditioning employment or professional advancement upon their employees' willingness to submit claims of discrimination or harassment to arbitration, mandatory arbitration, rather than still having the right to pursue their claims in the courts. In other words, in too many cases employers are forcing their employees to ex ante agree to submit their civil rights claims to mandatory binding arbitration irrespective of what other remedies may exist under the laws of this Nation.

So to address this growing trend of mandatory binding arbitration, this measure, the Civil Rights Procedures Protection Act, amends seven civil rights statutes to guarantee that a civil rights plaintiff can still seek the protection of the U.S. courts. The measure ensures that an employer cannot use his or her superior bargaining power to coerce her or his employees to, in effect, capitulate to an agreement which diminishes their civil rights protection.

To be specific, this legislation affects civil rights claims brought under title VII of the Civil Rights Act of 1964, section 505 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, section 1977 of the revised statutes, the Equal Pay Act, the Family and Medical Leave Act, and the Federal Arbitration Act. In the context of the Federal Arbitration Act, the protections in this legislation are extended to claims of unlawful discrimination arising under State or local law, and other Federal laws that prohibit job discrimination.

Madam President, I want to be clear, because it is important that we promote voluntary arbitration in this country, that this is in no way intended to hinder or discourage or bar the use of arbitration on conciliation or mediation or any other form of alternative dispute resolution short of litigation resolving those claims. I think it is tremendous that we try to encourage people to voluntarily avoid litigation.

I have long been a strong proponent of voluntary forms of alternative dispute resolution. The key, however, is that, in those cases that I can support alternative dispute resolution, it is truly voluntary. That is not what we are talking about here. What is happening here is that these agreements to go to arbitration are mandatory, they are imposed upon working men and women, and they are required prior to employment or prior to a promotion.

Mandatory binding arbitration allows employers to tell all current and prospective employees, in effect, if you want to work for us, you will have to check your rights as a working American citizen at the door. Indeed, these requirements have been referred to recently as front-door contracts; that is, employers require that employees surrender certain rights right up front in order to get in the front door. Working men and women all across the country are faced with a very dubious choice, then, of either accepting these mandatory limitations of their right to redress in the face of discrimination or harassment, or being placed at risk of losing an employment opportunity or professional advancement.

As a nation that values work and deplores discrimination, I don't think we can allow this situation to continue. The way I like to describe it is, what this expects a person to do is to sign an agreement that they will not go to court even before they feel the sting of discrimination. They have to sign this deal before they even sit down to their desk and do their first work for an employer.

So, in conclusion, allow me to stress that this practice of mandatory binding arbitration should be stopped now. If people believe they are being discriminated against or sexually harassed, they should continue to retain all avenues of redress provided for by the laws of this Nation. This amendment will help restore integrity and balance in relations between hard-working employees and their employers. But I think more important, this amendment will ensure that the civil rights laws this Congress passes will continue to protect all Americans.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I commend the Senator from Wisconsin for coming forth with this proposal. It is an amendment that he has been working on, for quite a period of time. As a matter of fact, it has been referred to the Judiciary Committee.

Having said that, I think at the very least it should have, and requires, a thorough hearing. It is important, and it is important we understand the nuances. It is important that we get the case-by-case documentation as relates to those people who have suffered as a result of this area of the law. It is an area of great concern in terms of whether or not a person has to sign an agreement—and they do now—prior to employment, that they give away or they agree that all matters will be settled by way of arbitration.

Maybe it should not be "all matters." Maybe there are certain matters that no one should ever be required to forfeit. I think we should look at that, because I think there are some very real questions. If there is a question of sexual harassment, do you mean to tell me that a person in that case should have to give up his or her right to bring a claim and that it will be settled in camera, behind the scenes, by way of arbitration? And there may be other areas where, indeed, the arbitration procedure should be the methodology of resolving a dispute.

But I believe the Senator is correct, that there are some areas that really call into question whether or not a person must sign this agreement, otherwise he or she doesn't get the job. They just never get the job. They never get the promotion. So what do you think they are going to do? Of course they are going to sign. So this is serious.

I believe we have an obligation to have a thorough, thoughtful analysis, and, indeed, the Judiciary Committee may want to look at certain aspects. But I believe since, indeed, the financial services community, the banking community, the securities community has to deal with this day in and day out, the proper jurisdiction does lie before the Banking Committee.

With that in mind, I have indicated to the Senator that, before we leave, during the month of July or prior, it will be my intent to hold at least a full hearing, where witnesses to both sides, including the Securities and Exchange Commission—which I understand is studying this matter very carefully—will appear so we could have the benefit of their review, of their testimony, of people who have written and people who have been involved in this, those who have been aggrieved as well as those who can testify to the merits of certain aspects of having arbitration in some limited cases.

But I must say for the record, I believe the Senator has touched on something that is very important and I would not like to move to table at this time. I think it would be unfair to the importance of this legislation.

With that in view, I have indicated to the Senator that I will call these hearings, so we can fully explore this and then bring it to this floor as legislation that has had the benefit of the totality of the input from the SEC, from our staffs, after listening and hearing and getting the kind of in-depth review that I know that not only I feel should take place, but that most of the members of my committee would support.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I thank the Senator from New York who, I think, has given a very sympathetic listen to what we are trying to accomplish here. This issue, in fact, emanates in large part originally from his State and from some of the practices in his State that are now becoming nationwide.

I think he has shown here, in his comments, already a keen understanding of what is involved here. Even though this issue has not been presented formally to his committee, he clearly understands that what is being requested of some of these individuals is simply unreasonable in light of American traditions of protection from discrimination and sexual harassment.

So, even though I think this bill is a very appropriate vehicle to offer this amendment, I am grateful the chairman of the Banking Committee has agreed to hold a hearing in which he will be personally involved, in which I will have the opportunity to testify, prior to the end of July, on this bill.

I look forward to being able to participate in helping to select some of the witnesses. I agree with the Senator very strongly that there are people on both sides, as well as those in the middle such as the SEC, who are seriously looking at this. This would be a useful hearing to move this issue along. I happen to be a member of the Judiciary Committee as well, so I certainly regard this as an appropriate forum as well. But I think this committee, in light of the fact these agreements started in securities firms, is a place where a hearing would be appropriate.

I also understand the Senator does not expect in any way I would be prevented from offering this to other bills at any point.

But, in light of all that and his assurances—which have always been extremely secure whenever I have dealt with him in the past, for the last 5½ years—in light of all that, I look forward to the hearing, I look forward to working with him. I hope that he can support this legislation after he has had a chance to review it.

Given all that, at this point, Madam President, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2394) was withdrawn.

Mr. D'AMATO. I thank my colleague and tell him that we look forward to working together in a cooperative way in helping to craft a package that will address the true abuses yet maintain the importance of arbitration where it is deemed appropriate, because I think in certain cases it is absolutely appropriate and I think in others it is absolutely indefensible.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized.

Mr. BRYAN. I thank the Presiding Officer.

Just to be clear, in terms of the status, the 22 minutes that are reserved to the Senators in opposition is not affected by the colloquy between my two friends from New York and Wisconsin?

The PRESIDING OFFICER. The Senator is correct.

Mr. BRYAN. Madam President, this legislation that we are debating today, as I have said on previous occasions, is somewhat arcane and esoteric. It is not the sort of thing where, for people who are at home watching this debate, it causes them to move to the edge of their chairs and to hang on every word.

It is, however, terribly important for the tens of millions of small investors who, in recent years, have invested in the future of America, and for their confidence in the market system that we have created, because they are the small investors, they are the ones who will be impacted by this legislation. The large investors, the large institutions, will still have options that heretofore the small investors have had but the small investors will be deprived of as a result of this legislation. So it is the view of the Senator from Nevada that this legislation plunges a dagger into the heart of every small investor in America.

What we are talking about is not whether a case can be brought in State court or Federal court. We are talking about a system, which currently exists, that allows a private small investor to be part of a class action, and other small investors who have been defrauded as a result of the misconduct of others, to come together and file an action in State court and to avail themselves of statutes of limitations that are longer than are available to those of us who file in Federal court to provide, for joint and several liability, the ability to recover from accomplices—particularly important if the primary offender has bankrupted himself or herself or itself or has taken leave—and to avail himself or herself of triple damages under RICO.

So this has a very practical impact. Actions that would be available to small investors at the State court level will no longer—no longer—be available to those small investors, as a practical matter. So we continue a process which alarmed my good friend, the distinguished ranking member of this committee, the distinguished Senator from Maryland, that began with the Private Securities Litigation Reform Act of 1995 and, in our view, simply goes too far.

Those of us who express strong reservations about this bill find no comfort with those who are filing strike suits, those who are involved in litigiousness for the sake of litigiousness. I believe it would be possible to craft a narrow provision that addresses the ostensible concerns that have been raised and yet not deprive small investors in this country of their rights under the law.

The system for private enforcement of remedies has existed now for more than six decades. It is a dual system involving the State courts and the Federal courts. It has worked exceptionally well. The SEC has repeatedly testified as to the importance of private rights of actions as being absolutely essential to augment their own enforcement efforts. Indeed, they have said they have not the ability nor the resources to deal with the vast panoply of investor fraud, and they view the private cause of action as essential.

Indeed, States were the first to enact these protections against fraud in the early 1900s, and when, in the mid-1930s, the statutes that essentially provided the framework for Federal securities regulation were put in place, it was expressly intended to supplement, not to supersede, to complement, not to wipe out, and the language of this legislation today specifically preempts the State cause of action for class actions. These State remedies are vitally important, and States have responded in a number of different ways by providing protections. I am going to talk about three primarily.

The statute of limitations. Why is that important? Those who perpetrate fraud on small investors don't do so openly and nakedly; they try to conceal it to protect that activity. So the unfortunate decision of the court in the Lampf decision, which limits at the Federal level the right of an investor who has been defrauded 1 year from the point of discovery of the fraud, 3 years even though the investor never becomes aware of that fraud, is viewed by the Securities Commission as unreasonable because it takes them, with all of their resources, a minimum of 3½ years.

The statute of limitation is not just an arcane debate about how long one should have, it is the ability of a small investor who has been defrauded without his knowledge and, never having learned of it within the 3-year period of time, is now precluded. Thirty-three States in this country, including my own in Nevada, provide for a longer statute of limitation. Some provide 2 years from the time of discovery of fraud, or 5 or 6 or even 10 years, and some provide no bar at all.

In the vast majority of States in America, small investors filing class actions who do not discover the fraud until after 3 years are currently, under existing law, protected in at least 33 States. This legislation cuts off that right, and even though we all agree or, as the lawyers say, stipulate to the merit of the claim, it is barred—barred—by the 3 years even though the small investor never became aware of the fraud. That is what we are talking about.

Forty-nine of the 50 States provide liability for the accomplices—those who conspired with the primary perpetrator of the fraud, whether they be lawyers, whether they be accountants, whether they be other investment advisers—to provide a cause of action—49 out of 50. Unfortunately, at the Federal level, there is no remedy for plaintiffs against aiders and abetters. So that means that if the primary offender, the perpetrator, becomes bankrupt, leaves the country, or is otherwise unable to respond in damages, historically at the State court level, the class-action plaintiffs could recover against those who conspired and aided in that fraud.

The action that we take with S. 1260 deprives small investors filing class actions from this recovery. So now, if we pass this legislation, they are precluded from moving against those who conspired and actively participated in the fraud.

Moreover, States, as a matter of providing protection to their own citizens, have provided in a number of jurisdictions for joint and several liability. That means if five or six are guilty of the fraud and only one has the ability to respond in damages, States have made the determination that as between the innocent investor, utterly blameless, that the innocent investor ought to be satisfied against the perpetrator of that fraud, even though there may have been several involved. That is wiped out.

We have, in effect, a piece of legislation before us that dramatically limits the right of a small investor to pursue a class action in State court and to avail himself or herself of a whole host of remedies which States have provided on their own.

I must say, the irony of this course of action by a Republican Congress that has proclaimed its devotion to State rights and has raged against preemption by a Congress at the Federal level of essentially State rights does not go unnoticed by this Senator.

Why are class actions important? Again, it is pretty esoteric. Think for a moment. Tens of millions of small investors who may have been victimized by a fraud don't have the ability to hire a lawyer on their own to fight against entrenched special interests who have the ability to provide legal defenses and delays and delays. That is practically no remedy at all. It is only by binding together with other investors, small investors who are similarly situated, as the law says, that those costs can be spread and a recovery can be possible.

When we say, as proponents of this legislation, "Well, the small investor can still file in State court," that is true, but it is a hollow and transparent remedy because, as a practical matter, small investors simply do not have the ability to pay for the lawyer's fees and the costs that are involved in processing these kind of cases.

That was the situation that 23,000 senior citizens who joined in a class action against Charlie Keating and Lincoln Savings and Loan found themselves in a few years ago. It was a class action, and they were ultimately able to recover 65 cents on the dollar of their losses.

Had those plaintiffs been involved today with a shorter cause of action at the Federal level, with the cause of action unavailable at the State level for class actions, those plaintiffs would have not been able to recover that kind of money. The examples of these kinds of groups are not just small individuals, but they include school districts, municipalities, special improvement districts, pension funds at the State and municipal level. All of these are going to be affected by this legislation. As a practical matter, a class action provides the only realistic hope of recovery.

As I pointed out, the SEC, with all its resources, says it takes them up to 3 years to compile the data to bring these securities fraud suits. So in effect, what we are doing now is we are providing for two classes of investors: Those who have been defrauded who are people of means, of wealth, so they can hire their own lawyers, they can still file at the State court level and take advantage of the longer statute of limitations, can take advantage of the provisions that provide liability against accomplices, can take advantage against the joint and several liability protections available at the State level. But if you are a small investor—and that is what most of those who are defrauded are, small investors—that remedy is no longer available to you.

So the question arises: Why are we doing this? What is the problem? Well, frankly, to the great credit of our regulatory framework, we have the safest and the most efficient securities markets in the world.

In 1990, there were 158 IPOs, totaling $4.6 billion. In 1997, 7 years later, there were 619 IPOs, totaling $39 billion. The stock market has recently set record highs. The Dow is over 9,000. And individuals confident in these markets are pouring in $40 billion a month in mutual funds. In 1980, 1 in every 18 households in America invested in the stock market. Less than 20 years later, it is more than one in three. That is a great tribute to the security and safety of this market.

Why are we reducing the investor protections at a time when the stock market is surging and consumer confidence is growing?

Investor confidence is crucial, and it is threatened by increasing fraud. I believe it was President Kennedy who made the observation, that, "A rising tide"—referring to the economy—"raises all boats." And I think that is true. But it is equally true it also hides the shoals.

Newsweek, in its October 6, 1997, edition: "Scam Scuttling: The Bull Market is Drawing Con Artists. SEC Chairman Levitt summarized, "In a market like this, parasites crowd in to feast on the bull's success."

Business Week, December 15: "Ripoff! Secret World of Chop Stocks—And How Small Investors—[and that is what we are talking about] Are Getting Fleeced." The article focuses on small-cap equities manipulated to enrich promotors and defraud thousands of small investors—a $10 billion-a-year business that regulators and law enforcement have barely dented.

The New York Times of November 26 of last year: "Lessons of Boesky and Milken Go Unheeded in Fraud Case." In one case, 1,600 investors were swindled out of $95 million.

Yet Federal and State enforcement resources are shrinking as these fraudulent schemes are perpetrated upon the innocent small investors.

Now is not the time, I would respectfully argue, to in effect rip from the investor his or her opportunity to recover that which has been lost as a result of being victimized by fraud. Our securities markets run on trust, Madam President—on trust—not money. There will be much less trust, I fear, if this legislation occurs.

Look what has happened in countries around the world: "Albania tries to regain control [of the Ponzi scheme]." That can't happen in America with the system that we have created. "Shanghai Stock Market Cited for Scandal." "10,000 Stampede as Russian Stock [Market] Collapses." "Scandal Besets Chinese Markets."

My point being that we have devised a system to protect investors. And I fear, by reason of overly broad legislation, we are depriving small investors of the very opportunity to recover that which has provided the confidence in the market that has encouraged such a massive investment by small investors.

Why? We are led to believe there is a massive influx of cases that must be preempted because everybody is going to the State court to bypass the provisions of the 1995 law.

Price Waterhouse, in January of 1998, made a report, an evaluation. Forty-four State cases—44—were filed in all of 1997, a one-third decrease since 1996—I want to emphasize that, a decrease—when 66 were filed, and less than in the 3 years before the 1995 legislation. A followup Price Waterhouse study, in February, tells us 39 cases were filed.

My point being, whether it is 39 or 44, I would not argue that with my colleagues, but that is, out of 15 million cases, civil cases—not criminal, not traffic, not domestic relations—we are talking about 44 cases or 39 cases out of 15 million filed. That is a very, very small number. And although there are some problems, as has been pointed out by the proponents, none of the problems justifies the sweeping emasculation of investor protections that this legislation provides for.

Now, what are the problems specifically in the act itself?

If one believes that uniform standards are an essential public policy in the country—and, I must say, I have not been persuaded—then I think we would agree that a uniform standard that provides strong investor protections ought to be a part of that uniform standard.

Unfortunately, what we have done, in each and every case, is opted for the lowest common denominator of protection. If the statute of limitations is longer at the State level, we have preempted it and limited the statute of limitations. If the State provides for liability against those who are accomplices, we take that cause of action away from the small investor. If the State allows for joint and several recovery against each and every one of those involved in the fraud, we take that away from the small investor.

So it is my view that this is part of an ongoing process in which we have, in my judgment, left the small investor high and dry in many cases if this legislation passes.

I must say that when you look at the trend line following the 1995 legislative enactments, you can see that pattern unfold. The Lampf decision, which shocked the SEC and others, limited the statute of limitations to 1 year from the time of discovery of the fraud to 3 years. The SEC recognized that that is an unreasonable period of time. And those who argued several years ago for comprehensive reforms said, "Look, we'll address the statute of limitations at that point." We tried, Madam President, in 1995 to address the statute of limitations, but we were rebuffed. Now this legislation takes the longer statute of limitations, available in 33 out of 50 States, away from those small investors.

The Supreme Court, in the Central Bank case, held that there is no ability to hold accomplices liable. We tried to provide for aider and abetter coverage. The SEC strongly supports that. We were told that when we redid the Federal securities laws that that would be included. My colleague from Maryland and I tried, and we were rebuffed in that effort.

Joint and several liability, eliminated in the 1995 act. Civil RICO, eliminated. Discovery provisions, limited. In 1996, we made a determination to divide some of the regulatory responsibility between State and Federal authorities.

In 1998, we are here with S. 1260, which I think is the coup de grace in terms of small investor protection. So I must say that I am greatly disturbed by this threat. I believe that small investors ultimately will pay the price.

It is often said that those of us who oppose this legislation must be working for those nefarious trial lawyers. Let's take a look at the groups who support the position that the senior Senator from Maryland and I take. The American Association of Retired Persons. When I attend one of their meetings, I haven't seen a single retired lawyer in attendance. The AFL-CIO, the American Federation of State County and Municipal Workers, Consumer Federation of America, Consumers Union, and many, many others, as you can see, particularly those involved with the State retirement associations, including the Public Employees Retirement System, the League of Cities, the National Association of Counties and Municipal Treasuries.

Let me read a paragraph from a letter that the able Senator from Maryland introduced, coming from the Government Finance Officers Association, the Municipal Treasurers' Association, National Association of Counties, National Association of County Treasurers, National Association of State Retirement Administrators, National Conference on Public Employee Retirement System, National League of Cities, U.S. Conference of Mayors. They raise many of the same objections that I have outlined today, as has my colleague from Maryland.

Here is their comment:

> The Private Securities Litigation Reform Act was opposed by state and local governments because the legislation did not strike an appropriate balance, and this legislation extends that mistake to state courts. As both users of debt and investors of public funds, state and local governments seek to not only reduce frivolous lawsuits but to protect state and local government investors who are defrauded in securities transactions. . . .
>
> The above organizations believe that States must be able to protect State and local government funds.

We are talking about taxpayer dollars. We are not talking about litigious plaintiffs. We are talking about pension funds, municipal State funds in which those entities have been defrauded and now will be provided much less protection to recover tax dollars—dollars belonging to each and every citizen who is a part of that group.

Let me address one final point here as we conclude this discussion. One of the concerns that has been expressed is that there is no adequate assurance that liability will continue to exist against those who are reckless in their conduct. Now, that is a standard more egregious than simple negligence, more egregious than gross negligence. We are talking about conduct that is reckless in nature.

Prior to 1995, when the Private Securities Litigation Reform Act was enacted, 11 of 13 circuits in this country had addressed the issue and had concluded that there was a cause of action for those who are guilty of reckless misconduct. The 1995 legislation, because it talked about a specific pleading standard, has created some confusion. Following the 1995 enactment, several district courts have concluded that no longer is there liability for reckless misconduct.

Now, the proponents of this legislation say that they do not intend that as a consequence. And I accept their representation. However, we have tried to get into this bill a provision crafted by the SEC defining "reckless" to make it absolutely sure that "reckless" is protected. Their response? If the courts strike down "reckless" we will remedy it.

I never impugn anyone's good faith, but I am a product of the experience that I have had in this legislation. We were told back in the 1990s that we would address the statute of limitation problem when we looked at comprehensive legislation to correct that. It did not occur. We were told after the Central Bank case that we will address the problem in which aiders and accomplices are no longer liable under the law. We were rejected in that effort. So I must say I find my comfort level not very high if the courts intend that. It seems to me if we are in earnest in wanting to protect that "reckless" standard, it is terribly important we use a definition which the SEC has provided. Let's make it part of this legislation.

I am not unmindful of the fact that this bill is a train that is leaving the station. It will pass and it will be signed into law. But it would be a tragic mistake not to make absolutely sure that "reckless" is included. I believe a fair reading of the 1995 legislation should not give rise to an inference that "reckless" has somehow been changed. I don't believe that was the intent. The authors of this legislation say it is not true, but even when we try to get it moved into the findings of the legislation, we get resistance, so I have concern.

Let me conclude by saying this is a piece of legislation which is a solution in search of a problem, overly broad and dangerous to millions of small investors in America.

I yield the floor and reserve whatever time remains.

(Mr. FAIRCLOTH assumed the chair.)

Mrs. FEINSTEIN. Mr. President, I rise today to lend my support to S. 1260, the Securities Litigation Uniform Standards Act. This legislation, introduced by Senator GRAMM and Senator DODD, is essential to my state of California, providing needed uniform national standards in securities fraud class actions.

In 1995, with my support, Congress successfully passed the Securities Litigation Reform Act. The 1995 Act provided relief to American companies hit with frivolous, or nuisance, lawsuits. Specifically, the legislation adopted federal provisions to discourage nuisance securities lawsuits and increase the level of information provided for investors.

This is very important to my state of California, where hundreds of burdensome lawsuits are filed each and every year. More than 60% of all California high tech firms have been sued at least once. Apple Computers executives stated they expect to be sued every two years. These lawsuits levy a heavy cost on businesses who have to pay for expensive legal battles, draining company resources which might otherwise be spent on growing and improving the health of the company. Securities litigation, as several high tech executives have described, is truly "an uncontrolled tax on innovation."

The high-tech industry has been central to the successful economic recovery in California. As thousands of workers in the aerospace industry lost their jobs, and as the recession of the '90s stalled the economy, it was California's entrepreneurial spirit, the investment in new ideas, research and new technology which resulted in a rebounding economy.

In California, there are over 20,000 established high-tech companies. With roughly 670,000 workers, California ranks 1st in the nation in high-tech employment. To put it in another way, for every 1,000 workers in my state, 62 are high-tech. That is significant when one considers that as the 7th largest economy in the world, California supports almost every kind of industry and business known to commerce.

Start-up companies in the high-tech and biotech industries are most directly affected by securities lawsuits. These high-tech and biotech companies dedicate a large percentage of company funds for research and development. The average high tech firm invests between 16–20% of company revenues in research, with biotech firms often as high as 60%. This level of investment is integral to their business success. However, with the burden of frivolous lawsuits, California companies are not able to use their resource on developing innovative technologies and new products for the market place.

The 1995 Securities Litigation Reform moved in the right direction. However, the 1995 legislation did not address recent actions by plaintiffs to file frivolous cases in state courts. Since the passage of the 1995 legislation, suits traditionally filed in federal courts are now being placed in state courts. The current law does not protect companies from this threat.

The bill, which I have been pleased to support, will protect companies from this side-door tactic. The Securities Litigation Uniform Standards Act of 1997 establishes uniform national standards in securities fraud class action suits. It would permit a defendant,

whether a company or individual, who is sued in state court to proceed into federal court. This legislation would in effect require that every large securities class action be brought into federal court.

The creation of effective national standards will make it easier to protect companies from so-called nuisance shareholder lawsuits. Specifically, the legislation would provide for the shifting of securities lawsuits filed in a state court into the more appropriate federal court, a process called "removal." The removal authority would only apply for class action suits involving nationally-traded securities, such as the New York Stock Exchange. Without removal authority, these companies, whose securities are traded throughout the fifty states, could face liability under federal securities laws in fifty state courts. This widespread liability would undermine the reforms enacted in the 1995 Securities Litigation Reform Act.

Further, this legislation would prevent "forum shopping," a method for nuisance lawsuits to be initiated in the most sympathetic state jurisdiction. This is a very real concern for California. According to a recent study by former Securities and Exchange Commissioner Joseph A. Grundfest, approximately 26% of litigation activity has moved from federal to state court since the passage of the 1995 law. The study elaborates:

> This increase in state court litigation is likely the result of a "substitution effect" whereby plaintiffs' counsel file state court complaints when the underlying fact appear not to be sufficient to satisfy new, more stringent federal pleading requirements.

California is the home to one-third of the nation's biotechnology companies and medical device companies. These firms have been the source of tremendous growth. Yet these high tech firms are the very ones who face one of every four strike suits and who have had to pay hundreds of millions of dollars in settlements. National standards will address this problem effectively and fairly.

By establishing a uniform system for the movement of cases from state to federal court, Congress can limit abusive lawsuits that inhibit economic and job growth. The Securities Litigation Uniform Standards Act of 1997 will offer important protection for American companies from nuisance lawsuits.

I appreciate the efforts of the Banking Committee and the sponsors, Senator GRAMM and Senator DODD, for their work on this issue and encourage my fellow Senate colleagues to support this legislation.

Mr. JOHNSON. Mr. President, I rise today in opposition to S. 1260, the Securities Litigation Uniform Standards Act. This bill seeks to prevent states from protecting their own citizens from unscrupulous actions by a small minority in the securities industry. We must allow states to protect their own investors, and this further intrusion into states rights is unwarranted by the evidence.

Preempting state remedies now—and requiring fraud victims to seek relief solely under the federal standards promulgated in 1995—could leave investors with severely limited ability to protect themselves against fraud. We should permit the 1995 Private Securities Litigation Reform Act to be interpreted by the courts before we embark on this effort to anticipate future problems with the PSLRA that have not yet arisen. Several federal district courts have issued rulings on the 1995 law that are so restrictive that they threaten almost all private enforcement of securities law—including holding that reckless wrongdoers are no longer liable to their victims under the PSLRA.

The SEC has warned in briefs filed in these cases that such a result would essentially end private enforcement of the federal securities laws. By eliminating state remedies for fraud before knowing whether the courts will finally interpret the PSLRA in a way that provides victims with a viable means to recover their losses, S. 1260 risks not only harming innocent investors but undermining public confidence in our securities markets.

There is no need for any federal action inasmuch as there have been few state securities class actions filed since the PSLRA passed, and most have been in one state. Preemption proponents cite an imaginary "explosion" of state suits filed to "circumvent" the PSLRA in the two years since its enactment. But the mere handful of state securities class actions filed in 1997—only 44 nationwide—represents a one-third decrease since 1996 and is less than in the three years before the PSLRA was passed. It also is an infinitesimally small percentage of the roughly 15 million civil cases filed in state courts each year. No state other than California has had more than seven securities class actions filed in the two years since enactment of the PSLRA. Given these small numbers, there is no reason why states should not be left free to decide how best to protect their own citizens from fraud.

State laws against securities fraud are part of a dual enforcement system that has served the country exceptionally well since the Depression. States enacted protections against financial schemes in the early 1900s. Congress passed federal securities laws in 1933 and 1934 to complement—not replace—state laws and to stop abuses that caused the 1929 crash. Many states have chosen to provide more expansive investor protections than federal law currently provides—through accountability for aiders and abettors, realistic time limits for filing a fraud claim, and the ability to recover fully from professionals who help perpetrate frauds (like lawyers and accountants) when the main wrongdoer is bankrupt, in jail, or has fled the country. For example, according to the SEC, 49 of the 50 states provide liability for aiders and abettors now unavailable under federal law and 33 states provide longer statutes of limitations for securities fraud actions than current federal law. S. 1260 would take away these important state remedies.

This effort has been underway virtually since the PSLRA passed. It is not based on the new realities created by the PSLRA, but rather to eliminate another form of protection for investors. The SEC has repeatedly expressed concern that federal legislation to preempt state laws is premature. In an April 1997 letter to the President forwarding a lengthy SEC report on the operation of the PSLRA, Chairman Arthur Levitt stated, "The Commission endorses the ultimate conclusion of this report: it is too early to assess with great confidence many important effects of the [PSLRA] and therefore, on this basis, it is premature to propose legislative changes. . . The one-year time frame has not allowed for sufficient practical experience with the Reform Act's provisions, or for many court decisions (particularly appellate court decisions) interpreting those provisions." The SEC reiterated this view in October 1997 testimony before both the House and Senate and has specifically criticized the pending preemption legislation, stating that it "would deprive investors of important protections." SEC Commissioner Norman Johnson, a Republican, has been especially critical: "Given the possible adverse effect on investor confidence, as well as the long history of effective and concurrent federal and state securities regulation, and the strong federalism concerns raised by preemption . . . extreme caution should be exercised before state courthouse doors are closed to small investors through the preclusion of state class actions for securities fraud." While three of the five SEC Commissioners no longer oppose S. 1260, there has been no change in any of the underlying facts that led to the SEC's earlier report and testimony. Commissioner Johnson continues to oppose S. 1260.

With more and more Americans participating in the stock market boom, it is more imperative that we maintain these investor protections, not weaken them. According to a front-page article in the November 30, 1997, New York Times, "Investment Fraud Is Soaring Along with the Stock Market." This was only one in a long line of recent articles reporting on widespread fraud in the financial markets—a fact acknowledged by federal and state enforcement officials nationwide. The National White Collar Crime Center reports that corporate financial crime costs $565 billion annually, nearly 12 times the

amount of street crime. The New York Attorney General has reported that investor complaints have risen 40% per year in the past two years; the U.S. Attorney in New York City has stated that she has witnessed an "explosion" of securities fraud; and the mob has now infiltrated Wall Street. Yet, federal and state enforcement resources are shrinking. As SEC Chairman Levitt observed in December 1997: "In a market like this, parasites crowd in to feast on the bull's success." In light of all this, Congress should strengthen, not weaken, existing deterrents.

This premption of state law is opposed by a broad coalition, including the American Association of Retired Persons; American Federation of State County and Municipal Workers; Consumer Federation of America; Consumers Union; Gray Panthers; Government Finance Officers Association; Municipal Treasurers' Association; National League of Cities; National Association of Counties; National Association of County Treasurers and Finance Officers and many, many others.

Mr. President, I urge my colleagues to join me in opposing this unnecessary and unwarranted federal intrusion into what should appropriately be state law.

Mr. DODD. Mr. President, S. 1260, the Securities Litigation Uniform Standards Act of 1998, is intended to create a uniform national standard for securities fraud class actions involving nationally-traded securities. In advocating enactment of uniform national standards for such actions, I firmly believe that the national standards must be fair ones that adequately protect investors. I hope that Senator D'AMATO, one of the architects of the Banking Committee's substitute, would engage in a colloquy with me on this point?

Mr. D'AMATO. I would be happy to.

Mr. DODD. At a hearing on S. 1260 last October, the Securities and Exchange Commission (SEC) voiced concern over some recent federal district court decisions on the state of mind—or scienter—requirement for pleading fraud was adopted in the Private Securities Litigation Reform Act of 1995 ('95 Reform Act or PSLRA). According to the SEC, some federal district courts have concluded that the '96 Reform Act adopted a pleading standard that was more rigorous than the Second Court's, which, at the time of enactment of the PSLRA, had the toughest pleading standards in the nation. Some of these courts have also suggested that the 95 Reform Act changed not only the pleading standard but also the standard for proving the scienter requirement. At the time we enacted the PSLRA, every federal court of appeals in the nation—ten in number—concluded that the scienter requirement could be met by proof of recklessness.

Mr. D'AMATO. I am sympathetic to the SEC's concerns. In acting now to establish uniform national standards, it is important that we make clear our understanding of the standards created by the '95 Reform Act because those are the standards that will apply if S. 1260 is enacted into law. My clear intent in 1995, and my understanding today, is that the PSLRA did not in any way alter the scienter standard in federal securities fraud lawsuits. The '95 Reform Act requires plaintiffs, and I quote, "to the state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind." The '95 Reform Act makes no attempt to alter or define that state of mind. In addition, it was my intent in 1995, and it is my understanding today, that the '95 Reform Act adopted the pleading standard applied in the Second Circuit.

Mr. DODD. I agree with the comments of my colleague from New York. I too, did not intend for the PSLRA to alter the state of mind requirement in securities fraud lawsuits or to adopt a pleading standard more stringent than that of the Second Circuit. In fact, I specifically stated during the legislative debates preceding and following the President's veto that the '95 Reform Act adopted the Second Circuit's pleading standard. This continues to be my understanding and intent today. Ensuring that the scienter standard includes reckless misconduct is critical to investor protection. Creating a higher scienter standard would lessen the incentives for issuers of securities to conduct a full inquiry into potentially troublesome areas and could therefore damage the disclosure process that has made our markets a model for other nations. The U.S. securities markets are the envy of the world precisely because investors at home and abroad have enormous confidence in the way our markets operate. Altering the scienter standard in the way envisioned by some of these district court decisions could be very damaging to that confidence.

Mr. D'AMATO. My friend from Connecticut is correct. The federal securities laws must include a scienter requirement that adequately protects investors. I was surprised and dismayed to learn that some district court decisions had not followed the clear language of the '95 Reform Act, which is the basis upon which the uniform national standard in today's legislation will be created.

Mr. DODD. It appears that these district courts have misread the language of the '95 Reform Act's "Statement of Managers." As I made clear in the legislative debate following the President's veto, however, the disputed language in the Statement of Managers was simply meant to explain that the Conference Committee omitted the Specter amendment because that amendment did not adequately reflect existing Second Circuit caselaw on the pleading standard. I can only hope that when the issue reaches the federal courts of appeals, these courts will undertake a more thorough review of the legislative history and correct these decisions. While I trust that the courts will ultimately honor Congress' clear intent, should the Supreme Court eventually find that recklessness no longer suffices to meet the scienter standard, it is my intent to introduce legislation that would explicitly restore recklessness as the pleading and liability standard for federal securities fraud lawsuits. I imagine that I would not be alone in this endeavor, and I ask my good friend from New York whether he would join me in introducing such legislation?

Mr. D'AMATO. I say to the Senator from Connecticut that I would be pleased to work with him to introduce such legislation under those circumstances. I agree that investors must be allowed a means to recover losses caused by reckless misconduct. Should the court deprive investors of this important protection, such legislation would be in order.

Mr. DODD. I want to thank the Senator from New York, the Chairman of the Banking Committee, for his leadership on this bill and for engaging in this colloquy with me. In proceeding to create uniform national standards while some issues concerning the '95 Reform Act are still being decided by the courts, we must act based on what we intended and understand the '95 Reform Act to mean. As a sponsor of both the Senate bill that became the '95 Reform Act and the bill, S. 1260, that we are debating today, I am glad that we have had this opportunity to clarify how the PSLRA's pleading standards will function as the uniform national standards to be created in S. 1260, the Securities Litigation Uniform Standards Act of 1998.

Mr. REID. Mr. President, in 1995, we passed the Private Securities Litigation Reform Act or PSLRA, as it became known. Our intent was to prevent abusive filings by a group of trial attorneys who were using a loophole in our laws. These lawsuits were often entirely without merit and really amounted to strong-arm efforts to get money out of small start-up companies. Our legislation was aimed at putting an end to these strike suits and to a large extent it has succeeded.

Many of these companies could take the capital they were expending on litigation and settlement costs and invest in research in development. They could provide greater returns to their shareholders. They could create more jobs.

Unfortunately, the small group of attorneys who were involved in this loophole found another way to get their frivolous strike suits heard in court. They shifted their efforts to state courts.

The SEC has noted this development saying that this "apparent shift to

state court may be the most significant development in securities litigation'' since the '95 legislation was enacted. Before the '95 Act, few, if any, securities class actions were filed in state court. Since its enactment, the number of state claims has exploded.

A study by Price Waterhouse found that the average number of state court securities class actions filed in 1996 grew 355 percent over the 1991–1995 average. In 1997, filings were 150 percent greater than the 1991–1995 average. While the number of state court filings dropped slightly in 1997 compared to 1996 it is believed this is due to a strategic desire by plaintiffs' lawyers to undercut the underlying legislation.

According to Stanford Law School official Michael Perino:

> It is possible that plaintiffs' attorneys may simply have strategically chosen not to pursue a significant number of state cases in order to decrease the apparent necessity for Congress to pass a federal preemption statute. Past experience . . . indicates that plaintiffs respond strategically to legislative initiatives that might alter the costs and benefits of securities litigation.

The State court litigation is a loophole around the PSLRA. This is undermining the bipartisan efforts we made in passing the PSLRA to give companies the ability to disclose more information to investors without the fear of being sued. But the threat of being sued in 50 states chills the disclosure of company information to investors.

People are understandably reluctant to make disclosures under the Federal law's ''safe harbor'' provision when their statements can be used against them in state court. According to the SEC, fear of state court liability for forward looking statements was inhibiting the use of the PSLRA's safe harbor.

The time to act on this is now. Delay undermines one of the main policy goals of the PSLRA—greater information flow to investors. Delays will cause a proliferation of litigation in state courts. Delay forces all parties to spend millions of dollars arguing about matters that uniform standards legislation can put to rest.

As time goes on, states will reach different legislative and judicial results—this just furthers the confusion. As President Clinton wrote last year, ''the proliferation of multiple and inconsistent standards could undermine national law.''

We need to prevent this confusion by putting a stop to this end run around Congress. A patchwork system of securities laws undermines America's capital markets. Capital formation is inhibited by overlapping the duplicative legal rules governing securities litigation. Uniform standards legislation ensures that purchasers and sellers of nationally traded securities have similar remedies in securities lawsuits regardless of their state of residence.

It is time to close this loophole and put an end to this high priced extortion that seems to be benefitting only a few trial attorneys.

Mr. LIEBERMAN. Mr. President, I rise today to say a few brief words of support for the bill we are now considering, the Securities Litigation Uniform Standards Act of 1998. I was an original co-sponsor of this important legislation. Through its passage, we in Congress can continue to send the strong message to the nation's securities markets and the country's investors that we first articulated in 1995 with the enactment of the Private Securities Litigation Reform Act: we will not let frivolous lawsuits disrupt our nation's securities markets, devalue our citizens' investments or cut off the free flow of information we all need to make reasoned and well-informed investment decisions.

I was a proud supporter of the 1995 Act, which restored some rationality and common sense to the laws regulating federal securities litigation. That bill set specific standards for federal private class actions alleging securities fraud, so that those deserving of compensation received it, while those seeking only to profit from the filing of an abusive suit did not. Unfortunately, in the wake of that Act, some enterprising plaintiffs' attorneys have turned to State courts to file abusive suits. Through these State court actions, plaintiffs' attorneys have effectively circumvented the reforms the 1995 Act put in place, reforms we in Congress overwhelmingly embraced in the 1995 Act.

Were the regulation of nationally traded securities a matter of purely local concern, I might agree with those who see nothing wrong with this phenomenon—who argue that each State should be free to set for itself the laws governing actions in its courts. But we clearly are not dealing here with something of only local concern. To the contrary, the securities governed by this bill—and it is important to emphasize this point—are by definition trading on national exchanges. As we all know, securities traded on national exchanges are bought and sold by investors in every State, and those investors rely on information distributed on a national basis. It simply makes no sense to open those who make statements about national securities on a national basis to class actions brought under 50 separate State regulatory regimes—not if we want efficient and well-functioning securities markets, that is. In short, not only is a uniform standard appropriate in this case; it provides perhaps the quintessential example of something that should be subject to one set of standards nationwide.

For this reason, it is not surprising that this bill has the support, not only of a significant portion of the Congress, but also of both the SEC and the Administration. As someone involved for many years in efforts to reform our nation's litigation system, I can say with confidence that the fact that both the SEC and the Administration support this bill speaks volumes to the merits of this bill.

Let me close, Mr. President, by thanking the principal sponsors of this bill, particularly Senators DODD, D'AMATO, GRAMM and DOMENICI. They have worked hard to accommodate all legitimate concerns raised about this bill, working particularly closely with both the SEC and the Administration, and making significant changes to the bill as it moved to the floor. I join with them in urging my colleagues to pass this important legislation today.

Mr. WELLSTONE. Mr. President, I rise today to oppose S. 1260, the ''Securities Litigation Uniform Standards Act of 1997.''

Mr. President, we are considering legislation that would risk imperiling the financial security of those individuals most susceptible to fraud. The American Association of Retired Persons opposes this legislation based on the bill's anti-investment character and the heightened dependence of senior citizens on investment. I find it very odd that in a time when the stock market is doing so well that some of my colleagues are considering exposing Social Security to the vagaries of the booms and busts of Wall Street, we are preventing the states from protecting their citizens from securities fraud. In a time when more Americans are relying on investments for financial security—especially retirees—we are rolling back protections.

Many states, my own included, have laws which provide for increased penalties for fraud perpetrated against seniors and the disabled—the Minnesota statute mentions securities specifically—and Congress has always given the states great leeway in protecting their consumers. In Minnesota, there is an additional civil penalty of $10,000 for each violation where deceptive trade practices, false advertising, or consumer fraud are perpetrated against elderly and disabled persons.

Not only are seniors and the disabled at great risk for fraud, they are increasingly becoming investors and they are least able to recoup the income lost. It is devastating for anyone to lose their life savings through a lie, to have their pension wiped out, but for Americans on a fixed income—it will destroy them, Mr. President.

I cannot support this legislation. It is bad for investors, it is terrible for seniors and the disabled, and it addresses a problem which does not exist at the expense of consumers.

I urge its rejection.

Mr. REED. Mr. President, as a supporter of the Private Securities Litigation Reform Act of 1995 I am pleased to support S. 1260, the Securities Litigation Uniform Standards Act of 1998.

The bill will create a uniform standard for securities class action lawsuits

against corporations listed on the three largest national exchanges.

Class action suits are frequently the only financially feasible means for small investors to recover damages.

Yet, such lawsuits have also been subject to abuse, draining resources from corporations while inadequately representing the interests of investor plaintiffs.

Mr. President, in 1995, I voted to curtail such abusive litigation. It was obvious then that some class action suits were being filed after a precipitous drop in the value of a corporation's stock, without citing specific evidence of fraud.

These lawsuits inflict substantial costs upon corporations, harming the business and its shareholders. Unfortunately, since passage of federal procedures protecting corporations from such suits there has been some attempt by class action plaintiffs to circumvent these safeguards by filing similar lawsuits in state courts.

Mr. President, this Act will preempt this circumvention, creating a national standard for class action suits involving nationally traded securities. I favor this legislation because it recognizes the national nature of our securities markets, provides for more efficient capital formation, and protects investors.

However, Mr. President, it is essential to recognize that preemption marks a significant change concerning the obligations of Congress.

When federal legislation was enacted to combat securities fraud in 1933 and 1934, federal law augmented existing state statutes. States were free to provide greater protections from fraud to their citizens, and many have.

The Chairman of the Securities and Exchange Commission has testified concerning the traditional system by which securities have been regulated: through both public and private lawsuits in both state and federal courts.

Many of my colleagues voted for the 1995 legislation knowing that if federal standards failed to provide adequate investor protections, state suits would provide a necessary backup.

With passage of this legislation, my colleagues and I have now accepted full and sole responsibility to ensure that fraud standards allow victimized investors to recoup lost funds.

Only a meaningful right of action against those that defraud guarantees investor confidence in our national markets.

A uniform national standard concerning fraud provides no benefit to markets if issuers can, with impunity, fail to ensure that consumers receive truthful, complete information on which to base investment decisions.

Specifically, my support rests on the presumption that the liability standard was not altered by either the 1995 Act or this legislation.

I strongly endorse the Report which accompanies this legislation, which states clearly that nothing in the 1995 legislation changed either the scienter standard or the previous pleading standards associated with the most stringent rules, those of the Second Circuit.

The reason such standards were not changed in 1995 is that they are essential to providing adequate investor protection from fraud.

I have been deeply troubled by the ruling of several federal district courts which, ignoring the clear legislative history of the 1995 Act, have either changed the requirements of scienter in a fraud case or have invalidated the proper pleading standard for a 10b-5 action.

Mr. President, let me be clear: nothing in the act addressed the scienter standard: which has quite rightly been held by every Circuit to rule on the issue to include recklessness.

With regard to proper pleadings: the PSLRA requires plaintiffs to plead specific facts "giving rise to a strong inference" that the defendants acted with the required state of mind. Prior to the 1995 legislation, some circuit courts allowed scienter to be averred generally. However, the PSLRA's heightened standard was specifically linked to the most stringent pleading standard at the time, that of the Second Circuit. That standard allows a plaintiff to establish a case by either pleading motive and opportunity or recklessness.

Mr. President, I believe that SEC Chairman Levitt, who has a lifetime of experience as both an investor and regulator of markets, has been the most articulate concerning the need for a recklessness standard concerning the scienter requirement.

In October 21, 1997 testimony before the Subcommittee on Finance and Hazardous Materials of the House's Committee on Commerce, Chairman Levitt said:

> In my judgment, eliminating recklessness from the securities anti-fraud laws would be tantamount to eliminating manslaughter from the criminal laws. It would be like saying you have to prove intentional murder or the defendants gets off scot free. . . . If we were to lose the reckless standard, in my judgement, we would leave substantial numbers of the investing public naked to attacks by fraudsters and schemers.

In testimony before the Banking Subcommittee Chair by Senator GRAMM, on October 29, 1997, Chairman Levitt further articulated his position regarding the impact a loss of recklessness would have. He said:

> A uniform federal standard that did not include recklessness as a basis for liability would jeopardize the integrity of the securities markets, and would deal a crippling blow to defrauded investors with meritorious claims. A higher scienter standard would lessen the incentives for corporations to conduct a full inquiry into potentially troublesome or embarrassing areas, and thus would threaten the disclosure process that has made our markets a model for nations around the world.

I think the danger that a loss of recklessness posses to our citizens and our markets is clear.

Mr. President, equally important is a pleading standard that allows victimized investors to recover their losses. The reason for allowing a plaintiff to establish scienter through a pleading of motive and opportunity or recklessness is clear. As one New York Federal District Court has stated, "a plaintiff realistically cannot be expected to plead a defendant's actual state of mind."

Since the 1995 Act allows for a stay of discovery pending a defendant's motion to dismiss, requiring a plaintiff to establish actual knowledge of fraud or an intent to defraud in a complaint raises the bar far higher than most legitimately defrauded investors can meet.

The SEC has been clear on this point and it has been well recognized by the supporters of both the 1995 and 1998 Acts that neither changed the preexisting standards.

Mr. President, I am pleased that the Chairman of the Committee and the Ranking Member of the Subcommittee, a prime sponsor of this legislation, have today articulated their belief that including reckless behavior in the definition of fraud is essential to the protection of our markets. I join them in their pledge to sponsor legislation should such protections be threatened.

As a result, the legislative history of both bills well establishes that the scienter standard, as well as the pleading standard of the Second Circuit Court of Appeals, remains totally intact. Therefore, it is now clear that federal district court rulings that have held otherwise are clearly in error.

Mr. President, I ask unanimous consent to have printed in the RECORD an analysis, preformed for me by the staff of the SEC, of cases adjudicated under the 1995 Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, April 20, 1998.

TED LONG,
Legislative Counsel, Offices of Senator Jack Reed, Hart Senate Office Building, Washington, DC.

DEAR MR. LONG: The attached responds to your request for staff technical assistance with respect to S. 1260, the "Securities Litigation Uniform Standards Act of 1997." This technical assistance is the work of the staff of the Securities and Exchange Commission; the Securities and Exchange Commission itself expresses no views on this assistance.

I hope the attached is responsive to your request.

Sincerely,

RICHARD H. WALKER,
General Counsel.

Attachment.

PLEADING STANDARD SCORECARD

(As of April 17, 1998)

I. Cases Applying the Second Circuit Pleading Standard:

1. City of Painesville v. First Montauk Financial Corp., 1998 WL 59358 (N.D. Ohio Feb. 8, 1998).

2. Epstein v. Itron, Inc., No. CS-97-214 (RHW), 1998 WL 54944 (E.D. Wash. Jan. 22, 1998).

3. In re Wellcare Mgmt. Group, Inc. Sec. Lit., 964 F. Supp. 632 (N.D.N.Y. 1997).

4. In re FAC Realty Sec. Lit., 1997 WL 810511 (E.D.N.C. Nov. 5, 1997).

5. Page v. Derrickson, No. 96-842-CIV-T-17C, 1997 U.S. Dist. LEXIS 3673 (M.D. Fla. Mar. 25, 1997).

6. Weikel v. Tower Semiconductor Ltd., No. 96-3711 (D.N.J. Oct. 2, 1997).

7. Gilford Ptnrs. L.P. v. Sensormatic Elec. Corp., 1997 WL 757495 (N.D. Ill. Nov. 24, 1997).

8. Galaxy Inv. Fund, Ltd. v. Fenchurch Capital Management, Ltd., 1997 U.S. Dist. LEXIS 13207 (N.D. Ill. Aug. 29, 1997).

9. Pilarczyk v. Morrison Knudsen Corp., 965 F. Supp. 311, 320 (N.D.N.Y. 1997).

10. OnBank & Trust Co. v. FDIC, 967 F. Supp. 81, 88 & n.4 (W.D.N.Y. 1997).

11. Fugman v. Aprogenex, Inc., 961 F. Supp. 1190, 1195 (N.D. Ill. 1997).

12. Shahzad v. H.J. Meyers & Co., Inc., No. 95 Civ. 6196 (DAB), 1997 U.S. Dist. LEXIS 1128 (S.D.N.Y. Feb. 6, 1997).

13. Rehm v. Eagle Fin. Corp., 954 F. Supp. 1246, 1252 (N.D. Ill. 1997).

14. In re Health Management Inc., 970 F. Supp. 192, 201 (E.D.N.Y. 1997).

15. Marksman Partners, L.P. v. Chantal Pharmaceutical Corp., 927 F. Supp. 1297, 1309-10, 1309 n.9 (C.D. Cal. 1996).

16. Fischler v. AmSouth Bancorporation, 1996 U.S. Dist. LEXIS 17670 (M.D. Fla. Nov. 14, 1996).

17. STI Classic Fund v. Bollinger Industries, Inc., No. CA 3:96-CV-0823-R, 1996 WL 866699 (N.D. Tex. Nov. 12, 1996).

18. Zeid v. Kimberley, 930 F. Supp. 431 (N.D. Cal. 1996).

II. Cases Applying a Stricter Pleading Standard than the Second Circuit:

A. Cases Holding that Motive and Opportunity and Recklessness do not Meet Pleading Standard.

1. Mark v. Fleming Cos., Inc., No. CIV-96-0506-M (W.D. Okla. Mar. 27, 1998).

2. In re Silicon Graphics Sec. Lit., 970 F. Supp. 746 (N.D. Cal. 1997).

3. In re Comshare, Inc. Sec. Litig., Case No. 96-73711-DT, 1997 U.S. Dist. LEXIS 17262 (E.D. Mich. Sept. 18, 1997).

4. Voit v. Wonderware Corp., No. 96-CV. 7883, 1997 U.S. Dist. LEXIS 13856 (E.D. Pa. Sept. 8, 1997).

5. Powers v. Eichen, No. 96-1431-B (AJB), 1997 U.S. Dist. LEXIS 11074 (S.D. Cal. Mar. 13, 1997).

6. Norwood Venture Corp. v. Converse Inc., 959 F. Supp. 205, 208 (S.D.N.Y. 1997).

7. Friedberg v. Discreet Logic, Inc., 959 F. Supp. 42, 48-49 (D. Mass. 1997).

8. In re Glenayre Technologies, Inc., 1997 WL 691425 (S.D.N.Y. Nov. 5, 1997).

9. Havenick v. Network Express, Inc., 1997 WL 626539 (E.D. Mich. Sep. 30, 1997).

10. Chan v. Orthologic Corp., et al., No. CIV-96-1514-PHX-RCB (D. Ariz. Feb. 5, 1998) (dicta).

B. Cases Holding only that Motive and Opportunity do not Meet Reform Act's Pleading Standard:

1. Novak v. Kasaks, No. 96 Civ. 3073 (AGS), 1998 WL 107033 (S.D.N.Y. Mar. 10, 1998).

2. Myles v. MidCom Communications, Inc, No. C96-614D (W.D. Wash. Nov. 19, 1996).

3. In re Baesa Securities Litig., 969 F. Supp. 238 (S.D.N.Y. 1997).

4. Press v. Quick & Reilly Group, Inc., No. 96 Civ. 4278 (RPP), 1997 U.S. Dist. LEXIS 11609, at *5 (S.D.N.Y. Aug. 8, 1997).

