United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

*Vol. 145* WASHINGTON, THURSDAY, MAY 6, 1999 *No. 65*

# *Senate*

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:

Almighty God, on this National Day of Prayer, we join with millions across our land in intercession and supplication to You, the Sovereign Lord of the United States of America. As we sound that sacred word Sovereign, we echo Washington, Jefferson, Madison, and Lincoln, along with other leaders through the years, in declaring that You are our ultimate Ruler. We make a new commitment to be one nation under You, God, and we place our trust in You.

You have promised that if Your people will humble themselves, seek Your faith, and pray, You will answer and heal our land. Lord, as believers in You, we are Your people. You have called us to be salt in any bland neglect of our spiritual heritage and light in the darkness of what contradicts Your vision for our Nation. Give us courage to be accountable to You and Your Commandments. We repent for the pride, selfishness, and prejudice that often contradict Your justice and righteousness in our society.

Lord of new beginnings, our Nation needs a great spiritual awakening. May this day of prayer be the beginning of that awakening with each of us here in the Senate. We urgently ask that our honesty about the needs of our Nation and our humble confession of our spiritual hunger for You may sweep across this land. Hear the prayers of Your people and continue to bless America. In Your Holy Name. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Texas is recognized.

## SCHEDULE

Mr. GRAMM. Mr. President, this morning the Senate will resume consideration of S. 900, the financial services modernization bill, with Senator GRAMM immediately recognized to offer an amendment. The leader has announced that if this bill is completed this evening, there will be no rollcall votes during Friday's session of the Senate. Therefore, Senators can expect rollcall votes throughout the day and into the evening with the expectation of completing the bill.

I thank my colleagues for their attention.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the leadership time is reserved.

## FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 900 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized to offer an amendment.

Mr. GRAMM. Mr. President, I want to urge my colleagues, if they have any amendments for this bill, to bring those amendments to the floor.

We are going to try to gather up today the amendments that Members want to present. We are going to evaluate them. Hopefully, we can take many of those amendments without a rollcall vote. There will be some point this morning at which we will attempt to try to bring this to a conclusion in terms of setting a blueprint for the day. It is my intention to press forward today as long as it takes, as hard as it is, to see this bill dealt with and its work completed.

Mr. DORGAN. Mr. President, I wonder if the Senator from Texas will yield for a question.

Mr. GRAMM. I will be happy to yield for a question.

Mr. DORGAN. Mr. President, I understand the Senator from Texas, based on the previous agreement, is to be recognized to offer two amendments. I heard his call for other Members to come with amendments. I have a couple of amendments which I intend to offer. I would not expect the Senator to include those in the list of amendments he intends to accept, but nonetheless I also wish to make a statement about the bill generally today. I have come over several times, as the Senator knows, and it has not been convenient to be able to do so with respect to other schedules, and I understand that. But I wonder if the Senator could give me some notion of when I might be able to be recognized, at which time I would make the statement I intend to make about the bill generally and then offer an amendment.

Mr. GRAMM. Mr. President, I am awaiting Senator SARBANES, so why don't I just ask, how long does the Senator need to make an opening statement?

Mr. DORGAN. I wish to speak for about 20 minutes this morning.

Mr. GRAMM. Mr. President, let me ask unanimous consent that the distinguished Senator from North Dakota might speak on the bill for 20 minutes, and that at the end of that time I might be recognized for the purpose of offering the amendment. I am willing to step aside.

Mr. DORGAN. Mr. President, the Senator from Texas is most courteous. I would like about 5 minutes to gather some charts.

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



Printed on recycled paper.

Mr. GRAMM. Fine.

Mr. DORGAN. If the Senator would like to proceed——

Mr. GRAMM. Why don't we do it this way. Let me ask unanimous consent that the Senator be recognized to speak for 20 minutes. I will suggest the absence of a quorum. He can take us out of the quorum call when he comes back and speak for 20 minutes.

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

Mr. GRAMM. Mr. President, 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. DORGAN. 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. DORGAN. Mr. President, we are debating a piece of legislation in the Senate that is called the Financial Services Modernization Act of 1999.

I come today with the confession I am probably hopelessly old fashioned on this issue. For those who have a vision of re-landscaping the financial system in this country with different parts operating with each other in different ways and saying that represents modernization, then I am just hopelessly old fashioned, and there is probably nothing that can be said or done that will march me towards the future.

I want to sound a warning call today about this legislation. I think this legislation is just fundamentally terrible. I hear all these words about the industry remaking itself—banks, security firms and insurance companies, and that we'd better catch up and put a fence around where they are or at least build a pasture in the vicinity of where they are grazing. What a terrible idea.

What is it that sparks this need to modernize our financial system? And what does modernization mean? This chart shows bank mergers in 1998, in just 1 year, last year, the top 10 bank mergers. We have discovered all these corporations have fallen in love and decided to get married. Citicorp, with an insurance company—that is a big one—$698 billion in combined assets; NationsBank—BankAmerica, $570 million; and the list goes on. This is a massive concentration through mergers.

Is it good for the consumers? I don't think so. Better service, lower prices, lower fees? I don't think so. Bigger profits? You bet.

What about the banking industry concentration? The chart shows the number of banks with 25 percent of the domestic deposits. In 1984, 42 of the biggest banks had 25 percent of the biggest deposits. Now only six banks have the biggest deposits. That is a massive concentration.

I didn't bring the chart out about profits, but it will show —this is an industry that says it needs to be modernized—banks have record-breaking profits, security firms have very healthy profits, and most insurance companies are doing just fine. Why is there a need to modernize them?

So we must ask the question, what about the customer? What impact on the economy will all of this so-called modernization have?

It is interesting to me that the bill brought to the floor that says, ''Let's modernize this,'' is a piece of legislation that doesn't do anything about a couple of areas which I think pose very serious problems. I want to mention a couple of these problems because I want to offer a couple of amendments on them.

I begin by reading an article that appeared in the Wall Street Journal, November 16, 1998. This is a harbinger of things to come, just as something I will read that happened in 1994 is a harbinger of things to come, especially as we move in this direction of modernization.

> It was Aug. 21, a sultry Friday, and nearly half the partners at Long-Term Capital Management LP [that's LTCM, a company] were out of the office. Outside the fund's glass-and-granite headquarters, a fountain languidly streamed over a copper osprey clawing its prey.
>
> Inside, the associates logged on to their computers and saw something deeply disturbing: U.S. Treasurys were skyrocketing, throwing their relationship to other securities out of whack. The Dow Jones Industrial Average was swooning—by noon, down 283 points. The European bond market was in shambles. LTCM's biggest bets were blowing up, and no one could do anything about it.

This was a private hedge funding.

> By 11 a.m., the [hedge] fund had lost $150 million in a wager on the prices of two telecommunications stocks involved in a takeover. Then, a single bet tied to the U.S. bond market lost $100 million [by the same company]. Another $100 million evaporated in a similar trade in Britain. By day's end, LTCM [this hedge fund in New York] had hemorrhaged half a billion dollars. Its equity had sunk to $3.1 billion—down a third for the year.

This company had made bets over $1 trillion.

Now, what happened? They lost their silk shirts. But of course, they were saved because a Federal Reserve Board official decided we can't lose a hedge fund like this; it would be catastrophic to the marketplace. So on Sunday night they convened a meeting with an official of the Federal Reserve Board, and a group of banks came in as a result of that meeting and used bank funds to shore up a private hedge fund that was capitalized in the Caymen Islands for the purpose, I assume, of avoiding taxes. Bets of over $1 trillion in hedges—they could have set up a casino in their lobby, in my judgment, the way they were doing business. But they got bailed out.

This was massive exposure. The exposure on the hedge fund was such that the failure of the hedge fund would have had a significant impact on the market.

And so we modernize our banking system. This is unregulated. This isn't a bank; it is an unregulated hedge fund, except the banks have massive quantities of money in the hedge fund now in order to bail it out.

What does modernization say about this? Nothing, nothing. It says let's pretend this doesn't exist, this isn't a problem, let's not deal with it.

So we will modernize our financial institutions and we will say about this problem—nothing? Don't worry about it?

I find it fascinating that about 70 years ago in this country we had examples of institutions the futures of which rested on not just safety and soundness of the institutions themselves but the perception of safety and soundness, that is, banks. Those institutions, the future success and stability of which is only guaranteed by the perception that they are safe and sound, were allowed, 70 years ago, to combine with other kinds of risk enterprises—notably securities underwriting and some other activities—and that was going to be all right. That was back in the Roaring Twenties when we had this go-go economy and the stock market was shooting up like a Roman candle and banks got involved in securities and all of a sudden everybody was doing well and everybody was making massive amounts of money and the country was delirious about it.

Then the house of cards started to fall. As investigations began and bank failures occurred and bank holidays were declared, from that rubble came a description of a future that would separate banking institutions from inherently risky enterprises. A piece of legislation called the Glass-Steagall Act was written, saying maybe we should learn from this, that we should not fuse inherently risky enterprises with institutions whose perception of safety and soundness is the only thing that can guarantee their future success. So we created circumstances that prevented certain institutions like banks from being involved in other activities such as securities underwriting.

Over the years that has all changed. Banks have said, because everybody else has decided they want to intrude into our business—and that is right, a whole lot of folks now set themselves up in a lobby someplace and say we are appearing to be like a bank or want to behave like a bank—the banks say if that is the case, we want to get into their business. So now we have the kind of initiative here in the Congress that says: Let's forget the lessons of the past; let's believe the 1920s did not happen; let's not worry about Glass-Steagall. In fact, let's repeal Glass-Steagall; let's decide we can merge once again or fuse together banking enterprises and more risky enterprises, and we can go down the road just as happy as clams and everything will be just great. And of course it will not.

I mentioned hedge funds—talk about risk. How about derivatives? Incidentally, those who vote for this bill will remember this at some point in the future when we have the next catastrophic event that goes with the risks in derivatives. Fortune magazine wrote an article, ''The Risk That Won't Go Away; Financial Derivatives Are Tightening Their Grip on the World Economy and No One Knows How to Control Them.'' Somewhere around $70- to $80 trillion in derivatives.

I wrote an article in 1994 for the Washington Monthly magazine and derivatives at that point were $35 trillion. You know something, today in this country banks are trading derivatives on their own proprietary accounts. They could just as well put a roulette wheel in the lobby. They could just as well call it a casino. Banks ought not be trading derivatives on their proprietary accounts. I have an amendment to prohibit that. I don't suppose it would get more than a handful of votes, but I intend to offer it.

Is it part of financial modernization to say this sort of nonsense ought to stop; that banks ought not be able to trade derivatives on their own proprietary accounts because that is inherently gambling? It does not fit with what we know to be the fundamental nature of banking and the requirement of the perception of safety and soundness of these institutions. Does anybody here think this makes any sense, that we have banks involved in derivatives, trading on their own proprietary accounts? Does anybody think it makes any sense to have hedge funds out there with trillions of dollars of derivatives, losing billions of dollars and then being bailed out by a Federal Reserve-led bailout because their failure would be so catastrophic to the rest of the market that we cannot allow them to fail?

And as banks get bigger, of course, we also have another doctrine. The doctrine in banking at the Federal Reserve Board is called, ''too big to fail.'' Remember that term, ''too big to fail.'' It means at a certain level, banks get too big to fail. They cannot be allowed to fail because the consequence on the economy is catastrophic and therefore these banks are too big to fail. Virtually every single merger you read about in the newspapers these days means we simply have more banks that are too big to fail. That is no-fault capitalism; too big to fail. Does anybody care about that? Does the Fed? Apparently not.

Of course the Fed has an inherent conflict of interest. I think, if the Congress were thinking very clearly about the Federal Reserve Board, they would decide immediately that the Federal Reserve Board is not the locus of supervision of banks. The Federal Reserve Board is in charge of monetary policy. It is fundamentally a conflict of interest to be listening to the Fed about what is good for banks when they are involved in running the monetary policy of this country. If the Federal Reserve Board were, in my judgment, doing what it ought to be doing, it would be leading the charge, saying we need to regulate risky hedge funds because banks are involved in substantial risk on these hedge funds. Apparently hedge funds have become too big to fail. Then there needs to be some regulation.

The Fed, if it were thinking, would say we need to deal with derivatives, and that bank trading on proprietary accounts in derivatives is absurd and ought not happen. Some will remember in 1994 the collapse in the derivative area. You might remember the stories. ''Piper's Managers' Losses May Total $700 Million.'' ''Corporation After Corporation Had to Write Off Huge Losses Because They Were Involved in the Casino Game on Derivatives.'' ''Bankers Trust Thrives on Pitching Derivatives But Climate Is Shifting.'' ''Losses By P&G May Clinch Plan to Change.''

The point is, we have massive amounts of risk in all of these areas. The bill brought to the floor today does nothing to address these risks, nothing at all, but goes ahead and creates new risks by saying we will fuse and merge the opportunities for inherently risky economic activity to be combined with banking which requires the perception of safety and soundness.

We have all these folks here who know a lot more about this than I do, I must admit, who say: Except we are creating firewalls. We have subsidiaries, we have affiliates, we have firewalls. They have everything except common sense; everything, apparently, except a primer on history. I just wish, before people would vote for this bill, they would be forced to read just a bit of the financial history of this country to understand how consequential this decision is going to be.

I, obviously, am in a minority here. We have people who dressed in their best suits and they just think this is the greatest piece of legislation that has ever been given to Congress. We have choruses of folks standing outside this Chamber who spent their lifetimes working to get this done, to say: Would you just forget all that nonsense back in the 1930s about bank failures and Glass-Steagall and the requirement to separate risk from banking enterprises; just forget all that. Time has moved on. Let's understand that. Change with the times.

We have folks outside who have worked on this very hard and who very much want this to happen. We have a lot of folks in here who are very compliant to say: Absolutely, let me be the lead singer. And here we are. We have this bill, which I will bet, in 5, 10, 15 years from now, we will be back thinking of this bill like we thought of the bill passed in the late 1970s and early 1980s, in which this Congress unhitched the savings and loans so some sleepy little Texas institution could gather brokered deposits from all around America and, like a giant rocket, become a huge enterprise. And guess what. With all the speculation in the S&Ls and brokered deposits and all the things that went with it that this Congress allowed, what did it cost the American taxpayer to bail out that bunch of failures? What did it cost? Hundreds of billions of dollars. I will bet one day somebody is going to look back at this and they are going to say: How on Earth could we have thought it made sense to allow the banking industry to concentrate, through merger and acquisition, to become bigger and bigger and bigger; far more firms in the category of too big to fail? How did we think that was going to help this country? Then to decide we shall fuse it with inherently risky enterprises, how did we think that was going to avoid the lessons of the past?

Then the one question that bothers me, I guess, is—I understand what is in this for banks. I understand what is in it for the security firms. I understand what is in it for all the enterprises. What is in this for the American people? What is in it for the American people? Higher charges, higher fees? Do you know that some banks these days are charging people to see their money? We know that because we pay fees, obviously, to access our money at bank machines. But credit card companies, most of them through banks, are charging people who pay their bills on time because you cannot make money off somebody who wants to pay their bill every month.

If you have a credit card balance—incidentally, you need a credit card these days, because it is pretty hard to do business in cash in some places. You know with all the bills, everybody wants to use credit cards. Many businesses want you to use credit cards. So you use credit cards, then you pay off the entire balance at the end of every month because you don't want to pay the interest. Some companies have decided you should be penalized for paying off your whole balance. Isn't that interesting? You talk about turning logic on its head, suggesting we don't make money on people who pay off their credit card balance every month, so let us decide that our approach to banking is to say those who pay their credit card bill off every month shall be penalized.

Turning logic on its head? I think so. As I said when I started, I am likely to be branded as hopelessly old fashioned on these issues, and I accept that. I suspect that some day in some way others will scratch their heads and say, ''I wish we had been a bit more old fashioned in the way we assessed risk and the way we read history and the way we evaluated what would have made sense going forward in modernizing our financial institutions.''

Oh, there is a way to modernize them all right, but it is not to be a parrot and say because the industry has moved in this direction, we must now move in this direction and catch them and circle them to say it is fine that you are here now. That is not the appropriate way to address the fundamental challenges we have in the financial services industry.

I am not anti-bank, anti-security or anti-insurance. All of them play a constructive role and important role in this country. But this country will be better served with aggressive antitrust enforcement, with, in my judgment, fewer mergers, with fewer companies moving in to the ''too big to fail'' category of the Federal Reserve Board, with less concentration.

This country will be better served if we have tighter controls, not firewalls that allow these companies to come together and do inherently risky things adjacent to banking enterprises, but to decide the lessons of the 1930s are indelible transcendental lessons we ought to learn and ought to remember.

Mr. President, I have more to say, but I understand my time is about to expire.

The PRESIDING OFFICER (Mr. INHOFE). The Senator's time has expired.

Mr. DORGAN. Mr. President, at some point, I will have three amendments to offer, two of them on hedge funds and one of them on derivatives. I understand the Senator from Texas is in line and has the opportunity to offer two amendments.

My hope is to offer my first derivative amendment following the Senator from Texas. I understand the Senator from Texas indicates he wants to try to finish the bill this evening. I understand managing the bill is difficult and he wants to get through these things. I will not speak at great length on my amendments.

I appreciate the Senator's courtesy this morning in allowing me to make an opening statement. If he intends to finish the bill tonight, I will be here. He said if we have amendments to bring them over. I will be here. If the Senator wants my amendments, I will offer them and that will give us a chance to talk about them and deal with them.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized.

Mr. GRAMM. Mr. President, this is an important bill. I have had problems myself with this bill in the past in other forms. I understand the Senator has strong feelings. It may well be that some of his amendments we can take. If the Senator will get them to us as quickly as he can, we will look at them, and if we can take them, we will. If we cannot, then the only thing we can do is have them presented, have him debate them, and then we will have a vote on them.

Mr. SARBANES. Will the chairman yield?

Mr. GRAMM. I will be happy to yield.

Mr. SARBANES. On the point of amendments, I think it would be very helpful to the managers if Members could now let us know in the next hour or so whether they have amendments they intend to offer and what the subject matter will be. That will give us a chance to think about how we might structure the day.

The leader's intent, as I understand it, is to try to finish this bill tonight. I think the chairman will probably agree with me that there is the real possibility that we could do that, but in order to accomplish that, it would be very helpful if Members who are thinking of offering amendments would let us know about them so we can incorporate that factor into our thinking as we think about how we are going to move the bill along. I would be most appreciative if people could do that.

Mr. DORGAN. May I inquire, if I can ask a question of the manager, if we have amendments when will they likely be considered? The Senator from Texas has now an opportunity to offer two amendments, right? Will there be substantial debate on those amendments?

Mr. GRAMM. I don't think so at this point. One of the reasons we are letting people go is to look at them. There will be a vote on one of them, sort of as a bed check to get everybody awake and ready to get going. I don't believe, or it is not my intention, that either one of them will be very controversial or be long debated.

If the Senator can get his amendments to us and let us look at them so we know what he is offering, again, it might be possible we can work something out and take the amendments or some part of them. It is always better not to talk if one can win without talking, but if you can't win, talking is often the best thing to do. Maybe we can work it out. Again, we are in an accommodating mood this morning.

Mr. DORGAN. I say the worst possible position is to not be able to win and not be able to talk.

Mr. GRAMM. I can assure the Senator, we are not going to prevent him from talking.

Mr. DORGAN. I will provide all three amendments to the chairman immediately and will be available all morning so I will not hold up his bill.

Mr. GRAMM. Mr. President, I ask unanimous consent that, while holding our current order exactly as it is, I yield to the distinguished Senator from Pennsylvania to offer an amendment which he will debate and then withdraw.

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

Mr. SANTORUM. Thank you, Mr. President.

AMENDMENT NO. 307

(Purpose: To require the obligations of the Financing Corporation to be paid from certain excess funds of the deposit insurance funds and for other purposes)

Mr. SANTORUM. 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 Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 307.

Mr. SANTORUM. 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:

(e) USE OF FUND RESERVES TO PAY FICO OBLIGATIONS.—

Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended by inserting after subparagraph (C) the following:

''(D) USE OF DEPOSIT INSURANCE FUNDS TO PAY CERTAIN FINANCING CORPORATION OBLIGATIONS.—

''(i) IN GENERAL.—Beginning on January 1, 2000, the Board of Directors shall use the funds of the Bank Insurance Fund and the Savings Association Insurance Fund in excess of 1.35 percent of estimated insured deposits or such level established by the Board of Directors pursuant to Section 7(b)(2)(A)(iv)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iv)(II)) to pay the bond interest obligations of the Financing Corporation.

''(ii) LIMITATION.—If the funds available under clause (i) are insufficient to meet the Financing Corporation's annual interest obligations, the Board of Directors shall use such amounts available under clause (i) and shall impose a special assessment, consistent with 12 U.S.C. 1441(f)(2) and Section 2703(c)(2)(A) of the Deposit Insurance Funds Act of 1996, on insured depository institutions in such amount and for such period as is necessary to generate funds sufficient to permit the Financing Corporation to meet all interest obligations due.

Mr. SANTORUM. Mr. President, I rise as a member of the Banking Committee to, first, express my support for the bill. I think the chairman has done an admirable job in trying to fashion a bill that takes what was a very complicated, overly complex measure last year and simplified it and streamlined a lot of the organizational structures and dealt with things in a much more straightforward fashion. I think as a result, we have a much cleaner and much better, more understandable, from an administrative point of view, proposal than what we were dealing with last year. I commend the chairman for that.

Just like every other Member here, there are certain parts of the bill of which I am less supportive. In fact, some parts of the bill I am not supportive of at all and feel it is an obligation of mine to come forward and do what I can to make some of those changes.

One section of the bill that I do not support is section 304. Section 304 extends for 3 years the differential that savings institutions, thrifts, have to pay vis-a-vis banks on what are called FICO obligations or FICO bonds. That is the Financing Corporation bonds that were issued to resolve the Federal Savings and Loan Corporation during the savings and loan crisis a few years ago.

These bonds were necessary. The industry that was involved—more responsible, some will argue—the thrift industry, was assessed a higher assessment to pay those bonds. The banking industry, which had less problems, was assessed a lower assessment, five times lower. Without this bill, in a year's time, the amount of money, the amount of assessment would equalize. Instead of the thrifts paying 6 basis points and the banks paying 1.2 basis points, both the banks and thrifts would pay 2.2 basis points.

I think that is fair. It should be equalized. Certainly the thrifts have paid their fair share, and then some, with respect to resolving the crisis that occurred in their industry. To continue this competitive disadvantage I think is not wise, given, in particular, the fact this bill has a lot in it for large banks, has a lot in it for the banking industry, and a lot of my small banks and thrifts have said there really is not much in it for the smaller, more community-oriented banks and for thrift institutions.

While we are providing more opportunities for the larger banks, under the chairman's bill, the committee bill, we keep this additional disparity between savings institutions and banks. So I think it is a fair way to move forward given the state of play.