III. Examples of Cases with Language Questioning Recklessness as a Basis of Liability (All Cases Previously Listed Above):

1. In re Silicon Graphics Sec. Lit., 970 F. Supp. 746 (N.D. Cal. 1997).

2. Friedberg v. Discreet Logic, Inc., 959 F. Supp. 42, 49 n.2 (D. Mass. 1997).

3. Norwood Venture Corp. v. Converse Inc., 959 F. Supp. 205, 208 (S.D.N.Y. 1997).

Mr. REED. Mr. President, as this legislation makes clear, those rulings that reject the reckless standard, or the Second Circuit's pleading standard are clearly wrong and a threat to the security of our markets.

Mr. President, with assurances that proper protections for investors will remain in place, I am pleased to support the 1998 Act, thus moving toward an efficient, national uniform standard for securities class action lawsuits.

I trust that higher courts will adhere to current principles of legislative history and case law to rule that the pleading and scienter standards continue to protect investors and that we will remain true to our commitment and fix any error.

Additionally, as expressed in votes during the mark-up of this legislation, I am concerned that the definition of class action, as currently included in the bill, is too broad.

Specifically, by defining a class as those whose claims have been consolidated by a state court judge, the bill infringes upon the rights of individual investors to bring suit; a situation sponsors have sought to avoid. I hope that this issue can be resolved today on the floor.

Finally, I have appreciated the expert analysis that the Chair, Commissioners, and staff of the Securities and Exchange Commission have provided on this issue. I thank them for their assistance.

Ms. MIKULSKI. Mr. President, I rise to support the Securities Litigation Uniform Standards Act. I supported the 1995 Private Securities Litigation Reform Act for three reasons: to stop the bounty hunters, to put the person who had lost the most money in charge of class action suits, and to penalize people who commit fraud.

I have been very disturbed and disappointed to hear from many Maryland biotechnology and high technology companies that the 1995 reforms are being circumvented and, that in some respects, nothing has changed.

Why has nothing changed even though we enacted those important reforms? Because some have refused to accept the law of the land. Rather than abide by congressional efforts to protect small companies that create jobs and help to maintain our robust economy, a small group of specialized lawyers have simply shifted their filings to state courts.

Enacting this uniform standards legislation would close this loophole and enable Congress to finish the job of eliminating abusive securities litigation that hampers and harms our economic future

Uniform standards would only involve class action suits with at least 50 plaintiffs involving nationally traded securities. These claims were rarely filed in state courts until federal reform became law in December 1995.

This exposure of national companies and their shareholders to lawsuits by 50 different sets of rules amounts to a balkanization of securities law that boosts legal fees, distracts companies from creating jobs, and erodes the value of shareholder investments.

I have heard from Maryland CPAs, venture capitalists, and Maryland companies along the I-270 High-Tech Highway that these uniform standards are needed.

I believe that much of our economic future is in new and developing industries such as high technology and biotechnology. New, high-tech jobs are created only when companies generate capital to allow them to move into new fields. Without a balanced and uniform legal system free of loopholes, these companies must spend too much on frivolous litigation and not enough on investments to generate jobs.

Mr. President, this legislation is about perfecting the important reforms we passed in 1995 to protect our emerging industries as they strive to innovate and create jobs. Promoting job creation is one of my economic principles, and I am pleased to support this legislation today.

Mr. HATCH. Mr. President, I rise today to speak about S. 1260, the Securities Litigation Uniform Standards Act of 1998. I am pleased that this bill is being acted upon today. Enactment of this bill will implement the underlying purpose of the Private Securities Litigation Reform Act of 1995 by establishing uniform standards governing private securities litigation.

The Private Securities Litigation Reform Act of 1995 provided a "safe harbor" for forward-looking statements in order to encourage companies to make voluntary disclosures regarding future business developments. This objective was important to provide an environment in which companies could provide more information to potential investors without undue risk of litigation.

Since passage of the 1995 Act, however, actions are often filed in state courts in order to circumvent these very protections. The resulting threat of frivolous lawsuits and liability under state law discourages corporate disclosure of forward-looking information to investors, eroding investor protection and jeopardizing the capital markets that are so important to the productivity of the fast-growing sectors of our economy.

Uniform liability standards eliminate this threat and the drag on our economy which it causes. The enactment of this bill will, I believe, be a great impetus for new businesses, especially those in the rapidly growing high-tech and bio-tech fields of our economy. This bill thereby creates a business atmosphere that encourages, rather than inhibits economic growth.

I hope my colleagues will join me in supporting passage of S. 1260, the Securities Litigation Uniform Standards Act of 1968.

Mr. GRAMS. Mr. President, I rise in strong support of S. 1260, the Securities Litigation Uniform Standards Act, which is necessary to preserve the intent of the Public Securities Litigation Reform Act of 1995. This bipartisan legislation is narrowly drafted to correct an unexpected consequence of the Public Securities Litigation Reform Act and is supported by the White House and the Securities and Exchange Commission (SEC).

Following enactment of the 1995 Act, it became apparent that trial lawyers were up to their old tricks by circumventing the intent of the law by bringing frivolous class action law suits in state courts, rather than in Federal court. Although brought in a different forum, this action yields the same result—namely raising the cost to investors, workers, and customers. As a member of the conference committee on the 1995 Act, I can assure you that this is not the intent of Congress.

As its name implies, S. 1260 preserves the 1995 Act by establishing uniform standards governing private class actions involving nationally traded securities. This bill does not interfere with the ability to bring criminal suits in state courts or for individuals to seek relief in state courts. Rather, this Act simply requires that class action lawsuits against nationally traded securities be filed in Federal court.

I urge my colleagues to support this legislation and hope that it will be approved expeditiously so as to preserve the intent of the 1995 Act.

Mr. KERRY. Mr. President, I would like to thank the Senators DODD and GRAMM for their work in bringing this legislation before us today. I support this effort to reestablish the reasonable limitations the Congress established in 1995 with respect to class action lawsuits alleging the commission of securities fraud in connection with the purchase or sale of a covered security. This was a warranted and important step, and the efforts to effectively nullify it by bringing such suits in state courts must be halted, which this legislation does by requiring all class action suits of this type be brought in federal courts.

While fraudulent actions by a company's management can destroy an individual investor's retirement nest egg, a frivolous suit filed against a start-up high-technology company can stop that business dead in its tracks. We need to protect the rights and interests of both shareholders and entrepreneurs. Although no law can do that perfectly, I believe this legislation will bring us as close as possible to the correct balance.

The high technology sector has played an important part in the economic development of Massachusetts and the nation. This sector, which has been the most frequent target of securities strike suits, is critical to our future economic growth and the creation of highly skilled, family-wage jobs. Frivolous strike suits have had a chilling effect on start-up high-technology, biotechnology, and other growth businesses.

After the growth of frivolous strike suits during the first part of this decade, passage of the Securities Litigation Reform Act in 1995 was successful to a large degree in limiting strike suits in federal court. But litigants are too often circumvented its impediments to frivolous lawsuits by bringing actions in state court, reinvigorating the threat to emerging companies.

The Securities Litigation Reform Act's limits on discovery fishing expeditions, until a court rules on the merits of a case, does not apply in state court, and plaintiffs have begun to file state lawsuits in order to gain access to important company information—too often this has permitted "fishing expeditions" into corporate files to try to find evidence of fraud. Actions such as these frustrate the intent of the reform law. Moving these cases to federal court should eliminate these meritless "fishing expeditions."

Strike suits in state courts also have had a chilling effect on the number of companies which have released forward-looking statements on earnings. Companies fear that if the information on earnings that they release proves to be inaccurate, they will be held liable in state court. The lack of accurate, forward-looking information on companies makes it more difficult for investors to make informed judgments about their future. Reducing suits to those that can meet federal court standards should give these companies the confidence to release voluntarily their future earnings estimates, which should increase the efficiency of capital and reduce future stock volatility in our markets.

Finally, the Securities Litigation Reform Act included important provisions which restrict the use of "professional plaintiffs," eliminate bounty payments, limit attorneys' fees, assure class action lawsuit members receive notice of settlement terms, and restrict secret agreements under seal. None of these protections is available for class action suits brought in state courts.

Moving all class action securities lawsuits to federal court should lead to the creation of a more favorable, stable climate for businesses while preserving important remedial means for shareholders with legitimate complaints about inappropriate corporate activities. Investors should gain better information about the marketplace. A diminished threat of abusive strike suits will strengthen the ability of businesses to provide investors with more information.

I believe this helps to restore the balance we seek on behalf of all Americans, both those who are investors and those who are entrepreneurs and managers. I will support its passage and complement those who have brought it to passage.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

The Senator from New York.

Mr. D'AMATO. Mr. President, I know there are a number of amendments. I ask my colleagues, in the interest of moving forward if they would submit those amendments so we can start working on them.

The PRESIDING OFFICER. The Senator from New York has 2 minutes 36 seconds remaining. The time has expired on the side of the Senator from Maryland.

Mr. SARBANES. Once an amendment is sent to the desk we can have time to proceed; is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 2395

(Purpose: To provide that the appropriate State statute of limitations shall apply to certain actions removed to Federal court)

Mr. SARBANES. I send an amendment to the desk for myself, Senator BRYAN and Senator JOHNSON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself, Mr. BRYAN and Mr. JOHNSON, proposes an amendment numbered 2395.

Mr. SARBANES. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 9, between lines 9 and 10, insert the following:

"(d) APPLICABILITY OF STATE STATUTE OF LIMITATIONS.—Notwithstanding subsection (b), an action that is removed to Federal court under subsection (c) shall be subject to the State statute of limitations that would have applied in the action but for such removal.

On page 9, line 10, strike "(d)" and insert "(e)".

On page 10, line 12, strike "(e)" and insert "(f)".

On page 10, line 17, strike "(f)" and insert "(g)".

On page 14, between lines 10 and 11, insert the following:

"(3) APPLICABILITY OF STATE STATUTE OF LIMITATIONS.—Notwithstanding paragraph

(1), an action that is removed to Federal court under paragraph (2) shall be subject to the State statute of limitations that would have applied in the action but for such removal.

On page 14, line 11, strike "(3)" and insert "(4)".

On page 15, line 15, strike "(4)" and insert "(5)".

On page 15, line 20, strike "(5)" and insert "(6)".

Mr. SARBANES. Mr. President, Senator CLELAND has been here for some time on the floor. I know he wishes to speak to the bill, and in the course of those remarks would be speaking to this amendment, so I yield the floor. I hope that Senator CLELAND will be recognized.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Georgia.

Mr. CLELAND. Mr. President, I rise today to express my reservations about the merits of S. 1260.

I served as Georgia's Secretary of State and Commissioner of Securities for many years. I was responsible for administering Georgia's securities laws and providing investor protection for Georgia residents.

We are all aware that the securities markets are an integral part of our nation's economy and that we have experienced tremendous growth in these markets. Nearly half of all American households now invest in the stock market either directly or through mutual funds. These are not just rich people trying to become richer. These are primarily middle class Americans seeking to fund their children's education, to save up for a down payment on a home, and to provide a decent standard of living for themselves in retirement. In 1990, only 17.8 percent of all Americans invested in equities but that figure has grown dramatically, and one in three households now own securities.

Unfortunately, these successes have led to a tremendous increase in fraud and abuse. Recently, top securities watchdogs in the United States have warned that the explosion in the stock market has led to a sharp rise in securities sales fraud and stock price manipulation. Several studies have shown that many Americans lack the financial sophistication to protect themselves from fraud. At a town meeting in Los Angeles, SEC Chairman Levitt cautioned that investors are "more vulnerable than ever to fraud." This concern has been echoed by others who point to a disturbing rise in the level of securities fraud and there are many allegations that organized crime is seeking a foothold in certain sectors of the securities marketplace.

It is unclear whether there is any means for defrauded investors to recover stolen money under federal law following the passage of the 1995 PSLRA, which severely limits the rights of defrauded investors. Preemption of state remedies under S. 1260 could lead investors with no ability to protect themselves against fraud. Several federal district courts have issued rulings on the 1995 law that are so restrictive that they threaten almost all private enforcement—including holding that reckless wrongdoers are no longer liable to their victims under the PSLRA. I strongly disagree with this interpretation because Congress, when it crafted the PSLRA, it did not intend to eliminate recklessness as a standard of liability. On the contrary, it is my understanding that the PSLRA did not, in any way, alter the scienter standard in federal securities fraud suits.

Let us be clear about who suffers in the cases of securities fraud—it is retirees living on fixed incomes, young families struggling to make ends meet and save for their children's education, teachers, and factory workers. Each day, devastating cases are brought to the attention of securities regulators and law enforcement officers. Indeed, financial fraud is a serious and growing problem. No discussion about securities litigation reform is complete without serious consideration of the potential impact on small investors across the country. The elimination of state remedies against fraud could be catastrophic for millions of Americans. The fundamental purpose of securities law is to protect investors, something that S. 1260 does not adequately address. In fact, S. 1260 is designed merely to protect big business.

The confidence in our securities markets results, in part, because of the cooperative enforcement system that has served the United States exceptionally well since the Depression. Substantive securities regulation in this country began at the state level. In 1911, the State of Kansas enacted the nation's first Blue Sky Law. Other states quickly adopted their own version of such legislation. Congress passed federal securities laws in 1933 and 1934 to complement—not replace—state laws and to stop abuses that caused the 1929 crash.

Many states have chosen to provide more expansive investor protections than federal law currently provides—through accountability for aiders and abettors, realistic time limits for filing a fraud claim, and the ability of investors to recover fully from professionals who help perpetrate frauds when the primary wrongdoer is bankrupt, in jail, or has fled the country.

In the late 1980's as Secretary of State, I conducted a series of public hearings to focus on securities fraud taking place in Georgia. This led me to recommend a number of changes to strengthen Georgia's securities laws. These changes established significant disclosure requirements for those dealers offering and selling certain stocks within or from the state of Georgia. These recommendations were unanimously enacted as amendments to the Georgia Securities Act, and gave my staff more tools to effectively deal with securities fraud. The Georgia legislature also installed securities fraud as a predicate offense for purposes of liability under the RICO statute. I am pleased to report that the efforts of the Georgia General Assembly are the rule rather than the exception. According to the SEC, 49 of the 50 states provide liability for aiders and abettors now unavailable under federal law, and 33 states provide longer statutes of limitations for securities fraud actions than current federal law. Mr. President, S. 1260 would undermine these important state remedies.

Simply put, S. 1260 is an affront to the efforts of state governments across the country to locally protect their public investors from fraudulent securities transactions. For example, this bill reinforces the unduly short statute of limitations in federal law. In effect, federal law rewards those perpetrators of fraud who successfully conceal the fraud for more than three years. A majority of states have statutes of limitations that are longer than the federal statute. As currently written, S. 1260 would preempt those state laws. Furthermore, the definition of "class action" contained in this bill is overly broad. I have been informed that the definition of "class action" in S. 1260 would allow single suits filed in the same or different state courts to be rolled into a larger federal class action, and this was never contemplated or desired by individual plaintiffs.

Another cause for concern is that under S. 1260, defrauded state and local pension funds are barred from recovering from corporate wrongdoers in state court. Since many remedies have already been foreclosed in federal court, the state or local government and its taxpayers may be required to make up losses in the pension fund resulting from fraudulent securities transactions. If state and local governments are creatures of state law, shouldn't they be entitled to pursue state remedies?

State and local government representatives are unequivocal in their opposition to S. 1260. The National League of Cities, the U.S. Conference of Mayors, the Government Finance Officers Association, and the National Association of State Retirement Administrators all reject the bill in its current form.

Mr. President, I am not convinced that the federal preemption of state anti-fraud protections is a necessary step. Preemption supporters emphasize an "explosion" of state suits filed to circumvent the PSLRA in the two years since its enactment. Yet the number of state securities class actions filed in 1997—only 44 nationwide—represents a 33 percent decrease since 1996 and is lower than the number filed in any of the three years before the

PSLRA was passed. In addition, most of the state court cases have been filed in California. No state other than California has had more than seven securities class actions filed in the two years since the enactment of the PSLRA. Mr. President, if a problem exists, then it should be addressed in Sacramento, not Washington, and I understand that California has already established a legislative commission to study its laws and make changes if necessary. Other states should be free to decide how to protect their own citizens from fraud.

Mr. President, I support the right of investors to seek legal remedies against those persons selling fraudulent securities. I have supported an investor's right to seek redress through mediation, arbitration, and civil litigation. While I worked to streamline the regulatory process in Georgia, I opposed amendments to federal regulations that would have impaired the ability of a state to protect its investors. Here in the Senate, my focus remains the same. For this reason, I oppose S. 1260.

Thank you Mr. President. I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I believe that my colleague, the Senator from Maryland, is going to speak to this amendment. This amendment would indeed promote forum shopping for those lawyers to look for the State that had the longest statute of limitations.

I point out the Lampf decision, which will be referred to. After that decision, in a sample of actions brought in the State courts, 43 of them were filed within the 4-year period of time—43 out of a total of 44. So we do not believe this amendment will do anything other than to promote forum shopping for the longest period of time, and that it really counteracts the Supreme Court's decision, which has not worked a hardship on plaintiffs who have a legitimate suit or seek to bring it.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. Mr. President, this amendment, as the Senator from New York has indicated, goes to the question of the statute of limitations, and it seeks to preserve the State statutes of limitations.

Let me quickly review the history. In the Lampf case, which my colleague referred to, the Supreme Court significantly shortened the period of time in which investors may bring securities fraud actions. On a 5 to 4 vote—in other words, in a very closely divided Court—the Supreme Court held that the applicable statute of limitations is 1 year after the plaintiff knew of a violation, and in no event more than 3 years after the violation occurred. In other words, once the violation occurs, if the plaintiff never finds out about it and 3 years pass, you can't do anything about it, even though, of course, one of the hallmarks of securities fraud is concealment and deception specifically designed to keep them from finding it out.

The other aspect was 1 year after the plaintiff knew of the violation. Now, this is shorter—this statute of limitations —than those that exist in private securities actions in the law in 33 of the 50 States, as my distinguished colleague illustrated earlier with his map.

Testifying before the Banking Committee in 1991, SEC Chairman Richard Breeden stated:

> The timeframe set forth in the Court's decision is unrealistically short and will do undue damage to the ability of private litigants to sue.

Chairman Breeden went on to point out that many cases come to light only after the original distribution of securities. The Lampf cases could well mean that, by the time investors discover they have a case, they are already barred from the courthouse. The FDIC and the State securities regulators joined the SEC in 1991 in favor of overturning the Lampf decision. In fact, Chairman Levitt testified before the Securities Subcommittee of our committee in April of 1995:

> Extending the statute of limitations is warranted because many securities frauds are inherently complex and the law should not reward the perpetrator of a fraud who successfully conceals its existence for more than 3 years.

Chairman Levitt reaffirmed his support for a longer statute of limitations before the committee as recently as March 25, 1998. I continue to believe that this time period in the Federal legislation does not allow individual investors adequate time to discover and pursue violations of securities law, but we raised that issue before and that issue was decided.

So this amendment isn't trying to change the time period for securities fraud actions brought in Federal court. This amendment seeks to fix a related problem that will be created by this bill. Because of the overly broad definition of a class action, this bill creates a flaw; namely, that the Federal statute of limitations will now apply in an unfair manner to State cases. Cases that were timely filed under State statute of limitations may now be removed to Federal court and then dismissed under the shorter Federal statute of limitations.

Mr. BRYAN. Mr. President, will the Senator from Maryland yield for a question?

Mr. SARBANES. I yield to my colleague.

Mr. BRYAN. Is the Senator indicating that an investor who files in a State court in a timely fashion after having consulted with legal counsel that said, yes, this is a timely action—and we shall assume for the sake of the discussion meritorious—can have his action, in effect, dismissed by having it removed to the Federal court and the shorter statute of limitations of 1 to 3 years as is required under Federal law?

Mr. SARBANES. Exactly.

Mr. BRYAN. It will wipe them out.

Mr. SARBANES. Investors who file in a timely fashion under State law may find their lawsuits dismissed because, contrary to their intention, and in many instances unbeknownst to them that this would happen, they find themselves lifted out of a State court, put into the Federal court, and at that point the shorter statutes of limitations apply. So their suit is dismissed for failure to meet a shorter time requirement that they couldn't have known was going to be applied to them.

This problem is created in part because of the broad definition of what is a class action that is in this legislation. So you could have an individual investor who finds himself classified as part of a group, although he was not part a group. He filed it on his own. He had his own lawyer, and he wasn't in collusion with anybody else in doing this. Or you could have 50 identified investors—say, school districts, or water and sewer districts—that get defrauded. If there are more than 50, they can be lifted out of the State court and put into the Federal court. When they went into the State court, they met the statute of limitations. But when they get lifted out of the State court and put in the Federal court, they then have to comply with this shorter statute of limitations, and they find themselves dismissed for failure to meet the shorter time requirement.

Mr. BRYAN. So the perpetrator of the fraud, if I understand what the Senator from Maryland is saying, has the ability to wipe out the small investor by removing the cause of action to the Federal court, even though that case was filed timely under State law and even though the small investor says, Look, I want to have this action continued at the State level. So the Senator is saying, if I understand the Senator from Maryland correctly, that the power to wipe out this cause of action, to wipe out any possibility for relief, are now providing that to the perpetrator of the fraud?

Mr. SARBANES. That is correct.

Mr. BRYAN. The perpetrator of the fraud is allowed to do that under this?

Mr. SARBANES. That is right. What this amendment does, very simply, is it provides that when the investors are removed from the State court to the Federal court, they can bring their State statute of limitations with them. If they filed in the State court, and they complied with the statute of limitations, they ought not to find themselves taken into Federal court and

then being told they do not comply with the shorter statute of limitations and they are out of the courthouse when they, in fact, complied at the State level with the State statute of limitations.

This is to deal with this unfairness whereby an investor can file a timely suit under State rules and without advance warning later be dismissed under a different set of rules. Anyone who wished to bring the suit in the Federal court would have to abide by the 1- and 3-year limitation of Lampf. But this is clearly unfair to an investor who is acting in a reasonable manner.

This amendment is supported by a broad coalition of government officials and consumer groups. The National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, and others have written to express their support for an amendment to allow plaintiffs to carry State statute of limitations with them in cases filed in State court which are removed to Federal court. The Consumer Federation of America has joined as well.

I hope my colleagues will support this amendment. It is an effort to deal with what, I think, is a very specific and definable flaw in this legislation. I don't think investors going into a State court, timely under State law—and I refer back to the comments of Chairman Breeden and others about the complexities of these cases, the difficulty of discovering the fraud, the difficulty of bringing the suit once the fraud is discovered—that they then ought to find themselves foreclosed altogether from any equitable relief simply by removal to the Federal court and the application of the shorter statute of limitations.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in opposition to the amendment. The purpose of this amendment is, obviously, to thwart the underlying rationale for the legislation.

My colleagues have already pointed out that there are 50 jurisdictions with different statutes of limitations in them. My colleague from Nevada has worked long and hard on the issue of trying to extend the statute of limitations at the Federal level, which is an effort that I applaud and support. After the Lampf decision, I thought it is worthwhile. I don't disagree with him on that. I disagree with my colleague from Maryland. That is not the issue.

The issue, of course, is not whether or not there is a statute of limitations at the Federal level but whether or not you are going to allow 50 different individuals to apply State statute of limitations on nationally traded securities accounts on national markets. The purpose of this bill is a uniform standard for which nationally traded securities are traded on national markets.

If you are going to allow 50 different jurisdictions to apply 50 different statutes of limitations, you have just destroyed the very purpose of the legislation. Vote against the bill if you want. But you can't very well vote for this amendment and then vote for the bill. It doesn't make any sense at all.

Of course, this idea that this has been a great disadvantage, let me share some hard facts with my colleagues about what has happened, because in order to make this amendment a Federal limit, you have to have information backing it, supporting it, underlying it, which indicates there is a problem here.

The evidence since 1991, when the Lampf decision was rendered, clearly refutes the contention that State courts are necessarily a safety net for meritorious claims. The evidence of that would lead one to the opposite conclusion. The statute of limitations was shortened, as my colleague from Nevada and the Senator from Maryland pointed out, by a Supreme Court decision in 1991. That was 4 years, between 1991 and 1995, before we passed the 1995 litigation reform bill.

So it is kind of an interesting 4 years to look at. You have the Lampf decision in 1991. We passed in 1995 the litigation reform bill. What happened between 1991 and 1995? There is almost no evidence, none, that plaintiffs brought securities fraud cases in class actions against nationally traded securities in State courts during 1991 and 1995—no evidence of it at all. That would be the time you might do it because there the law said, of course, you could go into State courts and use the State statute of limitations. If you want to take advantage of it, that period of time would certainly be an indication of what was going on.

There is evidence that many of the suits brought in State courts since the 1995 act are well within the 1 to 3 years. Again, let me emphasize that I don't have any difficulty with the notion of having a longer period. I agree with my colleague on that.

But he knows and I know we have been through that. We haven't been successful in extending it. Now, maybe someday we can. Maybe we can convince others. But that is a different debate—an important debate but a different debate. The debate here raised by this amendment is, do we allow the 50 different jurisdictions, 33 States which do better, 17 which do worse—by the way, in 17 States you would be disadvantaged between what the Federal law provides and what the State courts do. So you get a mixed bag on this.

But since 1995, most of the actions that have been brought in the statute of limitations were brought well within the 1 year of the discovery or 3 years of when the fraud was committed, which is what the Lampf decision allowed and provided for. In fact, it is worthwhile to note that in some of these cases the suggestion somehow that the statute of limitations is a problem is ludicrous on its face. Three suits were filed against Intel Corporation within 48 hours of an adverse earnings announcement—48 hours; three lawsuits were filed within 48 hours. One in 3 years. It is ridiculous; these lawsuits are being filed almost momentarily in many cases.

We have a second case of the EMC corporation. A case was filed within 20 hours of an adverse announcement. The notion somehow that this a great effort to discover fraud in these cases—the notion somehow that those of us in support of this bill in any way want to discourage investors from bringing legitimate lawsuits as plaintiffs is totally wrong.

And part of what we rest our case on, Mr. President—let me share with my colleagues what you could find on your Internet this morning, not a year ago or 5 years ago or 6 months ago. It is entitled "Stock Disasters." "Stock Disasters" it is called. That might suggest we have had some real fraud going on—"Stock Disasters." You hit on your little mouse here, and you hit on "Top Stock Losers of the Day." Boom, this page pops up. You have to get this one, and then you get this one.

What does it show you? It lists stock fluctuations, stocks that lost money, stocks that gained money. That is all.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DODD. I am happy to yield to my colleague.

Mr. D'AMATO. Let me ask the Senator, does the underlying legislation in any way limit the Securities and Exchange Commission from bringing any action to recover for disgorgement where there is fraud?

Mr. DODD. None whatsoever.

Mr. D'AMATO. There is no statute of limitations?

Mr. DODD. Absolutely none.

Mr. D'AMATO. So the SEC can bring these actions but the strike lawyers can't wait indefinitely and pick a forum. That is what the Senator is saying. But certainly the SEC can still bring these actions at any time that it discovers fraud.

Mr. DODD. My colleague from New York is absolutely correct. The point we have been trying to make here is that if you go here—and "Stock Disasters" is the title of this, Mr. President—and then you switch on "Stock Disasters"—and the stocks decline in a couple cases, some stocks going up—there is no allegation here of fraud or mismanagement, merely stock fluctuations.

Stock disasters? That is not a disaster. It is 10:52 this morning. That is how these suits are filed. It is ludicrous to somehow suggest we are talking about deep fraud in these cases. All we are trying to do is slow this down so that legitimate plaintiffs can bring

lawsuits, and also legitimate investors particularly—and a lot of these companies, by the way, I point out, Mr. President, a lot of these companies, if you look at the losers as of 10:52 this morning, are your small high-tech firms. That is the future of our economy, by the way. That is the knowledge-based economy of our country for the 21st century. Let some predator law firm go out there because they get a slight stock fluctuation and bring a lawsuit against them, having to spend millions of dollars to defend the company, you lose the company. Who benefits from that? I tell you who does. The law firm. That is who does. That is all this is about, the bottom line. That is all this is about.

So we talk here about the statute of limitations. Again, I am all for extending it. I think there is a case to be made on that. But to say here with nationally traded securities on national markets, these exchanges, that you are going to have to go through 50 different jurisdictions is to defeat the very purpose of what we are trying to do here. And that is, with nationally traded securities and national exchanges, we ought to have a uniform standard. I would have it be a bit longer, but that is not the issue before us. What is before us is whether or not we are going to have one standard here so that we can try to have some predictability and a little fairness in this process.

Certainly what we have seen, of course, is a rush to the courthouse, and that is why I think this amendment is unnecessary. And if its adoption were to occur, it would destroy the very purpose which has brought us here at this point in our debate.

For those reasons, Mr. President, I urge rejection of the amendment.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Maine.

Ms. COLLINS. Mr. President, I rise in support of the amendment to preserve the state statute of limitations for cases removed to Federal court under this legislation.

I intend to vote for this bill. But in doing so, I think it important to be straightforward about what S. 1260 does. This is a bill that preempts state law. Specifically, it preempts securities antifraud statutes for certain types of class action cases.

I generally oppose preemption, as I think it overlooks the considerable wisdom that exists at the local level. Not without some measure of discomfort, I am nonetheless inclined to vote for this bill, because I find considerable merit to the contention that large class-action cases against companies whose securities are sold in the national marketplace may well belong in the Federal courts. Otherwise, Congress' ability to regulate our national securities markets in an era of international investing is arguably impeded.

I feel strongly, however, that if we are going to preempt state law and impose a single federal standard, it must be a fair one, and that is not the case with the federal statute of limitations. Under federal law, a securities fraud suit must be brought within one year of when the fraud was or should have been discovered, but in no instance after more than three years have elapsed.

I served for five years as the head of the Maine department that regulates financial institutions, and I can tell you from personal experience that a three-year limitations period is too short. The reality is that, even with due diligence, some frauds are not discovered within that time frame. Indeed, the very object of a fraud is to deceive the other party to the transaction for as long as possible.

The limited partnership cases of the last decade illustrate my point. The victims of those frauds were largely elderly, largely trusting, and largely lacking in financial sophistication. It is no wonder that in many of those instances, they did not, and even within reasonable care, could not have, discovered the fraud within three years of its commission.

It is not just my opinion that the Federal limitations period is inadequate. The Securities and Exchange Commission has taken the position that the period is too short.

This is an instance in which the Maine Legislature has shown more wisdom than the Federal Government. Under the law of my state, the limitation period is two years from the date the fraud was, or with reasonable care, should have been discovered, with no outside limit. That gives innocent investors the opportunity to obtain redress for fraud as long as they act with reasonable diligence.

I can understand the argument for a single, Federal standard in this area, but I cannot accept preempting a state standard that is far more consistent with reality. While the best remedy would be to change the Federal limitations period for all securities fraud cases, that issue is not before us today. Thus, we should take the next best step, which is to preserve the state statutes for cases that are removed to Federal court under this legislation.

What this amendment will not do is harm high-tech companies. What it will do—maybe not this year or next, but at some point—is to protect innocent, unsuspecting investors, who are victimized by a securities scam that could not reasonably have been discovered within three years. Thus, I urge my colleagues not to wait until we have such victims, but to stop the problem before it occurs by supporting this amendment.

I thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Nevada.

Mr. BRYAN. Mr. President, I commend the Senator from Maine for her, I think, most illuminating statement in terms of the problem that we face with the shorter statute of limitations. She is absolutely correct. Her State—and my own—apparently, if I understood the distinguished Senator, has a 1- and 5-year statute; 5 years is the outside. That is what we have in Nevada as well.

The testimony beyond refutation is that a 3-year statute is simply too short. The Securities and Exchange Commission, which has all of the resources available to the Federal Government, much more so than any individual investor, tells us that on average it takes more than 3 years to do the investigation, to bring the cause of action. Certainly the small investor is seriously disadvantaged here, so I thank her for her comment and her leadership.

Let me just make a couple of comments. I know we have talked about this in the context of the debate on the bill, but the unfairness of this legislation to the small consumer can best be described: Heads the perpetrator of the fraud wins; tails the small investor loses. This is a "no win" proposition for the small investor.

The thrust of this legislation is to say that the traditional class action lawsuit should no longer be available at the State court level. And, by "traditional class actions" we mean individual plaintiffs who are bound together by a common lawyer who files on behalf of a lot of people who have been victimized by the identical fraud. That is really what a class action traditionally has been.

Our friends on the other side say there have been some abuses. I acknowledge that there may have been some abuses there. I would be willing to work with them in dealing with the abuses. But here is the ingenious and unfair part of this. The proponents say, "The individual has a right to file an action at the State court level, would have all the rights currently available under State law—the longer statute of limitations, the accomplice liability, the joint and several, the RICO provisions." OK, that sounds somewhat fair, although as we have pointed out, most small investors simply don't have the resources to bring such a case. But let's suppose that your teachers' pension fund, or what we have in Nevada, the public employee retirement system—suppose they bring an action at the State level: One plaintiff, one lawyer, and, lo and behold, they have discovered 4 years after the fact of fraud that the public employee retirement system fund has been ripped off by a monstrous fraud. They file suit in State court.

Surely you would think it would be possible for that one plaintiff to pursue a remedy under State law. But here is how the bill is crafted. Without the permission or consent of that public employee retirement system, if there are 49 other plaintiffs who file against the perpetrator of the fraud, then involuntarily, without the permission of the public employee retirement system, they can be forcibly removed from the State court and those rights that exist under State law are effectively divested from them. So in the hypothetical that I cite, a monstrous fraud, which may have cost the public employee retirement system literally millions and millions of dollars, discovered sometime after 3 years for the first time and filed timely under the law—it would be possible for the perpetrator of the fraud to actually get other plaintiffs to file to build up a number of 50, thereby removing the case from State jurisdiction. And once it gets to the Federal court, lo and behold, what happens: the hammer falls because at the Federal level, because of the Lampf decision, the statute of limitations is 3 years, the outside bar.

So here you can have literally tens of thousands of public employees or teacher retirement funds or an Orange County type of investment in which you may have a million or more taxpayers who are unable to recover simply because the perpetrator of the fraud is allowed to remove the single case from State court jurisdiction. What is the fairness of that?

The able and distinguished chairman of the committee says the SEC can bring the action. That is true. But we have been told on many, many occasions that the SEC simply does not have the resources; that both the current chairman and previous chairman, in the time I served with the distinguished chairman of the committee and my colleague and good friend from Connecticut, have repeatedly told us that the SEC simply does not have the resources to pursue all of the fraud out there, and therefore the private cause of action is an absolutely essential and critical part of the regulatory structure, the structure that has created the safest and most efficient market in the world.

Why are we making these changes? Because we are told that we must worship at the shrine of uniformity, that there is a rush to the courthouse door; 44 cases out of 15 million is a rush to the courthouse door? Many, many States have had no cause of action filed at all, at all. I think in my own State of Nevada there has been one. A rush? I must say, I do not think that makes the argument.

If uniformity is an end to itself, isn't it a fairly persuasive argument to say 49 of the 50 States have laws that hold aiders and abettors liable? These are the accomplices, these are the lawyers, the accountants, the investment advisers who participated with the primary individual involved in the fraud to create the loss to the innocent investor—49 out of 50 States say those people ought to be liable, too. They are not, under the 1995 legislation. So if uniformity is to be the standard by which this debate is to be judged, what is wrong with that uniformity?

What we have here, and I regret to say this, it is a systematic attempt to close the courtroom door to innocent investors, small investors in this particular instance that we are debating here. We are talking about an institutional investor who could be taken involuntarily to the Federal court. I don't understand the public policy argument that says that is somehow meritorious. I concede that maybe you could argue preemption if you develop a broader statute of limitations at the Federal level to protect them. Maybe that is a possibility. Maybe we could reach a compromise there. Then maybe you could argue preemption.

But the proponents of this measure—with due respect to my colleague from Connecticut, he does support a longer statute of limitations—but the primary thrust of getting this legislation, the folks who have opposed and resist this, have resisted the longer statute of limitations. So, in effect, we take two weapons away from the small investor: The right at the Federal level to a longer statute of limitations—Lampf took that weapon away from the small investor—and now we are going to go one step further and take it away from that small investor who is filing at the State level, not as part of a class action but as an individual. And I must say I think the unfairness of that is—all of this is being done in the name of, whether it is 39 cases or 44 cases out of 15 million, filed annually.

I come from a part of the country where we understand what "rush" is. The gold rush. There was an exodus of people coming out West. But 44 people? I wouldn't call that a gold rush. That would be a trickle.

So I must say, this is a terribly, terribly important investor protection. My colleague from Maryland and I, we know how to count the votes. We know this legislation is going to pass. But even if you are for this legislation, please, please, I implore you to consider what you do to the small investor who is filing in State court. He or she gets involuntarily wiped out by the perpetrator of fraud by removing that case to the Federal court system where the shorter statute of limitations prevails.

I yield the floor.

Mr. SARBANES. Mr. President, I understand that the leadership doesn't intend to have votes much beyond 6 o'clock or thereabouts, and I suggest to my colleague that we set aside this amendment and do the next amendment, which I will send to the desk, which actually is interrelated in concept with this amendment, and that we have a vote on the two amendments beginning about 5:40.

Mr. D'AMATO. Mr. President, we cannot confirm that it is the intention of the leadership on both sides to curtail votes as of any specific time. However, it would seem to me to be appropriate, notwithstanding that, to move to support the Senator's request that we stack the two amendments with a vote starting at 5:40 for the first one, and thereafter undertake a vote on the second one. Then, of course, if the leadership has decided no further votes, we can put that matter over.

We are looking to shop that right now. I believe that will be the case, but we are waiting for final confirmation. If the Senator wishes to make his request on the basis that we will proceed to our first vote at 5:40 on the pending amendment and that thereafter, immediately after that vote, take up the second amendment and seek a vote on that, I will certainly join in that request.

Mr. SARBANES. For ordering votes, we should not have any second degree.

Mr. D'AMATO. Yes.

Mr. SARBANES. Just to sketch it out, it was my assumption then in the morning we will have one other amendment to offer. We will do that amendment and then final passage is my expectation.

Mr. D'AMATO. That is my expectation, and I will make that recommendation to the leader. Subject to the concurrence of the leaders, I imagine we then will have debate, hopefully limited to, let's say, an hour equally divided on the third amendment, and then go to final passage. How much time does the Senator want in between the third vote and final passage?

Mr. SARBANES. Of course, we have used up all the debate time. What should we have, 10 minutes on each side before final passage, or 30 minutes equally divided before final passage?

Mr. D'AMATO. We can work that out and make that request later, but I certainly will not be opposed to 30 minutes equally divided before final passage.

Mr. SARBANES. Mr. President, I ask unanimous consent to set aside the current amendment, and I will send an amendment to the desk, and that no second-degree amendments be in order to either, and that the vote begin on the amendment to be set aside at 5:40, to be followed by a vote on the amendment which will be sent to the desk.

Mr. D'AMATO. Mr. President, before that amendment is set aside, I ask for the yeas and nays and indicate that I will move to table at the appropriate time.

The PRESIDING OFFICER (Mr. COATS). Is there a sufficient second on the request for the yeas and nays?

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SARBANES. Mr. President, I withdraw the request.

The PRESIDING OFFICER. The Senator's request is withdrawn.

AMENDMENT NO. 2396

(Purpose: To make amendments with respect to the definition of a class action, and for other purposes)

Mr. SARBANES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. If there is no objection, the pending amendment is set aside.

Mr. SARBANES. I apologize to the Chair. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself, Mr. BRYAN and Mr. JOHNSON, proposes an amendment numbered 2396.

Mr. SARBANES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 10, strike line 24 and all that follows through page 12, line 11 and insert the following:

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(i) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; and

"(ii) questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members.

On page 16, strike line 3 and all that follows through page 17, line 13 and insert the following:

"(B) CLASS ACTION.—

"(i) IN GENERAL.—The term 'class action' means any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; and

"(II) questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members.

On page 17, line 14, strike "(C)" and insert "(ii)" and move the margin 2 ems to the right.

On page 17, line 21, strike "(D)" and insert "(C)".

Mr. SARBANES. Mr. President, this amendment interrelates with the other amendment that has been set aside on which a vote will occur later.

The sponsors of this bill say their goal is to wipe out frivolous class-action lawsuits alleging securities fraud. What are class-action lawsuits? They are lawsuits brought by a single person, not just on his own behalf, but on behalf of other persons similarly situated. In other words, one person can bring a lawsuit on behalf of an anonymous and potentially enormous group of people.

Why do we allow someone to bring such a lawsuit? Because in many situations, it is the only economical way people can pursue remedies. If a large number of people have each suffered a relatively small loss, it may not be economical for any one of them to pay the costs of a lawsuit. There are many examples of class-action suits by investors who have been defrauded. It is a tool that allows individuals to share the cost of a lawsuit when they are injured.

Because they can be brought on behalf of a potentially enormous class, on occasion they can be misused to coerce defendants into settlement. This is the abuse about which the sponsors of the legislation complain. They argue that companies are coerced by flimsy securities fraud class-action suits, that it is cheaper for the company to settle rather than to fight them, and that these class actions are being misused.

I share the view that frivolous securities fraud class-action suits should not be tolerated, either in Federal court or in State court, and lawyers who file worthless suits hoping to extort a settlement should not be able to pursue that practice. But this bill reaches beyond the frivolous class action.

Here is the problem. The definition of class action in this bill is too broad.

It will prevent investors from bringing individual actions solely on their own behalf in State court. Since they were enacted over 60 years ago, the Federal securities laws have preserved the right of individual investors to bring securities fraud suits under State law. This system has worked well. State remedies offer important protections to investors where Federal remedies fall short.

But the definition that is contained in this bill for "class action" is too broad. The bill has a three-pronged definition of "class action." And these prongs permit individual investors to be brought into Federal court against their will. The bill includes, as a class action, any group of lawsuits in which damages are sought on behalf of more than 50 persons, even if the suits are brought by separate lawyers without coordination.

So to tie it into the previous amendment, what happens is an investor goes into State court, in a timely fashion, he files an individual suit, and if 50 others do the same thing, they can be removed to Federal court as, quote, a "class action," although it is not a class action as a class action is ordinarily considered or ordinarily defined. They lift them out of the State court and put them into the Federal court, and they are shut out because of the statute of limitations.

Individual investors ought not to have to lose their remedies under State law in order to deal with the problem of frivolous class actions. And so the amendment that is offered narrows the bill's definition of "class action" to a suit brought on behalf of unnamed parties similarly situated. We do not use this "50 investor" definition which means unwary people are going to be trapped and lose their remedy.

Now a broad coalition of State and local government associations have written to us supporting this amendment—the National Association of State Retirement Administrators as well. Here is what they have to say about the definition of "class action" in the bill.

The definition of "class action" contained in S. 1260 is overly broad. The definition of "class action" in S. 1260 would allow single suits filed in the same or different courts to be rolled into a larger class action that was never contemplated or desired by individual plaintiffs and have it removed to Federal court. Claims by the bill's proponents that individual plaintiffs would still be able to bring suit in Federal court are belied by this provision.

If we can narrow the definition of "class action" to a proper class action, and then that is taken into Federal court, then the statute of limitations will apply, if that prevails.

On the other hand, if you are going to have a definition of "class action" that is so broad that individual investors can be covered, they ought not be subjected to the risk of losing their suit altogether because it is removed in a Federal court and they are bound by a statute of limitations that they had no idea was going to come into play in their instance.

So, Mr. President, I very strongly urge this amendment. I think it corrects a very important weakness in this legislation. We can narrow the definition of who is covered by the class action so we no longer have to worry about the individual investor being shut out unfairly. I think we ought to significantly improve this legislation and narrow it so it applies to what it is asserted it is meant to apply to, and does not apply to individual investors who I think need to have their remedies preserved in the State courts.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me tell you basically what this amendment would do. This amendment would have the unintended effect—and I cannot believe that my colleague would

want for that to happen—of opening up the whole question of the class-action suits being able to be moved to State courts. It would effectively allow lawyers to circumvent the purpose, the very purpose of this bill since so-called "huge" mass actions could still be brought in the State court.

So what we have is the problem of high-growth companies, small high-growth companies that traditional class actions may be brought against by the strike lawyers; namely, they are expensive and timely to defend, and the plaintiffs are often forced to settle, regardless of the merits, to avoid excessive litigation costs. That is exactly what we are trying to deal with. There should be a uniform standard, and there should be a uniform procedure. And that is why we moved these nationally traded securities.

Senator DODD spoke to this, the nationally traded securities going to a Federal forum. This amendment changes the predominance requirements in the bill's class action definition. This effectively would gut the bill by encouraging State actions which would not qualify as a class action contained in the act. As a result, these class actions would not be able to be removed to the Federal court. And so you have mass action lawyers representing a large number of plaintiffs on an individual basis in either a single action or a group action.

The "class action" definition in the bill was worked out with the SEC. We have worked that out, and it is comprehensive enough to close the loophole. But it also provides State courts with guidance. It says "up to 50 people." That is the bright line. When you get over 50 people, OK, that is the class action. And so this bill does not prevent individual investors from pursuing State court remedies, nor will it prevent a small group of investors from pooling their resources to pursue a claim under State law, but it will stop the strike action suits, the forum shopping that we have attempted to limit, because we have seen that dramatic increase.

I think Senator DODD, when he pointed out what the record was, I think it was a handful, what, five or six cases in a period of years, in all of the years, ballooning up to 40-plus in 1 year. What was that?

Mr. DODD. If my colleague would yield.

Mr. D'AMATO. Yes.

Mr. DODD. Our colleagues have made much of this notion that there has not been this great degree of activity. Try, if you will, to just keep these numbers in mind. These are the actions filed in State court for fraud in class actions against publicly traded companies.

In 1992, there were four cases filed all across the country. In 1993, there was one case filed all across the country. In 1994, there was one case filed all across the country. I do not have numbers for 1995. But they are four, one, and one.

Mr. D'AMATO. Six cases.

Mr. DODD. Then in 1996—we passed a law in 1995—59 cases were filed in State court; and in 1997, 1998, the number did drop down to about 38. But you compare that—they want to talk about how the number fell off to 38 from 59. What they do not want to mention to you is, in 1994 and 1993 and 1992 you had a total of six cases; in 1993 and 1994, one case—one case. And then it jumps, as we see in these other examples of where it moves to.

So I say to my colleague and the chairman of the committee, this is quite clear. And if they wanted to get to statute of limitations problems, why didn't they file more of those cases in that period?

Mr. D'AMATO. Mr. President, I think my colleague, by answering the question, points out quite clearly—it was my impression heretofore that he had mentioned a number of cases, but six cases in 3 years, jumping to 10 times that, 59—slightly less than 10 times that in 1 year—in 1 year—I think it proves the point. And that is why the necessity of seeing to it that we have a uniform standard, that you cannot go forum shopping. And that is why this Senator, at the appropriate time, will move to table the pending amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, this is a very complicated area of law. I know our colleagues are going to come to the floor and want to know what this is all about.

In effect, this amendment would have the impact of creating even further uncertainty in the definition of a class action. It does not provide more certainty; it is less certainty. I think it would upset the very carefully crafted and very balanced definition worked out with the Securities and Exchange Commission.

The reason it took us a little time to get this bill to our colleagues was because we took so much time working with the SEC to try and define these areas. What our colleagues are offering is an amendment that would disrupt the definition worked out with the SEC in this area.

Clearly, with all due respect, the tremendous amount of expertise in crafting it—I am not going to suggest to my colleagues that we have a perfect definition in the bill. But certainly this one is not perfect either. But if you are going to trust one or the other, it seems to me the one worked out with the Securities and Exchange Commission, I urge my colleagues, makes a lot more sense.

Neither of these definitions tracks word for word what is in rule 23. Rule 23—trust me when I tell you this rule 23 goes on for pages, pages. It is one of the more lengthy definitions of class actions that there is. So, we are not tracking that word for word. We are trying to pick up the essence of it. It is tremendously complicated.

We think this definition we have worked out with the Securities and Exchange Commission provides the right kind of balance.

The bill originally had a limit of 25 plaintiffs, now raised to 50 for a single lawsuit. This is by no means an exact science. I am the first to say that if we find shortly that number is not working as well as we would like, we would change it. Anybody who claims they have a word on high as to what is the perfect number here is deluding themselves. It is a number we chose because we thought it made sense based, again, on our discussions with the SEC.

With all due respect to the authors of this amendment, it does undercut what we have tried to achieve here. I want to emphasize to our colleagues, you don't have to agree with every agency and what it suggests and does. But on this definition worked out with the Securities and Exchange Commission, if you want some predictability and some knowledge-based definition, the one we have in the bill is the way to go. To come up all of a sudden with a new one here that I don't think enjoys the kind of expertise that we have been able to achieve through working with the SEC would be unfortunate and could create a lot more problems.

For those reasons, I urge the defeat of this amendment.

Mr. BIDEN. Mr. President, I opposed the 1995 Securities Litigation Act for several reasons—including the precedent-setting changes to this country's judicial system without the input of the Judiciary Committee.

I support the Sarbanes amendment for similar reasons—relating both to procedure, and to substance.

In the past, bills that made changes to the rules that govern citizen's access to State courts were referred to the Judiciary Committee, to enable the committee with expertise to review and work on the legislation.

While my colleagues on the Banking Committee had the opportunity to examine the specific, substantive changes this bill would make to our Nation's securities laws, it seems to me that we have once again skipped a very important step in the process.

The securities litigation bill we are considering on the floor today preempts State court statutes of limitations in securities fraud cases—and yet again the Judiciary Committee was not given the opportunity to examine the issue.

In 1991, the Supreme Court significantly shortened the statute of limitations for Federal securities fraud actions—to the shorter of 3 years after the fraud occurs or 1 year after it is discovered.

Then-SEC Chairman Richard Breeden called the new time limit "unrealistically short." But, S. 1260 would compound the problem by applying the Federal time limit to State actions removed to Federal court—even though it is shorter than the time limit applicable to actions in 33 of the 50 States.

This bill would not only leave investors without State court remedies when brokers and dealers make fraudulent statements when selling corporate stock—but it would also tell them that they need only conceal their fraud for 3 years before being absolved of responsibility in Federal court as well.

And the new time limit will apply even though the 1995 Securities Litigation Act raised the standard investors must meet to win a class action suit—you now have to prove a falsehood was made with clear intent to deceive.

That's incredibly tough to prove.

I will admit, some frivolous lawsuits are filed. And some lawyers do make too much from a suit—leaving defrauded investors too little.

But, immunizing Wall Street professionals who can successfully hide their lies for 3 years is not the answer.

I support the Sarbanes amendment and urge my colleagues to do the same. We should protect the small investor—not let white collar criminals go unpunished.

Mr. D'AMATO. Mr. President, I know my colleague from Nevada is going to speak to this issue, and I ask unanimous consent at 5:30 today the Senate proceed to a vote on or in relation to the Sarbanes amendment 2395, to be immediately followed by a vote on or in relation to amendment 2396, the matter we are now considering, with no amendments in order to the amendments. I finally ask that the time until 5:30 be equally divided between the proponents and opponents. I have no intention of using any of the time, but that all the time be yielded to my colleague.

Mr. SARBANES. Reserving the right to object, and I do not object, subsequent to that, then, I take it what the leadership would like to do is try to finish, so we will offer a third amendment and debate that. We hope the time will not be too long on that. Then we would be able to vote on that amendment and then on final passage.

Mr. D'AMATO. That is correct.

Mr. SARBANES. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

Without objection, it is so ordered.

The Senator from Nevada.

Mr. BRYAN. I don't want to prolong this debate unnecessarily. I realize several of my colleagues have time constraints.

Let me say I think the Senator from Maryland has crafted an amendment that is eminently fair. He is using the definition of the Federal Rules of Civil Procedure. The notion that we get involved in describing what is a class action based upon an arbitrary number of individual plaintiffs—some of whom could be private citizens, some could be pension funds, and could be State agencies—makes no sense to me.

So I believe, in trying to provide some sense of balance and fairness—so we do not get a situation where we have discussed throughout a good part of the afternoon that an individual who files an action by himself or herself with his or her lawyer alone, no other coplaintiffs involved, immediately after the discovery of a fraud, that would be 3 to 3 years and 2 months after the fraud occurred—should be allowed to pursue that cause of action and not be involuntarily sucked up into Federal court because 49 other people may have filed similar action, and to give to the errant defendant, the perpetrator of the fraud, the ability to manipulate the process so that the perpetrator of the fraud can file some phony plaintiff's actions, getting up to the threshold of 50, and then have the case removed, the individual plaintiff, the individual pension fund, the individual retirement fund, then having been effectively deprived of pursuing a cause of action that may be meritorious without question.

I certainly urge my colleagues to thoughtfully reflect. This is the Federal Rules of Civil Procedure. They have been around since 1939. Why should we craft some kind of a special rule as to what constitutes a class action, the effect of which deprives individuals—not people filing on behalf of a similarly situated class, but individuals—their opportunity to recover on a fraud perpetrated upon them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Very briefly, the essence of this comes down to this, because this is very complicated.

How does this work? It is a State court judge that has to make this determination as to whether or not these individual suits get consolidated. It is not a Federal judge; it is a State court judge. Obviously, a State court judge has broad discretion in making that determination. Even if he does do that, if an individual feels he does not belong in that grouping—obviously, we are trying to avoid a case where there are 50 or more individual actions that effectively operate as a single action, which would thus gut the bill and the uniform way in which we are attempting to deal with litigation issues.

As I said, the decision to consolidate these individual actions must be with a State court judge, and then if the individual feels as though they really don't belong in that case, the State court judge has broad discretion to take that individual out.

There are a lot of protections here. This is not heavy handed at all. It is a way to try and avoid exactly creating new loopholes where plaintiffs seek to consolidate individual cases and thus evade the provisions of this legislation.

But that decision is the State court judges' decision and to their broad discretion. And secondly, the individual has the opportunity to go to that State court judge and make the case that they don't really belong in that class action. That State court judge has the broad discretion of keeping that person out of that class.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I don't know if it is appropriate at this time, if all time is yielded back, and I know at 5:30 we will vote.

VOTE ON AMENDMENT NO. 2395—MOTION TO TABLE

Mr. D'AMATO. Mr. President, if it is appropriate now, I move to table the Sarbanes amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Maryland. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCAIN (when his name was called). Present.

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—69

Abraham	Feinstein	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Baucus	Gramm	Mikulski
Bennett	Grams	Moseley-Braun
Bingaman	Grassley	Murkowski
Bond	Gregg	Murray
Boxer	Hagel	Nickles
Brownback	Harkin	Reid
Burns	Hatch	Robb
Campbell	Helms	Roberts
Chafee	Hutchinson	Roth
Coats	Hutchison	Santorum
Cochran	Inhofe	Sessions
Coverdell	Jeffords	Smith (NH)
Craig	Kempthorne	Smith (OR)
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Leahy	Torricelli
Enzi	Lieberman	Warner
Faircloth	Lott	Wyden

NAYS—30

Akaka	Durbin	Lautenberg
Biden	Feingold	Levin
Breaux	Ford	Moynihan
Bryan	Glenn	Reed
Bumpers	Graham	Rockefeller
Byrd	Hollings	Sarbanes
Cleland	Inouye	Shelby
Collins	Johnson	Snowe
Conrad	Kennedy	Specter
Dorgan	Kerrey	Wellstone

The motion to lay on the table the amendment (No. 2395) was agreed to.

VOTE ON AMENDMENT NO. 2396 — MOTION TO TABLE

Mr. D'AMATO. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to Amendment No. 2396 offered by Mr. SARBANES.

Mr. D'AMATO. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCAIN (when his name was called). Present.

The result was announced—yeas 72, nays 27, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—72

Abraham	Faircloth	Lott
Allard	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McConnell
Bennett	Gorton	Mikulski
Bingaman	Gramm	Moseley-Braun
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Nickles
Brownback	Hagel	Reid
Burns	Harkin	Robb
Campbell	Hatch	Roberts
Chafee	Helms	Roth
Coats	Hutchinson	Santorum
Cochran	Hutchison	Sessions
Collins	Inhofe	Smith (NH)
Coverdell	Jeffords	Smith (OR)
Craig	Kempthorne	Snowe
D'Amato	Kerrey	Specter
Daschle	Kohl	Stevens
DeWine	Kyl	Thomas
Dodd	Landrieu	Thurmond
Domenici	Leahy	Warner
Enzi	Lieberman	Wyden

NAYS—27

Akaka	Feingold	Levin
Biden	Glenn	Moynihan
Bryan	Graham	Reed
Bumpers	Hollings	Rockefeller
Byrd	Inouye	Sarbanes
Cleland	Johnson	Shelby
Conrad	Kennedy	Thompson
Dorgan	Kerry	Torricelli
Durbin	Lautenberg	Wellstone

The motion to lay on the table the amendment (No. 2396) was agreed to.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Maryland.

AMENDMENT NO. 2397

(Purpose: To preserve the right of a State or a political subdivision thereof or a State pension plan from bringing actions under the securities laws)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself, Mr. BRYAN, Mr. JOHNSON and Mr. BIDEN, proposes an amendment numbered 2397.

The amendment is as follows:

On page 10, between lines 16 and 17, insert the following:

"(f) STATE ACTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(2) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

On page 10, line 17, strike "(f)" and insert "(g)".

On page 15, between lines 19 and 20, insert the following:

"(5) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

On page 15, line 20, strike "(5)" and insert "(6)".

Mr. SARBANES. Mr. President, I offer this amendment on behalf of myself, Senator BRYAN, Senator JOHNSON, and Senator BIDEN. I will be very quick, because the manager has indicated he will accept this amendment.

This amendment preserves the right of State and local governments and their pension plans to bring securities fraud suits under State law. They have never been professional plaintiffs. They have never abused the system. They have to go through an elaborate process to even bring suit. They obviously are concerned with protecting the public and the taxpayers, and it seems to me a reasonable exemption from the provisions of this bill as it applies to these governmental units.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, we have no objection. As the Senator has indicated, these classes are comprised solely of States, counties, and other public entities. There is no record of such class-action suits being brought. I might add, local governments, for the most part, school districts in particular, are typically precluded from investing in stocks, particularly in these stocks. We accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2397) was agreed to.

Mr. D'AMATO. Mr. President, I am aware of no further amendments, but I ask unanimous consent that the Senator from Oklahoma be recognized for the purpose of propounding a unanimous-consent request, and that the Senator from California—I think I have 2½ minutes left. I yield 1 minute to the Senator from California.

Mr. BIDEN. Will the Senator yield? I believe a unanimous-consent agreement had room for me to offer an amendment at sometime, and I intend on doing that, although I will not ask for a rollcall vote. I will be a very good boy if you listen for 5 minutes, and then I will withdraw the amendment.

Mr. D'AMATO. I have no objection. I ask that the Senator be recognized to offer an amendment.

AMENDMENT NO. 2398

(Purpose: To amend the bill with respect to title 18, United States Code)

Mr. BIDEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 2398.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . FRAUD AS PREDICATE OFFENSE.

Section 1964(c) of title 18, United States Code, is amended by striking ", except" and all that follows through "final".

Mr. BIDEN. Mr. President, I will be necessarily brief because I have over the years learned to count, and I do not believe I have the votes for this amendment, but I want to make two relatively brief points.

First of all, in 1970, the Congress greatly assisted the fight against organized crime by adopting the Racketeering Influence and Corruption Organizations Act. We know it as RICO.

RICO included a private civil enforcement provision with enhanced penalties, including triple damages for racketeering behavior in furtherance of a criminal enterprise engaged in certain, what they call predicate offenses, including murder, arson, bribery, wire fraud, bankruptcy fraud, and securities fraud—securities fraud.

At the request of the Securities and Exchange Commission and the industry, though against the wishes of law enforcement and State regulators, in 1995, the Securities Litigation Act effectively eliminated securities fraud as a grounds for private civil RICO proceedings. Many of us disagreed with carving out the securities fraud for special status, Mr. President, and protection from application of the civil RICO statute. In fact, my amendment was intended to preserve many civil RICO securities fraud claims and was accepted

last time by the full Senate. Unfortunately, it was dropped in committee.

Last November, the Federal grand jury in Manhattan indicted 19 individuals, including two reputed mob chieftains known as "Rossi" and "Curly," for their role in the alleged plot to manipulate a thinly traded stock, so-called penny stocks, and for threatening brokers to drive up the prices.

There is an article that was published that says "The Mob on Wall Street." I ask unanimous consent that an except from this article be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[From Business Week, Dec. 16, 1996]

THE MOB ON WALL STREET

(By Gary Weiss)

In the world of multimedia, Phoenix-based SC&T International Inc. has carved out a small but significant niche. SC&T's products have won raves in the trade press, but working capital has not always been easy to come by. So in December, 1995, the company brought in Sovereign Equity Management Corp., a Boca Raton (Fla.) brokerage, to manage an initial public offering. "We thought they were a solid second- or third-tier investment bank," says SC&T Chief Executive James L. Copeland.

But there was much about Sovereign that was known to only a very few. There were, for example, the early investors, introduced by Sovereign, who had provided inventory financing for SC&T. Most shared the same post office box in the Bahamas. "I had absolutely no idea of who those people were," says Copeland. He asked Sovereign. "I was told, 'Who gives a s—. It's clean money.'" The early investors cashed out, at the offering price of $5, some 1,575 million shares that they acquired at about $1.33 share—a gain of some $5.8 million.

By mid-June, SC&T was trading at $8 or better. But for SC&T shareholders who did not sell by then, the stock was an unmitigated disaster. Sovereign, which had handled over 60% of SC&T's trades early in the year, sharply reduced its support of the stock. Without the backing of Sovereign and its 75-odd brokers, SC&T's shares plummeted—to $2 in July, $1 in September, and lately, pennies. The company's capital-raising ability is in tatters. Laments Copeland: "We're in the crapper."

A routine case of a hot stock that went frigid. Or was it? Copeland didn't know it, but there was a man who kept a very close eye on SC&T and is alleged by Wall Street sources to have profited handsomely in the IPO—allegedly by being one of the lucky few who sold shares through a Bahamian shell company. His name is Philip Abramo, and he has been identified in court documents as a ranking member, or *capo*, in the New Jersey-based DeCavalcante organized crime family.

James Copeland didn't know it. Nobody at SC&T could have dreamed it. But the almost unimaginable had come true: Copeland had put his company in the hands of the Mob.

Today, the stock market is confronting a vexing problem that, so far, the industry and regulators have seemed reluctant to face—or even acknowledge. Call it what you will: organized crime, the Mafia, wiseguys. They are the stuff of tabloids and gangster movies. To most investors, they would seem to have as much to do with Wall Street as the other side of the moon.

But in the canyons of lower Manhattan, one can find members of organized crime, their friends and associates. How large a presence? No one—least of all regulators and law enforcement—seems to know. The Street's ranking reputed underworld chieftain, Abramo, is described by sources familiar with his activities as controlling at least four brokerages through front men and exerting influence upon still more firms. Until recently Abramo had an office in the heart of the financial district, around the corner from the regional office of an organization that might just as well be on Venus as far as the Mob is concerned—the National Association of Securities Dealers, the self-regulatory organization that oversees the small-stock business.

A three-month investigation by Business Week reveals that substantial elements of the small-cap market have been turned into a veritable Mob franchise, under the very noses of regulators and law enforcement. And that is a daunting prospect for every investor who buys small-cap stocks and every small company whose stock trades on the NASDAQ market and over the counter. For the Mob makes money in various ways, ranging from exploiting IPOs to extortion to getting a "piece of the action" from traders and brokerage firms. But its chief means of livelihood is ripping off investors by the time-tested method of driving share prices upward—and dumping them on the public through aggressive cold-calling.

In its inquiry, Business Week reviewed a mountain of documentation and interviewed traders, brokerage executives, investors, regulators, law-enforcement officials, and prosecutors. It also interviewed present and former associates of the Wall Street Mob contingent. Virtually all spoke on condition of anonymity, with several Street sources fearing severe physical harm—even death—if their identities became known. One, a former broker at a Mob-run brokerage, says he discussed entering the federal Witness Protection Program after hearing that his life might be in danger. A short-seller in the Southwest, alarmed by threats, carries a gun.

Among Business Week's findings:

The Mob has established a network of stock promoters, securities dealers, and the all-important "boiler rooms"—a crucial part of Mob manipulation schemes—that sell stocks nationwide through hard-sell cold-calling. The brokerages are located mainly in the New York area and in Florida, with the heart of their operations in the vicinity of lower Broad Street in downtown Manhattan.

Four organized crime families as well as elements of the Russian Mob directly own or control, through front men, perhaps two dozen brokerage firms that make markets in hundreds of stocks. Other securities dealers and traders are believed to pay extortion money or "tribute" to the Mob as just another cost of doing business on the Street.

Traders and brokers have been subjected in recent months to increasing levels of violent "persuasion" and punishment—threats and beatings. Among the firms that have been subject to Mob intimidation, sources say, is the premier market maker in NASDAQ stocks—Herzog, Heine, Gedule Inc.

Using offshore accounts in the Bahamas and elsewhere, the Mob has engineered lucrative schemes involving low-priced stock under Regulations S of the securities laws. Organized crime members profit from the runup in such stocks and also from short-selling the stocks on the way down. They also take advantage of the very wide spreads between the bid and ask prices of the stock issues controlled by their confederates.

The Mob's activities seem confined almost exclusively to stocks traded in the over-the-counter "bulletin board" and NASDAQ small-cap markets. By contrast, New York Stock Exchange and American Stock Exchange issues and firms apparently have been free of Mob exploitation.

Wall Street has become as lucrative for the Mob that it is allegedly a major source of income for high-level members of organized crime—few of whom have ever been publicly identified as having ties to the Street. Abramo, who may well be the most active reputed mobster on the Street, has remained completely out of the public eye—even staying active on the Street after his recent conviction for tax evasion.

Mob-related activities on the Street are the subject of inquiries by the FBI and the office of Manhattan District Attorney Robert M. Morgenthau, which is described by one source as having received numerous complaints concerning mobsters on the Street. (Officials at both agencies and the New York Police Dept. did not respond to repeated requests for comment.)

Overall, the response of regulators and law enforcement to Mob penetration of Wall Street has been mixed at best. Market sources say complaints of Mob coercion have often been ignored by law enforcement. Although an NASD spokesman says the agency would vigorously pursue reports of Mob infiltration, two top NASD officials told Business Week that they have no knowledge of Mob penetration of member firms. Asked to discuss such allegations, another high NASD official declined, saying: "I'd rather you not tell me about it."

The Hanover, Sterling & Co. penny-stock firm, which left 12,000 investors in the lurch when it went out of business in early 1995, is alleged by people close to the firm to have been under the control of members of the Genovese organized crime family. Sources say other Mob factions engaged in aggressive short-selling of stocks brought public by Hanover.

Federal investigators are said to be probing extortion attempts by Mob-linked short-sellers who had been associated with the now-defunct Stratton Oakmont penny-stock firm.

Mob manipulation has affected the markets in a wide range of stocks. Among those identified by Business Week are Affinity Entertainment, Celebrity Entertainment, Beachport Entertainment, Crystal Broadcasting, First Colonial Ventures, Global Spill Management, Hollywood Productions, Innovative Medical Services, International Nursing Services, Novatek International, Osicom Technologies, ReClaim, SC&T, Solv-Ex, and TJT. Officials of the companies deny any knowledge of Mob involvement in the trading of their stocks, and there is no evidence that company managements have been in league with stock manipulators. These stocks were allegedly run up by Mob-linked brokers, who sometimes used force or threats to curtail short-selling in the stocks. When support by allegedly Mob-linked brokerages ended, the stocks often suffered precipitous declines—sometimes abetted, traders say, by Mob-linked short-sellers. The stocks have generally fared poorly (table, page 99).

Not all of the stocks were recent IPOs, and they were often taken public by perfectly legitimate underwriters. International Nursing, for example, went public at $23 in 1994

and was trading at $8 in early 1996 before falling back to pennies. Short-sellers who attempted to sell the shares earlier this year were warned off—in one instance by a Mob member—market sources assert. International Nursing Chairman John Yeros denies knowledge of manipulation of the stock.

What this all adds up to is a shocking tale of criminal infiltration abetted by widespread fear and silence—and official inaction. While firms and brokerage executives who strive to keep far afield of the Mob often complain of NASD inaction, rarely do such people feel strongly enough to share their views with regulators or law enforcement. Instead, they engage in self-defense. One major brokerage, which often executes trades for small-cap market makers, keeps mammoth intelligence files—to steer clear of Mob-run brokers. A major accounting firm keeps an organized-crime expert on the payroll. His duties include preventing his firm from doing business with brokerages linked to organized crime and the Russian Mob.

Mr. BIDEN. Mr. President, they are not talking about legitimate traders; they are talking about the mob's attempt to infiltrate Wall Street. It seems to me for us to carve out of the original legislation an exemption from RICO predicate statutes securities fraud is a serious mistake. But it would also be a serious mistake for me to push this issue without the votes at this point, because I realize there is an attempt to bring this legislation to a close.

I think it is bad legislation generally. I think it is a serious mistake to have done this, but I also have been here long enough, as I said, to be able to know where the votes are.

I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2398) was withdrawn.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from California be recognized for 1 minute and thereafter, the sponsor of the legislation who has not spoken today, Senator DOMENICI, who has been tied up in committee, has asked to be recognized for up to 5 minutes. Then I ask unanimous consent that we go to final passage.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California is recognized for 1 minute.

Mrs. BOXER. Thank you very much, Mr. President.

The question before the Senate today is the following: How many securities litigation laws should there be relative to class-action lawsuits involving nationally traded securities?

I believe the answer is one. And I believed the answer was one when we had this debate in 1995. And even though I advocated for a stronger law at that time, I always thought there ought to be one law.

We, as policymakers, must establish a regulatory environment in which investors have sufficient rights and remedies while also ensuring that the high-growth industries of our economy, many of which are located in my home State of California, are provided the stability and the certainty they need to expand, grow, and create jobs.

This bill does just that. It is narrowly crafted to address only the issue of class action lawsuits and nationally traded securities—I think this is very important. It defines and limits class-action lawsuits. It applies only to nationally traded securities. It is a bill which I am proud to support.

Chairman Levitt, who I respect greatly, Chairman of the SEC, is supportive of this legislation, and I think his words should carry a great deal of weight. We ought to give this law a chance to work in the Federal court and not see this law go to 50 different State courts. This would be very disruptive and it doesn't make sense for nationally traded securities.

If, after a time, we feel the law isn't good enough, isn't strong enough, isn't working as we had envisioned, we can revisit it and address it as necessary. But I think today we ought to support this bill, as drafted, and assert there ought to be one law when it comes to class action lawsuits involving nationally traded securities.

So, Mr. President, I am pleased to join the Chairman of the Banking Committee and the ranking member on the Securities Subcommittee, Senator DODD, in support of this bill. I yield the floor, and I yield the time back to the Senator from New York.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes.

Mr. DOMENICI. Mr. President, I will not use that amount of time.

I just want to say how pleased I am that today we are going to close the loop and make sure that the small group of entrepreneurial plaintiff lawyers who were taking advantage of our securities laws are now going to follow a uniform law in the States and in the Federal courts.

It was in 1990 that Senator Sanford of North Carolina, who passed away just recently, and I introduced the first legislation on this issue. We did so because we found that a small group of plaintiff's lawyers were engaged in the business of finding meritless lawsuits to file, but since they were class action lawsuits, they would have to get settled. We found a trend across the country where they settled all these cases rather than have jury trials. A small cadre of lawyers became rich, and, as far as we can find out, very few stockholders benefited.

We passed the first bill to tighten up the rules in the Federal court system in 1995. It is the only bill where we overrode President Clinton's veto. And tonight I think we will pass, by an even more overwhelming number, the culmination of this effort. The bill will keep plaintiffs' lawyers from picking State courts to do what we have precluded them from doing in the Federal courts. This bill will stop them from doing what we know they already are doing—they look for a sympathetic state forum where they can get these lawsuits filed.

This is legislation that helps the high-tech companies that get started in America. We have testimony that the Intel company—that great American company—had they faced one of these kinds of suits when they were in their infancy, they are almost certain that they would not exist today. We do not know how many other companies now do not exist because they faced these kinds of lawsuits.

But essentially we are doing an exciting thing for growth, prosperity, and we are harming and hurting no one with legitimate complaints against corporations for fraud, misrepresentation, and malfeasance.

As I said, I rise today in strong support of S. 1260, the "Securities Litigation Reform Uniform Standards Act of 1998" and I want to commend the Majority Leader for bringing this bill to the floor this week. Few issues are more important to the high-tech community and the efficient operation of our capital markets than securities fraud lawsuit reform.

I am pleased to serve as an original co-sponsor of this legislation with Senators D'AMATO, DODD, and GRAMM—a bill to provide one set of rules to govern securities fraud class actions.

As I said previously, this bill completes the work I began more than 6 years ago with Senator Sanford of North Carolina. Back in the early 1990's, Senator Sanford and I noticed that a small group of entrepreneurial plaintiffs' lawyers were taking advantage of our securities laws and the federal rules related to class action lawsuits to file frivolous and abusive claims against high-technology companies in Federal courts.

Often these lawsuits were based simply on the fact that a company's stock price had fallen, without any real evidence of fraud. Senator Sanford and I realized a long time ago that stock price volatility—common in high tech stocks—simply is not stock fraud.

But, because it was so expensive and time consuming to fight these lawsuits, many companies settled even when they knew they had done nothing wrong. The money used to pay for these frivolous lawsuits could have been used for research and development or to create new, high-paying jobs.

So, we introduced a bill to make some changes to the securities fraud class action system. Of course, since we were up against the plaintiffs' lawyers, the bill didn't go anywhere for awhile.

After Senator Sanford left the Senate, the senior Senator from Connecticut, Senator DODD, and I continued to work hard on this issue. In 1995, with tremendous help from Chairman

D'AMATO and Senator GRAMM, we passed a law. The Private Securities Litigation Reform Act of 1995 passed Congress in an overwhelmingly bipartisan way—over President Clinton's veto of the bill.

And since enactment of the Reform Act, we have seen great changes in the conduct of plaintiffs' class action lawyers in federal court. Because of more stringent pleading requirements, plaintiffs' lawyers no longer "race to the courthouse" to be the first to file securities class actions. Because of the new rules, we no longer have "professional plaintiffs"—investors who buy a few shares of stock and then serve as named plaintiffs in multiple securities class actions. Other rules make it difficult for plaintiffs' lawyers to file lawsuits to force companies into settlement rather than face the expensive and time consuming "fishing expedition" discovery process.

Now, it looks like our new law has worked too well. Entrepreneurial trial lawyers have begun filing similar claims in State court instead of federal court to avoid the new law's safeguards against frivolous and abusive lawsuits. Instead of one set of rules, we now have 51—one for the Federal system and 50 different ones in the States.

According to the Securities and Exchange Commission, this migration of claims from Federal court to State court "may be the most significant development in securities litigation" since the passage of the new law in 1995.

In fact, prior to passage of the new law in 1995, State courts rarely served as the forum for securities fraud lawsuits. Now, more than 25 percent of all securities class actions are brought in State court. A recent Price Waterhouse study found that the average number of State court class actions filed in 1996—the first year after the new law—grew 335 percent over the 1991–1995 average. In 1997, State court filings were 150 percent greater than the 1991–1995 average.

So, there has been an unprecedented increase in State securities fraud class actions. In fact, trial lawyers have testified to Congress that they have an obligation to file securities fraud lawsuits in State court if it provides a more attractive forum for their clients. Imagine that—plaintiffs' lawyers admit that they are attempting to avoid federal law.

These State court lawsuits also have prevented high-tech companies from taking advantage of one of the most significant reforms in the 1995 law—the safe harbor for predictive statements. Under the 1995 law, companies which make forward-looking statements are exempt from lawsuits based on those statements if they meet certain requirements. Companies are reluctant to use the safe harbor and make predictive statements because they fear that such statements could be used against them in State court. This fear chills the free flow of important information to investors—certainly not a result we intended when we passed the new law.

So today, the Senate will vote to create one set of rules for securities fraud cases. One uniform set of rules is critical for our high-technology community and our capital markets.

Without this legislation, the productivity of the fastest growing segment of our economy—high tech—will continue to be hamstrung by abusive, lawyer-driven lawsuits. Rather than spend their resources on R&D or creating new jobs, high-tech companies will continue to be forced to spend massive sums fending off frivolous lawsuits.

When I first worked on this issue, executives at Intel Corporation told me that if they had been hit with a frivolous securities lawsuit early in the company's history, they likely never would have invented the microchip. We should not let that happen to the next generation of Intels.

This bill also is important to our markets. Our capital markets are the envy of the world, and by definition are national in scope. Information provided by companies to the markets is directed to investors across the United States and throughout the world.

Under the Commerce Clause of the U.S. Constitution, Congress has the authority to regulate in areas affecting "interstate commerce." I cannot imagine a more classic example of what constitutes "interstate commerce" than the purchase and sale of securities over a national exchange.

Not only does Congress have the authority to regulate in this area, it clearly is necessary and appropriate. Right now, in an environment where there are 50 different sets of rules, companies must take into account the most onerous State liability rules and tailor their conduct accordingly. If the liability rules in one State make it easier for entrepreneurial lawyers to bring frivolous lawsuits, that affects companies and the information available to investors in all other States. One uniform set of rules will eliminate that problem.

Mr. President, I again want to commend my colleagues for their work on this important bill. I understand that this is a bi-partisan bill which has the support of the SEC and at least 40 Senators. I think by the end of the day, many, many more Senators will join us in supporting this bill. Thank you, Mr. President.

Mr. D'AMATO. Mr. President, I have one more unanimous consent. The Senator from Nevada has asked to speak for up to 3 minutes. I ask unanimous consent that he be given that and then we go to final passage.

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

The Senator from Nevada.

Mr. BRYAN. I thank the Presiding Officer.

I thank the chairman for his courtesy.

Mr. President, this is a vote that I believe that my colleagues who support the measure—and I am not unmindful of how the votes lie—will live to rue. At a time when investor fraud is mounting with billions and billions of dollars, we have a consistent, steady course of action where we are systematically depriving individual small investors from protections.

This adds a further limitation to the statute of limitations. And 37 out of the 50 States provide a greater remedy. This provides a limitation in terms of the ability of an investor to file an action against an accomplice. And 49 out of 50 States provide that remedy. We take that away in this course of action.

Most States provide a remedy for joint and several liability so that an investor who is defrauded may recover the full amount of his or her loss from any one of the individual investors. If this legislation had been in place at the time of the Keating fraud, where Keating himself was, in effect, judgment proof, there would have been no ability to recover against the fraudulent activity of the accomplices—the accountants, the lawyers, and others.

That is why, contrary to the assertion by the proponents, this is not a plaintiff's lawyer's argument that is being made in opposition to this. There are some abuses, and we should confine ourselves to that. That is why all of the governmental institutions who are charged with their public responsibility as stewards of investment funds, retirement funds, municipalities, school districts, States, all have expressed their opposition to the legislation, because they recognize that the taxpayer, himself or herself, is frequently defrauded by this course of action.

So this is a bad piece of legislation. And we continue on a slippery slope in eliminating basic investor protections. The small guys get dealt out of the game with this legislation. The victims, they can take care of themselves. But for the millions and millions of small investors who have confidence in our markets, who are coming in—one out of every three in the country—they are the big losers in this legislation.

Mr. SARBANES. Will the Senator yield?

Mr. BRYAN. I am happy to yield.

Mr. SARBANES. I want to commend the Senator from Nevada for a very powerful statement and for his very strong presentation of the arguments. All I want to say to my colleague is, I am confident in making the prediction that events down the road, when the investors come in, innocent people, and say, "We didn't have a remedy," he will be proven correct.

Mr. BRYAN. I thank the Senator from Maryland for his comments. He has stood tall, not only in this legislation but in the 1995 legislation on behalf of small investors. That is what this matter is all about. There is no sympathy for plaintiff lawyers. That is not the argument, as the Senator from Maryland and I and others who oppose this legislation know. We are talking about protecting small investors in America who, I believe, are left with fewer defenses as a result of this.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I will be very brief on this. And we have been through this. The last time it was a 5-day debate. We ought to take some solace in the fact that we have done this in half a day. And let me commend my colleagues, all of them, who have been involved in this and over some period of time.

But I say, Mr. President, this is a very sound piece of legislation that can make a huge difference today. That investor that my colleague, the distinguished Senator from Nevada, talks about, that is the investor that deposits their hard-earned money in the securities of struggling businesses, high-tech companies that are the primary targets of these lawsuits. And it is these industries that represent the knowledge-based economy of our 21st century.

Too often we have seen predator lawyers out there go after them. What we are trying to do with this bill is to tighten up the loophole, to make it possible for these companies to grow while simultaneously—simultaneously—seeing to it that investors can bring a rightful cause of action, as plaintiffs, where fraud has been committed.

This is going to make for a far sounder system for people in this country. And I predict to my colleagues that we will see economic growth in these firms and businesses, where they can avoid the kind of tremendous expenditures that have had to be laid out to fight frivolous lawsuits and end up as settlements, costing fortunes with, of course, cases being thrown out of court.

So I predict to my colleagues, this will be a vote they will be very proud of in the years ahead to avoid these frivolous lawsuits we have seen in the past. I urge passage of the legislation.

Mr. D'AMATO. I ask unanimous consent that Senator KOHL be recognized for a request, and then I will call for the yeas and nays.

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

Mr. KOHL. Thank you, I say to Senator D'AMATO.

CHANGE OF VOTE—ROLL CALL VOTE NO. 132

Mr. KOHL. Mr. President, on rollcall vote No. 132, I voted no. It was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

Mr. D'AMATO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 79, nays 21 as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—79

Abraham	Frist	Mack
Allard	Gorton	McConnell
Ashcroft	Graham	Mikulski
Baucus	Gramm	Moseley-Braun
Bennett	Grams	Murkowski
Bingaman	Grassley	Murray
Bond	Gregg	Nickles
Boxer	Hagel	Reed
Breaux	Harkin	Reid
Brownback	Hatch	Robb
Burns	Helms	Roberts
Campbell	Hollings	Rockefeller
Chafee	Hutchinson	Roth
Coats	Hutchison	Santorum
Cochran	Inhofe	Sessions
Collins	Jeffords	Smith (NH)
Coverdell	Kempthorne	Smith (OR)
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Landrieu	Thurmond
Enzi	Leahy	Warner
Faircloth	Lieberman	Wyden
Feinstein	Lott	
Ford	Lugar	

NAYS—21

Akaka	Dorgan	Levin
Biden	Durbin	McCain
Bryan	Feingold	Moynihan
Bumpers	Glenn	Sarbanes
Byrd	Inouye	Shelby
Cleland	Johnson	Torricelli
Conrad	Lautenberg	Wellstone

The bill (S. 1260), as amended, was passed, as follows:

S. 1260

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 "Securities Litigation Uniform Standards Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Private Securities Litigation Reform Act of 1995 sought to prevent abuses in private securities fraud lawsuits;

(2) since enactment of that legislation, considerable evidence has been presented to Congress that a number of securities class action lawsuits have shifted from Federal to State courts;

(3) this shift has prevented that Act from fully achieving its objectives;

(4) State securities regulation is of continuing importance, together with Federal regulation of securities, to protect investors and promote strong financial markets; and

(5) in order to prevent certain State private securities class action lawsuits alleging fraud from being used to frustrate the objectives of the Private Securities Litigation Reform Act of 1995, it is appropriate to enact national standards for securities class action lawsuits involving nationally traded securities, while preserving the appropriate enforcement powers of State securities regulators and not changing the current treatment of individual lawsuits.

SEC. 3. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), a class action described in paragraph (2) of this subsection that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(2) PERMISSIBLE ACTIONS.—A class action is described in this paragraph if it involves—

"(A) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(B) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

"(i) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(ii) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(f) STATE ACTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(2) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

"(g) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(B) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(3) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.".

(2) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting "except as provided in section 16 with respect to class actions," after "Territorial courts,"; and

(B) by striking "No case" and inserting "Except as provided in section 16(c), no case".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(1) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

(2) by adding at the end the following new subsection:

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) PRESERVATION OF CERTAIN ACTIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(5) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

"(6) DEFINITIONS.—For purposes of this subsection the following definitions shall apply:

"(A) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(B) CLASS ACTION.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(D) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.".

SEC. 4. APPLICABILITY.

The amendments made by this Act shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I am trying to have an announcement for the Members. But I need to check with a couple of people in just a moment. So if the Senator from Iowa would like to proceed with statements, I would like to maybe interrupt in a moment.

Mr. LEAHY. Mr. President, while the leader is on the floor—if the Senator from Iowa will withhold for just a moment—I know the leader is trying to get a schedule together. I just wanted to note, because there has been some question over here on this side of the aisle, that on S. 2037, the WIPO bill, or the digital new millennium copyright legislation, there is absolutely no objection to going forward with it. I suggest that there will be unanimous support for it over here. I just wanted to advise the distinguished majority leader of that fact.

Mr. LOTT. I might respond to the fact that we do want to get that bill done. We have run into a possible technical problem that we are trying to work out, as you well know.

Mr. LEAHY. I understand what the leader wants to do. I wanted to make sure that he understands this side of the aisle is ready and raring to go.

Mr. LOTT. Mr. President, for the information of all Senators, the Senate has now passed the second of the four high-tech bills that we had been working on and have worked to get agreements. And we have been successful in that. It is our intent at the earliest opportunity to consider and pass the WIPO bill, even though I understand there may be a technical problem with the blue slip issue involving the House of Representatives. We are trying to check that out, and also the immigration bill that the Senator from Michigan has been working on, and Senator KENNEDY from Massachusetts.

It would be our intent to call up that immigration bill, if we do not do it before noon on Monday, with the possibility of stacked votes on Monday afternoon about 5:30. I am not asking unanimous consent to that effect right now. I have discussed that with Senator ABRAHAM, and Senator KENNEDY. But I would need to check that with Senator DASCHLE and others.

But I want the Members to know that we need to complete action on these high-tech bills. A lot of great work has been done. We have been able to pass two of them. We are very close to being able to get the other two done. Our intent is to stay with that until we get it completed.

The Senate will now begin the DOD authorization bill.

Having said all of that, there will be no further votes this evening, and the Senate will consider the DOD authorization bill throughout Thursday's session of the Senate. I had hoped there would be opening statements. But I understand we will just lay the bill down, and then we will begin tomorrow.

But I want the RECORD to show that I was requested to have the remainder of the night for the DOD authorization bill so that we could get 2 or 3 hours on it. We are not going to be able to do that. But I am certainly prepared and willing, and wanted to do that.

UNANIMOUS-CONSENT REQUEST—S. 2057

Mr. LOTT. Mr. President, I now ask unanimous consent the Senate turn to S. 2057, the DOD authorization bill.

Mr. ABRAHAM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senate majority leader has the floor.

UNANIMOUS-CONSENT REQUEST—S. 1415

Mr. LOTT. Mr. President, I ask unanimous consent that S. 1415, the tobacco bill, be referred to the Finance Committee until 9 p.m. on Thursday, May 14, and if the committee has not reported the bill at that time, the measure be automatically discharged and placed immediately on the calendar, notwithstanding a recess or adjournment of the Senate.

I further ask the Finance Committee have permission to meet during the session of the Senate on Thursday, May 14, to consider S. 1415.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I would ask the majority leader if he could hold for a few moments on propounding this UC; there are some discussions going on on that subject.

Mr. LOTT. Mr. President, I will withhold the unanimous-consent request at this time, and while I am working on both of these unanimous consent requests, the Senators from Iowa wish to be recognized so I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S, 2078 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—S. 1415

Mr. LOTT. Mr. President, I ask unanimous consent that S. 1415, the tobacco bill, be referred to the Finance Committee until 9 p.m. on Thursday, May 14, and if the committee has not reported the bill at that time, the measure be automatically discharged and placed immediately on the calendar, notwithstanding a recess or adjournment of the Senate.

I further ask that the Senate Finance Committee have permission to meet during the session of the Senate on Thursday, May 14, to consider S. 1415.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. LOTT. Mr. President, I now ask unanimous consent again that the Senate turn to S. 2057, the DOD authorization bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 2057) to authorize appropriations for fiscal year 1999 for military activities in the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that Dan Groeschen be granted the privilege of the floor during the consideration of the 1999 defense authorization bill.

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

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry. What is the floor situation right now? What are we on?

The PRESIDING OFFICER. We are on the bill S. 2057, Department of Defense authorization bill.

NUCLEAR DETONATIONS IN INDIA

Mr. HARKIN. Mr. President, I want to take a little time again today to talk about the perilous situation that we find in south Asia at this point in time. Once again, in complete disregard of world opinion, in complete disregard of peace in the region, in complete disregard of the concerns of its neighbors and its allies and friends, yesterday the nation of India once again detonated two more nuclear devices. That makes five in 2 days.

What I hear around here, Mr. President, people are saying, what have they done? Have they lost their senses? Have they lost all concept of reality? Have they gone berserk? Are they completely nutty now? Those are the kinds

of things I hear around the Chamber and around the Capitol—people talking about India, and what has happened to them. I do not believe that all Indians have gone berserk or that all Indians are crazy, but certainly something has happened with their Government to flaunt what they have done, to go ahead and not only set off three in 1 day, but two the next day, and also near the border of Pakistan. For the life of me, I cannot understand what they can possibly be thinking of.

So, I am pleased that the President has announced that he will, in accordance with the law, invoke the full range of sanctions that are required under the Nuclear Policy Prevention Act of 1994. These are tough, and we want to make sure that the administration follows through on them. We have to end all foreign assistance and loans to the Nation of India. We must terminate all military aid and weapons transfers. We must oppose international foreign aid and financial assistance to the Nation through the World Bank and the International Monetary Fund. I understand many of our allies have decided to join in placing these sanctions on India. The law requires it, and we must place the full measure of the law on India in this regard.

Mr. President, I visited the south Asia region twice in the last year and a half. I understand the complexity of their internal politics and their international relations. But I must say this, that whatever problems there may have been before have been multiplied a thousandfold by what India just did.

Again, I hope the nations in that region will exercise caution and restraint in light of this. Right now, India has become the pariah of the world community of nations, and rightfully so, for what it has done. It should remain a pariah for a considerable amount of time, until it reverses its course, until it sits down with its neighbors to reach peaceful solutions in that area, until India is willing to sit down with its neighbor, Pakistan, and solve once and for all the issue of Kashmir; until India is ready to sit down with its neighbor, Pakistan, and secure their borders; until India is willing to disavow putting their nuclear arsenals within their military. Until that time, until these things are done, India will and should remain a pariah among the world community of nations.

Earlier today, our Secretary of Defense appeared before our Appropriations Subcommittee on Defense. We discussed these developments in south Asia and what they mean. Will there be a nuclear arms race now in the region? Will Pakistan follow suit and detonate a nuclear weapons test in response to India? What about China? What is China going to do now? How about Iran? Don't forget, they have a border also. What is Iran going to do now that India has taken this step? So what are all these nations going to do?

Secretary Cohen this morning, in open testimony, indicated that we may see a chain reaction of events. I think that is an apt term, considering the physics of nuclear fission. Just as a nuclear explosion is an uncontrolled nuclear chain reaction, so we may see uncontrolled events now happen in that region. But, just like a nuclear chain reaction, there are things you can do to slow it down and stop it. Just as in a nuclear powerplant, to slow down the chain reaction, they stick in the graphite rods to slow down the reaction, so we need to insert some graphite rods into the events that just happened in south Asia.

What I mean by that is that I believe that certain steps must be taken to slow down these events. First of all, as I mentioned, we must apply the full force and effect of law on the sanctions to India. Second, I believe we must meet with Pakistan at the earliest possible time to discuss our mutual security needs in that area of the world; to discuss them with Pakistan, who has been a friend and an ally going clear back to the establishment of Pakistan as a nation. When people wondered what direction Pakistan would go, would they go to the Soviet Union or would they tilt toward the United States, Pakistan declared at that time they would go with the United States, they would follow the path of democracy and freedom and not with the Soviet Union.

Time and time and time again, Pakistan has come to our aid, our assistance, whether it was overflights over the Soviet Union for purposes of intelligence gathering, helping us in that terrible war in Afghanistan. There are still over a million refugees in the country of Pakistan from that war that helped topple the Soviet Union. Every step of the way, Pakistan has been our friend and our ally. So I think we need to meet with them at the earliest possible time to discuss our mutual security interests in that area.

Next, I hope President Clinton will, at the earliest possible time, indicate that he will not be visiting India this year. I know there has been a trip planned for the President to visit Pakistan and India this fall. I call upon the President to indicate now that, because of these events, it would not be right and proper for him to visit India but that it would be right and proper for him to visit Pakistan and perhaps other nations in that area such as Bangladesh. So, I call upon him to call off that visit to India to send another strong signal.

And, third, in order to put these graphite rods back into this chain reaction and to slow it down, I believe we need to press ahead with the Comprehensive Test Ban Treaty, or the CTBT, that would outlaw all nuclear weapons tests globally. So far, 149 nations have signed the treaty. In fact, we thought we were going to get it all done in August of 1996, except one nation walked out and refused to sign it—India. And now we know why. Is it too late for a Comprehensive Test Ban Treaty? I don't believe so. In fact, I believe what has happened in India more than anything indicates that we have to act now in the U.S. Senate to ratify the Comprehensive Test Ban Treaty.

We have not taken it up yet, and we should. We have signed it. It is now sitting before the Senate. We ought to take it up because the Comprehensive Test Ban Treaty will help put those graphite rods back in that chain reaction, slowing down uncontrolled events in south Asia.

The CTBT will not by itself eliminate the possibility of proliferation, but it will make it extremely difficult for nuclear nations, such as India, to develop sophisticated weapons that could be delivered by ballistic missiles.

Again, we have India, and they set off their underground explosions. But, as we know, that is not the end of the line in terms of developing the kind of weapons that can be delivered by ballistic missiles. If we don't sign and if we don't urge other nations and India to sign the CTBT, this will not be the end of India's nuclear testing, believe me. They are now going to have to refine their warheads. They are going to have to have further testing so that they have the kind of warheads they can deliver with missiles and perhaps aircraft. We have to stop that from happening, and that is why we need the Comprehensive Test Ban Treaty.

It would have been better if we had this in effect beforehand to stop what happened in India, but we didn't have it. We can't turn the clock back. We can't put the genie back in the bottle, but what we can do is we can push ahead now.

Here is how I see it, Mr. President. We have to put the full force and effect of the law on India with all these sanctions, cut off all aid, military assistance and cut off all World Bank loans and IMF. In fact, I think we ought to withdraw our ambassador, which the President has done, and not send him back. Then I believe the U.S. Senate should ratify the Comprehensive Test Ban Treaty and insist that India do so immediately, before we ever lift any sanctions. In that way, India may have a bomb, but they may not have something that they could deliver on the head of a missile.

That is why I believe it is so important that we bring up the Comprehensive Test Ban Treaty and ratify it in the Senate and stop this madness, stop these uncontrolled events that may take place in south Asia unless we act right now.

In fact, I must say, I know the occupant of the chair has spoken on this

issue. I know he had a hearing on it today. Quite frankly, I am somewhat shocked that more Senators are not out here talking about what has happened in India in the last couple of days. I believe this is the biggest single danger to world peace that we have faced perhaps in the last 20 to 30 years, because uncontrolled events can start taking place.

On the one hand, I believe we must come down with the full force and effect of the law on India. I believe the President should call off his trip there this fall. I believe we need to meet with our friends in Pakistan to discuss our mutual security needs in that area. On the other hand, we need to ratify a comprehensive test ban treaty and then say to India, "If you want to rejoin the community of nations, sign, join, no more testing." Then we get other nations to sign it, and we will have a comprehensive test ban treaty and will stop the uncontrolled events that may be unfolding in south Asia.

It is a perilous time. India cannot be excused from what it did. Hopefully, the community of nations can put the proper pressure on India to come to its senses and join the rest of the world community in saying, "No; that they will never ever test nuclear weapons ever again."

Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

MORNING BUSINESS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business until 7:45 p.m., with Senators permitted to speak for up to 10 minutes each.

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

NOTICE OF DECISION TO TERMINATE RULEMAKING

Mr. THURMOND. Mr. President, pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383), a Notice of Decision to Terminate Rulemaking was submitted by the Office of Compliance, U.S. Congress. This Notice announces the termination of a proceeding commenced by a Notice of Proposed Rulemaking and a Supplementary Notice of Proposed Rulemaking published in the CONGRESSIONAL RECORD on October 1, 1997, and January 29, 1998, respectively.

I ask unanimous consent that this Notice be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: AMENDMENTS TO PROCEDURAL RULES

NOTICE OF DECISION TO TERMINATE RULEMAKING

Summary.—On October 1, 1997, the Executive Director of the Office of Compliance published a notice in the CONGRESSIONAL RECORD proposing, among other things, to extend the Procedural Rules of the Office to cover the General Accounting Office and the Library of Congress and their employees with respect to alleged violations of sections 204–207 of the Congressional Accountability Act of 1995 ("CAA"). These sections apply the rights and protections of the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, and the Uniformed Services Employment and Reemployment Act, and prohibit retaliation and reprisal for exercising rights under the CAA. The notice invited public comment, and, on January 28, 1998, a supplementary notice was published inviting further comment. Having considered the comments received, the Executive Director has decided to terminate the rulemaking and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

Availability of comments for public review.—Copies of comments received by the Office with respect to the proposed amendments are available for public review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact.—Executive Director, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone (202) 724–9250 (voice), (202) 426–1912 (TTY). This Notice will be made available in large print or braille or on computer disk upon request to the Office of Compliance.

SUPPLEMENTARY INFORMATION

The Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §1301 et seq., applies the rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204–206 of the CAA explicitly cover the General Accounting Office ("GAO") and the Library of Congress ("Library"). These sections apply the rights and protections of the Employee Polygraph Protection Act of 1988 ("EPPA"), the Worker Adjustment and Retraining Notification Act ("WARN Act"), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").

On October 1, 1997, the Executive Director of the Office of Compliance ("Office") published a Notice of Proposed Rulemaking ("NPRM") proposing to extend the Procedural Rules of the Office to cover GAO and the Library and their employees for purposes of proceedings involving alleged violations of sections 204–206, as well as proceedings involving alleged violations of section 207, which prohibits intimidation and retaliation for exercising rights under violations of section 207, which prohibits intimidation and retaliation for exercising rights under the CAA. 143 CONG. REC. S10291 (daily ed. Oct. 1, 1997). The Library submitted comments in opposition to adoption of the proposed amendments and raising questions of statutory construction. On January 28, 1998, the Executive Director published a Supplementary Notice of Proposed Rulemaking ("Supplementary NPRM") requesting further comment on the issues raised by the Library. 144 CONG. REC. S86 (daily ed. Jan. 28, 1998). Comments in response to the Supplementary NPRM were submitted by GAO, the Library, a union of Library employees, and a committee of the House of Representatives.

The comments expressed divergent views as to the meaning of the relevant statutory provisions. The CAA extends rights, protections, and procedures only to certain defined "employing offices" and "covered employees." The definitions of these terms in section 101 of the CAA, which apply throughout the CAA generally, omit GAO and the Library and their employees from coverage, but sections 204–206 of the CAA expressly include GAO and the Library and their employees within the definitions of "employing office" and "covered employee" for purposes of those sections. Two commenters argued that the provisions of sections 401–408, which establish the administrative and judicial procedures for remedying violations of sections 204–206, refer back to the definitions in section 101 "without linking to the very limited coverage" of the instrumentalities in sections 204–206, and therefore do not cover GAO and the Library and their employees. However, two other commenters argued to the contrary. One stated that, because employees of the instrumentalities were given the protections of sections 204–206, "the concomitant procedural rights" of sections 401–408 were also conferred on them; and the other commenter argued that construing the CAA to grant rights but not remedies would defeat the stated legislative purpose, "since a right without a remedy is often no right at all." The four commenters also expressed divergent views about whether GAO and the Library and their employees, who were not expressly referenced by section 207, are nevertheless covered by the prohibition in that section against retaliation and reprisal for exercising applicable CAA rights.