The problem is that I do not think it is fair enough. Striking that section—I know there are several amendments out here to strike that section and allow the equalization of the assessments to go on—I think is a good step but, frankly, it is not a step that goes far enough. And the reason I say that needs a little explanation.

Right now the interest that we need, the amount of money that we have to pay for the FICO bonds, the Financing Corporation bonds, that runs about $780 million a year. That is to pay the obligations on the FICA bonds. That money is paid by this assessment on thrifts and banks.

Thrifts and banks also historically have another assessment that paid money into a reserve account, as is prudent, so we have a reserve fund that can pay on the guaranties for deposits in banks and savings organizations.

That capital fund is overcapitalized. There is more money in that account than is necessary to meet the reserve requirement of 1.25 percent of deposits. And so as a result, the assessments on banks and savings institutions have been basically eliminated with very few exceptions. But they continue to be assessed to pay the FICO bonds.

What I have found, in looking at these accounts, is that there is far more money in the reserve accounts than is needed to meet the 1.25 percent of deposits that we need in that reserve account. In fact, that reserve account, that money that was paid to capitalize the reserve account, is invested in Government bonds—should be invested, of course—and it is invested in Government bonds.

The interest on that reserve account, through the investment in Government bonds, is about $2 billion a year. That is about how much interest we are bringing in and adding to the reserve account every year. And it is growing, by the way. Every year it continues to grow. We are adding about $2 billion a year in interest. So the reserve account, which is already overcapitalized, continues to grow.

In fact, if you look at where this account has grown—remember, we are supposed to have in this reserve account 1.25 percent of deposits. In 1996, it was 1.3 percent; in 1997, it was 1.36; in 1998, it was 1.39. That is in the SAIF fund, which is the savings account fund. In the BIF fund, which is the bank, it is 1.34; it is going up to 1.38 in 1999. We are seeing a growth in both of those funds, and that is projected to continue to grow.

You may ask the question, Why are we letting it continue to grow? Well, because there are no failures in banks. We are not having to insure the deposits and pay the money. But it is well in excess of the amount that we need. And it is earning $2 billion a year, thereby growing.

What I am saying is that we have more than we need in this account; it is growing at a rate of about $2 billion a year, and yet we are still assessing banks and savings institutions money to pay FICO bonds. Why don't we use the interest that is being spun off from the investment in the reserve account to pay the FICO bonds and that way eliminate the assessment on banks completely, which is basically a $780 million tax, when we have a fund that is growing far in excess of what we need in the reserve accounts?

That is what my amendment would do. It would basically say that there isn't any reason to continue to assess banks and savings institutions to use that capital to pay FICO. Let the capital stay with the banks, stay with the savings institutions, be used to lend, to create more money, more capital available for more credit.

It is estimated that with my amendment next year alone it would make $10 billion of credit available—$10 billion of new credit available if we pass my amendment. That money, again, which has already been generated in excess of what we need, would be used to pay the FICO obligations.

I sort of like what is going on here with respect to the deposit insurance funds, the reserve funds, what goes on in a lot of trust funds in Government. We had almost the identical situation with the highway trust fund, and we had the courage, through the leadership of Chairman SHUSTER over in the House, to stand up and say, ''Look, we're paying all this money in gas taxes. It is going into the highway trust fund. But we are only appropriating a fraction of the money that is actually coming in.'' In other words, consumers—taxpayers—were paying much more money in taxes going into the trust fund than was ever going to be used in the trust fund.

What was happening to the difference? What was happening to the difference was we were just building up this highway trust fund money that we would never use. Why would we want to do that?

The same question here is, if we already have enough money to pay the FICO bonds with interest on the reserve accounts, why do we need to continue to assess banks? Well, there is only one reason why we continue to assess banks and savings institutions. It is because it counts as money to the Federal Government and it scores for the budget.

Wait a minute. What does that mean? What that means is that we can show a lower deficit because we have $780 million coming in. That money will never be spent. It will never be spent. It will just continue, in some way, to grow within the reserve account, which money will never be used because we have far in excess of what anyone has anticipated. By the way, that number continues to grow.

So we have in a sense here in the banking bill the identical situation as we had in the highway trust fund; which is, we are assessing somebody, ultimately the consumer, because they ultimately pay these taxes or these assessments, we are assessing them $780 million a year to go into a fund that does not need the money, that is used purely—purely—to hide the deficit so we can spend money somewhere else. So what we want to do is say, let's do here what we did with the highway trust fund.

The reason I am withdrawing my amendment—this is a good amendment. It is what we should do. This is truth in budgeting. We always talk about truth in budgeting and the Social Security trust fund and the highway trust fund. Here is another, in a sense, trust fund that we are putting money into that is never going to be used, simply to hide the deficit. But if we take that money out of the revenue stream, there will be some who will come down here to the floor and say, ''Aha, you're going to raise the deficit and thereby take money out of Social Security or thereby not have enough money for us to do a tax cut or thereby not have enough money to do whatever else we want to do.''

The fact is, this is money that we should not be assessing because there isn't the need to assess it. But it is there. It is a tax. It is a tax going into a trust fund that does not need the money. But we are going to put it in there anyway because then we can issue bonds.

Does this sound familiar to Social Security? We do not need the money in Social Security. We have enough money to pay, but we continue to charge people higher FICA taxes, higher Social Security taxes. We have a surplus. And what do we do with that surplus? We buy Government bonds. What does that surplus do? It hides the real deficit.

What are we doing here with this FICO? It is interesting—FICA-FICO. What are we doing with FICO? We are charging banks and savings institutions more money than is needed. To do what? To buy Government bonds. To do what? To hide the deficit. To do what? So we can spend the money somewhere else.

The trust fund scams that go on here in Washington, when we set up these separate accounts—but we count them in the general fund. We count them in the overall budget calculations and create some very troubling policies.

It is a policy that we fixed when it came to gas taxes in the highway trust fund. It is a policy we are going to try to fix when it comes to Social Security. It is a policy that we should fix when it comes to banks and savings institutions, although it is very difficult to come to the floor and say, we should reduce taxes on banks and thrifts because they are paying too much in taxes.

It is not a very popular tax cut, if that is the way you are going to look at it. But this is not a tax cut; this is an assessment to make sure there is adequate money in reserves to pay the guarantee. These are banks putting money in there to make sure there is money available to pay insured deposits. That is what this is about. There is more money than we need in there right now, far in excess of the requirements, and yet we continue to assess it.

That is wrong. That is not a tax to pay for government. That is not a tax to pay for something else. It is an assessment to do a specific thing. There is more money than we need to do that specific thing. Yet we continue to assess. Why? Because it counts in the general budget, and we do not want to reduce the amount of money coming into the general budget, even though that money doesn't go to the general fund; it goes to this trust fund. The trust fund then buys bonds and then we use the money.

That is wrong. We should not allow that to happen. I will support the motion to strike section 304 because it is all we can accomplish, but I will continue to work, not just with this trust fund but with the other trust funds we have here in Washington that have been integrated into this budget, that hide the real cost of government. That is what we are dealing with here. We are hiding the real cost of government. We are making banks, savings institutions, pay money that there is no need for them to pay to hide the cost of government.

That is wrong. That is not truthful budgeting. If we want to tax banks more money, if we want to go out there and tax them, say you are not paying enough in taxes, we are going to tax you $780 million a year so we can have more money in Washington, then let's be straightforward. Let's just go tax them and have a debate on that. But to continue to have them pay this assessment—don't call it a tax; it is an assessment—when there is plenty of money in there that would alleviate the need to pay that assessment is wrong.

I am very disappointed that this amendment is subject to a budget point of order, which means I would have to get 60 votes to allow this amendment to go in. Why is it subject to a budget point of order? Because this assessment counts as revenue to the Government and would throw the budget out of balance, if we passed my amendment.

Some will claim, you are going to take this money out of this, or this, or whatever. The fact is, this is not a tax; it is an assessment for a particular purpose, to capitalize a reserve fund to make sure there is money there to pay guaranteed deposits.

There is more money. The reserve requirement is 1.25 percent. In the current accounts, it is almost 1.4 percent. There is almost a billion dollars more in the accounts than is necessary to pay to meet the minimum reserve requirement, yet we continue to assess more and more and more.

Again, I can't tell you how disappointed I am that we continue this fraudulent budget practice. It is certainly my intent, while we will not be successful today with this amendment, to fight this battle and other battles for truth in budgeting where fraudulent trust funds are used to subsidize other government spending. That is not right. It is not right to this industry. It is not right to those who want available credit, because we are driving credit by having these assessments. It is certainly not right with respect to Social Security and the other trust funds that are being abused by the general government to hide deficits for this country.

Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 307) was withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

AMENDMENT NO. 308

(Purpose: To strike a provision relating to a 3-year extension for BIF-member FICO assessments, to provide for financial information privacy protection, and to provide for the establishment of a consumer grievance process by the Federal banking agencies)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Texas (Mr. GRAMM) proposes an amendment numbered 308.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. GRAMM. Mr. President, the Senate Banking Committee has worked on this bill for a long time. In fact, this has been a live issue in the Congress for over 25 years. We are making progress toward at least having the Senate act. I think no one is under any delusion about the fact that we have a lot of work to do. We have a conference, and we have a President who ultimately is going to have a say in this through his ability to veto. Obviously, at some point we are going to sit down with him in the process and listen to his viewpoint and see to what degree we can come together.

But I thought it was a good time in the process here in the Senate to take some action to try to clear out some differences that exist between proposals that Senator SARBANES made in committee and positions which were adopted by the committee itself. There are two areas in this amendment where we adopt the position of the Sarbanes substitute which was considered by the Senate yesterday. What I would like to do is to explain these differences and then give Senator SARBANES an opportunity to talk about it.

The first has to do with striking the FICO provision. It is always dangerous to try to do good things on an important bill. No good deed goes unpunished. I had a provision in the underlying bill which was trying to deal with a problem, and the problem is that we have two separate insurance funds and they have had very different insurance premiums; but we had set out an automatic pilot process to bring those two funds to the same insurance rate, with the idea that Congress, while this was happening, was going to end up merging the two insurance funds.

Well, as often happens, Congress ended up passing no bill related to merging the two insurance funds, and on the last day of the millennium, on December 31 of 1999, these two rates are going to be merged by law. And so I thought, well, this is a chance to have a good Government provision, so we will postpone that to give the conference and the Congress an opportunity to do what we said we would look at doing when we started merging these two rates.

It is clear now that there is sufficient opposition to this provision, and I am not sure where the votes would be if we tried to leave it where it is. But it seemed to me, with all the big issues we have to deal with in this bill, that it is not worth fighting this issue. And so the first provision of this amendment strikes the so-called FICO provision and allow current law to operate to assure that the insurance premiums of the two separate insurance funds for deposit insurance will be harmonized on the last day of this year.

The second provision deals with antifraud provisions and with this emerging issue of privacy. I want people to understand that by adopting the provisions of the Sarbanes bill on privacy, I am not saying to the Senate, nor is Senator SARBANES, I am sure—and he will speak for himself—that this is the end of the debate. This is a very important issue. Privacy is a fundamental right that people have, and the question is trying to balance that right against the new technology which we all benefit from, and which we all find ourselves forced to operate within. It is not easy. This is a beginning.

What I want to say to Members of the Senate is that, as a gesture toward promoting bipartisanship, I want to move to adopt these provisions from the Sarbanes substitute. But I want to go further than that. I want to commit that the Banking Committee will hold hearings on privacy issues. I want to commit that we will hold those hearings in both the subcommittee and at the full committee level; that we will begin the hearings with testimony from any Member of the House or Senate who wishes to testify; that we will hold comprehensive hearings so that anybody who has a legitimate viewpoint or represents any group which has a stake in this issue would have an opportunity to testify and have their position heard.