Having considered that the comments received express such opposing views of the statute, the Executive Director has decided to terminate the rulemaking without adopting the proposed amendments and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

In light of the statutory questions raised, it remains uncertain whether employees of GAO and the Library have the statutory right to use the administrative and judicial procedures under the CAA, and whether GAO and the Library may be charged as respondent or defendant under those procedures, where violations of sections 204–207 of the CAA are alleged. The Office will continue to accept any request for counseling or mediation and any complaint filed by a GAO or Library employee and/or alleging a violation by GAO or the Library. Any objection to jurisdiction may be made to the hearing officer or the Board under sections 405–406 or to the court during proceedings under sections 407–408 of the CAA. Furthermore, the Office will counsel any employee who initiates such proceedings that a question has been raised as to the Office's and the courts' jurisdiction under the CAA and that the employee may wish to preserve rights under any other available procedural avenues.

The Executive Director's decision announced here does not affect the coverage of GAO and the Library and their employees with respect to proceedings under section 215 of the CAA (which applies the rights and protections of the OSHAct) or *ex parte* communications. On February 12, 1998, the Executive Director, with the approval of the

Board, published a Notice of Adoption of Amendments amending the Procedural Rules to include such coverage. 144 CONG. REC. S720 (daily ed. Feb. 12, 1998).

Signed at Washington, D.C., on this 12th day of May, 1998.

RICKY SILBERMAN,
Executive Director, Office of Compliance.

AMERICAN MISSILE PROTECTION ACT OF 1998

Mr. FAIRCLOTH. Mr. President, this morning, the Senate failed to invoke cloture on S. 1873, the American Missile Protection Act of 1998. The bill is simple and its purpose can be stated very easily by reciting Section 3 in its entirety. "It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)."

Everyone knows that it is necessary to first vote to stop endless debate on a bill when a filibuster has been threatened, then, after cloture, we can have limited debate followed by a vote on the bill itself. From this morning's vote, it can be seen that more than 40 percent of my colleagues feel that it should be the policy of the United States to keep our citizens exposed to the risks of a ballistic missile attack.

Mr. President, I know that the Cold War is over. Unfortunately, although some would like to believe otherwise, this does not mean that we are one happy world, where all countries are working in mutual cooperation. It is no time for the United States to let down its guard or to cease doing everything possible to maintain our national security.

The nuclear testing in India this week should shake some sense into those calling for the U.S. to disarm itself of our nuclear deterrent capability, as if that would set an example to the rest of the world. We cannot "uninvent" nuclear weapons everywhere in the world. Therefore, we must do the next best thing—prepare our best defense.

During the Cold War standoff with the Soviet Union, we operated under a system known as MAD, for Mutually Assured Destruction. No country, back then, would attack us with a nuclear weapon because there was full realization that it would face certain annihilation because we could and would retaliate in kind, and with greater strength. MAD was never a completely risk-free strategy, though. We had to rely on the hope that other governments would act responsibly and not put their citizens in the path of a direct, retaliatory missile hit. This was the best we could do back then. MAD has outlived its usefulness today because we have the capability to protect ourselves better—we now have the ability to develop defensive technologies that can give us a system that will knock out a ballistic missile before it can land on one of our cities.

It should be clear to everyone that in today's more complicated world the threat of a ballistic missile attack is not confined to a couple of superpowers; there is a greater risk than ever before of a launch against the U.S., either by accident or design, from any of a number of so-called "rogue" nations. And, with the additional risk that chemical or biological weapons can be launched using the same ballistic missile technology as is used for nuclear weapons delivery, the threat is more widespread and we must defend against it.

Without National Missile Defense, there is a greater risk that an incident, even one involving chemical or biological weapons, could escalate into full scale nuclear war. If we must stick with a MAD strategy, we will have to retaliate once we identify a ballistic missile launch at the U.S. It would be much better to eliminate those missiles with a defensive system, and then determine what most appropriate response, diplomatic or military, we would undertake.

Ignoring that National Missile Defense can keep us from an escalating nuclear war, critics of the American Missile Protection Act, through twisted logic, say that if the U.S. builds a defensive capability, this will drive the world closer to a nuclear war. Their argument goes something like this—if we can defend against a ballistic missile attack, there is nothing that will stop us from striking another country first because we no longer have to worry about retaliation. As incredible as it may sound, they say that a National Missile Defense is actually an act of aggression.

In order to buy into such an argument, however, you have to first assume that the United States has been standing by, waiting to take over the world with its nuclear defensive arsenal, but the Soviet bear kept us in our cage. You would have to believe that Americans have been so intent on spreading democracy around the world that we would attack any country that would not adopt our free system of government and force democracy upon its peoples.

No, Mr. President, building a National Missile Defense is not an act of aggression that would free us up to launch an unprovoked attack on other countries. It is an act of common sense in a dangerous world.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and one nomination which was referred to the Committee on Governmental Affairs.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT CONCERNING THE INDIAN NUCLEAR TESTS ON MAY 11, 1998—MESSAGE FROM THE PRESIDENT—PM 125

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

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.*

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM 126

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

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, covered 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 and 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*.

MESSAGES FROM THE HOUSE

At 1:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1021. An act to provide for a land exchange involving certain National Forest System lands within the Routt National Forest in the State of Colorado.

H.R. 2217. An act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes.

H.R. 2841. An act to extend the time required for the construction of a hydroelectric project.

H.R. 2886. An act to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System.

H.R. 3723. An act to authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 255. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 262. Concurrent resolution authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds.

H. Con. Res. 263. Concurrent resolution authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1605. An act to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 629) to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. DAN SCHAEFER of Colorado, Mr. BARTON of Texas, Mr. DINGELL, and Mr. HALL of Texas, as the managers of the conference on the part of the Houses.

The message further announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints the following Members of the House to the Canada-United States Interparliamentary Group, in addition to Mr. HOUGHTON of New York, Chairman, appointed on April 27, 1998: Mr. GILMAN, Mr. HAMILTON, Mr. CRANE, Mr. LAFALCE, Mr. OBERSTAR, Mr. SHAW, Mr. LIPINSKI, Mr. UPTON, Mr. STEARNS, Mr. PETERSON of Minnesota, and Mr. DANNER.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2217. An act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2841. An act to extend the time required for the construction of a hydroelectric project; to the Committee on Energy and Natural Resources.

H.R. 2886. An act to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System; to the Committee on Energy and Natural Resources.

H.R. 3723. An act to authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes; to the Committee on the Judiciary.

Pursuant to the order of today, May 13, 1998, the following bill was ordered referred to the Committee on Finance:

S. 1415. A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to

prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; ordered, referred to the Committee on Finance until 9:00 p.m. on Thursday, May 14, 1998 to report or be discharged.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times, and placed on the Calendar:

H.R. 1021. An act to provide for a land exchange involving certain National Forest Systems lands within the Routt National Forest in the State of Colorado.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-391. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

SENATE RESOLUTION NO. 163

Whereas, Federal departments such as the Environmental Protection Agency have sought to implement strict standards on American farmers regarding pesticide use; and

Whereas, Certain nations allow the use of pesticides that are prohibited for use by American farmers and the export to the United States of agricultural products growth with the assistance of these pesticides; and

Whereas, This provides an unfair advantage to other nations and their citizens over American farmers and American agricultural workers who depend on this productivity for their livelihood; and

Whereas, The United States' agriculture is a vital industry to the nation's economy and quality of life; and

Whereas, Protecting our citizens by proven science and policy is of paramount importance to American citizens; and

Whereas, No nation should be allowed to export items into our nation using methods such as certain pesticides that the government of the United States prohibits its own farmers from using based on debatable claims of health and environmental concerns; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to prohibit the importation of agricultural and other food items from nations that do not have the same requirements, standards, and restrictions on allowable pesticides and chemicals used in the production, preservation, and growth of the products in future trade agreements; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-392. A resolution adopted by the Senate of the Legislature of the Commonwealth of Massachusetts; to the Committee on Appropriations.

RESOLUTION

Whereas, although we believe that the United States should retain its position as the strongest military Nation in the world, we also believe that the security of our Nation is dependent fundamentally not on military might, but on the well-being and vitality of our citizens; and

Whereas, programs which sustain and improve the health, education, and affordable housing, environmental protection, and safety of our citizens are being transferred from the Federal to the State governments; and

Whereas, the funds being provided by the Federal Government to the States are insufficient to fulfill these responsibilities; and

Whereas, the seven countries currently identified as our potential adversaries have a combined military budget of 15 billion dollars, while the United States military budget for 1997 is 265 billion dollars; and

Whereas, the United States military budget remains at cold war levels and contains: 114 billion dollars not requested by the Pentagon, 25 billion dollars for 10,000 nuclear weapons and their delivery systems, and 40 billion dollars in excess and what many former military leaders and leading executives consider sufficient; and

Whereas, current Pentagon spending outweighs all military threats, and creates fewer jobs than increased spending on domestic programs would deliver; and

Whereas, shifting funds from the military to repairing our infrastructure would dramatically improve the lives of our citizens and strengthen our ability to complete successfully in the world market; and

Whereas, sufficient amounts of money need to be redirected from the military budget to the several States so that the States can meet the critical needs of rebuilding communities and inner cities, repairing schools, educating children, reducing hunger, providing housing, improving transportation, protecting the environment, and obtaining a decent level of health care and safety for all of our citizens, thereby increasing fundamentally our security and well-being; Now, therefore, be it

Resolved, That the Massachusetts Senate memorialize the President and the Congress of the United States to shift sufficient funds from the military to the States for the improvement of the lives of citizens; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, the Presiding Officers of each branch of Congress and the Members thereof from this commonwealth.

POM-393. A resolution adopted by the House of the Legislature of the Commonwealth of Massachusetts; to the Committee on Appropriations.

RESOLUTION

Whereas, in August of 1996, the United States Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, so-called; and

Whereas, Congress in said act forbade use of Federal funds to provide SSI benefits and food stamp benefits for financially needy immigrants lawfully residing in the United States; and

Whereas, legal immigrants pay taxes and contribute in many ways to the productivity and vitality of our communities; and

Whereas, the United States was founded and built by immigrants; and

Whereas, Congress should be applauded for the restoration of SSI benefits for legal immigrants through passage of the Balanced Budget Act of 1997; and

Whereas, Congress must continue in this effort by resolving to restore its financial responsibility in the Food Stamp Benefits Program as the present situation imposes a financial burden on the States and needy residents of the States; therefore, be it

Resolved, That the Massachusetts House of Representatives respectfully requests that the President and the Congress of the United States restore to the States the authority to provide federally funded food stamp benefits to needy, lawful residents of the United States; and be it further

Resolved, That the Massachusetts House of Representatives respectfully requests that the President and the Congress of the United States restore to the Commonwealth adequate Federal funding to allow for the provision of food stamp benefits for financially needy immigrants lawfully residing in this Commonwealth; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the President of the United States of America, the Presiding Officer of each branch of the United States Congress and each Member of the Massachusetts congressional delegation.

POM-394. A resolution adopted by the Board of Supervisors of the County of Yuba, California relative to Beale Air Force Base; to the Committee on Armed Services.

POM-395. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

ASSEMBLY JOINT RESOLUTION NO. 52

Whereas, on the night of July 17, 1944, two transport vessels loading ammunition at the Port Chicago naval base on the Sacramento River in California were suddenly engulfed in a gigantic explosion, the incredible blast of which wrecked the naval base and heavily damaged the town of Port Chicago, located 1.5 miles away; and

Whereas, everyone on the pier and aboard the two ships was killed instantly—some 320 American naval personnel, 200 of whom were Black enlisted men; and another 390 military and civilian personnel were injured, including 226 Black enlisted men; and

Whereas, the two ships and the large loading pier were totally annihilated and an estimated $12,000,000 in property damage was caused by the huge blast; and

Whereas, this single, stunning disaster accounted for nearly one-fifth of all Black naval casualties during the whole of World War II; and

Whereas, the specific cause of the explosion was never officially established by a Court of Inquiry, in effect clearing the officers-in-charge of any responsibility for the disaster and insofar as any human cause was invoked, laid the burden of blame on the shoulders of the Black enlisted men who died in the explosion; and

Whereas, following the incident, many of the surviving Black sailors were transferred to nearby Camp Shoemaker where they remained until July 31, when two of the divisions were transferred to naval barracks in Vallejo near Mare Island; another division, which was also at Camp Shoemaker until July 31, returned to Port Chicago to help with the cleaning up and rebuilding of the base; and

Whereas, many of these men were in a state of shock, troubled by the vivid memory of the horrible explosion; however, they were provided no psychiatric counseling or medical screening, except for those who were obviously physically injured; none of the men,

even those who had been hospitalized with injuries, was granted survivor leaves to visit their families before being reassigned to regular duties; and none of these survivors was called to testify at the Court of Inquiry; and

Whereas, Captain Merrill T. Kline, Officer-in-Charge of Port Chicago, issued a statement praising the African American enlisted men and stating that "the men displayed creditable coolness and bravery under those emergency conditions"; and

Whereas, after the disaster, white sailors were given 30 days' leave to visit their families—according to survivors, this was the standard for soldiers involved in a disaster—while only African American sailors were ordered back to work the next day to clean and remove human remains; and

Whereas, after the disaster, the preparation of Mare Island for the arrival of African American sailors included moving the barracks of white sailors away from the loading area in order to be clear of the ships being loaded in case of another explosion; and

Whereas, the survivors and new personnel who later were ordered to return to loading ammunition expressed their opposition, citing the possibility of another explosion; the first confrontation occurred on August 9 when 328 men from three divisions were ordered out to the loading pier; the great majority of the men balked, and eventually 258 were arrested and confined for three days on a large barge tiered to the pier; and

Whereas, fifty of these men were selected as the ring-leaders and charged with mutiny, and on October 24, 1944, after only 80 minutes of a military court, all 50 men were found guilty of mutiny—10 were sentenced to 15 years in prison, 24 sentenced to 12 years, 11 sentenced to 10 years, and five sentenced to eight years; and all were to be dishonorably discharged from the Navy; and

Whereas, after a massive outcry the next year, in January 1946, 47 of the Port Chicago men were released from prison and "exiled" for one year overseas before returning to their families; and

Whereas, in a 1994 investigation, the United States Navy stated that "there is no doubt that racial prejudice was responsible for the posting of only African American enlisted personnel to loading divisions at Port Chicago"; and

Whereas, in the 1994 investigation, the United States Navy, prompted by Members of Congress, admitted that the routine assignment of only African American enlisted personnel to manual labor was clearly motivated by race; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to act to vindicate the sailors unjustly blamed for, and the sailors convicted of mutiny following, the Port Chicago disaster, and to rectify any mistreatment by the military of those sailors; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.

POM-396. A resolution adopted by the Council of the City of Pittsburgh, Pennsylvania relative to Federal credit unions; to the Committee on Banking, Housing, and Urban Affairs.

POM-397. A resolution adopted by the Mayor and Councilmen of the City of Oak Ridge, Tennessee relative to the Department of Energy Laboratory for Comparative and Functional Genomics in Oak Ridge (TN); to the Committee on Commerce, Science, and Transportation.

POM-398. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Commerce, Science, and Transportation.

HOUSE JOINT RESOLUTION 98-1018

Whereas, the Internet is a massive global network spanning local government, state, and international borders; and

Whereas, transmissions over the Internet are made through packet-switching, a process that makes it not only impossible to determine with any degree of certainty the precise geographic route or endpoints of specific Internet transmissions but infeasible to separate interstate from intrastate Internet transmissions or domestic from foreign transmissions; and

Whereas, the United States Supreme Court has ruled that state taxation of companies operating outside the borders of the state is constitutional only if there is a substantial connection between the state and the company and the tax is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to services provided by the state; and

Whereas, the tax laws and regulations of local governments, state governments, and the federal government were established long before the Internet or interactive computer services became available; and

Whereas, taxation of Internet transmissions by local, state, and federal governments without a thorough understanding of the impact such taxation would have on Internet users and providers could have unintentional and unpredictable consequences and may be unconstitutional if it does not meet the tests set forth by the United States Supreme Court; and

Whereas, the United States Congress is being asked to consider federal legislation that would establish a national policy on the taxation of the Internet and other interactive computer services; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-first General Assembly of the State of Colorado, the Senate concurring herein: That the Colorado General Assembly does not support at this time any Congressional action that would establish a national policy expanding taxation of the Internet and other interactive computer services; *be it further*

Resolved, That the Colorado General Assembly endorses a moratorium on taxation of the internet and interactive computer services until the impact of such taxation can be thoroughly studied and evaluated; *be it further*

Resolved, That the Colorado General Assembly encourages Congress to establish or appoint a consultative group to study, evaluate, and report back to Congress on the impact of any taxation on the use of the Internet and other interactive computer services and the users of those services; *be it further*

Resolved, That any consultative group established or appointed by Congress should include state and local governments, consumer and business groups, and other groups and individuals that may be impacted by a national policy on the taxation of the internet and other interactive computer services; *be it further*

Resolved, That copies of this Joint Resolution be sent to the United States Senate, the United States House of Representatives, Governor Roy Romer, the National Governors' Association, and each member of the Colorado Congressional Delegation.

POM-399. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Commerce, Science, and Transportation.

RESOLUTION NO. 6

Whereas, the Aircraft Repair Station Safety Act of 1997 would provide for more stringent standards for certification of foreign repair stations by the Federal Aviation Administration and would revoke the certification of any repair facility that knowingly uses defective parts; and

Whereas, the Aircraft Repair Station Safety Act of 1997 would require all maintenance facilities, whether domestic or foreign, to adhere to the same safety and operating procedures; now, therefore, be it

Resolved by the Legislature of the State of Minnesota, That it urges the President and Congress of the United States to enact the Aircraft Repair Station Safety Act of 1997; be it further

Resolved, That the Secretary of State of the State of Minnesota is directed to prepare copies of this memorial and transmit them to the President and Vice-President of the United States, the President and the Secretary of the United States Senate, the Speaker and the Clerk of the United States House of Representatives, the chair of the Senate Committee on Commerce, Science, and Transportation, the chair of the House Committee on Transportation and Infrastructure, and Minnesota's Senators and Representatives in Congress.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THOMPSON (for himself and Mr. GLENN):

S. 2071. A bill to extend a quarterly financial report program administered by the Secretary of Commerce; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself and Mr. FRIST):

S. 2072. A bill to amend the Internal Revenue Code of 1986 to enhance the global competitiveness of United States businesses by permanently extending the research credit, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. DEWINE, and Mr. ABRAHAM):

S. 2073. A bill to authorize appropriations for the National Center for Missing and Exploited Children; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 2074. A bill to guarantee for all Americans quality, affordable, and comprehensive health care coverage; to the Committee on Finance.

By Mr. ASHCROFT (for himself and Mr. MCCONNELL):

S. 2075. A bill to provide for expedited review of executive privilege claims and to improve efficiency of independent counsel investigations; to the Committee on the Judiciary.

S. 2076. A bill to provide reporting requirements for the assertion of executive privilege, and for other purposes; to the Committee on the Judiciary.

By Mr. FORD (for himself, Mr. BOND, Mr. DORGAN, and Mr. LEAHY):

S. 2077. A bill to maximize the national security of the United States and minimize the

cost by providing for increased use of the capabilities of the National Guard and other reserve components of the United States; to improve the readiness of the reserve components; to ensure that adequate resources are provided for the reserve components; and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. ROBERTS, Mr. KERREY, Ms. MOSELEY-BRAUN, Mr. HAGEL, and Mr. ALLARD):

S. 2078. A bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 230. A resolution to authorize the production of records by the Select Committee on Intelligence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself and Mr. FRIST):

S. 2072. A bill to amend the Internal Revenue Code of 1986 to enhance the global competitiveness of United States businesses by permanently extending the research credit, and for other purposes; to the Committee on Finance.

RESEARCH TAX CREDIT LEGISLATION

Mr. DOMENICI. Mr. President, advanced technologies drive a significant part of our nation's economic strength. Our economy and our wonderful standard of living depend on a constant influx of new technologies, processes, and products from our industries.

Many countries can provide labor at lower costs than the United States. As any new product matures, competitors using overseas labor can frequently find a way to undercut our production prices. We maintain our lead by constantly improving our products through encouragement of innovation.

The majority of new products require industrial research and development to reach the market stage. I want to encourage that research and development to create new products to ensure that our factories stay busy and that our workforce stays fully employed at high salaried jobs. I want more of our large multi-national companies to select the United States as the location for their R&D. R&D done here creates American jobs. And frequently the benefits of R&D in one area apply in another area; I want those spin-off benefits in this country, too.

The federal government has used the Research Tax Credit to encourage companies to perform research. But many studies document that the present form of this Tax Credit is not providing as much stimulation to industrial R&D as it could. Today, I introduce legislation to improve the Research Tax Credit.

The single most important change I'm proposing in the Research Tax Credit is to make it permanent. The credit has never been permanent, since Congress created it in 1981. Many studies point out that the temporary nature of the Credit has prevented companies from building careful research strategies. A recent study by Coopers and Lybrand claimed a $41 billion stimulus for the economy by 2010, with $13 billion added to the economy's productive capacity by 2010. Many of my Senate colleagues have endorsed legislation that includes this critical action, more than twenty at last count.

My legislative proposal goes further. The current Credit references a company's research intensity back to their level in the 1984–88 time period. That time period is too outdated to meet today's dynamic market conditions. Many companies now are operating in dramatically different markets, many with totally new product lines. My legislation allows a company to choose a four year period in the last ten years that best matches their own needs. This allows companies to tailor and optimize research strategies to match current market conditions.

The current approach has a provision that severely restricts the ability of many start-up companies to benefit from the full impact of the Credit. Recent analysis shows that 5 out of 6 start-up companies receive reduced benefits because of a provision that limits their allowable increase in research expenditures to half of their current expenditures. I'm concerned when start-up companies aren't receiving full benefit from this Credit. These are just the companies that tend to drive the innovative cycle in this country, they are the ones that frequently bring out the newest leading-edge products. My legislation allows start up companies for their first ten years to take full credit for their increases in research costs.

My legislation addresses several other shortcomings in the current Credit. Now there is a Basic Research Credit" allowed, but rarely used. It is defined to include only research with "no commercial interest." Now, I don't know too many companies that want to support—much less admit to their stockholders that they are supporting—research with no commercial interest. The idea of this clause was to encourage support of long term research; the kind that benefits far more than just the next product improvement. This is the kind of research that can enable a whole new product or service. We need to encourage this long term research. My legislation adds an incentive for this type of research by including any research that is done for a consortium of U.S. companies or any research that is destined for open literature publication. These two additions will include a lot more long term research that has future product applications. I've also allowed this credit to apply to research done in national labs, so companies can select the best source of research for any particular project.

And finally my legislation recognizes the importance of encouraging companies to use research capabilities wherever they exist in the country, whether in other businesses, universities, or national labs. The current credit disallows 35% of all expenses invested in research performed under an external contract—my legislation allows all such expenses to apply towards the Credit. This should encourage creation of partnerships, where different partners can leverage their individual strengths. These partnerships enable our companies to perform research more efficiently, that can further strengthen our economy.

In summary, Mr. President, this proposed Bill significantly strengthens incentives for private companies to undertake search that leads to new processes, new services, and new products. The result is stronger companies that are better positioned for global competition. Those stronger companies will hire more people at higher salaries with real benefits to our national economy and workforce.

By Mr. HATCH (for himself, Mr. DEWINE, and Mr. ABRAHAM):

S. 2073. A bill to authorize appropriations for the National Center for Missing and Exploited Children; to the Committee on the Judiciary.

THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN AUTHORIZATION ACT OF 1998

Mr. HATCH. Mr. President, today I am proud to introduce the National Center for Missing and Exploited Children Authorization Act of 1998. This bill recognizes the outstanding record of achievements of this outstanding organization and will enable NCMEC to provide even greater protection of our Nation's children in the future.

As part of the Missing Children's Assistance Act, the Office of Juvenile Justice and Delinquency Prevention has selected and given grants to the Center for the last 14 years to operate a national resource center located in Arlington, Virginia and a national 24-hour toll-free telephone line. The Center provides invaluable assistance and training to law enforcement around the country in cases of missing and exploited children. The Center's record is quite impressive, and its efforts have led directly to a significant increase in the percentage of missing children who are recovered safely.

In fiscal year 1998, the Center received an earmark of $6.9 million in the

Departments of Commerce, Justice, and State Appropriations conference report. In addition, the Center's Jimmy Ryce Training Center received 1.185M in this report.

This legislation directs OJJDP to make a grant to the Center and authorizes appropriations up to $10 million in fiscal years 1999 through 2003. The authorization would, of course, be subject to appropriations. The bill thus continues and formalizes NCMEC's long partnership with the Justice Department and OJJDP.

NCMEC's exemplary record of performance and success, as demonstrated by the fact that NCMEC's recovery rate has climbed from 62% to 91%, justifies action by Congress to formally recognize it as the nation's official missing and exploited children's center, and to authorize a line-item appropriation. This bill will enable the Center to focus completely on its missions, without expending the annual effort to obtain authority and grants from OJJDP. It also will allow the Center to expand its longer-term arrangements with domestic and foreign law enforcement entities. By providing an authorization, the bill also will allow for better congressional oversight of the Center.

The record of the Center, described briefly below, demonstrates the appropriateness of this authorization.

For fourteen years the Center has served as the national resource center and clearinghouse mandated by the Missing Children's Assistance Act. The Center has worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of Treasury, the State Department, and many other federal and state agencies in the effort to find missing children and prevent child victimization.

The trust the federal government has placed in NCMEC, a private, non-profit corporation, is evidenced by its unique access to the FBI's National Crime Information Center, and the National Law Enforcement Telecommunications System (NLETS).

NCMEC has utilized the latest in technology, such as operating the National Child Pornography Tipline, establishing its new Internet website, www.missingkids.com, which is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, and, beginning this year, establishing a new CyberTipline on child exploitation.

NCMEC has established a national and increasingly worldwide network, linking NCMEC online with each of the missing children clearinghouses operated by the 50 states, the District of Columbia and Puerto Rico. In addition, NCMEC works constantly with international law enforcement authorities such as Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others. This network enables NCMEC to transmit images and information regarding missing children to law enforcement across America and around the world instantly. NCMEC also serves as the U.S. State Department's representative at child abduction cases under the Hague Convention.

The record of NCMEC is demonstrated by the 1,203,974 calls received at its 24-hour toll-free hotline, 1(800)THE LOST, the 146,284 law enforcement, criminal/juvenile justice, and healthcare professionals trained, the 15,491,344 free publications distributed, and, most importantly, by its work on 59,481 cases of missing children, which has resulted in the recovery of 40,180 children.

NCMEC is a shining example of the type of public-private partnership the Congress should encourage and recognize. I urge my colleagues to support this legislation, which would help improve the performance of the National Center for Missing and Exploited Children and thus the safety of our Nation's children.

I ask for unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) For 14 years, the National Center for Missing and Exploited Children (referred to in this section as the "Center") has—

(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act of 1984; and

(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization.

(2) Congress has given the Center, which is a private non-profit corporation, unique powers and resources, such as having access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System.

(3) Since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the Center established a new CyberTipline on child exploitation, thus becoming "the 911 for the Internet".

(4) In light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ("CA") flag to provide the Center immediate notification in the most serious cases, resulting in 642 "CA" notifications to the Center and helping the Center to have its highest recovery rate in history.

(5) The Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly.

(6) From its inception in 1984 through March 31, 1998, the Center has—

(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1-800-THE-LOST) and currently averages 700 calls per day;

(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

(C) disseminated 15,491,344 free publications to citizens and professionals; and

(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children.

(7) The demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 "hits" every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, helping to cause such results as a police officer in Puerto Rico searching the Center's website and working with the Center to identify and recover a child abducted as an infant from her home in San Diego, California, 7 years earlier.

(8) In 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center.

(9) The programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent.

(10) The Center is now playing a leading role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States.

(11) The Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children.

(12) The Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy.

(13) In light of its impressive history, the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency

Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.

(14) An official congressional authorization will increase the level of scrutiny and oversight by Congress and continue the Center's long partnership with the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(15) The exemplary record of performance and success of the Center, as exemplified by the fact that the Center's recovery rate has climbed from 62 to 91 percent, justifies action by Congress to formally recognize the National Center for Missing and Exploited Children as the Nation's official missing and exploited children's center, and to authorize a line-item appropriation for the National Center for Missing and Exploited Children in the Federal budget.

SEC. 2. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

(a) GRANTS.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall annually make a grant to the National Center for Missing and Exploited Children, which shall be used to—

(1) operate the official national resource center and information clearinghouse for missing and exploited children;

(2) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

(A) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

(B) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

(3) coordinate public and private programs that locate, recover, or reunite missing children with their families;

(4) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

(5) provide technical assistance and training to law enforcement agencies, State, and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

(6) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section, $10,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

By Mr. WELLSTONE:

S. 2074: A bill to guarantee for all Americans, quality, affordable, and comprehensive health care coverage; to the Committee on Finance.

HEALTHY AMERICANS ACT

Mr. WELLSTONE. Mr. President, today I introduce the Healthy Americans Act. Colleagues will be hearing more about it because there will be amendments that I will offer on this subject here on the floor of the Senate; and with every bit of ability I have as a Senator, I will push this piece of legislation here and talk about it in my State of Minnesota and around the country.

The Healthy Americans Act insures the uninsured; guarantees affordable, comprehensive insurance for all, and ensures quality health care through its patient protection provisions.

Let me start out by providing some context, Mr. President. I have two charts beside me to demonstrate my points. In 1987, we had about 32 million Americans who were uninsured. Today, as you can see from this graph beside me, we are up to close to 45 million Americans who are uninsured. Mr. President, since we debated the subject of universal health care coverage several years ago, a debate both of us were very involved in, we have had about a million more people a year who have been dropped from coverage.

Assuming the same economic growth with no economic downturn, which is a very rosy assumption, we will continue to see this same kind of a profile where we will get up pretty close to 48 million Americans by the year 2005 who will have no health insurance coverage.

So this is still a crisis for many Americans, and this is an issue that walks into the living rooms of many families and stares them in the face.

The second chart shows the actual percent of annual family income, on average, that goes to premiums and out-of-pocket payments in the form of deductibles, copays or other amounts of money that people have to spend on health care. It is, I think, very important to look at this.

First, what you see is that at the bottom end of the income ladder, families with annual incomes of $30,000 or less are spending an inordinate, and I would say unaffordable, percent of their income for their health care. If you look at families with incomes between $10,000 and $20,000, you can see they are spending on average 8 percent of their income on health care expenses. Then when you look at families with incomes under $10,000, you can see that the average family is paying well over 20 percent of their annual income, and these are the people who can least afford to make that kind of payment.

Next, you can see that for families with annual incomes of $30,000 or more, the average amount of that income spent on premiums, deductibles and copays drops to below 5 percent on average—I would say a more affordable amount. But don't forget these are just averages. Many families at every income level are spending more than 10 percent of their family income on health care, especially if someone in the family has a serious illness. That is not affordable. That is not fair.

Now if we look back at the same chart we can see what would happen under the Healthy Americans Act. All Americans would pay what they can afford—people should pay what they can afford—but it will be well within their means. For those hardest-pressed families, people would pay no more than ½ percent of their income. Those with higher incomes would pay no more than 3 or 5 percent; and no family, including those with at the highest income levels, would pay above 7 percent of their annual income for health care.

So, Mr. President, as you can see, these two charts demonstrate the need to provide coverage for the uninsured and to make health care coverage affordable for all.

The Healthy Americans Act does just that. First of all, it covers the uninsured, which I think is the first and most important thing to do. It builds, I say to my colleague from Indiana, on existing State programs. This is universal coverage with maximum flexibility. In addition to covering the uninsured, many of them moderate-income and low-income citizens, we are going to make sure that health care coverage is affordable for all citizens.

In other words, we are going to have family protection. So, first, we cover the uninsured. Then we have family protection, and we say no family pays more than 7 percent of family income on health care, and it goes from about 0.5 percent to 7 percent depending on income. We include Medicare recipients as well. The income profile of elderly people is not that high and they need income protection, too.

So, again, first, we cover the uninsured, expanding existing programs; second, we have protection for family income; third, we make sure there is a good package of benefits comparable to what we have here in the Congress; fourth of all, we have strong consumer protections, strong patient protections, something we have been talking about every day; fifth of all, we expand coverage to include some needed benefits that are long overdue.

In Minnesota, and around the country—it could very well be the case in Indiana, Mr. President—a lot of elderly people are paying well over 30 percent of their monthly income just on prescription drug costs. We cover prescription drug costs and add that benefit to Medicare. We have good, strong mental health parity, and substance abuse coverage as well. And this is, I think, really important.

The way all of this comes together for the States is to have a maximum amount of flexibility. And what we are essentially saying to States is, "Look, here is what we decided in the Senate. We are going to make sure the uninsured are covered. That is phase one. The second thing, we are going to make sure there is protection of family income. The third thing is we are going to make sure there is a good package of benefits, at least as good as what we have in the Congress. The fourth thing that we are going to do is make sure there is good, strong patient protection. If you agree to that, States, there

will be Federal money that will go to you on a, roughly speaking, 70–30 matching basis. And you decide how you want to do it. In other words, the funds are there for you to use if you agree to lay out a plan for universal, affordable, comprehensive health care and follow it over the next 4 years. This is a good strategy for going into the next century; it is a good strategy for reaching universal coverage in our country." We are offering the States a carrot; not a stick.

No State has to do it. There is maximum flexibility. I say to my colleague from Indiana—we are friends even though we do not always agree on issues—we will not have this ideological debate about single payer or "pay or play" and all these other things that people do not understand. This piece of legislation, the Healthy Americans Act, leaves it up to the States.

This legislation says to Minnesota, let us expand. We are already above 90 percent on the number insured in my State. Let us expand the coverage for these people who still have no insurance. Let us have some protection of family income, a very big issue for a lot of people who are covered but they are paying way more than they can afford, especially when you include the deductibles and copays and the premiums.

What we are saying to Minnesota or Indiana or California or New York: Let us cover the uninsured. We can build on what you are already doing with the State Children's Health Insurance Plan, by expanding it to adults and more children. Let us make sure there is family income protection. Let us make sure there is patient protection and a good package of benefits that is comprehensive. And you decide how you want to do it. You decide how you want to do it in Indiana. You decide how you want to do it in Minnesota or California or New York or North Carolina or Florida or New Hampshire or Iowa—you name it. You decide how you want to do it.

But the point is, if a State wants to participate—and I think most States will be very interested in participating in this piece of legislation—then there will be Federal grant money that will come on, roughly speaking, a 70–30 matching basis.

Mr. President, I would like to talk a little bit about the cost of this, because I do not want to introduce a piece of legislation and treat people in the United States of America as if they do not have intelligence. If we think something is important, then we invest in it. This piece of legislation, as we have costed it out and done our actuarial estimates, goes like this: In the first year—we are just trying to cover the uninsured—it will be $42 billion; year two, it gets up to $48 billion; year three, $62 billion; years four and five—when we include both coverage for the uninsured and now also providing the family income protection, it gets up to $85 billion, and then, $98 billion.

You would add an additional, roughly speaking, $26 billion to $39 billion to that estimate in the last 2 years if you are going to cover Medicare recipients, making sure they do not pay more than 7 percent of annual income for health care coverage and making sure that prescription drug costs are covered. Now, I say to colleagues, the maximum gets to be above $100 billion—we have estimated this to be $137 billion at the very end of this 5 year period.

How do we pay for this? I will tell you. We have hundreds of billions of dollars of what many of us have called corporate welfare, a variety of different deductions and tax breaks, many of which I do not believe are necessary. In addition, we have some military weaponry that I think there is a very legitimate debate as to whether or not we need to be spending money on some of these items. And in addition, we take a look at some of the domestic programs that I think people can call into question as to whether or not they are essential.

But, Mr. President, my point is that we offset the expenditure. We are not talking about taxpayers paying any more money. But what we are saying is that this is a worthwhile investment. We have a GDP of over $8 trillion, we have an economy at its peak performance, and we are being told that we cannot have universal health care coverage in the United States of America? We are being told that we cannot afford to make sure that every man, woman, and child has decent coverage? That there cannot be some protection of family income? That the uninsured can't be insured? That elderly people aren't able to get the care they need? That some patient protection for the people isn't possible? That is not acceptable. Of course it is possible. Of course we can do this. Of course we can do better as a nation. And that is what this piece of legislation says, Mr. President.

I just say to colleagues again that I have been disappointed that we have put this issue of universal coverage off the table. It should be put back on the table. I have had so many conversations with people in Minnesota, poignant conversations—it happens in other parts of the country, too—which are about health care. I will just give but one example. I think I may have given it one time before on the floor. But, after all, the legislation we introduce is all about people's lives. Why else should we be here? It is all about, hopefully, improving people's lives.

I will never forget a discussion with a woman whose husband I had met a year earlier. When I met him a year earlier, he was in bad shape. He is a young man, maybe 40 at most, a railroad worker struggling with cancer. And then I met her a year later out at a farm gathering, and she came up to me and she said, "I want you to come over and meet my husband again, Senator" or "PAUL." "He's a real fighter. The doctor said he only had 3 months to live, but it's a year later and he's still struggling. He's now in a wheelchair." And so we talked.

Then she took me aside, and she said, "Every day is a living hell. Every day I'm battling with these companies to find out what they're going to cover."

I do not think any American with a loved one who is struggling with an illness or a sickness should have to worry about whether or not there is going to be decent coverage. I think that is unacceptable. I think we can do better in America. I think it is time again to talk about humane, affordable, dignified health care for every man, woman, and child. That is what this Healthy Americans Act does.

I love ideas. I am really interested in policy. I am proud of the people who have helped me on this legislation: Dr. John Gilman in my office; Rick Brown, who is with the UCLA School of Public Health; Doctors Nicole Lurie and Steve Miles from Minnesota.

I like the fact that the Healthy Americans Act is a decentralized plan. I like that. I like the fact that it is simple. I like the fact that it gives States a lot of leeway, so different States can try different approaches, and we can see what works best.

But we do have here, colleagues, a commitment as a nation to make sure those people who are uninsured have health insurance, to make sure families do not go broke and are able to afford health insurance, to make sure it is a package of benefits as good as what we have. Shouldn't the people we represent have as good health care coverage as Members of the Congress have, and shouldn't they be guaranteed strong patient protections?

I think this is, in my not so humble opinion, an excellent piece of legislation. I think it is going to take a real battle to get it passed. But I will bring amendments out on the floor. I will do everything I can as a U.S. Senator to bring this to people in the country. I am absolutely convinced that this is one of the most important things we can do as a Senate to respond to a very real issue that affects the lives of so many people we represent.

By Mr. ASHCROFT (for himself and Mr. MCCONNELL)

S. 2075. A bill to provide for expedited review of executive privilege claims and to improve efficiency of independent counsel investigations; to the Committee on the Judiciary.

EXECUTIVE PRIVILEGE LEGISLATION

S. 2076. A bill to provide reporting requirements for the assertion of executive privilege, and for other purposes; to the Committee on the Judiciary.

THE EXECUTIVE ACCOUNTABILITY ACT OF 1998

Mr. ASHCROFT. Mr. President, I rise today in order to introduce two bills designed to address the abuse and misuse of executive privilege by the President, the Executive Accountability Act of 1998 and a companion bill designed to expedite appeals of executive privilege claims asserted in independent counsel investigations. I want to thank Senator MCCONNELL who has joined me as a co-sponsor of both these measures.

Executive privilege is just that—a privilege extended to the President, and the President alone, to be invoked in those rare circumstances in which the President must keep discussions about official acts secret from the courts, Congress and the American people in order to protect national security.

This President has abused this privilege. He has used it as a delaying tactic to try to shield the details of unofficial acts having nothing to do with national security, but everything to do with Mr. Clinton's personal legal problems. As I detailed in a letter to my colleagues back in March, the President's current claim of executive privilege is legally baseless. I would ask that that letter be included in the record.

Part and parcel of the President's abuse of executive privilege is his unwillingness to acknowledge the mere fact that he has asserted the privilege. Indeed, the President's lawyers recently have attacked the Independent Counsel's office for acknowledging the Court's entirely predictable rejection of the President's assertion of executive privilege. Apparently, the President wants to be able to assert the privilege and have a court rule on it, all without the knowledge of Congress or the American people.

This is an affront to Congress and the public. Congress has a vital interest in the development of the law of executive privilege. Until this Administration, grand jury investigations into presidential communications were rare. Congressional oversight hearings, by contrast, are commonplace. But Congress will have to live with whatever rules the courts develop concerning the scope of executive privilege. Without notice that the President is raising these claims, Congress cannot protect its interests by filing amicus briefs.

The President's covert assertion of executive privilege is of concern not just to Congress but to every citizen. Although a limited executive privilege is necessary to protect national security, the privilege is contrary to the public's right to know. As a consequence, asserting the privilege has historically come with a political cost. President Clinton has tried to enjoy the benefits of the privilege while avoiding these costs. We should ensure that if a President takes the extraordinary step of asserting executive privilege that he not be able to keep that action from the American people.

The Executive Accountability Act of 1998 addresses the problem of the covert use of executive privilege through the simple expedient of requiring full disclosure. If the President decides to invoke the privilege in court, both the President and the presiding judge must disclose that fact to Congress. If the court rules on a claim of executive privilege, the court must inform Congress. If the President decides to appeal an adverse ruling on a claim of executive privilege, he must also disclose that fact to Congress. If the Attorney General provides a written opinion concerning the validity of the privilege, that too should be shared with the Congress. Finally, the Act confirms that any Member of Congress has the capacity to file an amicus brief in any judicial proceeding in which the President asserts executive privilege. The legislation also builds in protections to ensure that none of these disclosures endangers national security.

I am also introducing a companion bill to address the President's misuse of executive privilege as a delaying tactic to try to run out the clock on the Independent Counsel's investigation. The bill would provide for expedited review of such claims and for a direct appeal to the Supreme Court. Hopefully, this provision will remove the temptation to use executive privilege claims as delaying tactics, and will force the President to think twice before asserting a spurious claim of privilege.

When properly confined to official acts affecting national security, executive privilege serves an important function. But when abused as a delaying tactic or to protect unofficial acts, the privilege in its distorted form becomes an unacceptable impediment to the public's right to know. These two bills impose accountability requirements on the executive to ensure that the privilege is used in an appropriate way. Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 28.

Section 594 of title 28, United States Code, is amended by adding at the end the following:

"(m) JUDICIAL REVIEW OF EXECUTIVE PRIVILEGE CLAIMS.—

"(1) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim asserting executive privilege in any investigation authorized pursuant to this chapter.

"(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim asserting executive privilege in any investigation authorized pursuant to this chapter shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order described in this subsection shall be issued by a single Justice of the Supreme Court of the United States.".

SEC. 2. EFFECTIVE DATE.

Section 594(m) of title 28, United States Code (as added by section 1 of this Act), applies to any claim of executive privilege asserted on or after January 1, 1998, except that, for purposes of an order described in section 594(m)(1) of title 28, United States Code (as added by section 1 of this Act), entered before the date of enactment of this Act, the time periods for appeal provided in section 594(m)(2) of that title 28, United States Code (as added by section 1 of this Act), shall begin running on the date of enactment of this Act.

S. 2076

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 "Executive Accountability Act of 1998".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Grand jury investigations into Presidential communications have been, to date, extraordinary and rare occurrences, and hopefully, will remain that way. Congressional oversight hearings, by contrast, are commonplace.

(2) If judicial decisions permit presidential aides to withhold crucial information from a grand jury investigating criminal misconduct, congressional inquiries will be stymied by similar claims of executive privilege.

(3) For these reasons, the proper scope of executive privilege is of concern to every Member of Congress, and every Member of Congress has an interest in being notified of assertions of executive privilege by the President and in having the opportunity to file amicus briefs in appropriate cases.

(4) In the context of the current litigation before Judge Norma Holloway Johnson, the President failed to acknowledge publicly that he asserted executive privilege to shield information from the grand jury.

(5) Indeed, lawyers for the President have protested that the outcome of Judge Johnson's order rejecting the President's claim of executive privilege became public.

(6) As a consequence, Members of Congress have not had a proper basis to decide whether to file amicus briefs apprising the court of the unique interests and views of Congress with respect to executive privilege.

SEC. 3. REPORTING REQUIREMENTS.

(a) INITIAL REPORT.—Whenever the President asserts executive privilege in a judicial action or proceeding, the President shall promptly report to Congress and provide an explanation of the reasons for such assertion in such detail as is consistent with national security.

(b) REPORT BY PRESIDING JUDGE OF ASSERTION.—Whenever, in a judicial action or proceeding, the President asserts executive

privilege, it shall be the duty of the presiding judicial officer in that action or proceeding promptly to report the assertion to Congress.

(c) REPORT BY PRESIDING JUDGE OF DISPOSITION.—Whenever in a judicial action or proceeding, the President asserts executive privilege, it shall be the duty of the presiding judicial officer in that action or proceeding promptly to report to Congress any order or ruling disposing of that claim and provide an explanation of the reasons for such disposition in such detail as is consistent with national security.

(d) AMICUS BRIEFS.—Any Member of either House of Congress shall have the right to file an amicus brief, regarding an assertion of executive privilege by the President, in any judicial action or proceeding in which that assertion is made.

(e) REPORT CONCERNING DECISION TO APPEAL.—Whenever the President decides to appeal an adverse disposition of a claim of executive privilege or to file a petition for certiorari in response to such adverse disposition, the President shall promptly report the decision to Congress.

(f) ADDITIONAL REQUIREMENT.—Whenever the President asserts executive privilege in any forum, the President shall forward to Congress any written legal opinion regarding the lawfulness of the assertion redacted as is consistent with national security.

(g) REPORT TO CONGRESS.—For purposes of this Act, providing notice or a report to the Senate Majority and Minority Leaders and the Speaker of the House and House Minority Leader shall constitute notice to Congress.

DEAR COLLEAGUE: The newspapers and talk shows have been filled for the past few weeks with discussion of executive privilege. First, there were reports of the President's decision to invoke the privilege to prevent several of his aides from testifying before the grand jury. Now it has been reported that the President has argued that his executive privilege extends to discussions between presidential aides and the First Lady. Many commentators appear to assume that executive privilege applies to these communications and have focused on the prudence of the President's decision to invoke the privilege in light of the parallels to Watergate. I will leave that question for the pundits. The more pressing question for the Congress is whether executive privilege has any application at all to this situation.

Grand jury investigations into Presidential communications are extraordinary and rare occurrences, and hopefully, will remain that way. Congressional oversight hearings, by contrast, are commonplace. If the President's aides are permitted to withhold crucial information from a grand jury investigating criminal misconduct, we can rest assured that congressional inquiries will be stymied by similar claims of executive privilege. For this reason, the proper scope of executive privilege is of concern to every member of Congress.

As Chairman of the Constitution Subcommittee, I have inquired into the law of executive privilege as developed by the courts. Although for years the body of caselaw did not extend much beyond Chief Justice Marshall's opinion in the criminal trial of Aaron Burr, a number of decisions in the last quarter century have clarified the relatively modest scope of executive privilege. A number of critical principles emerge from these cases.

Executive privilege extends only to communications made in relation to official responsibilities. The privilege does not cover unofficial acts. "[The privilege is] limited to communications in performance of [a President's] responsibilities of his office and made in the process of shaping policies and making decisions." *Nixon* v. *Administrator of the GSA*, 433 U.S. 425, 449 (1977); *see also United States* v. *Nixon*, 418 U.S. 683, 715 (1974).

Even if executive privilege applies to a communication, it generally does not prevent disclosure to a grand jury. "The generalized assertion of privilege must yield to the demonstrated, specific need for evidence in a pending criminal trial." *United States* v. *Nixon*, 418 U.S. 683, 713 (1974).

The sole exception is for communications concerning national security. The Court in *United States* v. *Nixon* indicated that the scope of any absolute executive privilege would be limited to "military or diplomatic secrets." 418 U.S. at 710. Outside this context, even a valid claim of executive privilege cannot keep presidential communications from the grand jury as long as the conversations are "preliminarily shown to have some bearing on the pending criminal cases." *Id.* at 713.

I hope you find this summary helpful. For my part, these well-established principles lead me to believe that the President is on tenuous legal ground in asserting executive privilege. In order for his claim to prevail, he first would have to show that the discussions he had with aides concerning how to respond to allegations of sexual misconduct in his private life qualify as official government acts. I sincerely doubt he could make such a showing, especially in light of his asserted ability to compartmentalize his private life from the affairs of state.

However, even if he made such a showing, the President would still need either to demonstrate that the communications concerned "military or diplomatic secrets," or to convince a court that the information is neither necessary nor relevant to the grand jury's investigation. The President seems unlikely to prevail on either issue. Although there is some dispute as to the exact nature of the demonstration of relevance or need that the prosecutor must make, even the most demanding opinion on the subject states that the prosecution "will be able easily to explain" why it should have access to privileged presidential communications when the President and his close aids are the subject of the criminal investigation. *See In re Sealed Case*, 121 F.3d 729, 755 (D.C. Cir. 1997).

In the end, it seems quite likely that the President's claim of executive privilege will share the fate of this administration's other novel theories of privilege, which caused delay, but ultimately were rejected by the courts. First, the President asserted a novel immunity from civil suit that, in his view, extended even to cases of private misconduct occurring before he took the presidential oath of office. The Supreme Court rejected that claim 9–0. *See Clinton* v. *Jones*, 117 S. Ct. 1636 (1997). Then the administration asserted a novel theory of government attorney-client privilege, which would treat taxpayer-financed government attorneys just like private attorneys for purposes of the attorney-client privilege. The Eighth Circuit Court of Appeals rejected that argument, concluding that allowing the White House "to use its in-house attorneys as a shield against the production of information relevant to a federal criminal investigation would represent a gross misuse of public assets." *In re Grand Jury Subpoena Duces Tecum*, 112 F.3d 910, 921 (8th Cir. 1997). The Supreme Court declined to review that decision. *See* 117 S. Ct. 2482 (1997). Now we have novel claims of executive privilege, a privilege extending to communications with the First Lady, and a secret service privilege.

The President's current claim of executive privilege appears to be foreclosed by well-established limits on the privilege and calculated more for delay than anything else. However, we are not privy to all the information that is at the President's disposal. Future developments may strengthen or weaken the President's assertion of privilege or make it clear that the assertion implicates issues that have not yet reached the Supreme Court, such as whether the privilege applies to anyone other than the President.

In the event such novel issues arise, the Constitution Subcommittee may hold hearings in an effort to clarify the proper scope of executive privilege. I continue to believe that the Senate has a critical responsibility to ensure that the doctrine of executive privilege does not become distorted in a manner that will interfere with congressional oversight long after the current scandals subside.

Sincerely,

JOHN ASHCROFT,
Chairman, U.S. Senate Judiciary, Subcommittee on the Constitution, Federalism and Property Rights.

By Mr. FORD (for himself, Mr. BOND, Mr. DORGAN, and Mr. LEAHY):

S. 2077. A bill to maximize the national security of the United States and minimize the cost by providing for increased use of the capabilities of the National Guard and other reserve components of the United States; to improve the readiness of the reserve components; to ensure that adequate resources are provided for the reserve components; and for other purposes; to the Committee on Armed Services.