Now, basically, in this amendment we make illegal a number of practices, where basically people are engaging in fraud and dishonest behavior. In addition, we require a GAO report on financial privacy. The amendment requires that GAO, in consultation with the Federal Trade Commission and the Federal banking agencies, report to the Congress on the efficacy and adequacy of the remedies provided to prevent false pretext calls to obtain financial information and recommendations for any additional legislation to prevent pretext calling.

We have a Federal Trade Commission report to Congress on financial privacy. The amendment requires the Federal Trade Commission to submit an interim report to Congress on its ongoing study of consumer privacy issues.

We establish a consumer grievance process. I think one of the things which has happened to every Member of the Senate is that we now find, in the absence of an organized process, that people tend to call us when they have problems of this nature. What we want to do in this amendment is require the Federal banking regulators to create a consumer grievance process for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under this bill. These are regulations in section 202 having to do with consumer protection. Each Federal banking agency is required to (1) establish a group within each regulatory agency to receive consumer 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.

This is not the end of the debate. This does not solve the privacy problems in America. But I believe Senator SARBANES is correct that this is the beginning of the debate. I have just touched on a portion of the provisions. He is more expert than I on them. But I believe they represent an important step in beginning the debate on this issue of privacy.

I think it is important we begin this debate on a bipartisan basis. Therefore, I have sent this amendment to the desk adopting the privacy portions of the Sarbanes substitute.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, first of all, I want to indicate right at the outset that I am supportive of this amendment which the chairman has sent to the desk. I would like to address briefly the two aspects of it.

First of all, it would preserve current law that ends the FICO assessment differential at the end of 1999.

Actually, my colleague, Senator JOHNSON, was going to offer an amendment later, and part of that amendment would encompass this provision as well. That is an amendment that addresses the unitary thrift issue, which I believe is probably an amendment we will be able to get to fairly shortly this morning. In fact, the chairman and I are hopeful that when we do that, we will be able to work out a time agreement with those who are interested in the amendment so we could structure that debate, structure the vote, and Members would know how we are moving ahead.

We indicated earlier, and I want to repeat the request—I will do it after we vote on this amendment—that Members who have amendments to let us know. Of course, we know about the unitary thrift amendment. We know about the op-sub amendment. We know that some Members are thinking of offering amendments. The chairman indicated earlier that, if we could see them, we might be able to work out accommodations with people offering amendments.

It will be very helpful to us if Members will let us know. I think an opportune time will be when we have the vote on this amendment, or shortly thereafter we could begin to try to program and plan the day.

The FICO assessment differential—let me briefly describe the legislative background and show why the current law should be preserved.

In 1996, Congress passed the Deposit Insurance Funds Act of 1996 to resolve the disparity.

Let me just say this amendment has two things: the FICO differential and this antifraud privacy provision in it. As the chairman has indicated, that is just a small step. I am going to address that shortly.

Many Members have a very keen interest in the privacy issue. The privacy concerns which they have been focused on are sort of broader and separate and more extensive than what is in this amendment. But this amendment in and of itself, I think, is desirable, although it by no means addresses the privacy question in any broad or full manner.

Coming back to the FICO assessment differential, when we passed the Deposit Insurance Funds Act of 1996 to resolve the disparity between the assessments being charged by the SAIFs and the BIFs to the thrifts and the banks for payment of interest on bonds issued by the financing corporation, so-called FICO bonds, it paid depositors of institutions that failed during the thrift crisis.

Actually, the differential that caused thrifts to migrate assessable deposits to the BIF fund, the Bank Insurance Fund, in order to reduce their premiums, that obviously over time could have led to a destabilization of the SAIF funds.

The legislation in 1996 required SAIF-insured institutions to pay a one-time $4.5 billion payment to the SAIF funds, and for 3 years, until the end of 1999, to pay assessments at a rate of 6.1 basis points of deposits, which was five times the rate at which BIF-insured funds were assessed. Then, as it were, as part of the arrangement for the thrifts undertaking these large payments, a one-time $4.5 billion payment and the five-time multiple on the assessment rate going into the SAIF funds, the Congress provided that the assessments would be equalized in the two funds no later than January 1, 2000, and the same rate would be assessed on BIF and SAIF-assessable deposits thereafter.

The bill before has a provision in it, which the chairman has now proposed to strike, but that provision, if it remained, would extend the premium differential for another 3 years and, therefore, require SAIF-insured savings associations to pay a much higher deposit assessment for another 3 years, whereas the existing law would have eliminated that differential at the end of this year. This obviously would impose very significant additional and unexpected costs.

I think, in thinking about this, that we have to really think about it in terms of in the sense of what the understanding was in 1996, what the expectations were, what the planning has been, and, of course, if we don't allow the law to take effect as it was laid out to do in 1996 in the Deposit Insurance Funds Act, we markedly changed people's expectations and people's planning.

OTS Director Seidman and FDIC Chairman Tanoue both testified before the Senate Banking Committee opposing this section. Director Seidman testified that in a sense both BIF and SAIF-insured institutions have expected the FICO rate differential to end at the end of this year. Extending it could revive the incentive to shift deposits from the SAIF to the BIF.

Deposit shifting represents a waste of resources and could unnecessarily lead the SAIFs less able to diversify to risks. FDIC Chairman Tanoue testified that faced with the possibility of a persistent rate differential, holders of SAIF-insured deposits may feel it is in their best interests to try to shift deposits to the BIF. This would result in the very inefficiencies that the Funds Act was intended to eliminate.

Subsequently, FDIC Chairman Tanoue sent a letter to Chairman GRAMM urging the elimination of section 304, and stating if the differential is extended ''inefficiency and waste will reemerge as institutions expend time and money to avoid this unequal fee structure.''

Mr. President, I think obviously we need to give careful consideration to these arguments advanced by the FDIC and the OCC. The substitute which Senator DASCHLE and we proposed at the outset of these deliberations did not extend the differential. We did not have this provision in there, and, therefore, we stuck with existing law which would have eliminated the differential at the end of this year.

No compelling reason has been brought to my attention that would require us to reopen this issue and extending the differential. The thrifts have been performing their obligations under the Funds Act by paying the $4.5 billion one-time payment, plus the payment on their deposits, which is five times the payment the banks are paying under the BIF on their deposits.

I agree with the amendment in striking the provision that would have carried the differential out for another 3 years contrary to the understanding and everyone's assumption on the basis of the 1996 law.

Now, Senator JOHNSON will be offering an amendment which addresses the unitary thrift issue, and I think that is a very important amendment. He had, as part of that amendment, this particular provision with respect to the differential. I think it is very important as Members consider the Johnson amendment to understand that what he will be offering on the unitary thrift issue is in the context of this change, as well, with respect to the differential.

Looking at the Johnson amendment on the unitary thrift, to be fair to Senator JOHNSON and what he was seeking to accomplish, one would have to keep in mind or take into account that part of his approach encompassed this FICO assessment differential which is now contained in the amendment offered by the chairman.

Members, therefore, as they examine the Johnson amendment—and I will make that point later, as well—need to appreciate his effort to try to come up with what I call a balanced, well-thought-through, reasoned, balanced approach in trying to deal with these issues which are in some ways connected with one another. Senator JOHNSON was trying very hard to put together a balanced package. The adoption of this amendment makes it unnecessary to be in the Johnson amendment, which ought not result in perceiving that the Johnson amendment is in any way unbalanced. Because of its approach it essentially encompassed this proposal, as well.

Let me turn to the antifraud provision that is in this legislation. At the outset, let me be very clear. The chairman referred to the privacy provisions of the Sarbanes bill. There are two Sarbanes bills on this issue. I want to be very clear about it. One was the substitute which we offered which contained within it the provisions of last year's bill on the Financial Information Antifraud Act. Separately, there is a bill that I have introduced along with Senator DODD, Senator BRYAN, Senator LEAHY, Senator EDWARDS, and Senator HOLLINGS, and a number of other colleagues have expressed a very strong interest in this legislation which is a much more comprehensive approach to the privacy question.

That bill would give customers notice about how their financial institutions share or sell their personally identifiable sensitive financial information. We think it is an extremely important issue. Of course, the chairman has indicated that he also regards it as an important issue, and he made the commitment this morning that the committee would undertake a comprehensive hearing with respect to this question of financial privacy.

I support the specific provisions in this amendment. I am pleased that we are considering these welcomed and much needed antifraud provisions. However, I have to underscore, again, they do not begin to address the larger issues of financial privacy and the need to give customers an informed voice in what is happening with their most confidential financial data.

Some have called the amendment that is before the Senate a so-called privacy amendment, but I think it is more appropriate to call it an antifraud measure. What people are now talking about as a privacy issue really is much more encompassed by this separate bill, which I indicated Senators DODD, BRYAN, LEAHY, EDWARDS, and HOLLINGS have joined with me in introducing, and which many of our colleagues on both sides of the aisle have expressed an interest in. I know there are colleagues on the Republican side of the aisle, as well as on this side of the aisle, who are very concerned about the broader privacy question.

This amendment prohibits the use of fraud to obtain sensitive customer financial data from a bank. The use of fraud, in order to get this data from a bank, clearly is something we need to shut down. That is obviously a desirable and appropriate provision. However, this proposal does not require financial institutions to safeguard customer data. This goes to when people use fraud to somehow get that customer data out of the financial institution.

This amendment doesn't address the increasingly common situation where companies pay banks for sensitive information without the knowledge or consent of their customers. Unfortunately, few Americans know that under current Federal law a bank, stockbroker, or insurance company may transfer information about a customer's transactions or experience to a third party without notifying the customer that the information is being shared, or obtaining the customer's consent. Such information can include savings and checking account balances, CD maturity dates, security purchases and insurance payouts. Americans are becoming increasingly concerned about the issue. That is very clear.

Last month, the American Association of Retired Persons published a survey finding in which 78 percent of the people surveyed disagreed with this statement. Here is a statement that was put to people which 78 percent disagreed with:

> Current Federal and State laws are strong enough to protect your personal privacy from businesses that collect information about consumers.

Mr. President, 78 percent disagreed with that statement. In other words, they did not think that current Federal-State laws were strong enough to protect their personal privacy. Ninety-two percent of the respondents in this AARP survey said they would mind if a company they did business with sold information about them to another company.

At the start of this Congress I introduced S. 187, the Financial Information Privacy Act of 1999 to which I referred, in which Senators DODD, BRYAN, EDWARDS, LEAHY and HOLLINGS joined. That bill will give customers the right to be told before their banks sell or share their account balances, their CD maturity dates, their credit card purchasing history and other sensitive financial information. It will give them the right to object to the sharing of this information.

Think of the kind of information now that has no restraint upon it in terms of it being shared or sold. I think it is clear that most people have no real understanding or appreciation that this takes place and would not want it to happen.

S. 187 has received strong support from leading consumer and privacy advocate groups. This is an issue that is high on the President's agenda. Just this week, the President unveiled a plan for financial privacy and consumer protection in the 21st century. This plan would require institutions to inform consumers of plans to share or sell their financial information and give the consumer the power to stop it. In his radio address, the President said he was ''working to give you the right to control all the information on whom you write checks to, what you buy on your credit card and how you invest. We want to prevent anyone from encroaching on your privacy for their profit.''

In conclusion on this issue, first of all, let me again indicate my strong support for the provision that is before the Senate which seeks to stop the use of fraud to obtain a consumer's confidential financial information. That provision was in the bill we brought out last year. It was in the alternative which was offered earlier. We welcome the chairman's willingness to place it in the bill that is before the Senate.

However, I do want to note that this very limited amendment does not solve the serious problem of customers not knowing what is happening with their account balances, CD maturity dates and other transaction and experience information, and not having a choice as to whether this sensitive personal financial information is circulated to other companies.

This issue has the potential of being a controversial issue. I also think it has the potential on which a consensus can be worked out between protecting the consumer interest and the assertions which the financial institutions are making with respect to the burdens that might be placed upon them or how it would inhibit them from conducting legitimate financial activities.

That is something which needs to be carefully worked through, so I particularly welcome the indication by the chairman that we will hold hearings on these very important issues and undertake to develop real solutions to the growing problem of financial privacy. I think it is extremely important that we undertake that task. It is helpful this morning to have this indication and this commitment that the committee will do so.

Mr. President, I had indications earlier there were some Members on this side who wanted to address this privacy question, and I think we would give them a brief period to follow through on that indication of interest. If not, I would be prepared to move to a vote on this amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we have a Kosovo briefing at 11:30. To try to accommodate our colleagues, since they are all going to be coming over here anyway, I ask unanimous consent that a vote occur on the pending amendment No. 308 at 11:30 this morning and the time until 11:30 be equally divided in the usual form. I further ask consent that no amendment be in order to the amendment.

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

Mr. GRAMM. Mr. President, let me say, if we have more Members on one side who want to speak than the other, I would have no concern about yielding more time to Senator SARBANES' side if they have people who want to come over to speak on the general issue itself.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. GRAMM. 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. GRAMM. Mr. President, I yield 15 minutes to the distinguished Senator from Florida, Senator MACK, so he might speak on an unrelated subject as in morning business.

The PRESIDING OFFICER. Without objection, the Senator from Florida is recognized.

## MACK TAX PLAN

Mr. MACK. Mr. President, I thank Senator GRAMM for providing this time to me to make a statement with regard to a tax cut proposal that I have.

Mr. President, my job as chairman of the Joint Economic Committee is to help Congress stay focused on the right policies to keep the U.S. economy energized. What that comes down to is finding ways to make sure Washington does less of what today it does most—tax, spend, and regulate—in order to let the American people do more of what they do best—which is to build, create and innovate.

With that in mind, I instructed the JEC staff to focus on creating a tax plan that would accomplish three goals: first, provide tax relief for all American income taxpayers; second, promote even stronger economic growth; and third, ensure continued technological leadership in the 21st century. The plan I would like to talk about today accomplishes these three goals, and does so within the parameters of the on-budget surplus as estimated in this year's budget resolution. It does not use one penny from the Social Security surplus.

As Ronald Reagan once said, when he was defining a taxpayer—''that's someone who works for the Federal Government but doesn't have to take a civil service examination.'' This comment really gets to the heart of how the size and scope of the Federal Government affects the way we live our lives. Americans are spending more and more time working to give more and more of their hard-earned dollars in taxes every year to the Federal Government.

According to the non-partisan Tax Foundation, the average dual-income family will work until May 11 this year to pay their federal state and local taxes. So, as of today, the average American family has not even finished working to pay off their taxes for 1999.

This year, the Federal Government will collect more tax revenue as a share of GDP than at any time since 1944. This is the highest level in peacetime history—20.7 percent of GDP consumed by the Federal Government.

Since 1993, federal tax revenues have grown 52 percent faster than personal income growth. Last year alone, federal revenues grew 80 percent faster than personal income.

We have a balanced budget in 1999 and we've got balanced budgets as far as the eye can see. Soon, we'll have a federal surplus as far as the eye can see.

Our challenge now is to deal with that surplus. And, I think it's easy to see what will happen to this overpayment by the American taxpayer—if we leave it in Washington's hands. There will be numerous new government programs and they will be paid for by the Federal surplus.

We have to change the terms of debate—and we have to do it now before the surplus is spent. First, let's not forget that the American economy does not exist to feed the Federal budget. Now that the budget is balanced, we have to get our priorities straight.

To begin with: there is no such thing as ''public money.'' Every dollar of the Federal surplus was paid into the U.S. Treasury by American taxpayers. If we have a persistent surplus, we have to give the money back.

For years, my fellow Republicans and I argued that it was wrong for the Government to spend more than it took in. We were right. But now, it is equally wrong for the Government to take in more than it spends.

Yes, we should cut taxes so that people can keep more of what they earn. Yes, we should cut taxes because lower taxes spur economic growth. But the real rationale for lowering taxes—the reason tax cuts are an article of faith in the Republican Party—is that high taxes trespass on our freedom—our freedom to work, our freedom to invest, our freedom to support our families.

So in my mind, it is not a matter of if we cut, but how much, and how can we maximize the pro-growth impact of whatever tax cuts we decide to enact.

With these thoughts in mind, I would like to focus on what they Joint Economic Committee staff has come up with as a way to give the American income taxpayer meaningful tax relief, promote savings and economic growth, and ensure the United States remains a technological leader in the 21st century. And, Mr. President, I would like to elaborate on how this plan will accomplish each of these goals.

The first goal is tax cuts for all American income taxpayers.

Under this plan we would double the standard deduction to $14,400 for married filers and raise the standard deduction for single filers to $7,200. Increasing the standard deduction would provide much-needed relief to all low-income taxpayers. Moreover, this provision would significantly reduce the much-discussed marriage penalty and simplify the Tax Code. Nearly threequarters of all taxpayers use the standard deduction and would benefit from this increase.

In addition, our plan would repeal the 1993 Clinton tax increase on Social Security benefits. In 1993, President Clinton imposed this tax increase on the elderly's benefits because he said it was needed to eliminate the budget deficit. Since there is no longer a deficit, we no longer need this tax. It is time to repeal this unnecessary surcharge on Social Security recipients.

The second goal is economic growth.

The U.S. economy is enjoying unprecedented prosperity. In fact, our economy has grown for more than 16 years with only 9 months of recession. That is the longest period with only 9 months of recession since at least the 1850s! But while my Washington colleagues and I may be able to take pride in the performance of the economy, we really cannot take credit. The credit for the strength of our economy belongs to the American people—because the strength of our economy is a tribute to every American who uses his or her freedom to turn work into reward. To every individual who turns energy into a business plan—an idea into a new product.

These are the heroes of the American economy—the entrepreneurs and innovators who are creating economic growth, generating trillions in new wealth and reordering the global economy. We must provide pro-growth tax cuts that will ensure the continued strength of our economy and allow our entrepreneurs and innovators to flourish.

My plan would provide pro-growth tax cuts that would spur economic growth in four ways: by cutting capital gains tax rates 25 percent to 7.5 percent and 15 percent and indexing them for inflation; by cutting dividend taxes to 7.5 percent and 15 percent, making them uniform with capital gains tax rates; by repealing estate and gift taxes; and by indexing the individual AMT exemption amount.

Lowering capital gains tax rates will stimulate greater investment and keep the economy humming. Indexing capital gains for inflation will end the Government's unfair practice of taxing people on phantom gains due to inflation.

Currently, people earning dividends face among the highest tax rates in the Tax Code—as high as 60 percent—because they are double-taxed. Many investors, particularly the elderly, count on their dividends as a major source of income during their retirement years. Therefore, this change would have a significant, positive impact on their standard of living. Furthermore, the Tax Code would no longer encourage companies to hold onto locked-in earnings that investors could use more wisely. By making the dividend and capital gains rate uniform, this plan eliminates the current bias against dividend income, making investing a more level playing field.

Another major problem with the Tax Code concerns the alternative minimum tax, AMT. The AMT was designed to ensure that all taxpayers paid their fair share of taxes, but in recent years it has become an additional tax burden on middle income taxpayers for whom it was never intended. Since the AMT exemption amount was never indexed for inflation, each year more and more taxpayers are subject to it. My plan would stop this AMT creep by indexing the exemption amount for inflation, and relieve the unintended consequences of this counterproductive tax that undermines other tax relief already provided in the Tax Code.

My plan also calls for the elimination of the estate and gift tax, sometimes referred to as the death tax. Death and taxes may be inevitable, but they should never be simultaneous. Death taxes are among the worst provisions in the Tax Code, imposing tax rates as high as 55 percent. After paying taxes all your life—surely people shouldn't have to pay even more taxes upon their death. That is just not fair, and this tax should be abolished.

The third goal is to maintain U.S. technological leadership in the 21st century.

Last, but definitely not least, my plan recognizes the importance of the technology industry to the success and continued growth of the U.S. economy. We need to maintain policies that give the strongest possible support to innovation, and my plan seeks to do this in two ways: by making the research and development tax credit permanent, and by raising the capital expensing limit from $25,000 to $500,000, indexed for inflation.

Studies have shown that the R&D tax credit creates $2 of research and development for every one dollar of credit. It more than pays for itself, and we need to quit playing games with it. Our current practice—extending it one year at a time, letting it expire and then bringing it back to life—is completely counterproductive. No company can plan and invest for the long-term against a policy that changes every 12 months. This inefficiency impedes innovation and will make it more difficult for the United States to maintain its technological edge in the 21st century.

Especially in high technology industries, rapid innovations are rendering equipment obsolete within a year. We are all familiar with this phenomenon regarding computers. But, the same problems arise with medical, telecommunications and other high-tech equipment. Under current law, companies are required to spread these costs over time periods of five or more years. Under my plan, the capital expensing limit would be raised from $25,000 to $500,000 so companies would be able to keep pace with ever-changing technology. This will particularly stimulate investment in small firms.

Mr. President, to sum up my tax plan, it would provide $140 billion in tax relief over the next 5 years and $755 billion over 10 years—well within the estimated $800 billion surplus in this year's budget proposal.

I think it is important to take a minute to look at who would benefit from the majority of the cuts I discussed today. In the context of my plan, I think it's important to stress that over one-half of the tax relief associated with the individual tax cuts would flow to households earning less than $75,000 a year. In addition, nearly one-third of my tax plan would go to people with incomes under $50,000, who currently pay 22 percent of taxes. So, in addition to providing cuts for economic growth and ensuring the U.S. remains a technological leader, my plan provides substantial relief for all American income taxpayers, and simplifies our burdensome Tax Code.

Mr. President, we are living in a new economy. And right now, the world is playing America's game. We can outperform, out-produce, out-compete, and out-create anyone in the world. We need to ensure the United States keeps its status as an economic powerhouse in the 21st century. The Federal Government's role in ensuring this happens is to get out of the way and give the American people freedom—the freedom to work, the freedom to invest, the freedom to support our families, and the freedom to continue strengthening our economy. Our plan does just that—cuts taxes and gets the Government out of the way to give the American people the freedom to pursue their own dream—not Washington's.

Mr. President, I yield the floor.

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

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

## FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. GRAMM. Mr. President, I ask unanimous consent that following the 11:30 vote, Senator Johnson be recognized to offer an amendment related to thrifts, and, further, the time on the Johnson thrift amendment—this is the unitary thrift amendment, for those who want to engage in the debate—that time on the Johnson thrift amendment, prior to the motion to table, be limited to 60 minutes, equally divided, and no amendment be in order prior to the motion to table.

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

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

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

Mr. BROWNBACK. Mr. President, I rise to make a few remarks concerning Senate Amendment 308 to S. 900, the Financial Services Modernization bill. Unfortunately, I was unable to vote on this amendment because I was out in Wichita with Vice President GORE and FEMA director James Lee Witt surveying the enormous damage that was caused by the tragic tornadoes that passed through Kansas on Monday. These fatal tornadoes that swept through the Wichita area on Monday caused 5 Kansans to lose their lives and injured more than 70 people. More than 500 homes have been damaged or destroyed, leaving many people homeless and without power. In the town of Haysville, 27 businesses have been wiped out, virtually eliminating the business district of this Wichita suburb. I am pleased that federal relief for the Wichita area is on the way and I will continue to assist federal, state, and local authorities as they help the people of Wichita recover from this natural disaster.