THE NATIONAL GUARD AND RESERVE COMPONENTS EQUITY ACT OF 1998

Mr. FORD. Mr. President, on behalf of Senator BOND, co-chairman of the Senate National Guard Caucus, Senators DORGAN and LEAHY, I am introducing today the National Guard and Reserve Components Equity Act of 1998.

Over the past few years, we've had to expend a huge amount of energy fending off attacks to the Guard. Worse, the whole time we're dusting ourselves off and assessing the damage, our opponents deny they've ever laid a finger on us.

It reminds me of the boxer who, at the insistence of his trainer, took on the current champ. After the first round, he came back to his corner with a busted lip, and his trainer patted him on the back and said, "You're doing great," then shoved him back out when the second bell sounded. After the second round, he staggered back to his corner with a black eye and a busted cheek, and his trainer said, "You're doing great, he hasn't laid a hand on you." And the boxer replied, "Well you'd better keep an eye on the referee,

'cause someone is beating' the heck out of me."

Year after year, the Guard has come back to its corner, bruised and battered by the budget process, only to hear Pentagon officials insist they haven't laid a hand on them.

I think we all agree that as we enter the 21st Century, the common goal of the U.S. military should be to create and maintain a seamless Total Force that provides our military leaders with the necessary flexibility and strength to address whatever conflicts that might arise.

The 1997 QDR should have been the vehicle to achieve that goal. Unfortunately, it fell far short. One analyst described the QDR as "another banal defense of the status quo."

There are close to a half million men and women in the National Guard, accounting for about 20 percent of this nation's Armed Forces. Because of their dual federal-state mission, National Guardsmen and women are on hand to serve in both the international arena and in our own backyards. Perhaps more than any other soldier, members of the Guard embody our forefathers' vision of the citizen-soldier.

That's because the citizen-soldiers of the National Guard find their roots not only in the history of this country, but equally important, in the communities of this country.

The Army National Guard alone provides more than 55 percent of the ground combat forces, 45 percent of the combat support forces, and 25 percent of the Army's combat support units—all while using only two percent of the Department of Defense budget.

But if you look at the QDR process, you would think the Guard has outlived its usefulness—that their cost-effectiveness, their flexibility, their readiness are all figments of this Senator's imagination.

This contentious relationship got even hotter last spring when leaders of the National Guard expressed outrage at never being given the opportunity to present their case before the QDR and over the Army's failure to be up-front about how deeply they wanted to cut the Army Guard.

The outrage was well placed. The Washington Times was right on target when they wrote back in June that

> The Guard has a greater relevance today than during the Cold War—exactly the kind of relevance the Founding Fathers envisioned when they elected to place the preponderance of the nation's military strength in the state militias.

They understand that with its "dual use system," the Guard is the wave of the future, not a relic of the past.

While many of us felt blind-sided by the QDR, the fact is it was just one more instance where the Pentagon refuses to give the Guard the status it deserves.

I don't believe making the Chief of the National Guard a four star general and a member of the Joint Requirements Oversight Council will solve all of the Guard's problems, but I do believe it would help to change the dynamics of this dysfunctional relationship, and better ensure the Guard's needs are met when the Defense budget is being written, rather than through Congressional intervention.

As many of you probably recall, last year Senator STEVENS offered an amendment to the Defense Authorization bill to make this change. It was approved by the Senate, but later dropped in Conference Committee. Instead, Conferees agreed to having a Two-Star General from the Guard and one from the Reserves—a position the Guard already has.

Since then, I've been working with Senator BOND—my co-chairman of the Senate National Guard Caucus to come up with new legislation reinforcing the important role of both the Guard and the Reserves.

The bill would direct the Secretary of Defense to submit a report to Congress regarding the force structure necessary for the Army National Guard and Army Reserve to meet future national security threats. The bill would freeze the end strength of the Army National Guard and the Army Reserve at the level Congress approved for Fiscal Year 1998, until September 30, 2000. This freeze will provide Congress a chance to review the force structure report submitted by the Secretary of Defense.

The bill also requires the Secretary of Defense to develop a master plan for the modernization of the National Guard And Reserve Components to ensure compatibility of equipment with our active forces. Under this legislation, the Secretary must also submit a master plan to Congress on meeting the military construction needs of the National Guard and Reserve Components.

This legislation builds on Senator STEVENS's amendment to last year's Defense Authorization. It elevates the Chief of the National Guard Bureau to the Grade of General (4-star) and elevates the Senior Representatives of the Reserves one Grade. These are just some provisions of the bill. My Guard Caucus Co-Chairman, Senator BOND, someone who has been deeply committed to improving the readiness of the Guard, will be outlining other provisions of the bill.

Mr President, the Reserve Components are the only contact a majority of Americans have with the military. When they see a neighbor, a child's teacher, or their family doctor representing the U.S. in the international arena or on hand when natural disasters strike, they have a direct link to the military.

That bond has remained strong for well over 200 years. And despite resistance from the Pentagon, I believe Congress has no intention of seeing that bond damaged through insufficient funds or lack of resources—from operations and maintenance to pay and allowances to continued equipment modernization and military construction. This is why the National Guard and Reserve Components Equity Act of 1998 needs to become law.

Muhammad Ali used to say that not only could he knock'em out, but he could pick the round. Opponents to the Guard and Reserves should be on notice—no matter how much they try and bob and weave, this is the round they're going to go down.

Before closing, I'd like to take just a moment to say how much I've enjoyed working with Senator BOND on National Guard issues over the last ten years. We've worked together, along with the other members of the Caucus, in a bipartisan manner to ensure that the National Guard and Reserve components receive the funding these dedicated men and women need to successfully fulfill their role in preserving our national security.

Mr. President, I ask unanimous consent that the National Guard and Reserve Components Equity Act of 1998 be printed in the RECORD, along with a section-by-section description this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2077

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 "National Guard and Reserve Components Equity Act of 1998".

TITLE I—STRATEGIC PLANNING

SEC. 101. FORCE STRUCTURE.

(a) REQUIREMENT.—At the same time as the President submits the budget to Congress for fiscal year 2000 under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the Army reserve component force structure.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) The force structure that the Secretary considers appropriate for the Army National Guard and the Army Reserve for meeting threats to the national security that are considered probable for the six fiscal years beginning with fiscal year 2000.

(2) Specific wartime missions for the units in that force structure, including missions relating to responses to emergencies involving weapons of mass destruction.

(b) FREEZE ON END STRENGTHS.—Notwithstanding any other provision of law, the Armed Forces shall maintain the same strengths for Selected Reserve personnel of the Army National Guard of the United States and the Army Reserve through September 30, 2000, as are authorized under paragraphs (1) and (2), respectively, of section 411(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1719).

SEC. 102. MODERNIZATION PLAN.

(a) PLAN REQUIRED.—The Secretary of Defense shall develop a master plan that provides for the complete modernization of the National Guard and the other reserve components of the Armed Forces, including the modernization necessary to ensure the compatibility of the equipment used by the reserve components.

(b) SUBMISSION TO CONGRESS.—The Secretary shall submit the plan to Congress not later than six months after the date of the enactment of this Act.

SEC. 103. MILITARY CONSTRUCTION.

(a) PLAN REQUIRED.—The Secretary of Defense shall develop a master plan that provides for meeting the unmet requirements of the National Guard and the other reserve components for military construction.

(b) SUBMISSION TO CONGRESS.—The Secretary shall submit the plan to Congress not later than six months after the date of the enactment of this Act.

TITLE II—RESERVE COMPONENT LEADERSHIP

SEC. 201. CHIEF OF THE NATIONAL GUARD BUREAU.

(a) RELATIONSHIP TO THE JOINT CHIEFS OF STAFF.—Section 151 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) PARTICIPATION BY THE CHIEF OF THE NATIONAL GUARD BUREAU.—(1) The Chief of the National Guard Bureau shall identify for the Chairman any matter scheduled for consideration by the Joint Chiefs of Staff that directly concerns the National Guard, domestic security, or public safety.

"(2) Unless, upon request of the Chairman for a determination, the Secretary of Defense determines that a matter identified pursuant to paragraph (1) does not concern the National Guard, domestic security, or public safety, the Chief of the National Guard Bureau shall meet with the Joint Chiefs of Staff when that matter is under consideration. The Chief of the National Guard Bureau has equal status with the members of the Joint Chiefs of Staff for the consideration of the matter by the Joint Chiefs of Staff.

"(3) The Chairman shall provide the Chief of the National Guard Bureau with all agenda for the meetings of the Joint Chiefs of Staff and any other information that the Chairman considers appropriate to assist the Chief of the National Guard Bureau to carry out his responsibilities under this subsection.".

(b) MEMBERSHIP ON THE JOINT REQUIREMENTS OVERSIGHT COUNCIL.—Section 181(c) of such title is amended—

(1) in paragraph (1)—

(A) in subsection (D), by striking out "and";

(B) in subsection (E), by striking out the period at the end and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(F) the Chief of the National Guard Bureau."; and

(2) in paragraph (2), by inserting "and the Chief of the National Guard Bureau" after "other than the Chairman of the Joint Chiefs of Staff".

(c) ADDITIONAL ADVISORY FUNCTIONS.—Section 10502(c) of title 10, United States Code, is amended to read as follows:

"(c) ADVISER ON NATIONAL GUARD MATTERS.—The Chief of the National Guard Bureau is the principal adviser to the President, the Secretary of Defense, any other person designated to exercise national command authority, the Secretary of the Army, the Chief of Staff of the Army, the Secretary of the Air Force, and the Chief of Staff of the Air Force on matters relating to—

"(1) the National Guard;

"(2) the Army National Guard of the United States;

"(3) the Air National Guard of the United States;

"(4) domestic security; and

"(5) public safety.".

(d) RELATIONSHIP TO THE ARMY STAFF AND THE AIR STAFF.—Section 10502 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(e) RELATIONSHIP TO ARMY AND AIR STAFF.—To the extent that it does not impair the independence of the Chief of the National Guard Bureau in the performance of his duties, the Chief of the National Guard Bureau shall serve at the level of the Vice Chief of Staff of the Army in all forums within the Department of the Army, and at the level of the Vice Chief of Staff of the Air Force in all forums within the Department of the Air Force.".

SEC. 202. GRADES OF RESERVE COMPONENT LEADERS.

(a) NATIONAL GUARD BUREAU LEADERSHIP.—

(1) CHIEF.—Section 10502(d) of title 10, United States Code, is amended by striking out "lieutenant general" and inserting in lieu thereof "general".

(2) VICE CHIEF.—Section 10505(c) of such title is amended by striking out "major general" and inserting in lieu thereof "lieutenant general".

(3) OTHER GENERAL OFFICERS.—Section 10506(a)(1) of such title is amended by striking out "major general" each place it appears and inserting in lieu thereof "lieutenant general".

(b) CHIEF OF ARMY RESERVE.—Section 3038(c) of such title is amended by striking out "major general" in the third sentence and inserting in lieu thereof "lieutenant general".

(c) CHIEF OF NAVAL RESERVE.—Section 5143 of such title is amended—

(1) in subsection (b), by striking out "from officers who—" and inserting in lieu thereof "from among officers of the Naval Reserve who—"; and

(2) in subsection (c)(2), by striking out "a grade above rear admiral (lower half)" in the third sentence and inserting in lieu thereof "the grade of vice admiral".

(d) COMMANDER, MARINE FORCES RESERVE.—Section 5144 of such title is amended—

(1) in subsection (b), by striking out "from officers who—" and inserting in lieu thereof "from among officers of the Marine Corps Reserve who—"; and

(2) in subsection (c)(2), by striking out "a grade above brigadier general" in the third sentence and inserting in lieu thereof "the grade of lieutenant general".

(e) CHIEF OF AIR FORCE RESERVE.—Section 8038(c) of such title is amended by striking out "major general" in the third sentence and inserting in lieu thereof "lieutenant general".

(f) EXCLUSION FROM DISTRIBUTION LIMITS FOR GENERAL OFFICERS ON ACTIVE DUTY.—Section 525(b) of title 10, United States Code, is amended by adding at the end the following:

"(6)(A) An officer serving in a position referred to in subparagraph (B) in the grade specified for the position in that subparagraph is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1).

"(B) Subparagraph (A) applies to an officer while serving in any of the following positions:

"(i) The Chief of the National Guard Bureau, if serving in the grade of general.

"(ii) The Vice Chief of the National Guard Bureau, if serving in the grade of lieutenant general.

"(iii) The Director of the Army National Guard, if serving in the grade of lieutenant general.

"(iv) The Director of the Air National Guard, if serving in the grade of lieutenant general.

"(7)(A) An officer while serving in a position referred to in subparagraph (B), if serving in the grade of lieutenant general or vice admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1) or (2), as applicable.

"(B) Subparagraph (A) applies to an officer serving in any of the following positions:

"(i) The Chief of Army Reserve.

"(ii) The Chief of Naval Reserve.

"(iii) The Commander, Marine Forces Reserve.

"(iv) The Chief of Air Force Reserve.".

(g) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on January 1, 1999.

SEC. 203. ADJUTANTS GENERAL OF THE NATIONAL GUARD.

(a) FEDERAL RECOGNITION.—The Secretary of Defense shall prescribe in regulations a requirement that, whenever a person is appointed to the position of State adjutant general of the National Guard, the board that is to consider the appointee for being extended Federal recognition be convened within 60 days after the date of the appointment.

(b) INVESTIGATIONS OF ADJUTANTS GENERAL.—The Secretary of Defense shall prescribe in regulations a requirement that the Inspector General of the Department of Defense be responsible for conducting investigations regarding appointments of State adjutants general of the National Guard for the Department of Defense.

(c) STATE INCLUDES POSSESSIONS, ET CETERA.—For the purposes of this section, the term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

SEC. 204. REVIEW OF PROMOTIONS AND FEDERAL RECOGNITION FOR NATIONAL GUARD OFFICERS.

(a) GAO REVIEW.—The Comptroller General shall review the promotions of, and extensions of Federal recognition to, officers of the National Guard to determine the timeliness and fairness of the processing of such actions.

(b) SCOPE OF REVIEW.—The Comptroller General shall determine the period and number of actions that are necessary to be reviewed in order to provide a meaningful basis for making determinations under subsection (a).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the review. The report shall include the Comptroller General's determinations together with any recommendations that the Comptroller General considers appropriate.

TITLE III—USE OF THE RESERVE COMPONENTS FOR EMERGENCIES INVOLVING WEAPONS OF MASS DESTRUCTION

SEC. 301. DISASTER RELIEF.

(a) AUTHORITY.—

(1) DEFINITIONS.—

(A) MAJOR DISASTER.—Paragraph (2) of section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended by striking out "or explosion" and inserting in lieu thereof "explosion, or emergency involving a weapon of mass destruction.".

(B) WEAPON OF MASS DESTRUCTION.—Such section is further amended by adding at the end the following:

"(9) WEAPON OF MASS DESTRUCTION.—'Weapon of mass destruction' has the meaning given that term in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

"(10) NATIONAL GUARD.—'National Guard' has the meaning given that term in section 101(3) of title 32, United States Code.

"(11) RESERVE COMPONENTS.—'Reserve components of the Armed Forces' means the reserve components named in section 10101 of title 10, United States Code.".

(2) USE OF RESERVE COMPONENTS.—Section 201(a) of such Act (42 U.S.C. 5131) is amended—

(A) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(B) by adding at the end the following:

"(8) the use of the National Guard or the other reserve components of the Armed Forces to take actions that may be necessary to provide an immediate response to an incident involving a use or threat of use of a weapon of mass destruction.".

(3) REQUESTS BY DIRECTOR OF FEMA.—Section 611 of such Act (42 U.S.C. 5196) is amended by adding at the end the following:

"(l) USE OF THE RESERVE COMPONENTS.—The Director may request the Secretary of Defense to authorize the National Guard or to direct other reserve components of the Armed Forces to conduct training exercises, preposition equipment and other items, and take such other actions that may be necessary to provide an immediate response to an emergency involving a weapon of mass destruction. The Secretary of Defense may authorize the National Guard or direct other reserve components to take actions requested by the Director under the preceding sentence.".

(b) REIMBURSEMENT OF STATES.—

(1) AUTHORITY.—Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

"§ 115. Reimbursement for State costs of preparedness programs for emergencies involving weapons of mass destruction

"(a) REIMBURSEMENT AUTHORIZED.—The Secretary of Defense may reimburse a State for expenses incurred by the State for the National Guard of that State to participate in emergency preparedness programs to respond to an emergency involving the use of a weapon of mass destruction. Expenses reimbursable under this section may include the costs of the following:

"(1) Pay, allowances, clothing, subsistence, travel, and related expenses of personnel of the National Guard.

"(2) Operation and maintenance of equipment and facilities of the National Guard.

"(3) Procurement of services and equipment for the National Guard.

"(b) STATE INCLUDES POSSESSIONS, ET CETERA.—For the purposes of this section, the term 'State' includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

"(c) WEAPON OF MASS DESTRUCTION DEFINED.—In this section, the term 'weapon of mass destruction' has the meaning given that term in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"115. Reimbursement for State costs of preparedness programs for emergencies involving weapons of mass destruction.".

SEC. 302. RESERVES ON ACTIVE DUTY.

(a) AUTHORITY.—

(1) ORDER TO ACTIVE DUTY.—Section 12301(b) of title 10, United States Code, is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking out "for not more than 15 days a year" in the first sentence; and

(C) by adding at the end the following;

"(2) The authority under paragraph (1) includes authority to order a unit or member to active duty to provide assistance in responding to an emergency involving a weapon of mass destruction (as defined section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).

"(3) A unit or member may not be ordered to active duty under this subsection for more than 15 days a year. Days of service on active duty to provide assistance described in paragraph (2), up to 15 days a year, shall not be counted toward the limitation on the total number of days set forth in the preceding sentence.".

(2) USE OF ACTIVE GUARD AND RESERVE PERSONNEL.—Section 12310 of title 10, United States Code, is amended by adding at the end the following:

"(c)(1) A Reserve on active duty as described in subsection (a), or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a), may perform any duties in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction (as defined in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).

"(2) The costs of the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for a Reserve performing duties under the authority of paragraph (1) shall be paid from the appropriation that is available to pay such costs for other members of the reserve component of that Reserve who are performing duties as described in subsection (a).".

(b) EXCLUSION FROM STRENGTH LIMITATIONS.—

(1) GENERAL LIMITATION.—Section 115(d) of such title is amended by adding at the end the following:

"(8) Members of the reserve components on active duty and members of the National Guard on full-time National Guard duty to participate in emergency preparedness programs for responding to emergencies involving a weapon of mass destruction (as defined section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).".

(2) OFFICER PERSONNEL LIMITATION.—Section 12011 of such title is amended by adding at the end the following:

"(c) Members of the reserve components on active duty and members of the National Guard on full-time National Guard duty to participate in emergency preparedness programs for responding to emergencies involving a weapon of mass destruction (as defined section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) shall not be counted for purposes of a limitation in subsection (a).".

(3) ENLISTED PERSONNEL LIMITATION.—Section 12011 of such title is amended by adding at the end the following:

"(c) Members of the reserve components on active duty and members of the National Guard on full-time National Guard duty to participate in emergency preparedness programs for responding to emergencies involving a weapon of mass destruction (as defined section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) shall not be counted for purposes of a limitation in subsection (a).".

TITLE IV—STRENGTHENED REFORMS FOR ARMY NATIONAL GUARD COMBAT READINESS

SEC. 401. ADEQUATE FUNDING FOR MEETING NCO EDUCATION REQUIREMENTS.

Section 1114(b) of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of Public Law 102-484; 10 U.S.C. 10105 note) is amended to read as follows:

"(b) AVAILABILITY OF TRAINING.—The Secretary of the Army shall ensure that sufficient training positions and funds are available to enable compliance with subsection (a) without it being necessary for noncommissioned officers to be absent from unit annual training for the units of assignment in order to attend training to meet military education requirements.".

SEC. 402. COMBAT UNIT TRAINING.

Section 1119 of the Army National Guard Combat Readiness Reform Act of 1992 is amended—

(1) by inserting "(a) PROGRAM TO MINIMIZE POST-MOBILIZATION TRAINING NEEDS.—" before "The Secretary";

(2) by inserting "all" before "combat units" in the first sentence;

(3) in paragraph (1)—

(A) in subparagraph (A), by inserting "and professional development" after "qualification";

(B) in subparagraph (B), by striking out "and squad level" and inserting in lieu thereof "squad, and platoon level"; and

(C) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) maneuver training at the platoon level to at least the minimum extent required of all Army units; and"; and

(4) by adding at the end the following:

"(b) ADEQUACY OF FUNDING.—The Secretary shall ensure that sufficient funds are made available for conducting the training required under the program.".

SEC. 403. USE OF COMBAT SIMULATORS.

The text of section 1120 of such Act is amended to read as follows:

"The Secretary of the Army shall—

"(1) expand the use of simulations, simulators, and advanced training devices and technologies to fully support the complete integration of Army National Guard units with active Army units; and

"(2) use and distribute combat simulators so as to serve the training of Army National Guard units as well as active Army units.".

TITLE V—PAY, ALLOWANCES, RETIREMENT, AND OTHER MONETARY BENEFITS

SEC. 501. BASIC ALLOWANCE FOR HOUSING.

(a) RESERVES ON ACTIVE DUTY MORE THAN 100 MILES FROM HOME.—Section 403(g)(3) of title 37, United States Code, is amended by adding at the end the following: "A member of a reserve component on active duty may not be denied a basic allowance for housing at that rate on the basis of being provided quarters of the United States if the member is performing duty more than 100 miles from the member's primary residence.".

(b) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to active duty performed on or after that date.

SEC. 502. ELIGIBILITY FOR HAZARDOUS OR IMMINENT DANGER PAY.

(a) FULL MONTHLY RATE FOR ACTIVE DUTY FOR PARTIAL MONTH.—Section 310(a) of title 37, United States Code, is amended in the matter preceding paragraph (1) by striking out "for any month in which he was entitled to basis pay" and inserting in lieu thereof "for any month in which he was entitled to any basic pay (without regard to the number of days of duty performed for the month)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

SEC. 503. ALLOTMENTS OF PAY.

Section 701(d) of title 37, United States Code, is amended—

(1) by inserting "(including a member of a reserve component of that armed force)" in the first sentence after "a member of the Army, Navy, Air Force, or Marine Corps"; and

(2) by inserting "(three allotments, in the case of a member of a reserve component)" in the second sentence after "six allotments".

SEC. 504. EARLY RETIREMENT FOR PHYSICAL DISABILITY.

(a) PERMANENT AUTHORITY.—Chapter 1223 of title 10, United States Code, is amended by inserting after section 12731a the following:

§ 12731b. Early retirement for physical disability

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 12731 of this title, the Secretary concerned may—

"(1) determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) has completed at least 15, and less than 20, years of service computed under section 12732 of this title; and

"(B) no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability; and

"(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

"(b) EXCLUSION.—This section does not apply to persons referred to in section 12731(c) of this title.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—Section 12731(a)(c) of such title is amended by striking out paragraph (3).

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 12731a the following:

"12731b. Early retirement for physical disability.".

TITLE VI—OTHER BENEFITS

SEC. 601. REPEAL OF 10-YEAR LIMITATION ON USE OF MONTGOMERY GI BILL BENEFITS.

(a) REPEAL.—Subsection (a) of section 16133 of title 10, United States Code, is amended by striking out "(1)" and all that follows and inserting in lieu thereof "on the date the person is separated from the Selected Reserve.".

(b) CONFORMING AMENDMENTS.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "In" in the matter preceding subparagraph (A) and inserting in lieu thereof "Subsection (a) does not apply in"; and

(B) by striking out the comma at the end of subparagraph (B) and all that follows and inserting in lieu thereof a period;

(2) by striking out paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3) and, in such paragraph, by striking out "of this title—" and all that follows through "for the purposes of clause (2)" and inserting in lieu thereof "of this title, the member may not be considered to have been separated from the Selected Reserve for the purposes".

SEC. 602. DEMONSTRATION PROGRAM ON UNLIMITED USE OF COMMISSARY STORES.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a demonstration program to test the efficacy of permitting unlimited use of commissary stores by members and former members of the reserve components who are eligible for limited use of commissary stores under section 1063 and 1064 of title 10, United States Code.

(b) PERIOD FOR PROGRAM.—The program shall be carried out for one year beginning on January 1, 1999.

(c) REPORT.—Not later than March 31, 2000, the Secretary of Defense shall submit to Congress a report on the results of the demonstration program, together with any comments and recommendations that the Secretary considers appropriate.

SEC. 603. SPACE AVAILABLE TRAVEL FOR MEMBERS OF SELECTED RESERVE.

(a) IN GENERAL.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2646. Space available travel: members of Selected Reserve

"(a) AVAILABILITY.—The Secretary of Defense shall prescribe regulations to allow members of the Selected Reserve in good standing (as determined by the Secretary concerned), and dependents of such members, to receive transportation on aircraft of the Department of Defense on a space available basis under the same terms and conditions as apply to members of the armed forces on active duty and dependents of such members.

"(b) CONDITION ON DEPENDENT TRANSPORTATION.—A dependent of a member of the Selected Reserve may be provided transportation under this section only when the dependent is actually accompanying the member on the travel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2646. Space available travel: members of Selected Reserve.".

SEC. 604. REPEAL OF EXPIRATION OF ELIGIBILITY FOR VETERANS HOUSING BENEFITS BASED ON SERVICE IN THE SELECTED RESERVE.

Section 3702(a)(2)(E) of title 38, United States Code, is amended by striking out "For the period beginning on October 28, 1992, and ending on October 27, 1999, each" and inserting in lieu thereof "Each".

TITLE VII—OTHER MATTERS

SEC. 701. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45D. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for the taxable year is an amount equal to 50 percent of the actual compensation amount for the taxable year.

"(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

"(c) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The maximum credit allowable under subsection (a) shall not exceed $2,000 in any taxable year with respect to any one Ready Reserve-National Guard employee.

"(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for a reason other than to participate in qualified active duty) and ordinarily would not have worked.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

"(A) active duty, as defined in section 101(d)(1) of title 10, United States Code;

"(B) full-time National Guard duty, as defined in section 1010(d)(5) of such title; and

"(C) hospitalization incident to duty referred to in subparagraph (A) or (B).

"(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

"(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

"(4) NATIONAL GUARD.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

"(5) READY RESERVE.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code (relating to general business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the Ready Reserve-National Guard employee credit determined under section 45D(a)."

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45C the following new item:

"Sec. 45D. Ready Reserve-National Guard employee credit."

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1997.

SECTION-BY-SECTION ANALYSIS

Section 101: Directs the Secretary of Defense to submit a report to Congress regarding the following;

(1) force structure appropriate for the Army National Guard and the Army Reserve to meet national security threats.

(2) freezes the end strength of the Army National Guard and Army Reserve at the levels approved in Public Law 105-85 Stat. 1719 until September 30, 2000.

Section 102: Directs the Secretary of Defense to develop a master plan for the modernization of the National Guard and Reserve Component of the Armed Services to ensure compatibility of equipment. The report is to be submitted to Congress six months from date of enactment of legislation.

Section 103: Directs the Secretary of Defense to develop a master plan regarding the unmet military construction requirements of the National Guard and Reserve Components. This Report will be submitted within six months after passage of the legislation.

Sections 201 & 202: Elevates the Chief of the National Guard Bureau to the Grade of General (4-Star) and elevates the Senior Representatives of the Reserves (Army, Navy, Air Force and Marines) to Lieutenant General (3-Star). Adjusts the responsibility of the Chief of the National Guard Bureau regarding issues that directly affect the National Guard. Includes the Chief of the National Guard Bureau as a full time member of the Joint Requirements Oversight Council.

Section 203: Requires the Secretary of Defense to appoint the Federal Recognition Board for an Adjutant General within 60 days of the Adjutant General's appointment by a Governor. This section also requires the Secretary of Defense to have the Inspector General of the Defense Department be responsible for conducting investigations regarding appointments of State Adjutants General.

Section 204: Requires the General Accounting Office (GAO) to review the National Guard members promotions and extensions of Federal recognition as to the timeliness and fairness of the process. GAO will report to Congress one year after the enactment of the legislation.

Section 301: Enhanced integration of the National Guard Bureau, Reserve Components and the Federal Emergency Management Agency (FEMA) for emergencies involving Weapons of Mass Destruction.

Section 302: Describes duties of Reserves (National Guard & Reserves) in responding to an emergency involving a weapon of mass destruction.

Section 401: Directs the Secretary of the Army to ensure that sufficient training funds are available for enlisted men and women to meet their military education requirements.

Section 402: Directs the Secretary of the Army to ensure that sufficient training funds are available for the training of Army National Guard to maintain Platoon level operations.

Section 403: Directs the Secretary of the Army to expand the use of simulations, simulators and advanced training devices to fully support the integration of Army National Guard with Active Army units.

Section 501: Prohibits the Services from denying Basic Housing allowance to Reserve component members if they are on active duty more than 100 miles from their primary home.

Section 502: Provides equity between Reserve component members and active duty counterparts in receiving Hazardous or Imminent Danger pay.

Section 503: Increases Reserve Components pay allotment authorization to the same level as Active duty personnel.

Section 504: Makes permanent the early retirement for Physical Disability of National Guard and Reserve component members who have between 15 and 20 years of satisfactory service. The present law expires at the end of Fiscal Year 1999.

Section 601: Repeals the Ten Year limitation on the use of the Montgomery GI bill benefits if the reservists remain members in good standing of the Selected Reserve.

Section 602: Provides for a demonstration program on unlimited use of military commissary stores for reserve component members.

Section 603: Directs the Secretary of Defense to develop rules for Reserve Component Members and their families to travel on Department of Defense Aircraft on a space available basis.

Section 604: Makes permanent the eligibility for veterans' home loan guarantees for members of the Selected Reserves. Reserve eligibility is to expire October 1999.

Section 701: Provides a tax incentive to businesses that employ National Guard and Reserve personnel. A business can receive a tax credit of up to $2000.00 per year, per employee for a member of the Guard and Reserve who is absent from employment for the purpose of performing Active Duty assignments.

Mr. BOND. Mr. President, I am proud to join with my colleague and co-chair of the Senate National Guard Caucus, Senator FORD to introduce a bill today to bolster the recognition of the National Guard and reserve components by the Department of Defense. The bill entitled the National Guard and Reserve Components Equity Act of 1998.

Since the Senate National Guard Caucus was established in 1987, Senator FORD and I and the sixty five other members have worked tirelessly to insure the adequate resourcing of the National Guard and reserves. This year will be Senator FORD's final year as Caucus co-chair. I will sorely miss his advise and counsel. The legislation we lay before you this day is testimony to his commitment to improving the quality of life standards for our nation's active, Guard and reserve component service members. He and I have worked to include major quality of life and resourcing issues highlighted by reserve and National Guard Associations.

This bill seeks to provide overdue recognition and benefits to the nation's reservists and Guard personnel and their families. For too long, the nation's reservists and National Guardsmen and women have been the recipients of less than a full commitment by the Department of Defense. The bill we have introduced will stir some controversy I am sure, but these men and women deserve our support. As we ask more and more of our reserve and Guard we owe it to the people who we ask to go into harm's way, to provide them with equality in pay, equality in fielded equipments and equality in training. We owe it to their families to provide them with equal access to commissaries and space available travel. We owe it to them to continue reservist eligibility for VA home loans and repeal Montgomery Bill limitations for Selected Reservists. We need to do all this and more. We must also recognize the sacrifices made by reservist and Guard employers. This bill addresses each of these issues. We must remove any semblance of second class status from the shoulders of these professional and dedicated individuals.

Reserve and Guard components are being called upon to integrate themselves into the tactical operations of the nation's defense plans, in order to do this effectively, the systems used by the components must be compatible. That is not the case today. In many instances, radios and data transfer equipments are incompatible. For instance many artillery units operate independently because they are unable to coordinate their operations. I could hardly believe it, but many fighter aircraft units suffer the same fate, and you can imagine that the theater commanders don't care to have independent fighter units involved in heavily coordinated and multi-national operations. Digitization, situational awareness data link upgrades and avionics modernization of reserve and Guard units is imperative. This bill directs the Secretary of Defense to develop a master plan for the modernization of these components.

The bill also addresses the use of Guard and reserve component personnel in response to an emergency involving a weapon of mass destruction; to include their integration with efforts of the Federal Emergency Management Agency.

Family issues are addressed, as well. As I mentioned earlier, there are provisions for demonstration program for unlimited use of military commissaries by reserve component members, and for the development of rules governing Space Available Travel for reservists and their families.

I urge my colleagues to review this bill, sign on and help us to provide these and other long overdue measures to bring equity in individual recognition and resource allocation to these vital components of our national security.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. ROBERTS, Mr. KERREY, Ms. MOSELEY-BRAUN, Mr. HAGEL, and Mr. ALLARD):

S. 2078. A bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes; to the Committee on Finance.

FARM AND RANCH RISK MANAGEMENT ACT

Mr. GRASSLEY. Mr. President, I rise today to introduce the Farm and Ranch Risk Management Act of 1998.

This bill gives farmers another tool to manage the risk of price and income fluctuations inherent in agriculture. It does this by encouraging farmers to save some of their income during good years and allowing the funds to supplement income during bad years. This new tool will more fully equip family farmers to deal with the vagaries of the marketplace.

Farming is a unique sector of the American economy. Although agriculture represents one-sixth of our Gross Domestic Product, it consists of hundreds of thousands of farmers across the nation. Many of whom operate small, family farms. These farms often support entire families, and even several generations of a family. And they work hard every day and produce the food consumed by the rest of the country, and around the world as well.

Yet farming remains one of the most perilous ways to make a living. The income of a farm family depends, in large part, on factors outside its control. Weather is one of those factors. For instance, I have heard on the Senate floor recently that the income of North Dakota farmers dropped 98% last year because of flooding. Weather can totally wipe out a farmer. And, at best, weather can cause farmers' income to fluctuate wildly.

Another factor is the uncertainty of international markets. Iowa farmers now export 40% of all they produce. But what happens when European countries impose trade barriers on beef, pork and genetically-modified feed grain, as examples. And what happens when Asian governments devalue their currencies. Exports fall and farm income declines. Through no fault of the farmer, but because of decisions made in foreign countries.

Mr. President, the 1996 farm bill took planting decisions out of the hands of government bureaucrats and put them back into the hands of farmers. Farmers now have the ability to plant according to the demands of the market. The farmers I talk to are pleased with this change in philosophy. They would rather make their own decisions and rely on the market for their income, instead of the government.

But the sometimes volatile nature of commodity markets can make it difficult for family farmers to survive even a normal business cycle. When prices are high, farmers often pay so much of their income in taxes that they are unable to save anything. When prices drop again, farmers can be faced with liquidity problems. This bill allows farmers to manage their income, to smooth out the highs and lows of the commodity markets.

In that way, this bill is complementary with the philosophy of the new farm program. Business decisions are left in the hands of farmers, not bureaucrats at the Department of Agriculture, and not elected officials. The farmer decides whether to defer his income for later years. The farmer decides when to withdraw funds to supplement his operation.

Mr. President, I will take just a moment to explain how the bill works. Eligible farmers are allowed to make contributions to tax-deferred accounts, also known as FARRM accounts. The contributions are tax-deductible and limited to 20% of the farmer's taxable income for the year. The contributions are invested in cash or other interest-bearing obligations. The interest is taxed during the year it is earned.

The funds can stay in the account for up to five years. Upon withdrawal, the funds are taxed as regular income. If the funds are not withdrawn after five years, they are taxed as income and subject to an additional 10% penalty.

Essentially, the farmer is given a five-year window to manage his money in a way that is best for his own operation. The farmer can contribute to the account in good years and withdraw from the account when his income is low.

This bill helps the farmer help himself. It is not a new government subsidy for agriculture. It will not create a new bureaucracy purporting to help farmers. The bill simply provides farmers with a fighting chance to survive the down times and an opportunity to succeed when prices eventually increase.

Mr. President, I want to thank my colleagues for supporting this bill, especially Senator BAUCUS, the lead Democratic cosponsor. I look forward to working with him on the Finance Committee to ensure passage of this important effort for our farmers.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the names of the Senator from Wisconsin [Mr. FEINGOLD] and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 863

At the request of Mrs. MURRAY, her name was withdrawn as a cosponsor of S. 863, a bill to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia.

S. 1260

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1320

At the request of Mr. ROCKEFELLER, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1320, a bill to provide a scientific basis for the Secretary of Veterans Affairs to assess the nature of the association between illnesses and exposure to toxic agents and environmental or other wartime hazards as a result of service in the Persian Gulf during the Persian Gulf War for purposes of determining a service connection relating to such illnesses, and for other purposes.

S. 1334

At the request of Mr. BOND, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1580

At the request of Mr. SHELBY, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1580, a bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1754

At the request of Mr. FRIST, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1754, a bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests

through debt reduction with developing countries with tropical forests.

S. 1825

At the request of Mrs. MURRAY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1825, a bill to amend title 10, United States Code, to provide sufficient funding to assure a minimum size for honor guard details at funerals of veterans of the Armed Forces, to establish the minimum size of such details, and for other purposes.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1959

At the request of Mr. COVERDELL, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 1959, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 1973

At the request of Mr. BUMPERS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1973, a bill to amend section 2511 of title 18, United States Code, to revise the consent exception to the prohibition on the interception of oral, wire, or electronic communications.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 1992

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1992, a bill to amend the Internal Revenue Code of 1986 to provide that the $500,000 exclusion of a gain on the sale of a principal residence shall apply to certain sales by a surviving spouse.

S. 2036

At the request of Mrs. HUTCHISON, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Oregon [Mr. SMITH], the Senator from Alabama [Mr. SESSIONS], the Senator from Colorado [Mr. ALLARD], the Senator from Mississippi [Mr. LOTT], the Senator from Oklahoma [Mr. NICKLES], the Senator from Alaska [Mr. STEVENS], the Senator from North Carolina [Mr. HELMS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 2036, a bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. D'AMATO, the name of the Senator from South Dakota [Mr. JOHNSON] was withdrawn as a cosponsor of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Maine [Ms. COLLINS], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as "National Character Counts Week."

SENATE RESOLUTION 216

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Resolution 216, a resolution expressing the sense of the Senate regarding Japan's difficult economic condition.

SENATE RESOLUTION 230—AUTHORIZING THE PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 230

Whereas, the Office of the Inspector General of the United States Department of Justice has requested that the Senate Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending inquiry into the handling and dissemination by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Senate Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the United States Department of Justice, under appropriate security procedures, copies of committee records relevant to the Office's pending inquiry into the handling and dissemination by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information.

AMENDMENTS SUBMITTED

THE SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

FEINGOLD AMENDMENT NO. 2394

Mr. FEINGOLD proposed an amendment to the bill (S. 1260) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. ___. CIVIL RIGHTS PROCEDURES PROTECTIONS.

(a) SHORT TITLE.—This section may be cited as the "Civil Rights Procedures Protection Act of 1998".

(b) AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"SEC. 719. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(c) AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"SEC. 16. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such

right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under section 501, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(e) AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(f) AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES.—Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal law (other than a Federal law that expressly refers to this section) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim concerning making and enforcing a contract of employment under this section, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(g) AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this subsection, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(h) AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended—

(1) by redesignating section 405 as section 406; and

(2) by inserting after section 404 the following new section:

"SEC. 405. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or under an amendment made by this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(i) AMENDMENT TO TITLE 9, UNITED STATES CODE.—Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

(j) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to claims arising on and after the date of enactment of this Act.

SARBANES (AND OTHERS) AMENDMENTS NOS. 2395–2396

Mr. SARBANES (for himself, Mr. BRYAN, and Mr. JOHNSON) proposed two amendments to the bill, S. 1260, supra; as follows:

AMENDMENT NO. 2395

On page 9, between lines 9 and 10, insert the following:

"(d) APPLICABILITY OF STATE STATUTE OF LIMITATIONS.—Notwithstanding subsection (b), an action that is removed to Federal court under subsection (c) shall be subject to the State statute of limitations that would have applied in the action but for such removal.

On page 9, line 10, strike "(d)" and insert "(e)".

On page 10, line 12, strike "(e)" and insert "(f)".

On page 10, line 17, strike "(f)" and insert "(g)".

On page 14, between lines 10 and 11, insert the following:

"(3) APPLICABILITY OF STATE STATUTE OF LIMITATIONS.—Notwithstanding paragraph (1), an action that is removed to Federal court under paragraph (2) shall be subject to the State statute of limitations that would have applied in the action but for such removal.

On page 14, line 11, strike "(3)" and insert "(4)".

On page 15, line 15, strike "(4)" and insert "(5)".

On page 15, line 20, strike "(5)" and insert "(6)".

AMENDMENT NO. 2396

On page 10, strike line 24 and all that follows through page 12, line 11 and insert the following:

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(i) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; and

"(ii) questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members.

On page 16, strike line 3 and all that follows through page 17, line 13 and insert the following:

"(B) CLASS ACTION.—

"(i) IN GENERAL.—The term 'class action' means any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; and

"(II) questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members.

On page 17, line 14, strike "(C)" and insert "(ii)" and move the margin 2 ems to the right.

On page 17, line 21, strike "(D)" and insert "(C)".

SARBANES (AND OTHERS) AMENDMENT NO. 2397

Mr. SARBANES (for himself, Mr. BRYAN, Mr. JOHNSON, and Mr. BIDEN) proposed an amendment to the bill, S. 1260, supra; as follows:

On page 10, between lines 16 and 17, insert the following:

"(f) STATE ACTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(2) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

On page 10, line 17, strike "(f)" and insert "(g)".

On page 15, between lines 19 and 20, insert the following:

"(5) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

On page 15, line 20, strike "(5)" and insert "(6)".

BIDEN AMENDMENT NO. 2398

Mr. BIDEN proposed an amendment to the bill, S. 1260, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. FRAUD AS PREDICATE OFFENSE.

Section 1964(c) of title 18, United States Code, is amended by striking ", except" and all that follows through "final".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 13, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 13, 1998, at 10:00 a.m. to hold a hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 13, 1998, at 10:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on "Tobacco Litigation: Is it Constitutional?"

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 13, 1998, at 9:30 a.m. on Federal Communications Commission Oversight: Wireless Bureau.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on near Eastern and South Asian Affairs be authorized to meet during the session of the Senate on Wednesday, May 13, 1998, at 2:00 p.m. to hold a hearing.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, May 13, 1998, at 9:30 a.m.

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS ON REGULATORY RELIEF

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions and Regulatory Relief of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 13, 1998, to conduct an oversight and reauthorization hearing on the Community Development Financial Institutions Fund (CDFI) Program.

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

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICE

Mr. DOMENICI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Wednesday, May 13, 1998 at 2:00 p.m. for a hearing on "S. 1710, The Retirement Coverage Error Correction Act of 1998."

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

ADDITIONAL STATEMENTS

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT—CONFERENCE REPORT

• Mr. BROWNBACK. Mr. President, particularly in light of the 1996 Farm Bill, it is important that the federal government focus its attention on the factors that will increase U.S. agriculture's competitiveness in a deregulated farm economy. This includes improving efficiency in the transportation system, keeping international markets active and growing, advancing research, and facilitating use of market oriented risk management tools.

Yesterday the Senate approved the Conference Report to S. 1150, which provides for two of those critical factors. First of all, it provides important funding for agriculture research programs. Though I am critical of government funding of applied research that would otherwise be financed by those who will directly benefit in the private sector, I view basic research as a responsibility of the federal government. It is through research—largely conducted by the land grant universities supported by the federal government—that we experienced the "green revolution" whereby the world learned to produce more food using fewer resources. Through research we have developed technologies that have increased farm efficiency exponentially, transformed food processing, and enhanced human nutrition. Given the structure of the agriculture industry, these advances never would have occurred if it had been up to individual farmers or individual companies to conduct the necessary research.

Furthermore, the intensive use of farmland here in the U.S. means that sensitive ecosystems around the world—which would have to be converted to farmland were it not for the productive capacity of the Midwest—can be spared. Continuing to search for ways to increase the productive capacity of America's farmers will help ensure that these ecosystems are not destroyed in order to provide for the food needs of the world's growing population. So the advances achieved through research have not only improved our own economic position, they have also benefitted the environment worldwide.

The bill also provides a stable funding mechanism for crop insurance, which has been subject to annual debates in recent years. This has been problematic for farmers and insurance agents, who need to be able to plan ahead. With the more liberalized market conditions that the new Freedom to Farm Act provides, risk management is more important than ever for farmers. And, for many, crop insurance is the most viable option for managing risk. In fact, lenders often require that producers obtain crop insurance in order to qualify for operating loans.

All of the spending that is directed toward these programs is offset by savings from food stamp administration accounts and the limitation of Commodity Credit Corporation funding for computers. So, the increased spending in this bill does not jeopardize the balanced budget agreement enacted last year.

It goes without saying that this bill is critical for a farm state like Kansas. However, the benefits of agricultural research and a reliable mechanism to manage risk extend well beyond the state lines of farm states—this country's production affords our consumers in rural communities and cities alike the cheapest, safest, and most abundant food supply on earth. It is imperative that Congress continue the investment that makes this competitive advantage possible. I am glad that the Senate finally approved the Conference Report, and hope that the House will act soon to secure these benefits for rural America.•

CELEBRATION OF ISRAEL'S 50TH ANNIVERSARY

Mr. FEINGOLD. Mr. President, during the last few days, both in Israel and around the world, Jews and millions of others have been celebrating the 50th anniversary of the birth of Israel. A celebration of Israel is a celebration of democracy, prosperity, faith and the fulfillment of the dream of a Jewish homeland.

It was on May 14, 1948, that David Ben-Gurion announced Israel's birth to the world. Fifty years later, Israel is a

mature state—a survivor of wars, assassinations and painful regional conflicts. And Israel has not only survived, it has prospered and thrived.

It has bloomed in the desert, taking root against seemingly impossible odds.

But it does not surprise us, for we know that overcoming the insurmountable is the story of the Jewish people. Examples of Israel's achievements abound: it is a world leader in developing agricultural techniques for arid climates, and in harnessing the power of solar energy.

Ben-Gurion believed that Israel could lead the world to a better future by marrying the ethical teachings of the ancients with the discoveries of modern science. "It is only by the integration of the two," he wrote, "that the blessings of both can flourish."

Israel ranks among the most advanced economies in the world, and is a vigorous democracy in a region of largely authoritarian regimes. Voter turnout for Israel's 1996 elections were about 80 percent, a high turnout by any standard, and one that surpasses and challenges the United States, which had just 49 percent turnout that same year. And Israel has successfully resettled Jewish immigrants from the former Soviet Republics and across the globe, including absorbing 680,000 immigrants during a three year period. The culture of Israel is equally vibrant, as Israelis have drawn on their dramatic personal and national histories to create invaluable contributions to the arts.

At 50, Israel has character, strength and dignity. Of course, like anyone who reaches 50, Israel is also experiencing something of a mid-life crisis.

As Israelis take stock of their achievements at this important moment in their history, they find problems yet to be solved and many goals yet to be reached. Israel has not yet made peace with all of her neighbors, and difficult decisions about how to achieve peace, or whether to continue to, at this point, seek peace at all, are causing painful rifts in Israeli society.

Personally, I look at Israel from many perspectives—as an American, as a Jew, as a United States Senator and as a member of the Senate Foreign Relations Committee.

As an American, I see Israel as a staunch ally and friend. As a Jew, I see a spiritual homeland, a place where all Jews have a claim, a right to belong. Israel is an oasis of faith for Jews in every corner of the world. As a United States Senator and member of the Senate's Foreign Relations Committee, I take a deep interest in Israel and the Middle East peace process.

I first visited Israel when I was 19 years old. My father and mother took me as a way to educate me about the importance of Israel, and the trip had an enormously powerful impact on me. I returned two more times, in 1976 and 1977, while I was a student at Oxford University.

My strongest memory of that last trip was our visit to the Western Wall, when I brushed up against a soldier carrying a machine gun under his jacket. It was then that I felt for the first time, through the cold steel of a weapon, what it was like to exist in a society where the threat of violence was a constant. At the time, I hoped upon my next return to Israel that there would be peace in the region—never realizing that we would find ourselves in the stalemate we are in today so many years later. For these 21 years since then, I was unable to return to Israel except for one time and one time only—and then only for 10 hours—for the sad occasion of Yitzhak Rabin's funeral in November 1995.

I went as a very young man and returned much changed—I had become a Senator, a husband and a father—but was still awed by the powerful presence of faith and hope, violence and conflict that still characterize the Jewish state today.

In between these visits, I had the opportunity to study the evolving relationship between Israel and the United States for a paper I did for a history course at the University of Wisconsin-Madison. To research this paper, I read all the comments of Members of Congress in the CONGRESSIONAL RECORD concerning Israel for the years 1948, 1956, 1967 and 1973, and analyzed how those comments reflected a changing definition of U.S. interests in the region from the birth of Israel, through the Suez Crisis, the Six Day War and the Yom Kippur War.

In 1948, most of the talk was about the need for a homeland for the Jewish people, especially after the Holocaust. In 1956, that talk shifted to describing Israel as a blooming democracy; a small outpost of democratic values in the midst of a non-democratic region. In 1967, Israel was the non-aggressive dove who triumphed in a hostile environment. By 1973, my predecessors had shifted to speaking of Israel in a very positive geopolitical and national security terms.

Today, I add my own remarks about Israel to the long chronicle of the American-Israeli relationship in the CONGRESSIONAL RECORD to those of my predecessors who came to speak in times of crisis and triumph for Israel.

The U.S. has played a pivotal role in Israel's history, and our relationship has been a strong one from the beginning. Within minutes of Ben-Gurion's announcement of the birth of Israel, President Harry Truman recognized the fledgling state. Prior to Israel's founding, between the end of the Second World War and May 14, 1948, official U.S. support for a Jewish state was largely grounded in the desire to help re-settle hundreds of thousands of Jewish refugees, displaced people and survivors of the Holocaust.

From May 14, 1948, until today, America could always count on Israel as an island of democracy and stability in an area of the world not altogether familiar with either concept.

The presence of a secure and vital Israel, in and of itself, is in America's interests.

For many years, those interests included containment of Soviet expansion into the Middle East, securing access to the region's oil for the industrialized nations of the West, promoting market economies and democratic institutions and safeguarding Israel's national security. As the inter-relationship between Israel and the United States has developed, matured and adapted to political and economic developments, so too has American policy. During the tenure of President Jimmy Carter, for example, America was very active in the Middle East peace process, culminating in the signing of the Camp David accords.

During the first Reagan term, the administration's priorities of combating terrorism, promoting cooperative security and confronting Soviet expansion found common ground with the perspectives of Prime Ministers Begin and Shamir, and, in general, those closer relations survived the policy differences arising over the Lebanon war in 1982. Ties between Israel and the United States grew stronger during President Reagan's second term, including the signing of several precedent-setting strategic and cooperative defense agreements.

During the early Bush years, U.S.-Israel relations were marked again by tension caused by some policy disagreements, but tension eased in 1990 when—amid Iraqi threats against Israel generated by the Persian Gulf crisis—President Bush repeated the U.S. commitment to Israel's security. Confidence in U.S. support was a primary factor in Israel's decision not to retaliate against Iraq for its Scud missile attacks.

Of course, the first year of the Clinton administration saw the historic signing on the White House lawn of the Declaration of Principles establishing the goals and framework for peace talks. On September 13, 1993, the world watched with hope and trepidation as Prime Minister Rabin and Yasser Arafat inaugurated a new era in the Middle East. This would soon be followed by two other major peace agreements: the May 1994 Gaza-Jericho Agreement that provided for Palestinian control over the Gaza Strip and the environs of Jericho after an Israeli withdrawal, and the September 1995 Interim Agreement that set a timetable and an agenda for final status negotiations.

The Palestinians and Israelis have also agreed to other arrangements,

such as the Israeli withdrawal from six Palestinian cities in December 1995, and the Palestinian elections in January 1996.

As much as we hoped the historic moment on the White House lawn would bring an end to terrorism, bloodshed and occupation, we all knew just as well that the road to peace would not be that simple. Years of bitter experience also told us the road would not be that short.

But 1994 and 1995 were relatively good years. The peace process was progressing, and, by late 1995, it seemed relations between Rabin and Arafat were warming. Then, of course, as we can never forget, extremism struck again with the assassination of Yitzhak Rabin by a Jewish radical. It is important to note that this was a terrorist attack like so many in the new Middle East, where extremism and violence of every stripe lashes out against any sign of peace and tolerance.

Today, this extremism and violence present perhaps the greatest and most persistent threat to peace.

Just before he died, Rabin said, "Peace is the future." We must remain faithful to the memory of Rabin and all those who had the courage and the abiding discipline to put ancient hatreds aside and made peace their priority, because Rabin had no illusions about the difficulty of the peace process.

Someone who witnessed Rabin in a meeting on the peace process said to the prime minister, "I can see I'm talking to the converted." Rabin's reply was, "You're talking to the committed, not the converted." It was commitment that peace required of him and requires of all of us.

As we look forward to Israel's next 50 years, we must be able to look forward to a future that gives every Israeli, and every Jew, a peaceful homeland. But the Palestinians are also clearly key to peace in the region, and that is why it is so important to get the current negotiations back on track.

Although our priorities and perceptions on the path to peace sometimes differ, America and Israel have, by and large, moved forward together, and I believe that partnership will continue. Earlier this month, in honor of this 50th anniversary, Congress unanimously passed a resolution which read, in part, "The United States commends the people of Israel for their remarkable achievements in building a new state and a pluralistic democratic society in the Middle East in the face of terrorism, hostility and belligerence by many of her neighbors." The resolution reaffirmed the bonds of friendship between Israel and the U.S., and extended best wishes for a peaceful, prosperous and successful future.

The key to continued success and prosperity in Israel will be a lasting peace, and the United States clearly has an interest in taking an active role in the peace process, as it has done throughout the years.

Helping facilitate the peace process is one facet of U.S. relations with Israel, and another is foreign assistance. Since 1976, Israel has been the largest recipient of U.S. foreign assistance. Over the past 10 years, Israel has annually received about $3 billion in economic and military grants, refugee settlement assistance, and other aid, from the United States.

Recently, we have seen a movement to gradually reduce that level of aid, beginning with the declaration by Prime Minister Netanyahu that Israel should reduce its dependence on the United States when he addressed a joint session of Congress two years ago. Negotiations have since been conducted with the goal of reducing the overall level of American assistance and to gradually phase out economic aid while increasing military aid.

Specifically, the Clinton administration and the Congress are currently reviewing an Israeli proposal to reduce the $1.2 billion in U.S. *economic* assistance to Israel to zero over 10 years, and to increase U.S. *military* aid to Israel from $1.8 billion to $2.4 billion per year. I am intrigued by this idea, and am glad to see Israel taking the lead in this regard. Israel has recognized that in its 50-year history, it has made enormous strides in economic development and, as a result, now boasts a relatively healthy economy. At the same time, Israel recognizes—as I think we all do—that it still faces a substantial security threat, and so must maintain a robust military and access to state-of-the-art weaponry.

The proposal to change our aid relationship reflects this reality. It is an Israeli plan, and as such reflects Israeli priorities, including a desire to decrease its dependence on the United States, and boost its own self-sufficiency. I am concerned about potential unintended consequences of hasty action by the Congress, and so, I, along with others in this body are still considering our legislative response. But by and large I believe these are worthy goals that we should support, just as we have supported Israel in the past.

Ben-Gurion envisioned many achievements for Israel, including one I mentioned earlier, the idea of building a successful nation by marrying scientific advances with ancient Hebrew traditions. He believed that by drawing on the strength, wisdom and skill of a nation of faith and accomplishment, Israel could build a lasting peace with its neighbors.

Israel deserves that peace at last.

Just over 100 years ago, the First Zionist Congress convened in Basel, Switzerland. Under the leadership of Theodore Herzl, the participants announced their desire to reestablish a Jewish homeland in the historic land of Israel. Herzl once said that "If you will it, it is not a dream."

Israel is a testament to the will of a people who believed those words and proved them true.

It would be 51 years until the dream expressed at the First Zionist Congress would become reality, until Holocaust survivors and other Jews persecuted around the world could have a homeland where they could seek refuge and build a life. And 50 years after that founding, Israel has taken root in the desert soil and it has thrived.

The United States has built an alliance and friendship with Israel that has enriched American life and helped Israel thrive, and I hope that partnership will continue for the next 50 years and beyond. But as Israelis well know and all of us must recognize, the dream of those at the First Zionist Congress and of other Jews for centuries, to have a homeland, cannot be truly fulfilled until peace is attained.

Violence and conflict are a constant threat to the people of Israel, and to the Nation of Israel itself. As we celebrate the 50th anniversary of the birth of Israel, we have every right to wish for something more. Not just for a Jewish homeland, but a homeland at peace.

As Theodore Herzl said, "If you will it, it is not a dream."•

TRIBUTE TO THE FLOYD COUNTY EMERGENCY AND RESCUE SQUAD: FORTY YEARS OF VOLUNTEER SERVICE IN EASTERN KENTUCKY

• Mr. MCCONNELL. Mr. President, I rise today to recognize the recent anniversary of the Floyd County Emergency and Rescue Squad. Forty years ago, this squad of volunteers was formed to help the people of Eastern Kentucky in times of emergency and disaster, and have been doing so ever since.

The Floyd County Emergency and Rescue Squad was founded on April 27, 1958, as a result of a tragic accident in Prestonsburg, Kentucky, in which a school bus plunged into the Big Sandy River, killing 26 students and the driver. As a result of this tragedy, dozens of community members came together to form the Squad and the late Graham Burchett became the first Captain, a position he held for twenty years.

Since that time, over 300 community members have served on the Squad—doctors and lawyers, coal miners and factory workers—people from all walks of life have worked side-by-side in volunteer service to their community. The Squad operates without any public support. The members are all volunteers and all their equipment is paid for through private donations and grants.

The Squad currently maintains a roster of thirty active members and dozens of reserve members. The Squad is

called on for auto extrication, water rescue and drowning recovery, lost or missing persons, and assistance to coal mine rescue teams. In the last month alone, they have assisted in the evacuation of flood victims, recovered a drowning victim and have assisted on four auto accidents.

Despite the fact that the Squad must labor mightily for every dollar they get, they have managed to secure ultra-modern equipment, and are called frequently to assist in recovery activities outside the county and even outside the state.

Mr. President, I hope all my colleagues will join me in offering our congratulations to Captain Harry Adams, Co-Captain Richie Schoolcraft, Treasurer and Secretary Brian Sexton, First Lieutenant Derek Calhoun and Second Lieutenant Lee Schoolcraft and all the volunteers of the Floyd County Rescue Squad. They carry on the Squad's rich tradition of volunteering their time and risking their lives to help the people of their community, and they are all worthy of our admiration and thanks.•

ANTI-SLAMMING AMENDMENTS ACT

• Mr. LEVIN. Mr. President, yesterday, Senator MCCAIN and Senator HOLLINGS proposed a managers' amendment, Amendment No. 2389 to S. 1618, a bill to amend the Communications Act of 1934. The amendment significantly improves the protections for consumers against "slammers," persons who deliberately deceive consumers and change their long distance carrier without proper authorization. The manager's amendment included two of my amendments which were cosponsored by Senator DURBIN and Senator GLENN.

The Permanent Subcommittee on Investigations held a hearing recently on slamming. At this hearing, we became aware of the fact that slammers intentionally used names like Phone Company and Long Distance Services to deliberately deceive customers on their phone bills. Usually local telephone companies or billing agents precede an itemized list of long distance calls by printing the name of the long distance service provider. When deceptive company names are used, customers are not aware that their long distance service provider has been changed. My intention was to remedy this situation by requiring the billing companies to specify the long distance provider using a statement like, "Your provider for the following long distance service is __" . If that type of statement were made conspicuously and clearly stated on a consumer's phone bill before the itemized long distance charges, consumers would know if their long distance carrier had been changed.

Section 231 of the manager's amendment, entitled Obligations of Telephone Billing Agents, has language that differs from my proposed amendment. The language in the Manager's amendment is language that was suggested by the staff at the Federal Communications Commission.

I chose not to use the FCC language because my staff contacted several telephone companies and learned that if we used the FCC language several problems could be created which may result in potential increased costs to consumers. GAO has advised my staff that some of the requirements in the provision as passed simply can't be done.

Because of time constraints we were unable to resolve the language in the provision. It is not our intention to increase consumers costs for telephone services in order to alert them about "slammers." If the current bill increases costs, and we believe it could, we need to modify this section so consumers are protected without having to pay for that protection. I sincerely hope we can continue to work to improve this section in the conference committee, if there is one, or before the bill is enacted into law, to make sure that we are not creating a burden on telecommunications carriers which will be passed on to consumers.•

COMMENDING THE CREDIT UNIONS FOR KIDS PROGRAM

• Mr. SMITH of Oregon. Mr. President, I rise today in recognition of the Credit Unions for Kids program, an effort which began in my state of Oregon but which has since spread to more than 35 states across the nation and has served as an outstanding example of community service.

The Credit Unions for Kids program represents credit union employees and members in Oregon and Southwest Washington who have volunteered their resources and time in raising $1.7 million to benefit the Doernbecher Children's Hospital Foundation. Last year, Oregon ranked first in the average dollars raised per credit union on a nationwide basis.

This is a day for celebration, not only for this donation, but for the generosity exhibited by a twelve-year fund-raising effort undertaken by the employees, families, and members of the credit unions in Oregon and Southwest Washington. This combined effort serves as an example to the businesses, communities and corporations in the Pacific Northwest and throughout the nation that anything is possible, even fulfilling the dream of a new children's hospital, one floor at a time.

For a moment, I would like to focus on the recipient of this donation—the new Doernbecher Children's Hospital which replaces a very old and outdated facility on the campus of Oregon Health Sciences University. This four-story, 250,000 square-foot facility houses 120 beds, including the medical/surgical units, a pediatric intensive care unit, the Kenneth W. Ford Cancer Center and the Doernbecher Neonatal Care Center. The hospital also has a 16-bed floor dedicated to inpatient and outpatient cancer treatment.

Perhaps what is most impressive about this facility is the focus on the need of the children and families whom it will serve. Designed by Doernbecher staff, parents and patients, the hospital has places for families to gather together, facilities for families who wish to cook their own meals, and patient rooms that have extra beds so that parents may stay with their children. There are separate playrooms, outdoor play structures and a schoolroom. There are large and numerous windows welcoming natural light. There is artwork of birds and frogs, sculptures, painting, and poems.

One particular poem, "Naknuwisha" which appears in the waiting room of the hospital and is a Sahaptin term among the Yakima, meaning "to care for something precious, particularly children who need our help" was written by Kim Stafford in 1996 and serves as a constant reminder to all who enter the hospital that this is a place for children, and a place where healing and hope begin:

Naknuwisha
young friend,
be part of something old—
be home here in the great world
where rain wants to give you drink
where forest wants to be your house
where frogs say your name and your name
where wee birds carry your wishes far
and the sun reaches for your hand—
be home here
be healed
be well
be with us all
young friend.

Mr. President, this beautiful new hospital is the foundation of a commitment made by the community, families, friends, physicians, and by businesses who have given the gift of time and resources to turn a dream into a reality. I am proud to recognize the Credit Unions of Oregon and Washington, and to congratulate them on their contribution to this facility and this day of celebration of the opening of the Credit Unions for Kids floor of the Doernbecher Children's Hosptial.

Congratulations, and thank you.•

NAN S. HUTCHINSON SENIOR HALL OF FAME HONOREES

• Mr. GRAHAM. Mr. President, I am delighted to recognize and congratulate a group of exemplary citizens upon their induction into the 1998 Dr. Nan S. Hutchinson Senior Hall of Fame. These men and women have each given a great gift to their communities—they have given of themselves.

Arnold Abbott, 73, works everyday to fulfill his self-appointed mission to

feed and help the homeless on the streets of Broward County. He also organized a small, dedicated core of volunteers to assist him in finding clothes, counseling and living arrangements, and to reunite the homeless with their family members.

Ruth Forbes, 76, began her work of community service in 1993 with the Area Agency on Aging's Advisory Council. In her time there, she has held the positions of Legislative Chair, Vice Chair, and Chairperson. In addition to improving the lives of those in her own age group, she also aids disadvantaged children.

Arnold & Joann Lanner, 76 and 79, respectively, work with the "I Am Somebody" program at elementary schools. This program is aimed at increasing students' self esteem. In addition, they have raised over $120,000 for the Hepburn Center, an intergenerational, community-based organization that provides after-school care and organizes activities for the elderly.

Evelyn Jones Lewis, 70, began her volunteer work when she was appointed to serve on the Florida Advisory Council on Aging. Since then, she has been active in urging Congress to pass legislation that would improve the ever-changing nutritional and transportation needs of the elderly.

Claire F. Mitchel, 76, is truly an asset to the elderly community because she promotes acceptance and celebration of the aging process. She promotes these values in work with organizations like the Rape Crisis Center, Women in Distress and the Older Women's League.

Estella Mae Moriarty, 62, exemplifies the true meaning of altruism by embracing foster-care children of all ages who have been abandoned, abused or neglected. Realizing that children need a permanent home in the developing stages of their lives, she co-founded the SOS Children's Village, which provides care and comfort for children in distress.

Lily Ann Olfern, 68, is involved with a telephone service bank to build a public safety building. Thanks to her many hours on the phone, the new facility will be opening in Davie next year. She also bags toys for children on Christmas, feeds the homeless on Thanksgiving, and teaches senior citizens how to avoid various scam operations.

Reuben Sperber, 90, came to Florida to retire. However, he has worked just as hard during his twenty years in this community as while he was in the workforce. Over the years, Reuben has served in his temple, given of his time at the Margate General Hospital, and become one of the most respected members of the Alzheimer's Family Center's Board of Directors.

Jacob Statemann, 76, has dedicated his time to the Southeast Focal Point Senior Center in Hollywood for over 10 years. At the Center he has taught classes ranging from current events to foreign language, and he has never hesitated to organize holiday events or assist other classes that need help. He also leads a senior choral group at HUD housing.

Ira Subin, 83, spends much of his time and efforts helping the Area Agency on Aging's Advisory Council plan social events and fundraisers. His advocacy for the Seniors for Seniors Dollar Drive, along with matching funds that the program has received from the state, has substantially increased the quality of services that the Area Agency on Aging can provide.

Mr. President, all of these outstanding seniors have diligently and selflessly given of their time and energy to make Broward County a better place for all its residents. Florida is very fortunate to have these inspiring senior citizens who give so much to our communities. I congratulate them today and wish for them many more productive and healthy years.•

TRIBUTE TO DR. VINCE DAVIS: 27 YEARS AT THE PATTERSON SCHOOL OF DIPLOMACY AND INTERNATIONAL COMMERCE

• Mr. McCONNELL. Mr. President, I rise today to recognize the tremendous accomplishments of Dr. Vince Davis, who is retiring this spring after 27 years at the Patterson School of Diplomacy and International Commerce at the University of Kentucky in Lexington.

Since I was first elected to the United States Senate in 1984, Vince and I have had occasion to discuss important issues of the day in foreign affairs, as well as the underlying trends and currents that shape and guide world events looming just over the horizon. I have never failed to find his views both penetrating and insightful, and have always appreciated his counsel over the years.

But now, Vince has decided to pursue new interests after nearly three decades of toiling in the academic vineyard, and so it's appropriate that we bid him adieu with fondness and with gratitude.

Thinking back over the span of his career, I believe Vince Davis's mark on Kentucky and the world has been and always will be the enormous store of labor and love he poured into the Patterson School of Diplomacy and International Commerce. It's clear to me that Vince's tireless and inspired stewardship of the program has fashioned the Patterson School into the glimmering jewel of excellence for which it is now justly famous. Vince has given his all to the School, and two generations of bright young students have been immeasurably enriched by his exertions.

Mr. President, there is an old Irish proverb that says, "The work praises the man." In that spirit, each time I think of the Patterson School, I will remember Vince Davis, for the Patterson School is his work, and we all should praise that which he leaves as his legacy.

Mr. President, I also ask that an article from the Lexington Herald Leader of Sunday, April 19, 1998, be printed in the RECORD.

The article follows:

TEACHER PRAISED FOR YEARS AT UK DIPLOMACY SCHOOL

(By Holly E. Stepp)

For years, the University of Kentucky's Patterson School of Diplomacy and International Commerce has urged the state's residents—from the business community to average Joes—to think globally.

And one of the leaders behind that charge was retiring professor and former director Vincent Davis.

Last night, Davis, the Patterson Chair professor, was honored for his dedication to that mission during a black-tie dinner at Lexington's Wyndham Garden Hotel. More than 200 alumni and friends of the 39-year-old-school came out to celebrate Davis' commitment to the program.

His retirement becomes effective at the end of this semester.

"With Vince's retirement, not just the Patterson School, but the University of Kentucky, loses one of their academic giants of the past half century," said current director John D. Stempel.

Davis, 67, was the school's second director for 22 years after an active and reserve career in the U.S. Navy. He receives much of the credit for building the school's prestige as a world-class international relations program.

"Patterson School has a unique combination of superior foreign-affairs training and related community outreach," said David D. Newsom, former ambassador and adviser to the Patterson School. Newsom, who was undersecretary of state during the Carter administration, was the featured speaker.

Although the Patterson School was founded in 1959, it was the brainchild of UK's first president, James K. Patterson, who served from 1878 to 1910.

Patterson died in 1922 at the age of 89. In his will, he ordered that his estate's assets go to the university for the creation of such a school, with the proceeds invested for a prolonged period before UK could gain the money.

The school, Patterson also ordered, should be named in honor of William Andrew Patterson, his son.

Davis worked to build the program into one nationally known for the quality of its graduates. Although enrollment is limited to 25 to 30 students, the Patterson School is often compared to similar but larger programs at prestigious universities, such as Harvard and Princeton.

Current and past students of the school praised Davis as an interested mentor with a quick wit.

Davis, himself, didn't dwell on the accolades bestowed on him, including a $100,000 endowed trust to support Patterson students' internships.

"All I have done is to work to carry on the great tradition started by my predecessors," Davis said.

On his retirement, he said he got a hint from a former student a couple of months ago that it was time to retire.

"When your former graduate students start to retire, perhaps it's wise to consider joining them."•

ANTI-SLAMMING AMENDMENTS ACT

• Mr. LEAHY. Mr. President, yesterday, an amendment offered by Senator FEINSTEIN to the anti-"slamming" bill, S. 1618, was passed without debate. While this amendment was intended to enhance the privacy rights of patients, the consequence of this amendment would be far different. Specifically, this amendment would change current federal law and put patients at risk of criminal liability if they record their conversations with health providers and health insurers without first alerting and obtaining the consent of those providers and insurers.

This Feinstein amendment modifies the wiretap law, in title 18 of the United States Code, but was never considered by the Committee of the Judiciary, which has jurisdiction over this law. The risk of passing legislation quickly and bypassing the Committee with jurisdiction over the subject matter is amply revealed by the unintended consequence of this amendment.

If this amendment becomes law, the minority rule adopted by only a small number of States—sixteen—requiring the consent of all parties for the lawful interception of telephone calls, would be applied to all conversations that take place between patients and health insurers or providers. There are a number of legitimate reasons for patients to want to record their calls with a health provider or insurer: medical instructions can be complicated. Insurers' explanations of coverage or decisions regarding reimbursement may be complicated. Patients may have sound reasons for recording those conversations if they are unable to take notes or want to keep the oral instructions for future reference. For example, patients, especially Alzheimer sufferers, may want to record their calls as a memory aid, and be too embarrassed to say so.

A more carefully crafted amendment would have reduced the unwarranted risk of criminal liability to patients. If this provision were to become law, we would have to revisit this issue promptly.•

APPOINTMENT OF CONFEREES—H.R. 2676

The PRESIDING OFFICER. Under the previous order, the Chair appoints the following conferees to H.R. 2676.

The Presiding Officer (Mr. BROWNBACK) appointed Mr. ROTH, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MURKOWSKI, Mr. NICKLES, Mr. GRAMM, Mr. MOYNIHAN, Mr. BAUCUS, Mr. GRAHAM, Mr. BREAUX, Mr. KERREY, and from the Committee on Governmental Affairs, Mr. THOMPSON, Mr. BROWNBACK, Mr. COCHRAN, Mr. DURBIN and Mr. CLELAND conferees on the part of the Senate.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–44

Mrs. HUTCHISON. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 13, 1998, by the President of the United States: Treaty with Saint Vincent and the Grenadines on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 105–44).

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of Saint Vincent and the Grenadines on Mutual Legal Assistance in Criminal Matters, and a related Protocol, signed at Kingstown on January 8, 1998. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including drug trafficking offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking of testimony or statements of persons; providing documents, records, and articles of evidence; serving documents; locating or identifying persons; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets; restitution; collection of fines; and any other form of assistance not prohibited by the laws of the Requested State.

I recommend that the Senate give early and favorable consideration to the Treaty and related Protocol, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1998.*

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 255, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 255) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The Senate proceeded to consider the concurrent resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 255) was agreed to.

AUTHORIZING TORCH RUN THROUGH CAPITOL GROUNDS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 262, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 262) authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds.

The Senate proceeded to consider the concurrent resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 262) was agreed to.

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 263, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 263) authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service.

The Senate proceeded to consider the concurrent resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 263) was agreed to.

AUTHORIZING PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 230, submitted earlier today by Senator LOTT and Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 230) to authorize the production of records by the Select Committee on Intelligence.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the Select Committee on Intelligence has received a request from the Office of the Inspector General of the Department of Justice for copies of committee records relevant to the Inspector General's pending inquiry into the handling by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information obtained in the course of the Department's ongoing campaign finance investigation.

This resolution would authorize the chairman and vice chairman of the Intelligence Committee, acting jointly, to provide committee records in response to this request, utilizing appropriate security procedures.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement of explanation by the majority leader be placed at the appropriate place in the RECORD.

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

The resolution (S. Res. 230) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 230

Whereas, the Office of the Inspector General of the United States Department of Justice has requested that the Senate Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending inquiry into the handling and dissemination by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Senate Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the United States Department of Justice, under appropriate security procedures, copies of committee records relevant to the Office's pending inquiry into the handling and dissemination by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information.

ORDERS FOR THURSDAY, MAY 14, 1998

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Thursday, May 14. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period for the transaction of morning business until 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator DEWINE, 15 minutes; Senator LAUTENBERG, 15 minutes; Senator ALLARD, 15 minutes.

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

Mrs. HUTCHISON. I further ask unanimous consent that following morning business, the Senate resume consideration of S. 2057, the Department of Defense authorization bill.

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

PROGRAM

Mrs. HUTCHISON. Mr. President, for the information of all Senators, tomorrow morning at 9:30 a.m., the Senate will begin a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the Department of Defense authorization bill. It is hoped that Senators will come to the floor to debate this important piece of legislation and offer amendments under short time agreements. Members should expect rollcall votes throughout Thursday's session in an attempt to make progress on the defense bill.

Also, the Senate has reached time agreements with respect to the Abraham immigration bill and the WIPO copyright treaty legislation, and those bills could be considered during Thursday's session.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 572 and 573. I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

Mrs. HUTCHISON. Mr. President, for reference, those are the confirmations of U.S. District Judge Arthur Tarnow from Michigan and U.S. District Judge George Steeh from Michigan.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Arthur J. Tarnow, of Michigan, to be United States District Judge for the Eastern District of Michigan.

George Caram Steeh, III, of Michigan, to be United States District Judge for the Eastern District of Michigan.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

RECESS UNTIL 9:30 A.M. TOMORROW

Mrs. HUTCHISON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:37 p.m., recessed until Thursday, May 14, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 13, 1998:

EXECUTIVE OFFICE OF THE PRESIDENT

JACOB JOSEPH LEW, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE FRANKLIN D. RAINES, RESIGNED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate May 13, 1998:

THE JUDICIARY

ARTHUR J. TARNOW, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

GEORGE CARAM STEEH, III, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

HOUSE OF REPRESENTATIVES—*Wednesday, May 13, 1998*

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

NOT VOTING—16

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

□ 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.

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 context, 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 Reserve 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 stand still. 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. 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 now 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. Madam 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. 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. 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.

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

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. 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. 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. 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. Madam Chairman, 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.
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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 Chairman, 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. 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. 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 many 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. 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	Boehlert	Chenoweth
Ackerman	Boehner	Clayton
Aderholt	Bonilla	Clement
Allen	Bonior	Clyburn
Andrews	Bono	Coble
Archer	Borski	Coburn
Armey	Boswell	Collins
Baesler	Boucher	Combest
Baker	Boyd	Condit
Baldacci	Brady	Conyers
Ballenger	Brown (CA)	Cook
Barcia	Brown (FL)	Cooksey
Barr	Brown (OH)	Costello
Barrett (NE)	Bryant	Cox
Barrett (WI)	Bunning	Coyne
Bartlett	Burr	Cramer
Barton	Burton	Crane
Bass	Buyer	Crapo
Becerra	Callahan	Cubin
Bentsen	Calvert	Cummings
Bereuter	Camp	Cunningham
Berman	Campbell	Danner
Berry	Canady	Davis (FL)
Bilbray	Cannon	Davis (IL)
Bilirakis	Capps	Davis (VA)
Bishop	Cardin	Deal
Blagojevich	Carson	DeFazio
Bliley	Castle	DeGette
Blumenauer	Chabot	Delahunt
Blunt	Chambliss	DeLauro

DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
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
Velázquez
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. 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. 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 CD's 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 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. 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. 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. 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. 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. 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. 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 pro tempore. 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
Velázquez
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	Parker	Sisisky
Largent	Pascrell	Skeen
Latham	Paul	Skelton
Lazio	Paxon	Smith (MI)
Leach	Pease	Smith (NJ)
Levin	Peterson (MN)	Smith (OR)
Lewis (CA)	Peterson (PA)	Smith (TX)
Lewis (KY)	Pickering	Smith, Linda
Linder	Pickett	Snowbarger
Lipinski	Pitts	Solomon
Livingston	Pombo	Spence
LoBiondo	Pomeroy	Spratt
Lofgren	Porter	Stabenow
Lowey	Portman	Stearns
Lucas	Poshard	Stenholm
Manton	Pryce (OH)	Strickland
Manzullo	Quinn	Stump
Markey	Rahall	Stupak
Mascara	Rangel	Sununu
Matsui	Redmond	Talent
McCarthy (MO)	Regula	Tanner
McCarthy (NY)	Reyes	Tauscher
McCollum	Riggs	Tauzin
McCrery	Riley	Taylor (MS)
McDade	Rivers	Taylor (NC)
McGovern	Rodriguez	Thomas
McHugh	Roemer	Thornberry
McIntyre	Rogan	Thune
McKeon	Rogers	Tiahrt
McNulty	Rohrabacher	Towns
Menendez	Ros-Lehtinen	Traficant
Metcalf	Rothman	Turner
Mica	Roukema	Upton
Miller (FL)	Royce	Walsh
Minge	Ryun	Wamp
Mink	Salmon	Watkins
Moran (KS)	Sanchez	Watts (OK)
Morella	Sanford	Waxman
Murtha	Sawyer	Weldon (FL)
Nadler	Saxton	Weldon (PA)
Neal	Scarborough	Weller
Nethercutt	Schaefer, Dan	Wexler
Neumann	Schaffer, Bob	White
Ney	Scott	Whitfield
Northup	Sensenbrenner	Wicker
Norwood	Sessions	Wise
Nussle	Shadegg	Wolf
Oxley	Shaw	Wynn
Packard	Shays	Yates
Pallone	Shimkus	Young (AK)
Pappas	Shuster	Young (FL)

NOT VOTING—11

Bateman	Gonzalez	Kilpatrick
Christensen	Harman	Radanovich
Clay	Hefner	Skaggs
Gilchrest	Hilliard	

□ 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. 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. 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 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
Velázquez
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 Reserve Act impose 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 ACCOMMODATES 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 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. 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. 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. 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. 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. 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 who 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 waved 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 re-creating, the kind of unhealthy banking situations that we find in Asian countries.

And as the gentlewoman from New Jersey (Mrs. ROUKEMA) asked earlier, well, what about Europe? Well, in fact, the problems resulting from the mix of commerce and banking exist 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 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.

The point of no quorum is considered withdrawn.

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.

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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 poses 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
Velázquez
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

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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
Velázquez
Vento
Visclosky
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Wise
Wynn
Young (AK)

NOT VOTING—10

Bateman	Hefner	Spence
Christensen	Kaptur	Yates
Gonzalez	Radanovich	
Harman	Skaggs	

□ 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	Becerra	Boyd
Aderholt	Bentsen	Brady
Allen	Bereuter	Brown (CA)
Andrews	Berman	Brown (FL)
Archer	Berry	Brown (OH)
Armey	Bilbray	Bryant
Bachus	Bilirakis	Bunning
Baesler	Bishop	Burr
Baker	Blagojevich	Burton
Baldacci	Bliley	Buyer
Ballenger	Blunt	Callahan
Barcia	Boehlert	Calvert
Barr	Boehner	Camp
Barrett (NE)	Bonilla	Campbell
Barrett (WI)	Bono	Canady
Bartlett	Borski	Cannon
Barton	Boswell	Capps
Bass	Boucher	Cardin
Carson	Hansen	McNulty
Castle	Hastings (FL)	Meehan
Chabot	Hastings (WA)	Meek (FL)
Chambliss	Hayworth	Meeks (NY)
Chenoweth	Hefley	Menendez
Christensen	Herger	Metcalf
Clay	Hill	Mica
Clayton	Hilleary	Millender-McDonald
Clement	Hilliard	Miller (CA)
Clyburn	Hinchey	Miller (FL)
Coble	Hinojosa	Minge
Coburn	Hobson	Moakley
Collins	Hoekstra	Mollohan
Combest	Holden	Moran (KS)
Condit	Hooley	Moran (VA)
Cook	Horn	Morella
Cooksey	Hostettler	Murtha
Costello	Houghton	Myrick
Cox	Hoyer	Nadler
Coyne	Hulshof	Neal
Cramer	Hunter	Nethercutt
Crane	Hutchinson	Neumann
Crapo	Hyde	Ney
Cubin	Inglis	Northup
Cummings	Istook	Norwood
Cunningham	Jackson (IL)	Nussle
Danner	Jackson-Lee (TX)	Obey
Davis (FL)	Jefferson	Olver
Davis (IL)	Jenkins	Ortiz
Davis (VA)	John	Owens
Deal	Johnson (CT)	Oxley
DeGette	Johnson (WI)	Packard
Delahunt	Johnson, E. B.	Pallone
DeLauro	Johnson, Sam	Pappas
DeLay	Jones	Pascrell
Deutsch	Kaptur	Pastor
Diaz-Balart	Kasich	Paul
Dickey	Kelly	Paxon
Dicks	Kennedy (MA)	Payne
Dingell	Kennedy (RI)	Pease
Dixon	Kennelly	Pelosi
Doggett	Kildee	Peterson (MN)
Doolittle	Kilpatrick	Peterson (PA)
Doyle	Kim	Petri
Dreier	King (NY)	Pickering
Duncan	Kingston	Pickett
Dunn	Kleczka	Pitts
Edwards	Klink	Pombo
Ehlers	Klug	Pomeroy
Ehrlich	Knollenberg	Porter
Emerson	Kolbe	Portman
Engel	Kucinich	Poshard
English	LaFalce	Price (NC)
Ensign	Lampson	Pryce (OH)
Eshoo	Lantos	Quinn
Etheridge	Largent	Rahall
Evans	Latham	Ramstad
Everett	LaTourette	Rangel
Ewing	Lazio	Redmond
Farr	Leach	Regula
Fattah	Lee	Reyes
Fawell	Levin	Riggs
Filner	Lewis (CA)	Riley
Foley	Lewis (GA)	Rivers
Forbes	Lewis (KY)	Rodriguez
Ford	Linder	Roemer
Fossella	Lipinski	Rogan
Fowler	Livingston	Rogers
Fox	LoBiondo	Rohrabacher
Franks (NJ)	Lofgren	Ros-Lehtinen
Frelinghuysen	Lowey	Rothman
Frost	Lucas	Roukema
Furse	Luther	Roybal-Allard
Gallegly	Maloney (CT)	Royce
Ganske	Maloney (NY)	Rush
Gejdenson	Manton	Ryun
Gekas	Manzullo	Salmon
Gephardt	Markey	Sanders
Gibbons	Martinez	Sandlin
Gilchrest	Mascara	Sanford
Gillmor	Matsui	Sawyer
Gilman	McCarthy (MO)	Saxton
Goode	McCarthy (NY)	Scarborough
Goodlatte	McCollum	Schaefer, Dan
Goodling	McCrery	Schaffer, Bob
Gordon	McDade	Schumer
Goss	McDermott	Scott
Graham	McGovern	Sensenbrenner
Granger	McHale	Serrano
Green	McHugh	Sessions
Greenwood	McInnis	Shadegg
Gutierrez	McIntosh	Shaw
Gutknecht	McIntyre	Shays
Hall (OH)	McKeon	Sherman
Hall (TX)	McKinney	Shimkus
Hamilton		

Shuster	Stump	Wamp
Sisisky	Stupak	Waters
Skeen	Sununu	Watkins
Skelton	Talent	Watt (NC)
Slaughter	Tanner	Watts (OK)
Smith (MI)	Tauscher	Waxman
Smith (NJ)	Tauzin	Weldon (FL)
Smith (OR)	Taylor (MS)	Weldon (PA)
Smith (TX)	Taylor (NC)	Weller
Smith, Adam	Thomas	Wexler
Smith, Linda	Thompson	Weygand
Snowbarger	Thornberry	White
Snyder	Thune	Whitfield
Solomon	Thurman	Wicker
Souder	Tiahrt	Wise
Spence	Tierney	Wolf
Spratt	Towns	Woolsey
Stabenow	Traficant	Wynn
Stearns	Turner	Young (AK)
Stenholm	Upton	Young (FL)
Stokes	Visclosky	
Strickland	Walsh	

NOES—18

Abercrombie	Kanjorski	Sabo
Blumenauer	Kind (WI)	Sanchez
Bonior	LaHood	Stark
Conyers	Mink	Torres
Dooley	Oberstar	Velázquez
Fazio	Parker	Vento

ANSWERED "PRESENT"—1

DeFazio

NOT VOTING—9

Bateman	Harman	Radanovich
Frank (MA)	Hastert	Skaggs
Gonzalez	Hefner	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	Berman	Brown (FL)
Ackerman	Berry	Brown (OH)
Aderholt	Bilbray	Bryant
Allen	Bilirakis	Bunning
Andrews	Bishop	Burr
Archer	Blagojevich	Burton
Bachus	Bliley	Buyer
Baesler	Blumenauer	Callahan
Baker	Blunt	Calvert
Baldacci	Boehlert	Camp
Ballenger	Boehner	Campbell
Barcia	Bonilla	Canady
Barr	Bonior	Cannon
Barrett (NE)	Bono	Capps
Barrett (WI)	Borski	Cardin
Bartlett	Boswell	Carson
Barton	Boucher	Castle
Becerra	Boyd	Chabot
Bentsen	Brady	Chambliss
Bereuter	Brown (CA)	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
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
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
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—13

Conyers
Dickey
Hefley
Hostettler
Kanjorski
LaHood
Oberstar
Parker
Peterson (MN)
Pombo
Sabo
Stenholm
Stump

NOT VOTING—13

Armey
Bass
Bateman
Crapo
Frank (MA)
Gonzalez
Harman
Hefner
Lewis (CA)
Nethercutt
Radanovich
Skaggs
Yates

□ 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. 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. 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
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise

NOT VOTING—10

Bateman
Cox
Doolittle
Frank (MA)
Gonzalez
Harman
Hefner
Radanovich
Skaggs
Yates

□ 2048

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
Velázquez
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. 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. Mr. 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.

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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.

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 postcolonial 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.

REPORT ON 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.

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 heels came adult organizations dedicated to encouraging more. Proffitt's, Tennessee-based organization, First Priority, founded in 1995, coordinates inter-church 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's, "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'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.

"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. ERNEST 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—THANKS TO THE MANY AFTER-SCHOOL PRAYER CLUBS

(By David Van Biema)

On an 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 proschool 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.

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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.

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
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.
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 as an expenditure by the candidate.

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 of Texas, 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. 2635: 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 of Texas, 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 of Texas.

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. VELÁZQUEZ, 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 of Texas, 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 of 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 filed 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 filed 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.

H.R. 3721

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

(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.".

EXTENSIONS OF REMARKS

INTRODUCTION OF THE HOMEOWNERS MILITARY EQUITY ACT

HON. LINDA SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mrs. LINDA SMITH of Washington. Mr. Speaker, today I rise to introduce legislation correcting an inadvertent inequity in the Taxpayer Relief Act (TRA) we passed last year.

The TRA gives taxpayers who sell their principal residence a much-needed tax break. Prior to this, taxpayers were allowed a one-time exclusion on the profit from selling their home, but to take the exclusion you had to be at least 55 years old and live in the residence for 2 of the 5 years preceding the sale.

In 1997, we changed that. Under the TRA all taxpayers who sell their personal residence on or after May 7, 1997, are not taxed on the first $250,000 of profit from the sale ($500,000 for joint filers.) To qualify, there is a two-part test. The taxpayer must own the home for at least 2 of the 5 years preceding the sale, and he or she must also have lived in the home as their main home for at least 2 years of the last 5 years. For most people, Mr. Speaker, all of this is fine. But there is a very important group of people we left out—military personnel on active duty away from home.

For these people—the men and women serving in our military who are assigned somewhat away from their home—qualifying for the new exemption can be difficult. I'm sure everyone would agree that our military personnel should be able to qualify for the same tax relief available to every other homeowner. Serving one's country away from home shouldn't be an impediment to qualifying for the exemption, but that's exactly what it is in many cases.

The measure I am introducing today amends the home ownership test in the Taxpayer Relief Act so that military personnel who are away on active duty can include that time spent serving our country when they calculate the number of years they lived in their primary residence. Under the bill's provisions, members of our Armed Forces will be considered to be using their house as their main residence for any period that they are away on extended active duty as long as they lived in the house as a principle residence before being ordered away.

Senator MCCAIN has introduced a similar measure in the other body. I hope my colleagues here in the House will support this legislation and act swiftly to extend the same tax relief available to everyone else to the dedicated men and women in our Armed Forces.

IN HONOR OF THE LAND O' LAKES FISH AND GAME CLUB'S 50TH ANNIVERSARY

HON. JAY W. JOHNSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. JOHNSON of Wisconsin. Mr. Speaker, I rise today to pay tribute to the Land O' Lakes Fish and Game Club as they celebrate their 50th Anniversary. It is a remarkable milestone for a remarkable organization.

The Land O' Lakes Fish and Game Club is the oldest club of its kind in the state of Wisconsin. The club has been dedicated to the preservation of natural resources and wildlife from its inception. It is also dedicated to sponsoring educational projects in the public schools, as well as granting scholarships to teachers and students about to enter college.

For their commitment to the environment and Wisconsin's Northwoods, for their work to foster education and learning, for their public service, I want to officially recognize the Land O' Lakes Fish and Game Club on a half century of excellence.

I hope my colleagues will join me in congratulating the club on this extraordinary occasion, and wishing them another fifty years of success.

SPECIAL TRIBUTE HONORING KELLY GEORGE, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Kelly George, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Kelly is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Kelly George is an exceptional student at Grand Ledge High School and possesses an impressive high school record. She has been involved with the National Honor Society. Kelly is involved with Drama and varsity tennis and track. Outside of school Kelly, has been involved with her church as a student leader and various other community activities.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Kelly George for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

SPECIAL INTERESTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 6, 1998 into the CONGRESSIONAL RECORD.

THE POWER OF LOBBYISTS AND SPECIAL INTERESTS

One of the public's biggest criticisms of Congress is the power that lobbyists and special interests have over the legislative process. People see them as extremely powerful wheeler-dealers, able to manipulate the system for their own advantage, "buying" the votes of Members of Congress through extensive campaign contributions and other favors, and basically corrupting the political system.

CONCERNS

Certainly there are legitimate reasons for concern. Lobbying is constitutionally protected under the right to petition government, yet the powers of pressure groups are formidable. Their numbers are large and their resources vast. There are special interest groups for almost every cause, and lobbying is the third largest business in the nation's capital, behind only government and tourism.

Special interests gain access to Members through campaign contributions and determined lobbying, and often put pressure on Members to vote with them on their key votes. They also have a broader impact on the legislative process. Lobbyists regularly meet with leaders of Congress to help lay out the congressional agenda, and play a role in drafting legislation, often behind closed doors. Congress will sometimes debate bills that have little or no chance of passage, but which will appease key supporters.

Interest groups have also been criticized for sending out misleading information on the issues and running expensive "issue advocacy" attack ads against those who don't support their positions. They typically try to push through measures that benefit narrow rather than broader interests, and can make more difficult the compromise that is so essential to our system of government. There is no doubt that Members hear disproportionately from the well-off and the politically active groups—such as seniors, veterans, small business owners, and gun owners.

The power of special interests has long been recognized. More than 200 year ago,

James Madison and the other founding fathers were particularly concerned about the power of "factions" in a democracy. And over the years, many congressional scandals have been related to powerful special interests and influence buying—from the Union Pacific and Credit Mobilier stock scandals in the 1800s to more recently the Keating Five, Koreagate, and Abscam affairs.

BENEFITS

Yet despite these concerns I believe that there is still a legitimate and important role for lobbyists and special interests to play in our system of government, and that the public's perception of their influence is often exaggerated.

As the founding fathers recognized, special interests have their drawbacks but they also play an important role in informing legislators of the concerns of major segments of the population. Advocacy groups can inform Congress of the ways legislation impacts their members, provide extensive information on upcoming issues, and help focus the public's attention on important issues. This flow of information between government and the governed enhances what Jefferson called the "dialogue of democracy". I've found that the most effective lobbyists are those providing reliable information to Members and staff. Lobbyists understand that trust is their most precious asset.

Special interests don't somehow just represent "the bad guys". Almost every American is represented by them in some way and has benefitted from their work. Lobbyists work, for example, for the continuation of the home mortgage interest deduction, for expanded medical research, for protecting our lakes and rivers, for improving interstate highways, for maintaining the student loan program, and for protecting religious freedom. Advocacy groups have helped pass legislation ranging from key civil rights protections to the deficit reduction package that has finally balanced the federal budget. Hoosiers benefit directly from the lobbyists representing the interests of the State of Indiana and local cities and towns in Washington.

It is true that lobbyists sometimes get through Congress measures that help only a few at the expense of the broader public. But the ease by which special interests can manipulate the system and push things through is exaggerated by the public. First, while Members do pay attention to what advocacy groups say, they also pay very close attention to the broad interests of their constituents. The bottom line for Members is that if they ignore the wishes of their constituents, they simply won't get re-elected. Second, special interest groups have proliferated so much in recent years that they often cancel each other out. For example, in the area of health policy one or two groups used to dominate, but now there are 750 health groups alone. Third, the founding fathers specifically set up our government with numerous obstacles for special interests trying to push through legislation. With its complex rules and maze of procedural hurdles, Congress was designed to slow things down and allow all sides a chance to be heard.

WHAT'S NEEDED

Special interest groups have a mixed impact on our political system. We shouldn't simply condemn them, but we do need to rein in some of the excesses and address legitimate concerns.

Various steps are needed. First, we need to pass campaign finance reform to curb the increasing reliance of lawmakers on money from special interests. Second, the House in recent years has basically banned gifts from lobbyists. Although some people are unhappy with the change, we need to keep tough gift restrictions in place. Third, Congress passed improved lobbying disclosure in 1995 to get a better handle on who is lobbying and what they are doing. That was important, but we need to closely monitor the law to make sure it is not easily avoided, as past reforms have been. Fourth, we need to prohibit travel for Members and staff funded by groups with direct interest in legislation before Congress. Fifth, we need better disclosure of when lobbyists have played a major role in drafting legislation Congress is considering. Clearly the public has a right to know that. Sixth, because Members are much more likely to be contacted by special interest groups representing the better-off, we need to recognize that bias and make a special effort to ensure that all people in our society, including the less well-off, still have a voice in the decisions being made. Finally, all of us need to focus more on what's good for the country as a whole and less on what's good for each of us as individuals. At the end of the day, we are all Americans.

CONCLUSION

The proliferation of special interest groups may in some ways be worrisome, but it is an integral part of our system of government. As Madison noted, a free society nurtures politically active groups. They may not always act in the way that some of us might like and they may be prone to excesses, but they are still an important force in our system of representative democracy.

HONORING MADALYN AND MATTHEW LINSKEY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GINGRICH. Mr. Speaker, it is with great pride that I submit to the CONGRESSIONAL RECORD the following essay, "Honoring Our Heroes," written by Madalyn Linskey, an eight year old constituent of mine who attends Kincaid Elementary. Madalyn speaks eloquently about the love and inspiration she and her family receive on a daily basis from her ten year old autistic brother, Matthew. I was privileged to be able to read Madalyn's essay at the April 25 Atlanta Investment Conference, the proceeds of which benefit the Friends of Autism. Through his enormous personal strength, Matthew reminds us all that with determination, courage, and love, we can overcome the most onerous of burdens to live a productive and fruitful life. I am proud to represent Matthew and Madalyn.

"HONORING OUR HEROES"

I would like to tell you about my real hero. He is my brother, Matthew Arthur Linskey, Jr. He is ten years old.

My brother was born with a disability called autism. He is mentally challenged and sees the world through a troubled and confused mind. He lives in a world that none of us can imagine. Somehow he finds a way to survive.

Adults and children sometimes stare and make fun of him because they don't understand his strange behavior. I'm sure that it hurts his feelings but he shows a lot of courage and tries to go on with his life.

He is very caring and compassionate to me when I am sad or angry about something even though I know he does not understand.

Matthew is persistent when trying to learn how to do simple tasks. He is very brave when he has to do things that his mind tells him to be afraid of.

This past summer after many years of swim lessons, Matthew competed in his first race. It was in our neighborhood on the summer swim team. We were swimming against another neighborhood team. Matthew swam against boys his own age and finished last. He was so happy. Watching him made me feel so much joy in my heart. I was so proud that he tried his best.

Matthew has been a special gift to me and my family. He has taught me to be patient and understanding to people with special needs. He has also taught me never to give up trying to reach my goals. If he has the courage to do it, then I do too.

I admire and love Matthew Arthur Linksey, Jr. He is my brother, my best friend, and my "Real Life Hero" forever.

A SPECIAL TRIBUTE TO JOSEPH HEYMAN ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT, NEW YORK

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, Joseph L. Heyman. Joe has recently accepted his appointment to attend the United States Military Academy at West Point, New York.

Joe, who is from Grand Rapids, Ohio, has distinguished himself as an outstanding student and a fine student-athlete while attending Ostego High School.

During his career at Ostego High School, Joe excelled academically by achieving a perfect grade point average of 4.00, which ranks him first in his class of 132 students. In addition, Joe has been active in the National Honor Society and was named a National Merit Scholar Semifinalist.

On the fields of competition, Joe has proven himself to be a talented and gifted student-athlete through his performances in both varsity football and varsity track. Joe has also been active in government and community service organizations. He has served on the Ostego High School Student Council, and is currently working on his Eagle Scout Award with the Boy Scouts of America.

Mr. Speaker, I am confident that Joe will be very successful at West Point, and in all of his future endeavors. I would urge my colleagues to stand and join me in paying tribute to Joseph Heyman, and in wishing him all the best as he prepares for the United States Military Academy.

LENAWEE COUNTY POLICE OFFICERS MEMORIAL

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SMITH of Michigan. Mr. Speaker, law enforcement officers work daily in communities across the Nation, assisting individuals in the pursuit of life, liberty, and happiness;

Law enforcement officers are, most often, the first contact individuals have with their representatives of government, and they perform the duties and responsibilities of that important liaison role with wisdom and compassion;

Law enforcement officers are expected to perform duties above and beyond those of the average person, including duties such as rescuing individuals from a multitude of life-threatening incidents and assisting families during times of great personal sorrow;

Law enforcement officers engage in a variety of tasks, from visiting with home-bound elderly citizens, mediating domestic disputes, and providing counsel to youngsters on our streets, to retrieving lost pets and bringing a spirit of friendship and compassion to an environment often lacking in these essential qualities;

Law enforcement officers daily encounter individuals within our society who reject all moral values and ethical codes of conduct in pursuit of criminal activities;

Law enforcement officers risk their health, lives, and future happiness with their families in order to safeguard communities from criminal predation;

In the course of their duties, law enforcement officers may find themselves not only in harm's way, but also victims of violent crime; and

The contributions made by Dep. Stanley B. Hoisington, Tpr. Cal Jones, Tpr. Douglas Pellot, Marshall Richard Teske, Tpr. Roger Adams, Ptlm. Bobby Williams, Ptlm. Steven Reuther, Tpr. Byron Erikson, law enforcement officers killed in the line of duty, should be honored, their dedication and sacrifice recognized, and their unselfish service to the Nation remembered.

HONORING POLICE OFFICERS KILLED IN THE LINE OF DUTY

HON. JAY W. JOHNSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. JOHNSON of Wisconsin. Mr. Speaker, I rise today to express my pride and respect for our brave law enforcement officials during National Police Week. I regret, however, that this body has not been afforded the chance to truly honor fallen police officers, as they would under my legislation, H. Con. Res 47. Unfortunately, my bill was not included on yesterday's suspension calendar of votes.

The bill that Congress voted on and passed yesterday remembers the sacrifices of police officers. I do not intend to demean its purpose. It is a worthy bill with honest sentiment. However, by denying the members in this chamber the ability to also vote on H. Con. Res 47, the leadership has failed to do all they can to honor police officers killed in the line of duty.

Under my bill, whenever a police officer is killed in the line of duty, a special U.S. Flag flown over the Capitol Building would be lowered to half-staff and then given to the family of the officer after it is flown. Currently, a flag is flown at half-staff only once a year to honor Police Officers Memorial Day. More than just words, this measure would entrust our nation's most powerful symbol, our flag, to remind Americans on a daily basis of the bravery and sacrifices of this nation's law enforcement officers.

This flag flown at half-staff over the Capitol would send a signal to Congress, to all of Washington and the entire nation that our brave law enforcement officers deserve our highest respect. The cold reality is that every 57 hours, an officer will die in the line of duty in this country. When we lose a police officer in the line of duty, we have lost a hero.