I support Senate Amendment 308 and would have voted for it if I had been present. This amendment was passed in the Senate by a vote of 95–2 and I believe that it will strengthen an already strong financial modernization bill. The Financing Corporation bonds (FICO) provision in the Financial Modernization bill would require Savings Association Insurance Fund (SAIF) institutions, or thrifts, to pay premiums at a rate five times higher than that paid by banks in the Bank Insurance Fund (BIF) for three more years before merging both funds. Under the Funds Act of 1996, these funds were supposed to merge on January 1, 2000 and all FDIC institutions were to pay an equal amount. This amendment would strike the FICO provisions in S. 900 and equalize the deposit insurance premiums of bank and thrift institutions.

I hope we now can move forward with the passage of the Financial Services Modernization bill. S. 900 would permit banking, securities, and insurance companies to exist within a single corporate structure. This could lead to greater competition and more innovative and consumer-responsive services. Competition would not only benefit consumers, but will help America's employers by making it easier and cheaper for them to raise the capital they need for growth.

I am especially pleased that S. 900 would modernize the Federal Home Loan Bank System (FHLB) by banks. Under S. 900, the FHLB System would be easily accessible as an important source of liquidity for community lenders and would enable community banks to post different types of collateral for various kinds of lending.

Community banks are finding it increasingly tough to meet deposit and withdrawal demands as customers shift their deposits into higher-yielding investments like mutual funds. With less liquidity, there isn't as much money available for lending as the community demands. A reduction in community lending will hurt the economies of these small communities. This bill will facilitate more small business, agriculture, rural development, and low-income community development lending in rural communities.

Mr. GRAMM. Mr. President, 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. Under the previous order, the question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Kansas (Mr. BROWNBACK) is necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

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

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—95

| | | |
|---|---|---|
| Abraham | Feingold | Lugar |
| Akaka | Feinstein | McCain |
| Allard | Frist | McConnell |
| Ashcroft | Gorton | Mikulski |
| Baucus | Graham | Moynihan |
| Bayh | Gramm | Murkowski |
| Bennett | Grams | Murray |
| Bingaman | Grassley | Reed |
| Bond | Gregg | Reid |
| Boxer | Hagel | Robb |
| Breaux | Harkin | Roberts |
| Bryan | Hatch | Rockefeller |
| Bunning | Helms | Roth |
| Burns | Hollings | Santorum |
| Byrd | Hutchinson | Sarbanes |
| Campbell | Hutchison | Schumer |
| Chafee | Inhofe | Sessions |
| Cleland | Inouye | Shelby |
| Cochran | Jeffords | Smith (NH) |
| Collins | Johnson | Smith (OR) |
| Conrad | Kennedy | Snowe |
| Coverdell | Kerrey | Specter |
| Craig | Kerry | Stevens |
| Crapo | Kohl | Thomas |
| Daschle | Kyl | Thompson |
| DeWine | Landrieu | Thurmond |
| Dodd | Lautenberg | Torricelli |
| Domenici | Leahy | Voinovich |
| Dorgan | Levin | Warner |
| Durbin | Lieberman | Wellstone |
| Edwards | Lincoln | Wyden |
| Enzi | Lott | |

ANSWERED "PRESENT"—1

FITZGERALD

NOT VOTING—2

BROWNBACK BIDEN

The amendment (No. 308) was agreed to.

Mr. SANTORUM. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from South Dakota is recognized.

AMENDMENT NO. 309

(Purpose: To make an amendment with respect to the Federal deposit insurance funds and unitary savings and loan holding companies)

Mr. JOHNSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from South Dakota (Mr. JOHNSON), for himself, Mr. THOMAS, Mr. KERREY, Mr. DASCHLE, Mr. DORGAN, Mr. KOHL, and Mrs. LINCOLN, proposes an amendment numbered 309.

Mr. JOHNSON. 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:

On page 149, strike line 12 and all that follows through page 150, line 21 and insert the following:

**SEC. 601. PREVENTION OF CREATION OF NEW S&L HOLDING COMPANIES WITH COMMERCIAL AFFILIATES.**

(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) PREVENTION OF NEW AFFILIATIONS BETWEEN S&L HOLDING COMPANIES AND COMMERCIAL FIRMS.—

"(A) IN GENERAL.—Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after May 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

"(i) under paragraph (1)(C) or (2) of this subsection; or

"(ii) for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956.

"(B) PREVENTION OF NEW COMMERCIAL AFFILIATIONS.—Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

"(C) PRESERVATION OF AUTHORITY OF EXISTING UNITARY S&L HOLDING COMPANIES.—Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on March 4, 1999, or that becomes a savings and loan holding company pursuant to an application pending before the Office on or before that date, and that—

"(i) meets and continues to meet the requirements of paragraph (3); and

"(ii) continues to control not fewer than 1 savings association that it controlled on March 4, 1999, or that it acquired pursuant to an application pending before the Office on or before that date, or the successor to such savings association.

"(D) CORPORATE REORGANIZATIONS PERMITTED.—This paragraph does not prevent a transaction that—

"(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

''(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company.

''(E) AUTHORITY TO PREVENT EVASIONS.—The Director may issue interpretations, regulations, or orders that the Director determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination that, notwithstanding the form of a transaction, the transaction would in substance result in a company acquiring control of a savings association.

''(F) PRESERVATION OF AUTHORITY FOR FAMILY TRUSTS.—Subparagraphs (A) and (B) do not apply with respect to any trust that becomes a savings and loan holding company with respect to a savings association, if—

''(i) not less than 85 percent of the beneficial ownership interests in the trust are continuously owned, directly or indirectly, by or for the benefit of members of the same family, or their spouses, who are lineal descendants of common ancestors who controlled, directly or indirectly, such savings association on March 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before March 4, 1999; and

''(ii) at the time at which such trust becomes a savings and loan holding company, such ancestors or lineal descendants, or spouses of such descendants, have directly or indirectly controlled the savings association continuously since March 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before March 4, 1999.''.

(b) CONFORMING AMENDMENT.—Section 10(o)(5)(E) of the Home Owners' Loan Act (15 U.S.C. 1467a(o)(5)(E)) is amended by striking '', except subparagraph (B)'' and inserting ''or (c)(9)(A)(ii)''.

Mr. SARBANES. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. JOHNSON. Certainly.

Mr. SARBANES. Mr. President, it is my understanding that there are 60 minutes of debate equally divided.

The PRESIDING OFFICER. That is correct, before a motion to table.

PRIVILEGE OF THE FLOOR

Mr. JOHNSON. Mr. President, I ask unanimous consent that Mr. Steven Miteff, who has served in my office for 2 months as a participant in USDA's Senior Executive Service Candidate Development Program, be provided floor privileges during today's consideration of S. 900.

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

Mr. JOHNSON. Mr. President, today I am offering an amendment for myself and Senators THOMAS and KERREY. I thank Senators DASCHLE, DORGAN, KOHL, and LINCOLN, who are also cosponsors of this amendment.

I believe that several of my colleagues plan to speak in behalf of this important effort.

This amendment addresses the issue of unitary thrift charters.

Initially this amendment also dealt with an unnecessary owners provision that needlessly penalizes thrifts by removing the FICO insurance differential from the underlying bill. However, Chairman GRAMM has offered an amendment that accomplishes that portion of the original amendment. Nonetheless, the remaining unitary thrift issue must be addressed, and that is what this amendment does.

Thrifts are different from banks. Many believe that a thrift charter is superior to a bank charter. It gives thrifts more flexibility. It also demands certain specific things of them.

We recently went through an extensive debate over the merits of the thrift charter. I don't want to open old debates. I do seek, however, to close a loophole that permits the dangerous combination of banking and commerce. Under current law, commercial firms can own and operate unitary thrifts. That is the only breach of the banking and commerce firewalls currently allowed under our financial services law. Of course, the Glass-Steagall repeal and other opponents of this legislation open a range of financial activities to each other. But this bill is carefully structured to prevent the mixing of banking and commerce and closes the single loophole that remains where banking and commerce can mix.

Let me explain what this amendment would to. There has been some misperception floating around about it. But I have made the language available for review now for a number of days.

The Johnson-Thomas-Kerrey amendment does not interfere with the current ownership of thrifts. Any commercial firms that currently own a unitary thrift charter will be able to continue to own and operate their institution without restriction. Their current status would be undisturbed. Existing unitary thrifts would be grandfathered and can still sell themselves to any of the thousands of other financial entities that exist in our country. There will remain a strong market for the sale of unitary thrifts—no doubt about that.

The only limitation this amendment would impose involves the transferability of the charter. The charter would not be transferable to another commercial entity. Any bank, insurance company, or security firm that wanted to acquire a charter could do so. A new entity could be created to operate that thrift.

This amendment brings the two issues that concern the thrift industry to a consensus compromise which addresses the issues most critical to average banks and average thrifts. It restores the language agreed to in last year's agreement effort in H.R. 10. That agreement, which is embodied in this amendment, was supported by the banks and by the thrifts. It also received the overwhelming support of the Senate Banking Committee. House Banking Committee Chairman LEACH also supports closing this loophole.

Moreover, this amendment would further the goals of financial modernization by leveling the playing field between banks and thrifts and remove the dangerous threat of further weakening the walls between banking and commerce.

OTS Director Seidman acknowledges that requests have been made by thrifts to relax the current restrictions on commercial lending, and as we enter a new world of one-stop-shopping financial services, pressure will no doubt only increase to allow more charters to be further exploited.

This amendment has the strong support of the American Bankers Associations and the Independent Community Banks of America. The amendment is the top priority of the banking associations relative to this bill, which is the most important legislation, as we all know, impacting financial institutions which Congress will address this year. This week, bankers from all across the country were here in Washington to speak with their Senators about the importance of this amendment.

The amendment also has the strong support of the Secretary of the Treasury, Robert Rubin. Secretary Rubin has long articulated the dangers of mixing banking and commerce and expressed concern about the unitary thrift loophole.

The Chairman of the Federal Reserve Board, Alan Greenspan, advocates closing this loophole. He testified before the Senate Banking Committee several times on this point. Let me quote Chairman Greenspan directly:

> In light of the dangers of mixing banking and commerce, the [Federal Reserve] Board supports elimination of the unitary thrift loophole, which currently allows any type of commercial firm to control a federally insured depository institution. Failure to close this loophole now would allow the conflicts inherent in banking and commerce combinations to further develop in our economy and complicate efforts to create a fair and level playing field for all financial service providers.

We might keep in mind the recent experiences in Japan. Part of their economic and financial crisis can be directly attributable to the keiretsu system that closely binds banks and commercial firms. Although our current system is a long way from that level of mixing banking and commerce, I concur with Secretary Rubin and Chairman Greenspan in the potential dangers.

Other observers have noted the dangers posed by the unitary thrift loophole, including former Federal Reserve Governor Paul Volcker, who said:

> Recent experience with the banking crises in countries as different in their stages of development as Japan, Indonesia and Russia demonstrates the folly of permitting industrial-financial conglomerates to dominate financial markets and potentially larger areas of the economy. But we need look no further than our own savings and loan crisis in the 1980s. Combinations of insured depository institutions and speculative real estate developers cost American taxpayers, who ultimately stood behind the thrift insurance funds, tens of billions of dollars.

That is former Chairman Volcker.