My bill has been endorsed by the National Fraternal Order of Police, the National Association of Chiefs of Police, and the International Union of Police Associations.

We must do all we can to protect and honor the police officers who risk their lives for the safety of our communities. When decision-makers in Washington see this constant reminder of the bravery of law enforcement officers, it will strengthen their support for the men and women who fight crime across America. I would hope that this Congress will seize the occasion of Police Memorial Day to enact H. Con. Res 47, important legislation to honor fallen officers with a U.S. Flag at the U.S. Capitol dedicated to their service.

A BRAVE TALE

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CANNON. Mr. Speaker, I am proud to rise today to honor an extraordinary American and constituent of mine from the Third District of Utah.

On March 12, 1998, Sgt. First Class Bryan Smethurst, a recruiter for the Army National Guard in Utah, was on his daily morning commute through Provo Canyon. Little did he know at the time that he would perform an uncommon act of bravery that Thursday morning that would save the life of a woman, her pregnant daughter and her three year old granddaughter.

The morning was pretty typical for that time of year and Bryan Smethurst was driving the icy and wet Provo Canyon road to work. But through the hazy windshield that morning he spotted something a little different—fresh skid marks on the asphalt were up ahead and then veered toward the river to an overturned car. Realizing that the accident must have just occurred—it would have been cleaned up by then if it had happened earlier—he stopped to investigate. The sight to behold left him no time to assess the danger to himself: He dove into the freezing Provo River to rescue the occupants of the overturned car.

In moments, Bryan was struggling out of the river and pulling to safety the driver of the car, a young and pregnant woman who was frantically trying to help her mother and daughter still trapped. Rushing back into the river and moving against the current, Bryan was able to open one of the car doors and pull the grandmother to safety. The third passenger of the overturned car was a child, who although quite secure in a car seat, was trapped upside-down with the icy river flowing just below her eyebrows. Battling an impending numbness in his hands from the freezing water and weather, Bryan released the child from the car seat and brought her safely to shore as well.

All three occupants of the car had to be treated at a local hospital for hypothermia, minor cuts and bruises. They were able to return to their homes later in the day.

Three lives were saved on the morning of March 12 by Sgt. First Class Bryan Smethurst, a courageous individual who acted without regard for his own life, but rather in the name of unselfish and brotherly love.

It is precisely for such acts of bravery and kindness that we must strive to convey the appropriate recognition, honor and gratitude.

TRIBUTE TO PASTOR G.L. JOHNSON

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Pastor G.L. Johnson, Senior Pastor of the Peoples Church of Fresno, California. Pastor Johnson is celebrating 35 years of exceptional religious service at the Peoples Church of Fresno.

G.L. Johnson was born in Houston, Texas on February 24, 1928. In 1950, G.L. Johnson married Jacqueline (Jackie) Cockerell, and in 1953 they had their only daughter Cindy. Pastor Johnson attended Navarro Junior College of Corsicana, Texas; Southwestern Assembly of God College of Waxahachie, Texas; and Mennonite Biblical Seminary of Fresno, California. He was ordained in Fort Worth, Texas in 1951.

In the Ministry, Pastor Johnson served as Youth Minister throughout the United States from 1946–1952. He served as a pastor in Corsicana, Texas from 1951–1953 and served as a Statewide Evangelist from 1953–1957. G.L. Johnson moved on to serve as a Pastor in Owensboro, Kentucky from 1957–1958 and then in Tallahassee, Florida from 1958–1961. He was the Associate Director of a Latin American Orphanage from 1961–1963. G.L. Johnson currently serves as Senior Pastor at the Peoples Church of Fresno where he has been serving since 1963.

Some of the many awards and recognition that Pastor Johnson has received include the Distinguished Service Award from the City of Fresno, acting as Mayor of Fresno for the Day in 1973 and 1987, and being recognized as a Distinguished Minister by the California Theological Seminary Hall. He received the P.C. Nelson Distinguished Alumnus Award from Southwestern College and the Calab Encouragement award. He is the author of "How to

Conduct a Stewardship Campaign in the Local Church" and the "Loneliness Booklet."

Mr. Speaker, it is with great honor that I pay tribute to Pastor G.L. Johnson for 35 years of service to the Peoples Church in Fresno, California. I applaud his commitment and dedication to Christianity, and his effort to strengthen religion in the community is commendable. I ask my colleagues to join me in wishing Pastor G.L. Johnson many more years of success.

TEEN SMOKING

HON. NEWT GRINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GINGRICH. Mr. Speaker, I would like to encourage my colleagues to read the following column, "Blowing Smoke on Smoking," from the April 27, 1998 edition of the Marietta Daily Journal.

Like most Americans, I was sickened to discover internal tobacco industry documents which revealed a marketing plan geared to teenagers. As a result of this and other unsavory revelations about the industry, I feel the tobacco lobby has zero clout on Capitol Hill today.

This editorial clearly illustrates that the current debate over the tobacco issue is not one of who favors stopping teen smoking and lung disease. We all favor that. The question is whether we get there through legislation that specifically targets teen smoking without a net tax increase, as most of my Republican colleagues and I favor, or do we get there by passing a large tax increase on the poor, using the increased revenue to line the pockets of trial lawyers, fund bigger government spending on new programs, and create even more federal bureaucracy, as the Clinton administration favors. That is the choice we face.

[From the Marietta Daily Journal, Apr. 27, 1998]

BLOWING SMOKE

Newt Gingrich said the other day that President Clinton was insincere in his support of tobacco legislation, and President Clinton responded with a counter-attack. A better option was available to him. The president should have abandoned the insincerity.

"This is not a question of who cares about children or who cares about stopping lung disease," the Republican House speaker is quoted as having said in a speech. "This is an issue about whether or not liberals deliberately used a passionate, powerful, emotional issue as an excuse for higher taxes, bigger government and more bureaucracy."

For those unkind words and others, President Clinton orchestrated a response in which he and other Democrats essentially called Gingrich a shill for the tobacco industry and accused him of being someone who doesn't much care if teens start smoking and eventually die from lung cancer.

But Gingrich spoke the unvarnished truth. The White House has been supporting legislation that would increase federal regulatory powers, abridge First Amendment free-speech protections and hike cigarette taxes that are disproportionately paid by people with low incomes. The revenues, Clinton has made clear, would then be used for expensive new programs mainly benefiting the middle class.

Some 98 percent of smokers are adults and the proposed $1.10-a-pack tax would only cause an estimated 2 percent drop in teen smoking. Nevertheless, Gingrich himself has said he would support a tax increase if it would not be so high as to cause a black market in cigarettes. What he doesn't support is the way the White House plans to spend the money, and here's where presidential sincerity can be measured. If the president and the Democrats truly want to curb teen smoking instead of bribing voters with new giveaways, why not use the extra funds for anti-smoking campaigns? Or the White House could do what Gingrich favors and support using the revenue for health care costs.

Because of an escalating greed for revenues, the administration-supported bill sponsored by Republican Sen. John McCain may now be dead. But if the president should get his way, the government would become a kind of shareholder in the tobacco industry, counting on its ongoing prosperity for the continued financing of programs that might well grow in popularity.

Do the president's actions, then, demonstrate that he cares about saving teens from smoking and premature death, or do they demonstrate that he cares about political advantage?

It doesn't take a Ph.D. in political science to figure out the answer.

A SPECIAL TRIBUTE TO COL. JOSEPH T. COX ON THE OCCASION OF HIS RETIREMENT FROM THE U.S. ARMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to recognize a soldier and a gentleman on the occasion of his retirement. Col. Joseph T. Cox will retire Friday, May 15, 1998, after thirty years of distinguished service in the United States Army.

Joe Cox was commissioned as a Second Lieutenant in the Signal Corps after graduating with honors from Lafayette College in 1968. During his career, he served as both a group and battalion communications officer in the Republic of Vietnam, as Commander of the 501st Signal Battalion of the 101st Airborne Division, and as a permanent Professor of English at the United States Military Academy at West Point, New York.

In a nation that reveres diversity as strength, Col. Cox's career is uniquely American. As a soldier, he has mastered the art of warfare, earning a Ranger tab, receiving two bronze stars, and numerous other military awards. As a teacher, he has inspired countless young men and women to master the art of the written word and an appreciation for poetry. As a mentor, he has shown by example the importance of personal honor and choosing the harder right over the easier wrong. As a husband and father, he has kept his family at the center of his life.

Mr. Speaker, Joe Cox is a soft-spoken gentleman whose record of service speaks loudly for what is good about America. I ask my colleagues to join me in thanking him for his service to country and in wishing he and his family all the best as he opens a new chapter in his life. May he fully enjoy the blessings of the freedom he has so ably defended as an officer in the United States Army.

ECONOMIC DEVELOPMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 13, 1998 into the CONGRESSIONAL RECORD.

ECONOMIC DEVELOPMENT IN SOUTHERN INDIANA

The Ninth Congressional District has changed dramatically since I came to Congress in 1965. Southern Indiana has retained its rural character, but our communities are now more closely linked to the national and global economies. Hoosier farmers and businesses now sell their products throughout the world, and we are attracting more businesses, including major corporations like Toyota and AK Steel, than ever before.

There have been many important players in this economic development, from entrepreneurs to community leaders to local, state and federal officials. It has been my privilege to have worked with them on a wide range of projects which have helped make southern Indiana what it is today: a region with a booming economy, record-low unemployment and a rising standard of living.

During the 34 years I have been in Congress, approximately $2 billion in federal grants and loans have been directed to the communities of the Ninth Congressional District. Those funds have served a wide range of purposes in promoting growth, development and quality of life for Hoosier residents.

TYPES OF ECONOMIC DEVELOPMENT

Federal support has aided development in six key areas:

HIGHWAYS AND AIRPORTS

Federal funding has helped transform our transportation system in southern Indiana. The I-64 and I-65 corridors have provided Hoosier businesses with a vital link to the national economy, and have attracted numerous companies and well-paying jobs to our state. I-65, for example, has become a magnet for growth, with many manufacturers and major distribution centers locating along the corridor. We are working now to complete the I-265 beltway in the greater Louisville area and make other highway improvements to the region, including construction of a new U.S. 231 in Spencer County. Federal funds have also helped with the development and expansion of smaller airports in southern Indiana as well as major national airports in Louisville, Cincinnati, and Indianapolis.

OHIO RIVER

The Ohio River has been a powerful force in our region's economy, transporting commodities and creating thousands of jobs. The Clark Maritime Centre with key federal assistance, has given a boost to our river economy. Even if Hoosiers are not in agreement

about river-boat gambling, there is no way to ignore the economic impact of this new industry which will bring an investment of $1 billion to the area and the creation of some 15,000 jobs. The Ohio River is also one of the most comprehensively managed rivers in the world, with 20 locks and dams and a network of flood-walls and levees to protect river communities. The federal government built this navigation system, and with my support, is modernizing the McAlpine Locks and Dam in New Albany and renovating flood protection facilities from Lawrenceburg to Evansville.

REDEVELOPMENT

Military base closings, factory closings and natural disasters have placed strains on some of our communities over the years. The federal government has helped these communities to successfully recover. I have pushed the Army to clean up the Jefferson Proving Ground in Madison so that it can be turned to productive use; helped community leaders in Clark County as they prepare to redevelop the ammunition plant in Charlestown; and worked with several communities as they recovered from natural disasters—most notably the flood-plagued Town of English, which decided to move to higher ground. Last year, for example, the federal government made a special allocation of $6.5 million to help river communities rebuild after the 1997 floods.

WATER AND SEWER

Constructing water and sewer systems in our communities has been a longstanding priority. These facilities are necessary to improve water quality and to allow communities to grow. When I first came to office, the focus was on improving the water supply in southern Indiana by constructing reservoirs at Brookville, Patoka and elsewhere. The emphasis today is on building or extending water and sewer lines. My office spends hundreds of hours each year helping towns and cities throughout the district apply for the grants and loans to get these projects going, and we have had remarkable success getting our fair share of assistance from state and federal sources.

HOSPITALS, LIBRARIES AND SCHOOLS

I have attended scores of dedications for improvements made in southern Indiana's libraries, schools, and hospitals, many of them completed with the help of federal grants and loans. I experience genuine satisfaction as I reflect on the improvement each facility makes in the quality of Hoosiers' lives.

RECREATION

Southern Indiana is blessed with some of the most scenic areas in the Midwest, and has long been a tourist destination. I have worked to promote recreational opportunities, including: creation of the Muscatatuck Wildlife Refuge as well as the new Charlestown State Park; expansion of the Hoosier National Forest; construction of the Falls of the Ohio River Park and Interpretive Center, with its access to the ancient fossil beds on the Ohio River; and creation of a new Ohio River Greenway linking the communities of New Albany, Clarksville, and Jefferson.

LESSONS LEARNED

The past 34 years have provided many lessons in how to promote economic development. First, local officials must take the lead in planning for new development and attracting new businesses. Second, there must be a strong local emphasis on building a skilled workforce, including investment in our schools, vocational programs, and workplace training initiatives. These efforts will be particularly important in coming years as global competition for well-paying jobs intensifies. Third, our state must place a high priority on improving infrastructure. The highway bill currently pending in Congress will significantly boost Indiana's share of federal highway dollars and help address many unmet highway needs. Fourth, we must focus on encouraging our young people and entrepreneurs, never forgetting that the backbone of the Indiana economy is small business, which employs more than 2 million Hoosiers.

And lastly, even with its flaws, government will always be an important part of the economic equation. My experience in Congress has taught that good government at all levels can make our communities more competitive and our lives more pleasant. It can never replace individual Hoosiers' skill, hard work and creativity, but it can help lay the groundwork for successful development efforts, develop through education and training the needed skills in the workforce, build vital infrastructure, and help leverage limited funds to attract investors to our region.

HONORING E. DUANE THOMPSON ON HIS RETIREMENT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. HASTERT. Mr. Speaker, I rise today to honor a man whose years of service to the citizens of my District cannot be overstated.

Dewey Thompson, for the past thirty-two years, has led the Association for Individual Development with both excellence and compassion. The Association serves individuals of all ages who are developmentally and/or physically disabled or mentally ill, and Dewey Thompson has played a critical role in meeting the needs of these individuals and their families. A former teacher and counselor, Dewey joined AID in 1966 as its President, and since then the Association has grown to include more than thirty programs and serves more than 1,400 clients annually.

I do not have the time to read off a list of Dewey Thompson's accomplishments and the awards he has received, but it is symbolic of his esteem within the community that AID's Rehabilitation Center was renamed in his honor in 1991.

Mr. Speaker, I urge you and my colleagues to join me in honoring Dewey Thompson for his years of service to the people of Illinois and my District, and wish him the best on his retirement.

WASHINGTON TOWNSHIP HEALTH CARE DISTRICT MEETING HEALTHCARE NEEDS IN THE 13TH CONGRESSIONAL DISTRICT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. STARK. Mr. Speaker, I would like to take this opportunity to recognize The Washington Township Health Care District which has provided 50 years of service to the community of Fremont, California.

Half century ago, a group of civic minded citizens created the Washington Township Health District in the belief that healthcare is just as much a matter of public duty and public financing as is public education.

The District opened Washington Hospital, a 150 bed facility, within 10 years. Washington Hospital has been providing superior health care services for the past 40 years; the Hospital has grown right along side the community and has consistently been able to meet the needs of our community.

The founding members of the Board had the foresight to envision that returning profits to the Township, in the form of services and programs, would benefit the community more than profits being distributed to shareholders outside the District. In addition, the creation of a publicly elected Board of Directors provided ongoing community access to the governance of the District.

Mr. Speaker, please join me in recognizing Washington Township Health Care District for the service it provides to meet healthcare needs in our community.

TRIBUTE TO BROWNIE TROOP #434 KEY WEST, FLORIDA

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. DEUTSCH. Mr. Speaker, I rise today to congratulate Brownie Troop No. 434 from Poinciana Elementary School in Key West, Florida. The troop received the community award in the 1998 Make a Difference Day Awards on April 19th from USA Weekend, a nationally distributed publication.

Make a Difference Day, an annual event held on the fourth Saturday of every October, was started in 1992 by USA Weekend and The points of Light Foundation. The Poinciana Troop first participated in their event in 1996 by holding a school-wide food drive which succeeded in collecting 692 cans.

The troop's original goal was to collect 1,000 canned goods and recruit 13 businesses to volunteer as collection sites. They surpassed their goal last October 25th by collecting 2,213 items of food for St. Mary's Soup Kitchen and enlisting the participation of sixty-five businesses.

The Poinciana Elementary School Brownie Troop No. 434 is composed of 13 young girls, ages 6 to 8 who are: Katherine Albury, Allison Baker, Yanessa Barroso, Diana Baucom, Britney Bethel, Alexandria Caballero, Claire Dolan-Heitlinger, Espi O'Dell, Brittany Rogowski, Melissa Roos, Amanda Talbott, Andrea Wells,and Sheri Yoest. The troop is led by Troop Leader Dawn Albury. As their congressman, I am proud to represent such socially-conscious young girls. I am sure the citizens of Key West join me in wishing them continued success in 1998.

A TRIBUTE TO OUR LADY OF MOUNT CARMEL CHURCH

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KLECZKA. Mr. Speaker, I rise today to honor the Our Lady of Mount Carmel Church in West Allis, Wisconsin on the celebration of its 60th Anniversary as a congregation.

The dream of having a church where the needs of the area Italian speaking community could be met began in the 1930's for a group of about 250 Italian-Americans. But several attempts to rent space for worship did not prove successful, and in 1938, members of the Italian community began to work to raise funds to build a church of their own.

On September 21, 1939, the dream was realized, as Father Raymond Leng was named as the church's first administrator, and the parish began its official existence. The Sisters of Charity of St. Joan Antida also took up residence near the church and have since provided religious training to many generations of children from Our Lady of Mount Carmel.

Father Leng served the congregation until 1946, and was succeeded by Father Salvatore Tagliavia, who served until 1956. Father Albert Valentino then became administrator, and remained with the congregation for nearly 35 years until his death in 1991.

The present administrator, Father James Posanski, was appointed in 1991. Since then, the church has undergone several renovation projects, the parish council was reorganized, and a number of spiritual and social activities were reintroduced to the congregation.

In 1992, the local Korean community began having bi-weekly masses at Our Lady of Mount Carmel. And, as interest in these masses grew, Father John Mace, S.J. soon introduced weekly worship for the Korean-American community.

Sadly, however, in December of 1996, due to a shortage of priests and declining numbers of parishioners, the Catholic Archdiocese announced the closing of Lady of Mount Carmel and several other area churches. The parish's final date for services will be July 12, 1998, the Feast of Our Lady of Mount Carmel.

The church's diamond anniversary celebration was moved to May of 1998, to give the congregation time to properly celebrate the history and life of their beloved parish community. Although the coming months may present a great many challenges as decisions are made concerning the future of this congregation, please join me in celebrating the 60 wonderful years of this devoted and faithful parish.

May the Lord bless them on whatever paths their futures hold.

TRIBUTE TO QUINN CHAPEL AFRICAN METHODIST EPISCOPAL CHURCH

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Quinn Chapel African Methodist Episcopal Church of Sumter, South Carolina. This Church has provided a means of worship to the Sumter community for one hundred and fifty years, an anniversary which underscores the important role the Church plays in the Sumter community. It was my great honor to worship with the congregation March 15th as they celebrated this momentous occasion.

The precise date of the Church's construction is unknown. The building was originally erected in the first half of the nineteenth century, but Quinn Chapel African Methodist Church was burned to the ground a few years ago later when the adjacent school building caught fire. In the absence of a physical church building, members used a "bush shed" for worship. Rebuilt in 1864, the Church stood for the next 98 years until 1962.

A new sanctuary was erected in 1964 under the leadership of the Reverend B.J. Johnson, and in 1993, the Memorial Hall was added under Reverend H.H. Felix. Family and friends of the Church provided leadership and funds for the initial building phase, and the Hall was dedicated in September of 1993. In January 1996, renovation of the sanctuary and bathroom facilities was completed under Reverend F.J. Gadson, whose vision of an enlarged sanctuary and new educational building was realized in October of 1996.

Throughout the physical changes, Quinn Chapel African Methodist Episcopal Church has held true to its mission to be an outreach ministry that provides support and relief to the disheartened, disadvantaged, and disenfranchised. The Church continues to serve the Sumter community by being a loving ambassador for Christ.

I ask that Congress join me in showing true appreciation for Quinn Chapel African Methodist Episcopal Church as it continues to play such an important role in South Carolina, guiding Christian men, women, and children in their daily lives. The Sumter community is indebted to the Church, as the gift of love is difficult to repay. I congratulate the Quinn Chapel African Methodist Episcopal Church as it reaches a landmark One Hundred Fiftieth Anniversary.

IN DEFENSE OF ORGANIC STANDARDS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to congratulate the USDA on its decision to revise the proposed rule on national organic standards.

On December 16, 1997, the USDA published a proposed rule for national organic standards that would have undermined some of the basic tenets of organic farming. USDA wisely requested comment from the public on its proposal. The organic industry instantly mobilized and circled its wagons around the widely accepted, although uncodified, standards that the industry has been following for decades. Organic farmers and consumers wanted to protect the standards behind the label they trust.

The USDA received 200,000 comments on its proposed rule, largely because of the efforts of organic farmers, consumer advocates, and industry groups which publicized the holes in the rule and urged people to voice their concerns. I applaud the efforts of those who have worked to protect the integrity of the organic label. I would like to thank Rep. DEFAZIO for organizing a letter to Secretary Glickman urging him to work with the organic industry to bring the rule more into line with current standards and consumer preferences. And I commend the thirty-five of my colleagues who signed the letter.

Finally, I congratulate Secretary Glickman on his decision to revise the proposed rule. In a press release dated May 8, Secretary Glickman noted that "If organic farmers and consumers reject our national standards, we have failed." I couldn't agree more. Consumer expectations and preferences have driven the organic market to where it is today, earning over $3 billion in sales. Strict organic standards that reinforce current practices and promote consumer preferences will help the market grow even more.

I look forward to reviewing the revised proposal from USDA and to working with my colleagues and the organic industry to ensure that our national organic standards are meaningful and conform to consumer expectations.

MARISA ERDMAN, VOICE OF DEMOCRACY CONTEST WINNER

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CASTLE. Mr. Speaker, I am pleased to call the attention of the House to the work of Marisa Erdman of Millsboro, DE. Marisa is Delaware's State winner of the Veterans of Foreign War's Voice of Democracy script writing contest and has been named a national winner and recipient of a $1,000 scholarship award from the VFW. I congratulate Marisa, her family, and VFW Post 7422 in Millsboro, DE for sponsoring this excellent program.

As my colleagues know, the VFW has sponsored the Voice of Democracy Competition for 51 years to promote patriotic and civic responsibility among our young people and to help them attend college through the scholarship awards. The competition requires students to write and record a 3 to 5 minute essay on a patriotic theme. This year, over 93,000 secondary school students participated in the contest on the theme: "My Voice in our Democracy." I am very proud to share with the House, Marisa's excellent essay on the need for young people to be involved in their community, to gain knowledge, and to use their experience as a voice in our democracy.

Again, congratulations to Marisa, the Erdman family, and the members of the VFW Post 7422 for their fine work.

"MY VOICE IN OUR DEMOCRACY"—1997–1998 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

(By Marisa Erdman)

The Golden Gate Bridge in San Francisco, California, which was once the world's largest bridge, attracts hundreds of thousands of

West Coast tourists annually. Each day, millions of travelers cross the Kanmon Bridge between the Japanese islands of Hunshu and Kyushu. With a length of 4,626 feet, the Humber Bridge in eastern England is the longest single span bridge in the world. What do these three famous bridges have in common? They are all suspension bridges in which towers holding long steel cables support the roadway. And although the towers serve as the main structures, it is the bridge's many individual cables that provide the strength needed to sustain the weight crossing the bridge.

A democracy, such as that of our United States, because of its design is much like a suspension bridge. Democracy serves as the backbone of our nation's strength supporting the weight of natural disaster, economic recession, war, and change. Our forefathers crossed from the shore of oppression and tyranny into the promised land of choice and freedom. The principles and spirit of democracy are the towers serving as the basis for all other ideas that branch from our government. The individuals who comprise and fuel our government with their voices and insights serve as the cables that lift our great nation. Without several of its cables, a bridge will stand and function, however it will not prove as sturdy and may eventually collapse. Just as a democracy without the contribution of all its voices will still run, it will not be a true representation of the wants and needs of the people.

But how can I make my one individual voice heard? Because of my young age, I often feel that I am unable to play an important role in our democracy. But like many people, I keep the spirit of democracy alive by being active in my community. Millions of teenagers like myself volunteer in programs such as Big Brothers and Big Sisters and participate in food drives, benefit walks, and charity fundraisers in an effort to help those in need. By being involved in organizations such as the Student Government Association and by furthering my education, I can familiarize myself with the workings, ideas, and functions of our government. Through actions such as this, I have begun to keep the spirit of our democracy alive and thriving by dedicating my time, energy, and ideas.

In the future, I can make my individual voice heard by supporting the principles of our democracy in louder ways. I can support the plans and ideas of politicians by casting my vote for the candidate I feel will best satisfy my needs. Above and beyond that, I have the opportunity to represent my fellow citizens by serving on community councils or by holding political office. Like the millions of Americans who have bravely risked their lives far and away to keep the bridge of democracy standing, I also have the opportunity to defend my country by serving in the military. I can help keep the principles of our democracy alive through my talents, skills, and actions for the betterment of my community and our great nation.

Through knowledge and contribution, I have become an effective cable in the bridge of our democracy that will allow our great society to cross into the future . . . and my voice in our democracy will be heard.

HONORING THE BROOKLYN CHILD ADVOCACY CENTER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. TOWNS. Mr. Speaker, I rise today to join Innovations in American Government, an awards program of the Ford Foundation and Harvard University's John F. Kennedy School of Government in partnership with the Council for Excellence in Government, in commending the exciting efforts of Brooklyn Child Advocacy Center (BCAC) in creating a program which put children first.

Innovations in American Government is recognized as one of the most prestigious public awards in the country. Innovations awards and recognizes programs and policies that represent original and effective government initiatives. The Brooklyn Child Advocacy Center is among the 100 semifinalists for the award this year. BCAC is an inter-agency partnership that brings together all the jurisdictional agencies responsible for the investigation and prosecution of child sexual abuse.

Traditionally, the investigation of child sexual abuse meant multiple interviews with multiple professionals, disclosing the abuse to three separate agencies. Through the creation of BCAC, previous practices have changed dramatically. When children disclose sexual abuse, they are brought to the BCAC, a child-friendly environment, instead of police precincts, emergency rooms, and municipal offices. At the Center, specialized units of each agency's staff work together in a coordinated, multidisciplinary team approach.

Mr. Speaker, please join me in honoring Brooklyn Child Advocacy Center for all of its achievements and hard work to meet the needs of children who have been victimized.

TRIBUTE IN HONOR OF PRINCIPAL PATRICIA K. O'CONNOR

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SCHUMER. Mr. Speaker, I would like to take a few minutes today to give tribute to Ms. Patricia K. O'Connor, the principal of St. Edmund Elementary School, in recognition of her 25 years of service to the students of St. Edmund.

Principal O'Connor spent her first twelve years at St. Edmund teaching students in the middle and upper grades before assuming the position of principal in 1984. Since then, her dedicated spirit and enthusiasm have left an indelible mark on St. Edmund Elementary School.

During her tenure, Principal O'Connor has helped St. Edmund to flourish and grow. She introduced a pre-Kindergarten program and a full-day Kindergarten program for the benefit of the youngest students at St. Edmund. Keeping pace with new technologies, Principal O'Connor has ensured that the school has a fully equipped computer lab for use by the students. Her efforts have won Middle States Accreditation for St. Edmund Elementary School.

A school is not just an academic institution, it is also a community of students, parents, and teachers. Principal O'Connor has contributed to this community in the same way, and with the same dedicated work, that she has contributed to the classrooms of St. Edmund Elementary. She has started the Children's Choir which performs at many Liturgical celebrations in addition to establishing a Children's Liturgy at Mass on the third Sunday of each month. She has organized school plays such as a Christmas Pageant and a Passion Play which is performed during Holy Week. By helping to start a student-run newspaper she has strengthened the sense of community at St. Edmund immeasurably.

Principal O'Connor's talents have been previously recognized through her position as Liaison to District #22 for Remediation. I am sure that all of my colleagues today will be delighted to join with me in honoring Principal Patricia K. O'Connor for her twenty-five years of service to the community of St. Edmund Elementary School as a teacher, a principal, and as a leader.

HANOVER AREA CHAMBER OF COMMERCE CELEBRATES ENDURING COMMITMENT TO COMMUNITY AFTER 75 YEARS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GOODLING. Mr. Speaker, May 13, 1998 will mark the 75th anniversary of south central Pennsylvania's, Hanover Chamber of Commerce. Since its establishment in 1923, the Chamber has been dedicated to serving the community and promoting the economic interests of Hanover's merchants and manufacturers.

For three quarters of a century, the Hanover area has benefitted tremendously from the Chamber's efforts to improve the quality of life in the community. Because of the Chamber's enduring dedication to promote the business opportunities in the area, Hanover has become Pennsylvania's fifth largest retail trading area and eighth largest manufacturing center.

Today, the Chamber's leadership has been even more vital to the future of their community. As Hanover continues to experience an explosion of commercial and residential growth, the Chamber recognized this challenge by adopting a visionary agenda—the Hanover 2000 Plan—to effectively manage this tremendous expansion. The plan focuses on community development, human services, water and scenic resource protection, and infrastructure improvements.

This combination of economic promotion and community service initiatives are sure to bring the Hanover area to the forefront of excellence as we enter the 20th century. In recognition of its past and future successes, I am pleased to associate myself with such an important organization committed to better serving the greater Hanover area and join them as they celebrate their Diamond Anniversary.

TRIBUTE TO MAYOR ROGER SHEPHERD

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great man.

Roger Shepherd was a person who was proud of his community and envisioned great things for the future. As a school teacher, he touched the lives of children and helped to shape future generations. As Mayor of Harrisburg, Arkansas, he touched an entire city.

In serving from 1975 to 1976, Mayor Shepherd produced an impressive list of accomplishments, He worked continually to bring grants into the city to help Harrisburg reach its full potential. Mayor Shepherd was responsible for the creation of a city park in Harrisburg. He was mayor when our nation celebrated its 200th birthday and directed the successful Harrisburg Bicentennial Celebration.

The city of Harrisburg will remember Mayor Shepherd through an upcoming city festival being held in his honor. The festival will serve as a testament to him and the contributions he made to his hometown. It is selfless people like Roger Shepherd that make the world a better place.

HONORING GULFSTREAM AEROSPACE CORPORATION AND THE GULFSTREAM V INDUSTRY TEAM ON WINNING THE 1997 ROBERT J. COLLIER TROPHY

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KINGSTON. Mr. Speaker, it is a thrill for me to speak in this chamber today not to talk about any pressing matters at hand or particular legislation, but to pay tribute to an outstanding company that is based in Georgia's 1st Congressional District. This company is known as Gulfstream Aerospace Corporation, and they have reached a milestone.

Throughout my years as a public servant, I have come to know the Gulfstream Family in Savannah. They truly represent what it takes to become the nation's leading manufacturer in corporate/business jets. Every time I visit a member of this fine organization, I am always reminded of what symbolizes dedication and excellence.

Because of their unprecedented achievement, the Gulfstream V, and their flawless reputation, the National Aeronautic Association has awarded the 1997 Robert J. Collier Trophy to the Gulfstream Family. This acknowledgment is no ordinary, run-of-the-mill trophy. It is aviation's most prestigious award.

The Collier Trophy is given annually by the National Aeronautic Association to recognize the top aeronautical achievement in the United States. Gulfstream and the G-V Industry Team were presented the trophy at a ceremony and dinner at which I was privileged to attend on April 29, 1998, hosted by the National Aeronautic Association and the National Aviation Club in Arlington, Virginia.

Gulfstream and the Gulfstream V industry team were recognized specifically "for successful application of advanced design and efficient manufacturing techniques, together with innovative international business partnerships, to place into service the Gulfstream V—the world's first ultra-long range business jet." Past winners of the award include Orville Wright, Neil Armstrong and the Apollo 11 flight crew, Charles E. "Chuck" Yeager and United States Senator JOHN GLENN.

Certified by the FAA in April, 1997, the Gulfstream V business jet is the first aircraft of its kind in the world. With unmatched performance, comfort and speed, the Gulfstream V has a range that is 50% greater than any other business jet currently in service. The Gulfstream V can carry eight passengers and a crew of four non-stop distances up to 6,500 nautical miles at speeds up to Mach .88. The V is designed to cruise routinely at 51,000 feet. Last year, in the first eleven months of service, the Gulfstream V set 47 world and national records, consisting of 22 air speed records and 25 performance records. The Gulfstream V has made non-stop travel between cities such as Tokyo and Washington, London and Beijing, Los Angeles and Moscow routine business.

The Gulfstream V was recognized as one of the "Ten Most Memorable Flights in 1997" by the National Aeronautic Association on the flight from Washington, D.C. to Dubai, United Arab Emirates. The flight was 6,330 nautical miles and took 12 hours and 40 minutes. It flew non-stop.

On behalf of the citizens of the 1st District of Georgia, I would like to congratulate the 6,000 men and women at Gulfstream for their outstanding work and for achieving this extraordinary milestone. I am very proud to have the opportunity to recognize the Gulfstream Family this day.

Thank you, and may others throughout the aviation community be inspired to follow Gulfstream's path to success.

TRIBUTE TO THE TUNA CLUB OF SANTA CATALINA ISLAND

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CUNNINGHAM. Mr. Speaker, I rise today to celebrate the Centennial anniversary of the Tuna Club of Santa Catalina Island. Founded in 1898 by Dr. Charles Frederick Holder, following his rod and reel capture of a 183-pound leaping tuna, the Tuna Club inaugurated the sport of big game fishing. During the last century, the Tuna Club has advanced angling as a sport by designing rules that gave their quarry a sporting chance, introducing tackle categories that recognize an individual's skill, and initiating a code of sport fishing ethics. Many of these accomplishments have been adopted by angling clubs worldwide.

In addition, the Tuna Club has had a significant impact on how the public perceives the importance of protecting marine resources. The Tuna Club has led by example, holding its members to a high degree of sportsmanship and fighting to secure legislation to protect the Catalina Islands fishery.

Let the permanent RECORD of the Congress of the United States make note of the Tuna Club of Catalina Island, recognizing its first century of angling, sportsmanship, conservation and good fellowship. May its membership have good fishing for the Tuna Club's next century.

HONORING KIRA CORRILLO CORSER, FRANCES PAYNE ADLER AND HEIDI MCGURRIN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. FARR of California. Mr. Speaker, I am pleased to announce that the works of two photographers and one poet from my district are currently on display in the Cannon Rotunda.

This is the second year that I have hosted "A Matriot's Dream: Health Care for All" at a reception in the Rayburn Foyer. This collection of photographs by Kira Corrilo Corser and poetry by Frances Payne Adler creates a visual story of compelling social issues. This heart-wrenching exhibit on the plight of the uninsured is a must-see for everyone. Many of us don't worry about health care once we've made our choice during open season, but what about those who can't afford health care; or have maxed out the coverage with horrendously high medical costs related to cancer or childhood leukemia; or those who simply can't afford the co-pay on medication they must take three times a day for high blood pressure. The photographs and poetry go straight to the heart on these and other questions.

Also showing in the Cannon Rotunda is a photo essay on the daily lives of the Cuban people. In 1996 the artist, Ms. Heidi McGurrin, spent a number of months on a photo-journalistic assignment in Cuba. Her current show, "Cuba: So near . . . yet so far", presents the Cuban people—from a young bride to a homeless man; a man on his pillow to a woman hanging laundry—in amazing clarity and detail. Ms. McGurrin's work centers mostly around La Habana, Mantazas and Varadero. This is an incredible opportunity to meet the Cuban people and gain a small insight into their daily lives.

Ms. McGurrin wrote a short statement which she titled "Lasting impressions of La Habana". This statement gives you a taste of the richness that is Cuba and that shines through Ms. McGurrin's photographs. I submit this statement for the RECORD.

LASTING IMPRESSIONS OF LA HABANA

Blown by the winds
She stands proud and naked
Pulsing with music
and beautiful faces . . . jumping colors
dripping beauty
open hearts
a heaven glimpsed . . . a sadness felt
old passions lived

A country full of heart, honesty, soul, passion, rhythm.

Blacks, honey colored mulattos, mixtures of Chinese and Spanish, Cubanos.

Handsome. Full of music.

Beautiful souls who sing and dance and cry and feel, whose struggle is for truth, honor, beauty and heaven. Proud.

Flowers are everywhere, even in the trees, the beautiful trees. The buildings with old ironwork, stained glass, marble everywhere, are like old peeling faded dancers of every color and hue, so regal. Pale blue, deep blue, pale green, burgundys and wines, soft rouge colors, standing like proud haunting crumbling angels.

The women are beautiful. They pay attention and look at you as though they have never seen anyone like you before, they make you feel very much alive, but kind of like a ghost. You are there but you are not there, just like the buildings . . . the feelings can be elusive.

Walking through the inner city I saw families sitting in the doorways . . . the least gesture from me would bring such warmth, a beautiful smile. I feel so much love for these people.

SUPPORT FOR UNDERGROUND RAILROAD

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to lend my support to an effort in the Senate to amend the Higher Education Bill and give the Secretary of Education in consultation with the Secretary of the Interior, authority to provide grant money to create an educational center to research and celebrate the history of the Underground Railroad.

Under the agreement, as I understand it, the Department of Education would be authorized to evaluate competitive proposals put forward by non-profit educational groups and select a proposal that meets certain criteria, including the utilization of an existing public-private partnership and an on-going endowment to sustain the facility in the future.

Mr. Speaker, in 1990 this Congress directed the National Park Service to conduct a study of alternatives for commemorating and interpreting the Underground Railroad. The Park Service found that there were numerous sites in several States involved in the operation of this secret enterprise. Consequently, the Park Service could not recommend just a single site for an Underground Railroad memorial.

The effort in the Senate solves this dilemma by providing funds for the development of a major "hub" site and creation of satellite centers all over the country—true to the actual operation of the Underground Railroad.

Mr. Speaker, the efforts to include this amendment on the Education Bill is also true to the Underground Railroad, because the lessons of the organization are still appropriate today. This commemoration is more than just an historical monument, but instead is a teaching and research tool, that will be used to teach us about our heritage.

Mr. Speaker, I hope the Senate will include this amendment and I hope the House conferees will accept the language in conference.

TRIBUTE TO PATRICIA A. FORD

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Ms. LEE. Mr. Speaker, I rise in honor of Patricia A. Ford, the 1998 recipient "Unionist of the Year" award bestowed by the Central Labor Council of Alameda County on May 8, 1998 in Oakland, CA. Raised and educated in Oakland, California, Patricia A. Ford began her career as a labor activist in the early 1970's when he helped to form an employee caucus at Alameda County's Highland Hospital. The group sought to reform its independent union, the Alameda County Employees Association, and Ford helped lead a successful effort to affiliate the union with SEI as Local 616.

Ford became one of the new local's first and most effective shop stewards, and Local 616 members quickly tapped her for leadership. In 1975, she was the first African-American woman elected Vice President of the Executive Board, and in 1978, the first African-American woman elected Local 616 President. Meanwhile, Ford made the union her career as she became the first rank-and-file member selected to work as a field representative. In 1989, the Local 616 Executive Board appointed Ford to the union's top position, Executive Director and a member of the Executive Committee of the Central Labor Council of Alameda County. She was the first African-American to serve in that capacity.

Under Ford's leadership, Local 616 made tremendous strides, successfully extending its organizing into the private sector, where it now represents employees of Prison Health Services and the AIDS Project of the East Bay. Ford also developed and hosted the first SEIU-sponsored Civil and Human Rights Conference, attended by leaders and members from throughout the SEIU western region. Since then, the International Union has expanded the Civil and Human Rights Conference to all regions.

In 1992, Ford was elected to the SEIU International Executive Board, and became President of SEIU Joint Council 2 in the Bay Area. In 1995, Ford was elected Secretary-Treasurer of the Western Conference, a position she still holds. In April 1996, Ford made SEIU history when she was elected as the International Executive Vice President on a leadership slate headed by International President Andrew L. Stern. She, thus, became the first African-American, and only the second woman, elected to a top leadership post at SEIU.

Ford was a member of the Board of Directors of the Alameda Alliance for Health which manages the MediCal program for Alameda County and is a parishioner of the Williams Chapel Baptist Church in Oakland, California. She has a son, Andre, and two grandchildren, Ayauna Phajae and Christopher Erin.

Her life-long commitment to service for all working people has been a model for all of us. With heartfelt congratulations, I salute Patricia A. Ford as the Central Labor Council of Alameda County's 1998 "Unionist of the Year."

COMMEMORATING ALBANY, OREGON'S SESQUICENTENNIAL

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. DEFAZIO. Mr. Speaker, May 17, 1998 marks the Sesquicentennial of the date that Walter and Thomas Montieth filed a land claim in what became known as Albany, Oregon.

Found in the heart of the Williamette Valley along the banks of the Williamette and Calapooia rivers, Albany, is renowned for its beautiful victorian homes, gracious downtown district, and diverse economy. Albany has flourished as a center of business activity for the region while preserving its roots as a pioneer settlement. Oregonians should take great pride in the foresight of Albany's community leaders who preserved its historic architecture and in those who make it available to all of us to enjoy today.

I'm proud to have the honor to represent the people of the Albany area in the United States Congress. I congratulate the City and its leaders on its 150th birthday.

INTRODUCTION OF THE "POISON CONTROL CENTER ENHANCEMENT AND AWARENESS ACT OF 1998"

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. UPTON. Mr. Speaker, I rise today in support of legislation that I am introducing with my colleague and friend Rep. ED TOWNS to provide a stable source of funding for our nation's poison control centers, create a national toll-free number to provide ready access to these centers, and increase public education about poison prevention and the availability of poison control resources.

Poison control centers provide vital, very cost-effective services to the American public. Each year, more than 2 million poisonings are reported to poison control centers throughout the United States. More than 90 percent of these poisonings occur in the home, and over 50 percent of poisoning victims are children under the age of 6. For every dollar spent on poison control center services, seven dollars in medical costs are saved.

In spite of their obvious value, poison control centers are in jeopardy. They are currently financed through unstable arrangements of various public and private sources. Over the last two decades, the number of centers has steadily declined, jeopardizing access to services.

The legislation I am introducing today will provide up to $27.6 million per year over the next five years to provide a stable source of funding for these centers, establish a national toll-free poison control hotline, and improve public education on poisoning prevention and services. The legislation is designed to ensure that these funds supplement—not supplant—other funding that the centers may be receiving and provides the Secretary of Health and

Human Services with the authority to impose a matching requirement.

I encourage my colleagues to join me in support of this very cost-effective investment in the safety and health of the American public, especially our children.

INTRODUCING H.R. 3845 TO CREATE A JOINT FORCES COMMAND

HON. WILLIAM M. "MAC" THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. THORNBERRY. Mr. Speaker, I believe that one of the most important, and in many ways most difficult, challenges facing our government and our Nation over the next few years is the transformation of our national security organizations to meet our security needs of the next century. Toward that end, I have introduced H.R. 3845, to create a Joint Forces Command in the U.S. military.

Inside and outside of government, there is widespread recognition that the world security environment has changed and that our security structures will have to change as well. Throughout history, nations that have prepared to fight the last war have paid the price. Nations that recognize changing conditions, develop new technologies and doctrines, and exert the institutional discipline to overcome the natural resistance to change have had the advantage.

The threats to our security are changing—which is not to say they are lessening. There is less risk of a nuclear war with Russia, but there continue to be many nations seeking nuclear weapons. The chemical and biological threat is growing. Conflicts in all parts of the world are more troubling as they are brought into our living rooms and as the world becomes more interdependent.

Meanwhile, technology is advancing at a dizzying pace, creating both new dangers and opportunities. Worldwide commerce is becoming dependent upon space, just as it was dependent on the oceans in the past. But limited budgets and uncertainty as to our role in the world, added to the institutional resistance to change, place doubt on our ability to adapt to meet future challenges.

One thing is certain: Change is happening all around us, and it will continue to happen. We will have to be prepared to deal with it; the only question is whether we will be prepared in time.

We must rethink all of our security structures, not just the military. Our diplomatic, nuclear energy, and international economic efforts must all be part of a new approach. But I fear that bureaucratic self-interests, fighting for scarce resources, focusing on day to day problems, and the lack of urgency will conspire to prevent the kind of timely transformation which is required.

This kind of transformation in the military requires changes in process, culture, organization, doctrine, as well as taking advantage of technology. The role for Congress in this transformation is obviously limited. But just as in the past with Goldwater-Nichols, the Congress's role is indispensable. H.R. 3845 would take one small, but significant step toward making sure we make the transformation which is required of us.

Since 1991, the Atlantic Command has responsibility for training, force integration and force provider, in addition to having the geographic responsibility for the Atlantic Ocean and the Supreme Commander of NATO. Currently, there is no permanent joint experimentation process. Each of the services has its own.

My bill would create a Joint Forces Command, similar to the way Congress created the Special Operations command in 1991. The Joint Forces Command would be the force provider for the geographic CINC's, oversee joint training and experimentation, and coordinate and integrate the service battle labs.

Goldwater-Nichols pushed the military into jointness in carrying out military operations. We do not have the level of jointness needed to prepare for military operations. We also do not have a permanent joint experimentation process to help us make smart procurement decisions and to develop joint doctrine, both of which will be indispensable.

Since the QDR and NDP reports, virtually every witness before the National Security Committee, who has been asked, has acknowledged that this transformation process is one of the most important and one of the most difficult challenges our country faces over the next few years. DOD witnesses have testified that these issues are being considered and worked by each service. I do not want to replace that. I do want to bring the service's work together, and the Joint Forces Command will help to focus these variety of initiatives into an efficient, joint force.

I hope that this proposal will spawn others. I hope that Congress and the military and outside experts will engage in full and fruitful dialogue about where we need to go and how we can get there. My goal is to make sure that Congress fulfills its responsibilities to see that this transformation takes place so that we can continue to provide for the common defense into the next century.

TRIBUTE TO HERB WHEELER

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. OLVER. Mr. Speaker, I rise to recognize the community leadership of my constituent, Mr. Herb Wheeler of Athol, Massachusetts.

On May 20th, 1998, the North Quabbin Chamber of Commerce will be honoring Mr. Wheeler as Citizen of the Year. Mr. Wheeler is the co-owner, with his wife Colleen, of Flowerland Florist, located in Athol. The prestigious Citizen of the Year award is given to the person who has most exemplified selfless dedication to the pursuit of economic prosperity for the North Quabbin region.

From the beginning of his career, Herb Wheeler understood how important a thriving retail climate was for Main Street, not only to his own success, but to that of the whole town. Herb has worked diligently to bring retail businesses into Athol's downtown. His interest and involvement led him to the Athol Merchant's Association, of which he eventually became president. Through Herb's leadership, this organization grew into a group who's proactive commitment to economic development is unsurpassed in the region.

Herb Wheeler has become even more involved in his community as the years have progressed. In addition to his leadership role with the Athol Merchant's Association, Herb is an executive board member of the North Quabbin Chamber of Commerce, a board member of Athol-Orange Public Access Television, and a member of the Athol/Royalston School District Building Committee.

I join the Chamber in saluting Herb Wheeler's contributions, and look forward to working with Herb and the North Quabbin Chamber of Commerce on future economic development endeavors.

50TH ANNIVERSARY OF AMERICAN LEGION POST #1172

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. COSTELLO. Mr. Speaker, I rise today in honor of the 50th Anniversary of American Legion Post #1172 in Evansville, Illinois. On Memorial Day, the Post will hold a special program in honor of this milestone.

While celebrating its 50th anniversary, Post #1172 will also be honoring several members for fifty years of continuous membership. Members recognized at the ceremony will be: John H. Bauer, Herbert Diercks, Clarence Jany, Edgar Kisro, Ralph Moll, Michael R. Otten, Glen U. Simpson, and Charles Suhre. John H. Bauer and Edgar Kisro both have the additional distinction of being charter members of Post #1172.

It is fitting that the Post hold this celebration on Memorial Day. Memorial Day is traditionally a special day for the members of the American Legion, and for our nation. It is a day for people across the nation to gather to honor brave men and women who gave their lives so that we may live in freedom. Members of Post #1172 are proud of that service. Today, we honor their sacrifice on our behalf as well as joining them in celebrating this special anniversary.

Southern Illinois has a strong tradition of honoring the soldiers who have defended our honor and our nation. At its earliest inception Memorial Day was known as Decoration Day. Major General John A. Logan, of Illinois, declared the first national Decoration Day in 1868 to honor the war dead. A stone in a cemetery in Carbondale, Illinois states that the first Decoration Day ceremony took place there in 1866.

General Logan ordered soldiers' graves to be decorated with these words: "We should guard their graves with sacred vigilance. Let no neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic."

General Logan's words are as true today as they were 130 years ago. As Southern Illinois

continues this fine tradition of observing Memorial Day, I ask my colleagues to join me in honoring American Legion Post #1172 and all of our nation's veterans.

HONORING VINCENT A. BERGAMO FOR 40 YEARS OF SERVICE AS A NEW YORK STATE RACING OFFICIAL

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. HINCHEY. Mr. Speaker, it is my privilege to recognize the retirement of Vincent A. Bergamo from the New York State Racing and Wagering Board. After forty years of service, Vince leaves behind a legacy in the sport of harness racing that will forever be a testament to his deep-rooted love of horses and racing. His enthusiasm and experience will surely be missed.

I have had the pleasure of knowing Vince for several years. He has impressed me as a man of great character and integrity and I am fortunate to call him a friend. His career as a racing judge was characterized by hard-work and dedication and his contributions have left a lasting effect on the industry.

Vincent Bergamo began his distinguished career in 1958 at the Monticello Raceway in Monticello, New York as an Assistant Race Secretary. Having grown up with a keen appreciation for horses, Vince immediately excelled around the track. He was quickly offered a position in Saratoga, New York as presiding judge. He was 24 at the time, the youngest presiding judge in the state.

Vince's love of harness racing and his enthusiasm for his job brought him to every track in New York as well as tracks in Florida, Maryland, New Hampshire and Pennsylvania. Throughout all of these locations, Vince set the standard for judging. He was honest, fair and demanded the highest degree of competitiveness from the participants of his races. He was also the recipient of numerous accolades recognizing his accomplishments.

Mr. Speaker, aside from judging, Vince tackled several other tasks in harness racing. On a purely voluntary basis, he became actively involved in the Goshen Historic Track—realizing that the track as the oldest exiting sporting site in the nation at that time. He has been credited with leading the crusade that saved the track. His efforts directly led to the listing of the track on the National Register of Historic Sites. Vince remains actively involved in the operation of this track and continues to promote racing throughout New York, the United States, and even the world—Vince's creation, the popular Billings Amateur Series has lasted some 16 years and has attracted international attention.

Looking past Vince's professional awards and accomplishments, and there are many, it is clear that above all else, Vince is a family man. While maintaining an extraordinarily active career, Vince, along with his wonderful wife, raised 10 beautiful children. He was, and remains today, active in all aspects of their lives.

Mr. Speaker, it is not often that a man like Vince Bergamo comes along. He is the epitome of class and integrity and his accomplishments both professionally and personally are remarkable. I invite my colleagues to join me in honoring Vincent Bergamo for 40 years of dedicated service and in wishing Vince, his wife, and his entire family many more years of health and happiness.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KIND. Mr. Speaker, today is May 13. The last time the leadership of the House promised a vote on campaign finance reform they guaranteed a vote before May 15. That leaves one more legislative day left to consider this important issue. Unfortunately it appears that this date will pass without a debate and vote on campaign finance reform. It is one more broken promise by the leadership of the House on this issue.

We have now heard that debate may begin next week and a vote will come the first week in June. I will believe it when I see it. It is painfully clear that the leadership will do anything in their power to kill finance reform. The leadership should not, however, believe that this issue will go away. Tremendous momentum is building across this country in favor of campaign finance reform. I for one will use the extra time between now and June to let the public know who is behind the continued delay in allowing a vote on campaign finance reform.

It will not be me or other members of Congress who will keep the pressure on the leadership to allow a vote, it will ultimately be the public. I hope that the leadership of this House will listen to the demands of the citizens of this nation and allow a vote on campaign finance reform.

DEMOCRATS ON CHAIRMAN BURTON'S COMMITTEE JUSTIFIED IN REFUSING TO VOTE FOR IMMUNITY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CONYERS. Mr. Speaker, several hours ago, the House Government Reform and Oversight Committee gave a vote of no confidence to the campaign finance investigation being headed by my friend Chairman DAN BURTON of Indiana. 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.

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 refused.

I'm sorry to say this, but Chairman BURTON's recent actions have discredited the major oversight committee of the Congress, which is supposed to set the example for fair investigative procedure.

Never in my tenure, not once, as Chairman of that committee, did the minority complain that a major investigation was unfair, or conducted without their full involvement.

Consider the causes for embarrassment:

More than 600 subpoenas issued without ever having one Committee vote or the involvement of members of the Committee;

A stubborn 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 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 for the embarrassment caused to the House of Representatives;

The 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.

The failure of the Oversight 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.

50 YEARS OF EXCELLENCE FOR STUYVESANT FALLS VFW POST 9593

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SOLOMON. Mr. Speaker, it is my pleasure to commemorate the anniversary of Veterans of Foreign Wars Post number 9593. This post, I am proud to say, is based in Stuyvesant Falls, New York of my congressional district, and is celebrating a remarkable 50th year in existence.

The V.F.W., Mr. Speaker, has been an organization of exceptional merit and service to the needs of many veterans. It is only appropriate that those brave men and women who placed themselves in harms way overseas be represented by such an able organization. The members of Post 9593 have been receiving just such outstanding service for 50 years now. And beyond that, they have been providing their fellow veterans, their loved ones, and their community with service themselves as active members of an active Post. It is comforting to know that those who served the needs of our country and fought for the principles and ideals of America all over the globe can depend on the support of an organization

like Post 9593 back home in upstate New York.

Mr. Speaker, the service of Post 9593 in Stuyvesant Falls is worthy of significant recognition. This Post, and others like it, are the reason I fought so hard to attain Department level status for Veterans' Affairs. When Ronald Reagan signed that legislation into law, veterans were finally afforded the degree of national consideration they deserve. The efforts of V.F.W. Posts like this one, Mr. Speaker, having served the needs of veterans since 1948, assured veterans the assistance and recognition they deserved prior to approval of this government department and continue to encourage fair consideration of veterans' issues.

In addition Mr. Speaker, I can tell you that the members of Post 9593 take great pride in their service to country and in the existence and activities of their distinguished Post. In fact, their VFW Post has been honored with the distinction that it is one of only a few that has consistently maintained 100 percent membership every year for its entire 50 year history. That is the sort of pride and dedication that marks an organization comprised of brave soldiers who have served their country and community faithfully and honorably. They have made us all proud. For all of this, Mr. Speaker, we owe Post 9593 a tremendous debt of gratitude and I ask that all members of the House rise with me in tribute to each and every brave veteran who has comprised the 50 year history of this Post.

SECRETARY OF STATE MADELEINE K. ALBRIGHT DISCUSSES THE MIDDLE EAST PEACE PROCESS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. LANTOS. Mr. Speaker, no American Administration since the presidency of Harry Truman has been as supportive of Israel as has our current Administration. The President is personally engaged and committed to the safety and security of the state of Israel, and he has affirmed on many occasions—most recently in a letter I received from him dated May 5th—that our nation's unshakable support for Israel's security "has been and will continue to be a central feature of the U.S.-Israeli relationship and a guiding principle for this Administration's role in the Israeli-Palestinian peace process." He noted that "fighting terrorism is not optional; it is a basic premise of the peace process."

Our distinguished Secretary of State, Madeleine Albright, has personally played a critical role in working to move along the peace process, and she has devoted a great deal of time, effort, and energy to make meaningful progress. Our Secretary of State's personal intellectual and emotional commitment to move the peace process forward is one of the principal reasons for the progress that has been made.

Mr. Speaker, in the past several days, there has been considerable heat, but little light on the status of negotiations and the role of the United States in that process. Secretary Albright yesterday spoke at the National Press Club on the "Middle East Peace Process" and outlined the framework and the focus of the Administration's policy in this regard.

Mr. Speaker, because of the acrimony and misconceptions that have been magnified in the press, I think it is important for my colleagues to see for themselves first hand a concise and coherent discussion of our policy. I submit Secretary Albright's address at the National Press Club to be placed in the RECORD, and I urge my colleagues to give thoughtful attention to her excellent remarks.

THE MIDDLE EAST PEACE PROCESS

(Delivered by Secretary of State Madeleine K. Albright at the National Press Club)

Thank you very much. I am very pleased to be here.

Two weeks ago, before departing for Asia and talks in London on the Middle East, I attended a dinner sponsored by Seeds of Peace. This is a group that brings young people together from all around the Middle East to learn about and from each other, to go beyond the stereotypes and to understand how much they have in common.

At that dinner, I was given a letter signed by Arab and Israeli youngsters, which I hand-delivered in London to Prime Minister Netanyahu and Chairman Arafat. I want to begin my remarks today by quoting from that letter: "In our history books, the Middle East has always appeared as a magnificent crossroads. Yet we have not tasted its grandness, for we are blinded by its destructive wars. We at Seeds of Peace had a taste of what it is like to co-exist peacefully. We learned to accept the fact that both sides, Arabs and Israelis, have a right to a home in this disputed holy land. We are writing this letter as people who have experienced peace temporarily and we enjoyed the taste, but we want the whole pie. However, this is up to you. It is up to you to shape or build our future."

That is a part of the letter that I delivered.

I would have liked very, very much to have been able to return to the United States this past weekend with the news that the prayers of those young people had been answered and that a new milestone in the Middle East peace process had been reached. It was our hope that this week would have marked the start of permanent status negotiations between Prime Minister Netanyahu and Chairman Arafat, hosted by President Clinton.

Unfortunately, despite exhaustive and exhausting efforts to remove them, there remain obstacles to an agreement that would allow those permanent status talks to begin. However, I look forward to meeting with Prime Minister Netanyahu here in Washington tomorrow to see if it is possible to clear the way.

Today, I want to do two things. First, on behalf of President Clinton, I want to reaffirm America's commitment to the pursuit of Arab-Israeli peace and our determination to continue exploring every possible avenue for helping the parties to achieve it. We do this because it is in our interest and because it is right. The people of the Middle East deserve a future free from terror and violence, a future in which they can prosper in security and peace.

Second, I want to explain the logic of our approach and provide some perspective about what we have been doing in recent months to overcome the impasse that has developed in Israeli-Palestinian negotiations.

The past year has been the most disappointing since the Oslo Accords were signed in 1993. It was 16 months ago that active US mediation helped to produce an agreement on Hebron. Since then, a crisis of confidence has arisen between Israelis and Palestinians that has stalled at the bargaining table and put at risk both historic accomplishments and future hopes.

In only two years, we have gone from a situation where Israel had some form of peace negotiation, relationship, or promising contact with every Arab state except Iraq and Libya to a stalemate which has eroded regional cooperation on issues such as water, economic integration, the environment and refugees, stalled Arab-Israeli contacts, and caused optimism to be replaced by a sense of fatalism and helplessness about the future.

At the root of the stalemate is a crisis of partnership between Israelis and Palestinians wherein short term tactical considerations have too often trumped broader understandings of common interest and cooperation. Indeed, we have gone from a situation where no problem was too big to solve to a situation where every issue is argued about. We have seen tragic incidents of terror, unilateral actions and provocation rhetoric undermine the historic accomplishments of the Israeli-Palestinian negotiations.

For more than a year now, the United States has been working hard to revive the missing spirit of partnership. We have been trying literally to restore the ability of the parties to talk constructively with each other, to overcome mistrust, to solve problems, to arrive at agreements and to implement obligations.

Early last year, we were approached by Prime Minister Netanyahu with an idea for reorienting the process. He argued that the confidence building period provided for under the Oslo Accords had begun instead to destroy confidence; and he was right. The Prime Minister argued that it therefore made sense to move directly into final status negotiations, and to do so on an accelerated timetable. He asked President Clinton to help achieve this purpose; and as Israel's ally and friend, the President decided to try to do so.

Beginning last spring and throughout the summer of 1997, we sought an agreement that would put the process back on track by focusing the parties on the importance of getting to permanent status talks. In August I proposed in a speech here in Washington that the parties "marry the incremental approach of the interim agreement . . . to an accelerated approach to permanent status."

Then last September the Israelis and Palestinians agreed to a four-part agenda that included accelerated permanent status talks and three other issues: security with the emphasis on preempting and fighting terror; the further redeployment of Israeli troops; and a time-out on unhelpful unilateral steps. There followed several months of intensive discussions on that agenda along with resumed negotiations on key interim issues.

During this period there was some narrowing in the differences between the parties, but very substantial gaps remained. Despite our efforts, we could not get the Israelis and Palestinians to agree to an accord. Both urged us, nevertheless, to persist and to help them find a way to bridge the differences. By early this year we had come to the conclusion that even if the parties could not be responsive to each other's ideas, they might respond to ours. Working closely and quietly with both sides, we began to

share our views on how the parties might resolve their differences over the four-part agenda.

In January, here in Washington, President Clinton met with Prime Minister Netanyahu and Chairman Arafat. And I met with them when I traveled to the region in February, and then again in Europe in March. Ambassador Ross and Israeli and Palestinian negotiators have been in almost constant contact. Throughout, we continued to urge the parties to sort out the issues directly with each other.

Unfortunately, none of these discussions produced sufficient results. It was clear that tough decisions were required if Israelis and Palestinians were to reach an agreement that neither side was prepared to make.

Having worked since January to share our thoughts informally with the parties at the highest level, it was logical that we should at some point share a more fully integrated set of ideas in an effort to facilitate decisions. We took this step not because we wanted to, but because there seemed no other way to break the dangerous logjam that had developed.

Our ideas stemmed from intensive consultations with both sides and take into account both the obligations each side has accepted and the vital interests each must protect. They are balanced, flexible, practical and reasonable. They are based on the principle of reciprocity—another concept stressed by Prime Minister Netanyahu and embraced by us because of our belief that parallel implementation of each side's obligations is the only way to restore the partnership between Israelis and Palestinians.

In presenting our ideas, we made it clear that we were offering them as suggestions, not as an ultimatum or an effort to impose a settlement. Both parties have their own decision-making processes and interests, which we respect. Our purpose was only, in response to the parties' request, to help them find the way forward.

The role of the mediator is never an easy one. The challenge is how to meet the needs of both sides in a way that is acceptable to the other. Logically, that presents both sides with the need to be flexible and to make decisions that reflect the concerns not just of one party, but of two. In this regard, our ideas were designed to find that balance and to persuade each side that the balance could be struck in a way that addressed their particular requirements.

Now, let me try to explain our approach as it relates to addressing Israel's requirements, foremost of which is security. Let me say at the outset that there should be no doubt about the commitment of the Clinton Administration or of America to Israel's security. That commitment is unshakable and has been demonstrated over and over again, not only in words but in actions; in our joint struggle against terrorism; in the assistance to Israel that the American people have so long and so generously provided; and in the steps we have taken to ensure Israel's qualitative military edge.

These include providing Israel with the F–15–I, the most advanced fighter aircraft in the American arsenal; the pre-positioning of American military stock and material in Israel for joint use; and jointly-funded research and development projects designed to enhance Israel's ability to protect itself against long range missiles and Katyusha rockets. And let me add that our to Israel's security does not come with a time limit. There is no expiration date. It will continue today, tomorrow and for as long as the sun shall rise. I said that in Israel last year and I meant it. And that's true whether there is progress in the Middle East peace process or not—or whether we have differences with Israel at a particular moment or not.

At the same time, we have agreed with Israeli leaders from Prime Minister Ben Gurion to Begin and from Rabin to Netanyahu that the key to long term security for the Israeli people lies in lasting peace. That is why we have been working so hard to resolve the present impasse. In so doing, we would not for a minute assert for ourselves that right to determine Israel's security needs. That is—and must remain—an Israeli prerogative.

Moreover, both in our ideas and in the way we presented them, we took fully into account Israeli concerns both about process and substance. For example, we have given the parties many weeks to consider our ideas in private. We did not launch a public campaign on their behalf. And in response primarily to Israeli requests, we allowed more time and then more time and then more time for our suggestions to be studied, considered and discussed.

Moreover, the ideas we presented posed some very difficult choices for the Palestinians. They were required to make substantial changes in their negotiating position. Nevertheless, Chairman Arafat agreed to our ideas in principle.

The real centerpiece of our efforts to address Israeli requirements focused on dealing with Israel's fundamental and legitimate security concerns. It was no coincidence that security was the first point on our four-point agenda. Creating the right environment for negotiations had as its focus the issue of ensuring that Israeli-Palestinian security cooperation was functioning at 100 percent, and that Palestinians were exerting 100 percent effort to take effective unilateral steps against terror. That's why our ideas on security create a structure to ensure that the fight against terror will not be episodic, but that it endures.

From the beginning, we have made the security issue the center of our dialogue with the Palestinians. We have pressed them to understand that the fight against terror is a basic Palestinian interest. And what we have seen, especially over the past several months, is a concerted Palestinian effort—even in the absence of an agreement with Israel on the four-part agenda—against those who would threaten peace with terror and violence. The Palestinian Authority deserves credit for taking on such groups, but it is essential as they do that others in the region who tell us they support peace refrain from greeting with cordial hospitality and financial backing the enemies of peace.

Our suggestions for Israeli redeployments were also formulated with Israel's prerogatives and concerns in mind. We recognize, as reflected in the Christopher letter, that further redeployment is an Israeli responsibility under Oslo, rather than an issue to be negotiated. But it is in the nature of partnership that Israel should take Palestinian concerns into account, while following the terms of its agreement. Otherwise, the peace process cannot move forward.

In presenting our ideas, we did not define the areas from which Israel should redeploy. Our ideas placed a premium on Israel retaining overall security responsibility in the areas affected by the proposed redeployment. And our suggestion about the size of the next redeployment came down far closer to Israel's position than to that of the Palestinians.

Why did we suggest a size? Because that is the only way to reach the agreement on launching permanent status talks that Prime Minister Netanyahu asked us to achieve. In presenting and discussing our ideas, we have acted with discretion and patience. Because we realize the difficulty of the decisions the parties were being asked to make, we have gone the extra mile—in fact, the extra 20,000 miles, back and forth across the Atlantic many times. And we have done so without complaint, because America will always go the extra mile for peace.

I want to mention at this point also that America's commitment to peace and security in the Middle East has historically been a bipartisan commitment, stretching from the administrations of Truman and Eisenhower to Bush and Clinton. Because that commitment involves the security of a cherished ally and the vital strategic interests of the United States, our leaders have historically stood together in support of Israel, and shoulder to shoulder with our Arab friends in pursuit of peace. If America is to play its proper role in promoting stability in the Middle East, it is imperative that our leaders now—in the Executive Branch, in Congress, and within the Jewish-American and Arab-American communities—continue to work together on behalf of shared goals.

Tomorrow, I will meet with Prime Minister Netanyahu again, and I very much look forward to the meeting. We are working hard to overcome differences an I hope we will be able to make progress.

But the key point that I have been emphasizing to both Israeli and Palestinian leaders is that although America remains committed to the pursuit of peace, it is up to them—not to us—whether peace is achieved.

Over the past months, we have played the role of mediator, counselor, friend, shuttler, cajoler and idea-maker. We have responded whenever called at literally any time of the day or night. We have done this because we care about Israel and its people; and we care about the Palestinians and Arabs; and we care about the future peace and stability of the region.

We are not giving any ultimatums, and we're not threatening any country's security. We are not trying to make any party suffer at the expense of another. All we are trying to do is find the path to peace, as the parties have repeatedly urged us to do. And what we have especially been trying to do in recent weeks is to issue a wake-up call. The leaders of the region have reached a crossroads. Act before it is too late. Decide before the peace process collapses. And understand that in a neighborhood as tough as the Middle East, there is no security from hard choices, and no lasting security without hard choices.

The parties must understand, as well, that there is urgency to this task. For time is no longer an ally of this process; it has become an adversary. The historic accomplishments that flowed from the Oslo process represented a strategic opportunity for peace that is now being put at risk. Consider that just two years ago, at Sharm al-Sheikh, representatives from Israel and a host of Arab states gathered at the Summit of the Peacemakers to say no to terror and yes to peace. They saw Israel as a partner. Unfortunately, that exhilarating sense of partnership has been lost.

Second, the very idea that negotiations can peacefully resolve the Arab-Israeli conflict is now under threat. Unless the leaders are willing to make hard choices, the field will be left to extremists who have no interest in peace.

Third, the clock continues to tick. The interim period under Oslo concludes on May 4, 1999—less than a year from now. Those who believe that drifting is acceptable, or who believe they can declare unilateral positions or take unilateral acts when the interim period ends, are courting disaster. Both sides must understand that the issues reserved for permanent status discussions—including the status of the West Bank and Gaza and of settlements—can only be settled by negotiation. That was the spirit and logic of Oslo.

America's interest and goal is a comprehensive Arab-Israeli peace based on UN Security Council Resolutions 242 and 338, including the principle of land for peace. That will require decisive progress on all tracks, including the Israel-Lebanon track and the Israel-Syria track.

We are not a party to the negotiations. As President Clinton has repeatedly emphasized, it is not our right, nor our intention, nor is it within our capacity, to dictate terms or impose a settlement. At the same time, our credibility and interests are indeed affected by what the Israelis, Palestinians and Arabs do or fail to do. We are prepared to support their efforts as long as we judge they are serious about wanting to reach an agreement—and serious enough to make the decisions necessary to achieve it.

For too long, too many children in too many parts of the Middle East have grown up amidst violence, deprivation and fear. Too many lives have been cut short by the terrorist's bomb, the enemy's shell and the assassin's bullet. Too many opportunities have been lost to heal old wounds, narrow differences and transform destructive conflict into constructive cooperation.

Everyone with a stake in the Middle East has an obligation to do what can be done to seize the strategic opportunity for peace that now exists, and thereby to make possible a future of stability and prosperity for all the people of the region.

The United States believes this kind of future is within our grasp. But the peoples of the region will not realize that future if their leaders do not reach out with a vision as great as the goal to overcome past grievances, treat neighbors as partners and undertake in good faith the hard work of cooperation and peace. All that is required is for each to accord dignity and accept responsibility, and to act not out of passion and fear, but out of reason and hope.

For the peoples of the region who have suffered too long, the path out of the wilderness is uphill, but clearly marked. The time has come now, before the dusk obscures the guideposts, to move up that road; and by so doing, to answer the too-long denied prayers of the children—all the children—of the Middle East.

Thank you very much.

HONORING FARMINGTON HILLS HARRISON HIGH SCHOOL AND THEIR MANY ACCOMPLISHMENTS

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KNOLLENBERG. Mr. Speaker, I rise today to bring to your attention the achievements of the Harrison High School football team in Farmington Hills, Michigan. The Harrison High School football team, with a 46–8 record in 16 playoff appearances and eight state titles under their belts, are true champions in every sense of the word. Most recently, the Hawks added the 1997 Class "A" State Championship to their long list of accomplishments. In addition to their athletic prowess, the team also holds the eighth highest grade point average in the state with a 3.67 average GPA. Mr. Speaker, please join me in congratulating these talented young athletes and the many others who were an integral part of the Hawk's tremendous success.

A "POINT-OF-LIGHT" FOR ALL AMERICANS: DR. BETTY SHABAZZ

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. OWENS. Mr. Speaker, I rise in celebration of the renaming of the Glenmore School in Brooklyn, New York to the "Dr. Betty Shabazz Elementary and Preparatory School." Dr. Betty Shabazz stands as a model of what the students of Glenmore School must strive to become—an individual with strength, resilience and perseverance in overcoming life's greatest challenges. Dr. Betty Shabazz is a great "Point-of-Light" whose legacy will live on forever and will positively influence many more generations to come.

On Monday, June 23, 1997, a great presence in the lives of countless citizens of the world departed this earth. Dr. Betty Shabazz was not just an inspiration to the African-American community, an advocate of equality for women and a proponent of children's rights. She was an inspiration to the human community; she was an advocate of equality for all people and she was an incarnation of every ideal upon which this Nation was founded.

Born Betty Sanders in Detroit, Michigan on May 28, 1936, Dr. Shabazz married activist and civil rights leader El-Hajj Malik El-Shabazz (Malcolm X) in New York in 1958. On February 21, 1965, she witnessed the assassination of her husband after the bombing of their home just three weeks earlier. Despite this tragedy, she exhibited determination as a single mother, raising and educating her six daughters: Attallah, Qubilah, Ilyasah, Gamilah, and twins Malikah and Malaak.

When the harsh winds of hatred swept across our country and prematurely ended the life of Malcolm X, they could not overcome the strength of his wife. Dr. Betty Shabazz continued the struggle after his death, keeping his quest for justice alive. She found time to become a certified nurse, and later earned Bachelor's and Master's degrees, and a Doctorate in Education Administration from the University of Massachusetts. Admirably and courageously, she took the movement into academia, where she touched the lives of hundreds of students. Dr. Shabazz served Medgar Evers College in Brooklyn as Director of Public Relations and Director of Institutional Advancement with ability, passion, and caring, qualities reflected in everything she did in life.

As a single mother, Dr. Shabazz's challenges as a parent were not unique. However, they were heightened by the fact that she was the single mother of Malcolm X's children. She reared her six daughters alone, constantly preparing them for a life in the forefront of the African-American community, one that is a requirement for their lineage. In this way, Betty Shabazz has served as a model of motherhood and a reflection of the family values that every American family aims to emulate.

The greatness of Dr. Betty Shabazz is apparent. Despite the firebombing of her home in 1965 and the brutal murder of her husband, she refused to turn what must have been inconsolable anger into motivation. She turned inward, furthering her education and strengthening her resolve as she embarked upon her mission to raise six children alone and make significant contributions to the community at the same time.

A warrior in her own right, Dr. Shabazz has made her mark on the cause to uplift oppressed people around the globe, and especially within the African-American community. Her message will be forever with us, an inspiration to all who choose a life of service to their fellow man.

Dr. Betty Shabazz turned tragedy into triumph. She exemplified what we all can do if we are willing to make sacrifices. During this celebration, let us reflect upon the lessons taught to us by Dr. Betty Shabazz. Her life has been a testament to the virtues of family, community, and activism, and it is fitting for the Glenmore School to be renamed the "Dr. Betty Shabazz Elementary and Preparatory School" in her honor. Dr. Betty Shabazz is a great "Point-of-Light" for all to admire.

NATIONAL POLICE WEEK

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. RAMSTAD. Mr. Speaker, the events of National Police Week officially begin tonight with the 10th Annual Candlelight Vigil on the grounds of the National Law Enforcement Officers Memorial.

Tonight the names of 305 American heroes will be added to the Memorial's wall, which honors officers killed in the line of duty. 160 of these officers were killed in 1997, and the others died in previous years but have just recently been discovered.

The 160 police heroes killed last year represent an increase of 21% over the 132 officers who were killed in 1996. This is particularly disturbing in light of the recent overall decreases in the violent crime rate.

Another disturbing trend last year was the high number of alcohol-related deaths of law enforcement officers. Alcohol was a factor in at least 19 of last year's police fatalities, including killings by drunk drivers and shootings by individuals who had been drinking.

My home state of Minnesota lost one of its finest last year—a state trooper named Tim Bowe who had served as a protector for Governor Arne Carlson. Corporal Bowe was a 14-year veteran of the force who had 9 commendations and three life-saving awards, including two revivals of heart attack victims with CPR.

At nearly midnight on June 7, 1997, Corporal Bowe was about to finish his shift when he responded to a request for help from three Chisago County Sheriff's deputies. He and the deputies at the scene of a reported shooting had just begun approaching a nearby car when an assailant fired and shot Corporal Bowe in the chin. He died from the wound shortly afterward, leaving behind his beloved wife, Denise, a 6-year-old daughter and a 9-and-a-half-month-old son.

As someone who has many close friends serving in law enforcement, as someone who has logged 1,600 hours riding with police during the "dog watch" and power shift, and as one who has accompanied high risk entry teams on 65 crack raids, I am well aware of the risks that officers like Corporal Bowe face each day they put on the badge. My home state of Minnesota has lost a total of 185 peace officers, and America has lost over 14,622 since the first recorded death in 1794.

The names of slain officers are inscribed on the wall of the National Law Enforcement Officers Memorial, located just blocks from this Capitol. I encourage every visitor to our nation's capital to visit this meaningful reminder of the men and women who paid the ultimate price to protect our communities.

As of co-chair of the House Law Enforcement Caucus with my colleague, BART STUPAK from Michigan, I have been working in a bipartisan way to promote legislation that honors these fallen heroes. We have had some success.

In last year's Taxpayer Relief Act, I worked with other colleagues to include a provision that makes the survivor benefits for families of public safety officers killed in the line of duty tax-free. Very recently, the House passed the Higher Education Act reauthorization with an amendment to provide scholarships to families of slain officers. Just yesterday, the House passed a resolution honoring law enforcement officers and a bill which will provide life-savings bulletproof vests to police departments.

Much more needs to be done. I encourage my colleagues who are not already part of the 71-member bipartisan Law Enforcement Caucus to join. We are holding a meeting tomorrow, in Room 1640 of the Longworth Building, to review our accomplishments and discuss legislative initiatives. I hope all interested members and staff will participate in this important dialogue.

We need to honor the fallen, and we need to empower the living who protect our communities. The thousands of officers who put their lives on the line every day are the reasons we observe Police Week and commemorate Peace Officers Memorial Day each year on May 15.

PRESIDENTIAL RANK EXECUTIVES

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. MICA. Mr. Speaker, on May 7, I had the distinct honor and privilege of attending the annual dinner to recognize the members of the Senior Executive Service who have earned the distinction of Presidential Rank. This year, the dinner, sponsored by the Senior Executive Association's Professional Development League, honored the achievements of 68 leaders of the federal government's career service who have played important roles in improving the performance of federal agencies. They reflect achievements within 11 Cabinet Departments and six independent agencies, and they have contributed to saving American taxpayers billions of dollars.

I would like to enter into the RECORD capsule summaries of the achievements of these dedicated public servants and to express my appreciation as Chairman of the Civil Service Subcommittee for the distinguished leadership that they have provided to the federal workforce.

NATION'S TOP CIVIL SERVANTS RECEIVE PRESIDENTIAL RANK OF DISTINGUISHED EXECUTIVE

Recipients of the nation's highest civil service award have saved the federal government $67.2 billion over the course of their careers. These 68 executives, who received the Presidential Rank of Distinguished Executive, were honored for their accomplishments at a black tie dinner on May 7 at the State Department, sponsored by the Senior Executives Association Professional Development League (SEA PDL).

Of the 11 departments and six agencies represented by this year's winners, the Office of the Secretary of Defense at the Defense Department led the way in savings, with the three winners from that agency posting a cumulative savings of $16 billion. NASA was second with $12.7 billion in savings, and the Office of Management and Budget third with $12.6 billion.

However, savings alone do not tell the full story of these winners. The accomplishments of only one-third of the winners cited by SEA President Carol Bonosaro at the May 7 event include:

Serving as key author of START II, which will eliminate multiple-warhead, land-based missiles and cut U.S. and Russian strategic weapons by 50 percent below START I levels (Franklin Carroll Miller, Principal Deputy Assistant Secretary for International Security Policy, Office of the Secretary of Defense).

Leading a joint effort by government and industry using NASA technology to develop smart airbags for cars to improve children's safety (Dr. Daniel Mulville, Chief Engineer, NASA).

Managing the largest single contract case in Air Force history, with claims of nearly $2 billion (Anthony Perfilio, Director, Air Force Materiel Command Law Center).

Creating a multi-media workstation used by students in schools around the world to make environmental observations as part of global information systems (Dr. Alexander MacDonald, Director, Forecast Systems Laboratory, National Oceanic and Atmospheric Administration).

Selected the "Best Boss in America" by Redbook magazine (Steven Winnick, Deputy General Counsel, Program Service, Department of Education).

Perfecting the MK 48 Advanced Capability torpedo, widely acknowledged as the world's best (Dr. John Sirmalis, Technical Director, Naval Undersea Warfare Center).

Creating a national campaign to stop telemarketing fraud—which costs American consumers over $40 billion a year—result in the conviction of almost 50 telemarketers (Eileen Harrington, Associate Director, Marketing Practices, Federal Trade Commission).

Publishing two of the "100 Most Cited" papers in the life sciences, one of which has become a Citation Classic (Dr. Kenneth Olden, Director, National Institute of Environmental Health Sciences, Department of Health and Human Services).

Coordinating the massive mobilization of on-site relief for the Oklahoma City bombing, while managing daily operations of the largest industrial complex in the Defense Department (Gerald Yanker, Executive Director, Oklahoma City Air Logistic Center, Department of the Air Force).

Restoring the Hubble Space Telescope to its anticipated capability, on schedule and within budget, while improving its observing powers beyond original specification, with spectacular results (Joseph Rothenberg, Director, Goddard Space Flight Center, NASA).

Serving as both Chief Financial Officer and Chief Information Officer, the only career executive in whom both of those statutory functions have been placed (Stephen Colgate, Assistant Attorney General for Administration, Justice Management Division, Department of Justice.

Establishing a cooperative effort with Walt Disney World to share technologies, including advanced animation techniques, to develop a virtual reality environment for soldiers (James Skurka, Deputy to the Commander, U.S. Army Simulation, Training & Instrumentation Command).

Coordinating the government's response to a terrorist plot to bomb 11 U.S. planes flying Asian-Pacific routes, resulting in capture of the conspiracy's leader, the mastermind of the World Trade Center bombing (James Reynolds, Chief, Terrorism and Violent Crime Section, Criminal Division, Department of Justice).

Designing and presenting a departmental budget of over $350 billion, the fourth largest budget in the world (Dennis Williams, Deputy Assistant Secretary, Office of Budget, Department of Health and Human Services).

Serving on a 14-nation board of directors governing development of a joint air command control system in Europe (Spain Woodrow Hall, Jr., Deputy Assistant Secretary and Chief Information Officer, Information Management, Department of Energy).

Having the primary responsibility for an investigation and prosecution which resulted in a fine of $100 million—nearly seven times the highest fine ever previously imposed in a criminal antitrust case (Gary Spratling, Deputy Assistant Attorney General, Antitrust Division, Department of Justice).

Directing the co-invention of the implantable Ventricular Heart Assist Device, which could eventually eliminate the need for heart transplants (Leonard Nicholson, Director, Engineering, Lyndon B. Johnson Space Center, NASA).

Serving as Chief Operating Office of the only national mint in the world that can produce its lowest denomination coin at a cost below face value, and which scored an American Customer Satisfaction Index rating equal to such giants in customer satisfaction as Maytag, FedEx and Mercedes-Benz (Dr. Andrew Cosgarea, Jr., Assistant Director and Chief Operating Officer, U.S. Mint).

Personally handling negotiations concerning disposition of President Nixon's White House tape recordings (Neil Koslowe, Special Litigation Counsel, Federal Programs Branch, Civil Division, Department of Justice.)

Leading the development of a program to generate the technologies to design and build

an environmentally compatible and economically competitive supersonic airliner for the 21st century (Robert Whitehead, Associate Administrator for Aeronautics, NASA).

Overseeing information processing and international voice and data communications systems which provide services for 40 million beneficiaries, with an agency home page recognized as one of the Internet's "101 Best Bets" by PC Magazine (Martin Baer, Regional Commissioner (Seattle), Social Security Administration.)

Being recognized as an international authority on animal health and foodborne diseases with discoveries on the epidemiology and genetics of trichinosis (Kenneth Murrell, Deputy Administrator, Agricultural Research Service, Department of Agriculture).

Serving as principal staff director for six Commanders-in-Chief of the U.S. Atlantic Fleet, the world's largest naval base, with $10 billion in operating and manpower accounts (Dr. Roger Whiteway, Director, Warfare Program and Readiness, U.S. Atlantic Fleet, Department of the Navy).

Transforming an organization of 152 domestic and 26 foreign locations operating with a deficit to one operating with a surplus, achieving $37 million in savings and increased overall performance (Waler Biondi, Former Assistant Commissioner, Office of Investigations, U.S. Customs Service).

Being responsible for protecting the President and his family, a President whose foreign visits have included countries that presented significant terrorist threats and/or hostile combat zones (Lewis Merletti, Special Agent in Charge, Presidential Protection Division, U.S. Secret Service).

Directing the largest and most complex medical center serving the highest concentration of veterans anywhere in the United States (Kenneth Clark, Medical Center Director, West Los Angeles VA Medical Center, Department of Veterans Affairs).

Providing the leadership and dedication which were essential elements of the teamwork that returned the Apollo 13 Spacecraft and crew safely (Tommy Holloway, Manager, Space Shuttle Program, Lyndon B. Johnson Space Center, NASA).

INTRODUCTION OF THE REINSTATEMENT OF REHABILITATION BENEFITS FOR SENIORS ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CARDIN. Mr. Speaker, I rise in support of important legislation for Medicare beneficiaries who require outpatient therapy, the Reinstatement of Rehabilitation Benefits for Seniors Act. This bill repeals the Balanced Budget Act provision that imposes an arbitrary cap on outpatient physical therapy, occupational therapy, and speech-language pathology services as of January 1, 1999.

Section 4541(c) of the Balanced Budget Act places annual caps of $1,500 per beneficiary on all outpatient rehabilitation services except those furnished in a hospital outpatient department. I am deeply concerned about the impact this limitation will have on Medicare beneficiaries who require necessary rehabilitation services.

If this cap is implemented, senior citizens suffering from medical conditions common to the elderly such as stroke, hip fracture, and coronary artery disease will have diminished access to rehabilitation care they require to resume normal activities of daily living.

The $1,500 cap is arbitrary and, according to BBA, cannot be adjusted for the medical condition of the patient, or the health outcomes of the rehabilitation services. These caps are, by definition, insensitive to patients suffering from diseases or chronic injuries or who have multiple episodes of care in a given calendar year.

The $1,500 cap dramatically reduces Medicare beneficiaries' choice of provider. Congress has committed to offering beneficiaries greater health care choices. However, a senior citizen who has met the $1,500 cap will have no choice but to seek care in a hospital outpatient department. More convenient provider choices such a rehabilitation agencies, physical therapists in independent practice, and Comprehensive Outpatient Rehabilitation Facilities will be foreclosed to them. Beneficiaries in rural areas will have a particularly difficult time obtaining needed services.

Furthermore, absolute dollar limitations on outpatient rehabilitation services are unnecessary. Effective January 1, 1999, the same date the $1,500 cap goes into place, all outpatient rehabilitation services will be reimbursed according to a fee schedule based upon the Resource Based Relative Value Scale (RBRVS). The movement from cost-based reimbursement to a fee schedule obviates the need for an arbitrary fixed dollar limit on beneficiary services. The screens and edits within the existing fee schedule are designed to control utilization of services.

Confusion has surrounded the interpretation of how the $1,500 cap is to be applied. While the $900 cap that exists for physical therapists and occupational therapists in independent practice today applies separately to both physical therapy and occupational therapy, discussions with HCFA indicate the $1,500 cap may be applied differently. HCFA has indicated the new provision of law could be interpreted as establishing two separate caps. The first cap of $1,500 would be for occupational therapy services, while the second cap would be split between physical therapy and speech-language pathology. Speech-language pathology is not currently capped in outpatient settings.

Finally, Congress held no hearings on the imposition of an arbitrary cap prior to adopting this provision last year. As a result, we have been unable to consider the potential problems that may arise with implementation. In comparison, multiple hearings were held on new payment mechanisms for skilled nursing facilities, home health agencies, and managed care plans.

Passage of the Reinstatement of Rehabilitation Benefits for Seniors Act, which I am proud to cosponsor, is necessary to ensure that seniors have sufficient access to necessary physical therapy, occupational therapy, and speech-language pathology services under Medicare. I am proud to say that this bill is also fiscally responsible, requiring the Secretary of Health and Human Services to implement a new methodology for payment of rehabilitation services by January 1, 2000, to ensure budget neutrality. I urge my colleagues to cosponsor this important legislation.

HONORING NEIL RHODES' WINNING ESSAY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. McINNIS. Mr. Speaker, please include the attached text in the CONGRESSIONAL RECORD.

"MY VOICE IN OUR DEMOCRACY"

1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

(By Neil Rhodes, Colorado Winner)

A few years ago, when I was about eleven years old, I was profoundly affected by the chronicle of a young Jewish girl during the second world war: a girl who, while hiding out from the Nazis, wrote in the red-checkered diary she had received for her thirteenth birthday; a martyr who was eventually discovered and sent to her death in a concentration camp; a visionary whose diary writings encompassed the plight of millions around the world. That little girl was Anne Frank.

One of the final entries in Anne's red-checkered diary proclaimed the desperation of a nation without democracy. It read: "ideals, dreams, and cherished hopes rise within us only to meet the horrible truth and be shattered . . . ."

At the young age I was, this was the first real connection I had ever experienced with the evils of tyranny. Since then I've encountered a multitude of other stories and situations that have increased my awareness of democracy.

Like the time I visited a small holocaust museum and spoke with Mr. Kelen—a survivor of the holocaust himself; or the time I traveled just across the Mexican border, and witnessed first-hand the crippling poverty caused by government corruption; the time I sat glued to the television, my eyes locked on the image of a young Chinese boy facing certain death as he stood in the path of an oncoming military tank.

Every new experience helped shape my thoughts, mold my perspective, and strengthen my voice as an American citizen. I have come to realize just how fortunate I am—how fortunate we all are—to possess the light of democracy.

I've learned that democracy is priceless and powerful. Priceless, because our basic rights are stained with the blood of millions who fought to gain them. Democracy also has boundless power: quite simply, the power to shatter the chains of bondage forever.

But as we live our lives in freedom we must remember the horrible truth that Anne Frank wrote about. The horrible truth is that there are still millions of people living in the darkness of oppression. For those not yet experiencing liberty, we must continue the battle. If we believe in our own sovereignty, that is our duty. The Declaration of Independence does not say "All Americans are created equal" but that "All men"—all around the world—"are created equal." Thus, we cannot simply work to continue our own democratic system; we must bring that system to the rest of the world. Only then will the visions of our forefathers be completed.

In the social and political arena every American has a voice—a platform from which to speak. In many parts of the globe that could not be farther from the truth. Anne Frank never had a voice. I, however, do. I stand before you now, and I speak on behalf of those who couldn't and those who still cannot.

My voice in our democracy is the reflection of a free person; my voice pays tribute to the thousands who died for the cause of liberty; my voice cries out an urging for the respect of our nation and an offering of hope for the future.

Yes, even in the midst of the cruelest oppression, hope is one thing that can never be destroyed. Because, you see, I never finished the quotation by Anne Frank that I gave earlier. Here is the quote in its entirety: "ideals, dreams, and cherished hopes rise within us only to meet the horrible truth and be shattered . . . yet in spite of everything I still believe that people really are good at heart."

Anne Frank's devotion to the human spirit should serve as an example to all of us, and especially to Americans. Progress in the world must begin with you and me. I would hope that one day all Americans would understand that with strength, compassion, diligence, and the fortitude of our voices, we have the ability to change democracy from an ideal, a dream, and a cherished hope . . . into a powerful and permeating reality.

IN MEMORY OF BISHOP JUAN JOSE GERARDI

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SABO. Mr. Speaker, I rise today to express my deep condolences to the people of Guatemala on the brutal murder of Bishop Juan Jose Gerardi on April 26th.

Bishop Gerardi played a leading role in establishing and directing the Catholic church's human rights office in Guatemala. Just two days before his death, his office made public its report, entitled "Guatemala: Never More," which documented over 55,000 instances of violence and human rights violations in that country's 36-year civil war. His death reminds us that despite the strides Guatemala has made since peace accords were signed in December 1996, the process of building peace, reconciliation and respect for human rights remains fragile. For that reason, I have joined several of my colleagues in writing a letter to President Arzu of Guatemala expressing our condolences on the death of Bishop Gerardi and urging him to maintain a clear and strong commitment to implement the peace accords.

Bishop Gerardi was truly a martyr to the cause of truth. The best way that we in the Congress can honor his memory is to pass the Human Rights Information Act, H.R. 2635, which would require all federal agencies charged with the conduct of foreign policy to declassify and disclose records on human rights violations in Guatemala and Honduras after 1944. The survivors of human rights violations in these countries, and the relatives of those who did not survive, have a right to know the truth. If we are serious about our commitment to democracy, peace and human rights in Central America, then we should do no less.

IN HONOR OF KENTUCKY NURSES WEEK

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mrs. NORTHUP. Mr. Speaker, today I would like to recognize the nurses of Kentucky, as well as throughout this nation. Nurses are a strong component of our health care system and are known for providing health care with a human touch.

In my home state, nurses are celebrating Kentucky Nurses Week and they have every reason to be proud. Working hard and achieving professional and personal goals, many nurses in my community have proven themselves time and time again. Continually striving to upgrade standards of care and improve services, Kentucky nurses have shown that they are committed to providing the best quality health care possible for their patients.

I hope you will join me in recognizing this noble professional during this week, and throughout the year. Certainly, they are deserving of this acknowledgment.

THE NATIONAL GUARD IN A BRAVE NEW WORLD

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GIBBONS. Mr. Speaker, I submit the following for the RECORD.

[From the Economist Newspaper Limited, May 13, 1998]

THE NATIONAL GUARD IN A BRAVE NEW WORLD

ANYTHING USEFUL TO DO, BESIDES FIGHTING THE ARMY?

It was one of the sweetest victories in the 350-year history of the National Guard. the citizen-soldiers of Nevada left their factories, farms and investment banks for a battlefield in California, where they disguised their American tanks as Russian T-80s and donned the colours of an imaginary country called Krasnovia. Within a few hours they had pierced the defences of the adversary, a mechanised brigade of full-time soldiers from Georgia (the American state, that is). Guardsmen across the nation rejoiced at their Nevadan comrades' success. They had given the Pentagon sceptics a bloody nose—and proved that "weekend warriors" are perfectly capable of engaging in full-scale armoured combat whenever Uncle Sam needs them.

Unfortunately, not every battle in the relentless conflict between the full-time American army and the Army National Guard, a mostly part-time force with strong local roots, has such a rapid and decisive outcome. Most of the time, the two institutions are locked in an inconclusive war of attrition which makes it impossible for Pentagon strategists to use either of them effectively. Like everybody else who is competing for slices of the Pentagon's shrunken pie, each side in this argument dismisses its opponents as superannuated, cold-war relics.

The swift, high-tech wars of tomorrow may have little place for the dentist or schoolteacher who likes to drive tanks or fly helicopters as a hobby, according to the full-time army—whose strength has been slashed by about 40%, to 495,000, since the Soviet collapse. Nonsense, retorts the National Guard, which has lost only 20% of its cold-war strength and numbers around 370,000. As the guard sees things, the huge regular army that was built to fight the Soviet Union and its allies was an aberration in American history. Now that the cold war is over, America should revert to reliance on the citizen-soldier, a concept which dates back to colonial times. "Americans have always been suspicious of standing armies, ever since we fought the British redcoats," says a spokesman for the National Guard Association, one of the more formidable lobbies on Capitol Hill. To settle the matter, guardsmen point out that their position is safeguarded by the American constitution, which calls for the raising of militias "to execute the laws of the Union, suppress insurrections, and repel invasions."

But full-time army commanders remain sceptical. The guard's eight combat divisions, its pride and joy, have been steadfastly excluded from any significant role in the army's plans to fight two regional wars (presumably in the Gulf and the Korean peninsula) simultaneously—the worst-case scenario on which much Pentagon thinking is based. In the guard's view, this exclusion is based on a self-serving calculation: the army would not be able to justify retaining ten combat divisions of its own if it admitted that the guard could also play an important role.

As the army sees things, the Gulf war of 1991 proved its point: modern conflicts are too quick and deadly to have much place for troops that require 90 days or more to reach the proper state of readiness. The guardsmen allege, with real bitterness, that their combat brigades were kept out of the war even when they were well prepared.

The deadlock is so intractable, and the mistrust so deep, that the entire process of adapting the military to a changing world is at risk of paralysis. The latest round of peace talks, convened in April by John Hamre, the deputy defence secretary, persuaded the guard that the Pentagon's civilian bosses do want a solution. But the part-timers remain intensely suspicious of the army. They insist that they are ready for painful changes, such as converting some of their heavy-armour divisions into lighter ones, but only if the army does the same. "We are willing to change if the army is willing to change, but we cannot take them at their word," says Major-General Edward Philbin, director of the National Guard Association.

Tensions increased a lot last year when the Pentagon published a quadrennial defence review that called for a cut of 40,000 in the guard's strength. Guardsmen muttered that the army had conspired against them; the army retorted that it was about time the guard bore its share of defence cuts like everybody else. Eventually the guard offered to accept a cut of 15,000 over three years, but only if the army recognised the guard's importance by signing up to 11 principles. Otherwise, all deals were off the table.

The reason why the guardsmen feel able to take such a firm line is that they have extraordinary political clout. Because guardsmen are based in every part of the country,

no lawmaker can afford to ignore them. They also have a natural constituency in the state governors, who rely on them to cope with riots, explosions and (especially in recent months) natural disasters. At least in peaceful times, the $5.5 billion which the Pentagon spends every year on maintaining the guard is a sort of transfer from Washington to the governors, who are gaining influence on several other fronts and are highly protective of their local troops.

The net result is a stalemate—and intense frustration for the defence planners, who long to save money on army personnel (whether full- or part-time) and use it to buy high-tech weapons. The Pentagon says annual procurement spending must rise by about $20 billion, to $60 billion per year, by 2001 if America is to retain its military edge against all comers. But with every legislator determined to protect bases and guard units in his or her home district, it looks harder and harder to see how money can be freed for this shopping spree.

In recent months, a new factor has emerged which could have a large, unpredictable effect on the stand-off between the army and the guard, and on the broader balance of power in the Pentagon. It is the belief among defence thinkers—especially those not wedded to any particular bureaucratic interest—that domestic security risks may be rising at a time when the United States looks virtually unchallengeable overseas. In military jargon, this is the theory of "asymmetrical threats". It goes like this: no adversary in his right mind would try to match America's vast arsenal of tanks, ships or nuclear weapons. It makes far better sense for the enemy—be it a terrorist group, a rogue state, or a combination of both—to wage chemical, biological or even cyber-warfare against American society, exploiting its openness.

There was, initially at least, much rejoicing among the guardsmen last year when the national defence panel, a group of experts with a mandate to review the country's military priorities, called for greater emphasis on countering poison gas or germ warfare attacks at home. The panel suggested that a Homeland Defence Command could be organised around the National Guard.

But, on second thoughts, the guardsmen feel more cautious about the new defence thinking. Dealing with the ghastly consequences of a chemical or biological attack has always been part of their job, they point out. Governors would need them badly during the few crucial hours when the emergency was too serious for local police and fire services to cope and the federal authorities had not yet arrived. But the guard will strongly resist any changes to its structure that would compromise its ability to join the regular army on overseas combat missions. Since "the army would love to turn us into a constabulary" with purely local duties, the guard is bracing itself for a fresh bureaucratic fight, says General Philbin.

In fact, the advent of "asymmetrical threats" may not suit the institutional interests of any of the Pentagon's quarrelsome soldiers. Consider how the lines of authority would shift in the event of a chemical or biological attack on Anytown, America. Once the emergency became too serious for the state government, responsibility for "crisis management"—identifying the culprit and stopping further attacks—would shift to the FBI. The appalling human consequences of the crisis would be dealt with by a shadowy organisation called the Federal Emergency Management Agency (FEMA), originally designed to keep government functioning in secret in a nuclear war, but better known for mismanaging the aftermath of hurricanes. The mainstream defence establishment would hardly enter the picture. If the attack was clearly launched by a foreign state, the generals might get busy retaliating. But what if the culprits were home-grown terrorists?

In practice, nobody knows who would do what if American city-dwellers faced a lethal cloud of anthrax or nerve gas. An exercise in March, designed to test the authorities' response to a genetically engineered virus spread by terrorists on the Mexican-American border, led to bitter squabbling among rival agencies. "There is no clear demarcation line between the FBI and FEMA, and knowledge about disease and hazardous materials is spread over a broad array of institutions," says Zachary Selden, a germ-warfare boffin. "Somebody is needed to sit on top of these operations."

But as America waits for the barbarians, its soldiers and guardsmen may at last have found something in common. Both have an interest in keeping the Pentagon's mind concentrated on hypothetical overseas wars, as opposed to deadly attacks on the homeland which look all too possible.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 14, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 18

2:00 p.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the role of faith-based charities in the District of Columbia.
SD–342

MAY 19

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume oversight hearings to examine the Federal Communications Commission, focusing on the Mass Media Bureau.
SR–253

Energy and Natural Resources
To hold oversight hearings on the fiscal and economic implications of Puerto Rico status.
SH–216

10:00 a.m.
Governmental Affairs
To hold hearings to examine Government computer security.
SD–342

Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine antitrust implications of certain bank mergers.
SD–226

Labor and Human Resources
To hold hearings to examine grievance procedures in the health care industry.
SD–430

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine certain business bankruptcy issues.
SD–226

MAY 20

9:30 a.m.
Commerce, Science, and Transportation
Oceans and Fisheries Subcommittee
To hold hearings to examine the harmful effects of algal blooms.
SR–253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense, focusing on Army programs.
SD–192

Governmental Affairs
To continue hearings to examine Government computer security.
SD–342

Judiciary
To hold hearings on S. 1645, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.
SD–226

Indian Affairs
Business meeting, to mark up S. 1691, to provide for Indian legal reform.
SR–485

2:30 p.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
To hold hearings on S. 512, to amend chapter 47 of title 18, United States Code, relating to identity fraud.
SD–226

MAY 21

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the content of certain music lyrics.
SR–253

10:00 a.m.
Labor and Human Resources
To hold hearings on genetic information issues.

SD–430

1:00 p.m.
Indian Affairs
To hold oversight hearings on addressing the unmet health care needs in Indian country.

SD–106

2:00 p.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold hearings on S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy- based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources.

SD–366

JUNE 4

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.

SD–366

JUNE 11

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.

SD–366

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.

345 Cannon Building