There are other amendments pending which will purport to address these issues, but we should be clear; this JOHNSON-THOMAS-KERREY amendment is the only amendment that helps average banks and average thrifts. It improves the safety and soundness of our financial system by eliminating the mix of banking and commerce.

I urge support of this effort to join with the expression of views of Secretary Rubin and Chairman Greenspan in what I believe is a commonsense, compromise approach to this critically important issue.

I reserve the remainder of my time.

Mr. GORTON. Mr President, today's thrift industry is an important provider of mortgage loans and consumer financial services.

The thrift industry is required to focus its resources on providing consumer and community-oriented credit. For example, current law requires a unitary thrift to devote at least 65 percent of its assets to mortgage, consumer, and small business loans. In addition, the commercial lending authority of federal thrifts is strictly limited to 20 percent of assets of which half must be to small businesses.

This ''specialization'' works. The last time Money magazine published an article identifying ''the best bank in America'' for quality and low cost pricing of its services, the recognized institution was a thrift—USAA Federal Savings Bank.

Similarly, the last time Consumer Reports surveyed ''the best deals in 25 cities'' for checking accounts, 77 percent of the leading institutions were thrifts. This large percentage is noteworthy becasue less than 18 percent of the banking institutions existing at the time were thrifts. Thrifts are a minority of the competitor but offer a majority of the best deals.

The unitary thrift structure allows the capital from commercial companies to support the community lending activities of the thrift charter.

More than 166 applications from nonbanking firms have been filed with the federal thrift regulator to charter new thrift institutions since January 1997. These new charters, if approved, will add competition in the marketplace which will benefit the consumer.

The OTS has testified that commercial firms contributed more than $3 billion in capital to support thrift institutions in the 1980s.

No safety and soundness issues have been presented by the unitary charter.

In February 1999, the FDIC testified on the subject of financial modernization before the U.S. House Banking Committee. In its testimony, the FDIC argued that commercial companies have been a source of strength rather than weakness to the thrift industry and that limiting the non-financial activities of thrifts ''would place limits on a vehicle that has enhanced financial modernization without causing significant safety-and-soundness problems.''

Similarly, the OTS director has testified that there is no evidence that the concerns about the mixing of commercial banking and commerce apply to thrift holding companies with commercial affiliates: ''Congress made a deliberate distinction in the treatment of thrifts and their holding companies based on the fact that thrifts cannot engage in the traditional type of banking activity—unlimited commercial lending—that raises concerns with the mixing of banking and commerce.''

The combinations of thrift and commercial firms have compiled an exemplary safety and soundness record. During the height of the thrift crisis, the failure rate of commercially affiliated thrifts was approximately half that of other thrifts. Moreover, the federal thrift regulator has reported that only 0.3 percent of enforcement actions against thrifts and thrift holding companies from January 1, 1993, through June 30, 1997 were against holding companies engaged in non-banking activities. In short, the industry's experience with commercial affiliates has been the opposite of what the critics contend.

Concerns about commercial banking and commerce are misplaced in the context of the thrift charter.

Current federal law expressly prohibits a unitary thrift from extending credit to a commercial affiliate and prohibits a thrift from tying deposits and loan services to non-financial services.

The statutorily mandated focus of the thrift charter on providing mortgage, consumer, and small business credit along with these other lending limitations distinguishes the thrift and commercial banking industries.

Martin Mayer, a guest scholar at the Brookings Institution and foe of mixing banking and commerce, supports the commercial ownership of thrifts because of their unique lending focus on consumers and small businesses.

Financial modernization should be about expanding chartering options and choices for consumers, not contracting these options.

While I believe there is a very strong case for fully maintaining the unitary thrift charter as a viable chartering option going forward, this Congress should, at a minimum, not limit the authorities of existing companies in the absence of any compelling safety and soundness evidence about this charter.

The grandfather provision in S. 900 accomplishes this minimum treatment for these existing companies that are focused on delivering consumer and small business credit in our communities.

The Senate and House Banking Committees both have adopted substantially identical unitary thrift grandfather provisions, which already represents a delicate compromise taken by both committees on this issue. We should not reopen this issue.

I urge you to oppose the Johnson amendment as a serious step backwards in our efforts to modernize our nation's financial services laws.

Mr. GRAMM. Mr. President, I rise in opposition to this amendment. Let me try to set the record straight in terms of this amendment. The argument on the amendment is very simple, and I think it will not take very long to make the case against the amendment.

First of all, we hear the statement made that the unitary thrift provision in current law is a loophole, that somehow commercially owned savings and loans have come into existence as a result of a loophole—hence, as Senator JOHNSON says, ''the unitary thrift loophole.''

Let me remind my colleagues that a loophole had nothing to do with unitary thrifts. In 1967, the Congress passed the S&L Holding Company Act. That S&L Holding Company Act intentionally, after a very large number of hearings in the House and the Senate, intentionally placed into law the provision that allowed commercial companies to own and charter S&Ls. Congress did this for a very simple reason. In fact, the law said clearly, in black and white, the purpose of allowing commercial interests to own S&Ls, hence the creation of what we call a unitary thrift, was to encourage capital and management to come in to the troubled S&L business.

So this new ''loophole'' is no afterthought. This is no mistake. This is no provision that was created by accident. In fact, we had an entire bill, the S&L Holding Company Act, which is the Unitary Thrift Act. That was passed in 1967 after extensive hearings in both the House and the Senate where strong action was taken by both parties in support of this provision.

This is no loophole. This is no accident. This is a creation of Congress that came into existence through a well-reasoned, extensively debated law, and the decision was made to encourage commercial companies to put real capital, real money, and good management into S&Ls.

Let me outline the figures, to give Members the magnitude of the problem. There are 561 thrift holding companies. What is a thrift holding company? A thrift holding company is a company that may be in many different businesses, but it owns a thrift charter. These are 561 thrift holding companies that are engaged in some other business as well as the thrift business. Many are in insurance, many are in securities. There are 561 of them.

Mr. President, 22 are now owned by nonfinancial unitary thrifts. Therefore, 541 of these will be legal under this bill, because it is legal under this bill for an insurance company and a securities company to own a bank, so it will be legal to own a thrift.

What is the ''universe'' we are talking about here in terms of actual commercial interests that own thrifts? The universe is just 22—22 thrift charters that are owned today by a commercial interest other than insurance and securities that will be able to own banks under this bill.

What is special about these 22 companies? What is special about it is that most of them came into existence during the S&L crisis. I remember vividly offering an amendment to assess the thrifts $15 billion to begin to close troubled thrifts, 3 years before that amendment ever passed. It was defeated in the Banking Committee. I remember Senator DODD voting with me on it; I don't remember exactly how the vote broke down, but I know we lost. During that period, we were desperate to try to get people to put money into troubled S&Ls to try to prevent the taxpayer from ending up paying billions of dollars in defaulted deposits.

Most of these 22 thrifts were commercial companies that were enticed by the Office of Thrift Supervision—the Federal Home Loan Bank Board—to come in and buy troubled thrifts, to bring good management, and to bring in hard cash. And these commercial companies responded. No one would dispute that the S&L collapse cost tens of billions of dollars less than it would have had these commercial companies not come in and invested their hard-earned money in thrifts.

Let me note another thing. You get the idea from this amendment that there is something wrong with unitary thrifts, that there is something wrong with commercial companies owning thrifts. First of all, during the S&L crisis from 1985 to 1992, the default rate of thrifts that ended up going into insolvency—the bankruptcy rate among thrifts that were owned by commercial companies—proportionately speaking, was half the rate of default on thrifts that were not owned by commercial companies. So the plain truth is, today these S&Ls that are owned by commercial interests are among the most stable, most secure S&Ls in America.

Let me also note that in terms of the regulatory review currently underway, consistently those thrifts that are least subject to complaints about violating various provisions of Federal law—the thrifts that behave best in complying with the law—are consistently the unitary thrifts, the thrifts that are owned by a commercial interest.

There is no evidence, therefore, based on any safety and soundness concern, that unitary thrifts are anything less than safer, sounder, better run and, as a result, more compliant with existing law than other thrifts. In fact, the Office of Thrift Supervision has indicated that out of 1,428 enforcement actions against thrifts from January 1993 to June 1997, only 3 of those enforcement actions involved unitary thrifts. These are the best performers and they are the best in terms of complying with the law.

What is the problem here? Under the bill which is pending before the Senate, which passed the Senate Banking Committee, we changed the law so there could be no more unitary thrifts. We have a cutoff date, which is the date the committee markup document was released to the public. As of that day, under our bill no commercial interest can get a new thrift charter.

I think it is important to note that when you look at the applications that are pending—and we have a lot of applications pending for thrift ownership—most of them are by insurance companies and securities companies. They would rather own a bank, but until we pass this bill—and I hope we do pass this bill—they cannot do it, so they have applied to own a thrift. If we pass this bill, many of those applications will be withdrawn. But this amendment does not have anything to do with them.

Of the proposals for unitary thrifts—that is, commercial companies that are trying to buy a thrift charter or get a thrift charter issued—there are only seven of them. So here is the point. This ability of commercial companies to get a thrift charter is over 20 years old. It has existed for 20 years. Any commercial company—from General Motors to A&P, to Kroger's, to Bell Telephone, to whatever—could apply for a thrift charter. For 20 years they have had that right. Mr. President, 22 have done it, 22 have gotten the charter, and most of them got the charter when they were basically cajoled by the Government to do it, to bring in billions of dollars to try to help us solve the S&L problem.

My trusty staff tells me it was 30 years they have had the opportunity—there are 22 of them—not 20 years.

Now, with all the talk of "runaway unitary thrifts," only seven applications are pending. So, what does our bill do and what does the Johnson amendment do? Our bill says that—for the 22 commercial interests, most of whom got into the S&L business as part of our effort to stop the collapse of the S&L industry—our bill says, after the date we introduce the bill, any application coming after that date cannot be considered; that the 7 applications which are already pending can be considered; and the 22 which already exist can continue to operate.

To that extent, the committee bill and the Johnson amendment are very, very similar. The difference is that the Johnson amendment, in addition, provides that if you own a unitary thrift you can't sell it to any other commercial interest; and if you sell a thrift holding company—which, in virtually every case, has a commercial interest—it has to be broken up upon its sale, because you cannot sell it with any commercial interest as part of it.

We have a simple term for this kind of action. It is in the fifth amendment of the Constitution. It is called "takings." This is a constitutional issue. This is not some philosophical position of competition and free enterprise. This is not an issue directly about how we can make the industry better or what might help or harm the consumer. This is about private property. This is a constitutional issue. If we could go back and start this whole thing over again, if we were starting with an absolutely clean slate, I would, in all probability, oppose permitting commercial companies owning thrifts—if we were starting with a fresh slate.

But the problem is, we are starting with 22 companies that have already invested billions of dollars, most of them doing so during the S&L crisis when we begged them to do it. They have now built businesses and part of the value of their franchise is based on their ability to be able to sell it. If it has to be broken up when it is sold, as every thrift holding company would have to be, under the Johnson amendment, if it had any commercial interest—and almost all of them do—the net result is, our estimates are, that the passage of this amendment would destroy between 10 and 15 percent of the value of these S&L charters.

If our colleague from South Dakota had proposed an amendment that would have taken money out of the insurance fund and assessed what it would cost these owners of thrift charters to limit their ability to sell them to other commercial interests, and to require they be broken up if they were sold, and we were going to compensate them from the insurance fund, I might support such an amendment. But the idea that on an ex post facto basis we are going to come in and destroy the value of charters, that we are going to lower their value estimated between 10 and 15 percent simply because we do not have commercial ownership of banks, is simply unconstitutional.

What is going to happen on this? I can tell you what is going to happen: We now have had a series of Supreme Court rulings related to takings. The Supreme Court, thank God, has suddenly awakened to the provision in the fifth amendment which is as important as any provision in the first amendment. In fact, John Locke would have said "more important." The Founding Fathers understood its importance. And that provision says:

> No private property shall be taken for public purpose except through compensation.

How do I know how the Court is going to rule on this? They have already ruled on a similar issue. You remember something called "supervisory goodwill"? Here is what happened: Congress got a number of businesses to buy troubled thrifts—one of the things we did when we had no money—so the thrift was worth a negative $500 million and they came in, took it over for nothing and assumed its liabilities.

So, having no money to protect the depositors, we said, if you will protect the depositor, we will give you $500 million of regulatory goodwill and for a period of time you can hold it as capital. Do you know what happened? Congress decided that was not a good idea. So we passed a bill, called FIRREA, that took it back. And these thrifts went to court and argued: We made investments under a certain set of rules, Congress on an ex post facto basis came back and repealed those rules.

They took our property. There was a taking. Congress took billions of dollars from us and, in fact, the Federal Claims Court on April 9 of this year ruled that the Federal Government owes Glendale Federal Bank $990 million in damages for this taking. I remind my colleagues, there is a list of S&Ls which takes up half a page that has exactly the same claim against the Federal Government.

Whether you like the idea of a commercial company owning a thrift—and, I remind you, they have a better record of safety and soundness, they have a better record of performance, they have a better record of complying with the laws and regulations than thrifts as a whole—but even if you don't like it, do you think we have a right to steal their property? Even if you don't like them, do you think Congress has a right now to change the rules and say, ''Oh, yes, you can hold your charter, but if you ever sell it, it will have to be broken up because it has a commercial interest as part of it''?

It is estimated that this amendment, the moment it becomes law, would destroy 10 to 20 percent of the stock value of these companies through a taking.

If we adopt the Johnson amendment, these companies are going to file a lawsuit against the Federal Government.

I believe, based on the rulings that have occurred on regulatory goodwill, that they are going to win these lawsuits, and then where are these billions of dollars coming from? Are they going to come out of the insurance fund? Are they going to come from the taxpayers? Maybe we should have a second-degree amendment that says if this is a taking, we will raise the insurance assessment to raise the money to pay for the taking rather than having it foisted onto the Treasury. I don't know if our colleague from South Dakota would vote for such an amendment, but it seems to me a pretty reasonable amendment.

If we did not have unitary thrifts, I doubt we would create them. I am not ready yet to have commercial companies own banks. I have no doubt in 20 years they will, but we are not ready yet. If we didn't have unitary thrifts, we would not create them.

To sum up, here are the critical points: We did not create unitary thrifts by accident. There is no loophole. The 1967 bill was extensively debated; there were hearings and the bill was adopted overwhelmingly on a bipartisan vote to bring in new capital and new management that was desperately needed.

Thirty-two years later, we are coming in and saying, ''Boy, you have given us those tens of billions of dollars and we really appreciate it, but we're not going to live up to our end of the bargain.'' We are going to say, ''Yes, we took your money and it saved us tens of billions of dollars of taxpayers' money, but now we don't like you anymore, and so if you ever sell your thrift, you are on notice right now your thrift holding company will have to be broken up.''

Unitary thrifts might have become a big problem if we were not considering this financial modernization bill. But if we pass this bill, all but 22 S&Ls that are owned by commercial interests will be owned by insurance companies or securities firms. So this is a problem that some people imagined existed before this bill, but we are talking only about 22 companies and 7 pending applications.

I have received calls from many banks that say they want this amendment passed. But when I explain to them that it might sound like a great idea, until you realize you are taking somebody's property and violating the Constitution, I have found people understand that. The fact that we have lobbyists calling up telling us to do this does not mean we have to do it.

I urge my colleagues to reject this amendment. I preserve my ability to offer a constitutional point of order if the motion to table fails. I reserve the right to offer a second-degree amendment which would require the insurance rates to be raised to pay for any takings, but I hope those will not be necessary.

This is not a good amendment. I know there are a lot of interests for it, but it is not a good amendment. I urge my colleagues to take the long view on this and not vote for it so we are not back here in 2 years trying to come up with billions of dollars to pay off these lawsuits.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSON. Mr. President, I yield 5 minutes to my colleague from Nebraska, Senator KERREY, a cosponsor of the amendment.

Mr. KERREY. Mr. President, first, I thank the distinguished Senator from Texas and the Senator from Maryland. There are a number of provisions in this legislation for which I thank them.

One of the things all of us have to do when looking at this piece of legislation is ask the question whether or not we are going to be able to maintain the safety and soundness of the banking system. It is a pretty dramatic change allowing companies that previously had been prohibited in certain lines of business to engage in those lines of business.

I want to make it clear, I reached the conclusion that we do have the regulatory capacity to maintain safety and soundness, whichever piece of legislation emerges here. I appreciate very much the work of the Senator from Texas on this, as well as the work of the Senator from Maryland.

I will point out a couple of things, as well, that I am very much grateful for, and one of them has to do with modernizing the Federal Home Loan Bank System that allows rural banks and other banks to have access to credit. I think it is a very important provision. Senator HAGEL offered it, and I commend him for his leadership on it.

I also want to make it clear on the CRA, at some point it is going to get to conference. I do support what Senator GRAMM is doing to provide exemptions to banks under $100 million. Under urgings, I had conversations with my larger banks who do not find themselves with the kind of difficulties of being coerced into making payments, as he noted exists in other parts of the country. While I support under 100, I do not support the other changes that are being proposed.

As to this amendment, the takings issue, Congress does this all the time. In fact, my guess is there could be people who make a claim that because the bill itself is passing, they are going to suffer a loss of value in their business.

Gosh, we debate the ethanol provision and we debate tax credits for the oil industry all the time. Sometimes you get it, sometimes you do not get it, but you do not file a claim against the Government as a consequence of that action.

People could file a takings action against this bill based upon what the Senator from Texas just argued. The Winstar case does not open up the door. Indeed, the Winstar case is being appealed itself. The Winstar case does not open up the door to prevent Congress from passing legislation in trying to modernize our banking system.

Mr. JOHNSON. Will the Senator yield?

Mr. KERREY. Yes, I yield.

Mr. JOHNSON. Does the Senator not agree that the Winstar case was a contract violation case as opposed to the statutory change of regulation being proposed here?

Mr. KERREY. I quite agree. Not only is it a contract case, but the decision by the D.C. Court of Claims is on appeal. We do not know what the outcome is going to be. It was a specific contract that was signed between the Government and these businesses. They have a legitimate case that they are making that a contract was broken.

If the takings argument is going to provoke a fear every single time Congress proposes a change in the law, it is going to make it awfully difficult for Congress to do the very thing that the Senator from Texas, the Senator from Maryland, and the Banking Committee is proposing to us, which is that we ought to modernize our banking system. There will be losers as a consequence.

Can you imagine coming to the floor and saying, we cannot pass fast track? There are losers when we have free trade. So if I vote for fast track, and we give the President normal trade negotiating authority, and somebody loses, can they file a claim as a consequence and say I have taken their property? No.

So I appreciate very much some of the other arguments the Senator from Texas is making, but I think the takings argument would cause this Congress a great deal of difficulty. In fact, we should withdraw the bill altogether if takings is the concern that we have, because there will be losers. There will be economic losers as a consequence of this piece of legislation who could, if they chose to, file a takings action based upon the argument that was made earlier.

This is a fairly simple amendment. I urge colleagues to look at it. The concern that the Senator from Texas is raising may be a legitimate concern. Some of the details he was talking about may need to be modified. But we are saying that, ''Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after May . . . unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association). . . .''

It is an attempt to say, yes, we needed to do what the Senator from Texas described earlier in order to be able to clean up the savings and loan problem.

We make no judgment here that the unitary thrifts are not safe or sound. We have an outstanding one in the State of Nebraska that is doing a tremendous amount of business, and they are a very safe operation, very sound operation. We make no judgment about that at all. But we are just saying the Banking Committee already has spoken on the issue by eliminating the commercial market basket.

What we are doing with this is to prevent further kinds of transactions precisely because we are ending the restrictions that were under Glass-Steagall for 60 years. We are eliminating those. We are going to get all kinds of new transactions going on in that environment anyway. We are concerned about whether or not we are going to maintain safety and soundness.

I believe we can. I believe we can in the new regulatory environment. I am willing to do that. But this just adds considerable new risk to the transaction, considerable new risk. I believe the Office of Thrift Supervision is down to about 1,200 employees. I am not sure they have the capacity to regulate. It provokes a whole new concern about this legislation, as to whether or not we are going to be able to maintain the safety and soundness that the people of the United States of America expect.

To be clear, I have not had a single citizen in Nebraska come to me and say, ''I need financial services modernization''—that is, borrowers and depositors. Indeed, I have only a few banks in Nebraska altogether that are interested in this. The people who are interested in this are people who are much larger operators. They have come to me and asked my support for this legislation, and I have given it to them. I do not believe there is any more reason for us to maintain these barriers between these various industries. But we need to be very careful.

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

Mr. KERREY. Thirty seconds.

Mr. JOHNSON. I yield the Senator 30 more seconds.

Mr. KERREY. I believe we need to be very careful not to increase, in an unnecessary fashion, that risk. And this amendment will reduce that risk. It will not increase takings claims against the Government. It will not increase litigation as a consequence of saying that we are not going to allow continued and new unitary thrift acquisition and new commercial interests to come in and purchase savings and loans.

Mr. President, I appreciate the fine work the Senator from Texas has done and the Senator from Maryland has done. I hope we can get this legislation in a form that I can support, because I believe financial services modernization is something that has long been needed and is long overdue.

Mr. JOHNSON. How much time remains on our side?

The PRESIDING OFFICER. Senator GRAMM has 6 minutes 20 seconds; the Senator from South Dakota has 17 minutes 9 seconds.

Mr. JOHNSON. I yield 5 minutes to my colleague and cosponsor of this amendment, Senator THOMAS from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Thank you, Mr. President. I thank you very much for the opportunity to discuss this important issue.

First, let me, too, say that I appreciate the work that is being done on this whole financial modernization bill. I think it is something that certainly needs to be done and that I support.

I also believe very strongly in what the Senator from Nebraska has just said with regard to takings—that the idea that we cannot change the rules in the Congress without it being exposed to takings is one that is very threatening. I think that is the case.

So I am very pleased to be a sponsor of this thrift charter amendment with my colleagues, Senator JOHNSON and Senator KERREY. I think the amendment will improve the underlying legislation by stopping a mixture of banking and commerce through the unitary thrift charter arrangement.

This amendment freezes the number of commercially owned thrifts and bans the future number of sales of unitary thrift charters to commercial entities. Commercial firms that already own thrifts would be able to continue the endeavor, and they are grandfathered.

The integration of banking and commerce raises significant questions about the concentration of economic resources. I happen to be chairman of the Subcommittee on Asia and the Pacific Rim and have had some opportunities recently to be in South Korea and Japan. I have to tell you that I am impressed with the problems they have had with that kind of integration, and I do not want us to get into that.

I have already mentioned that I do not believe this is a taking. I believe this is actually a change in direction, one that very much needs to be made, and I think it will help us in terms of this mixing of banking and commerce. It is a significant cause for the Asian economic crisis.

I believe we should learn from the lessons of the Asia financial crisis and be very careful about this integration. I think this will help do that.

In testimony before the Banking Committee last year, Federal Reserve Chairman Alan Greenspan spoke to the risks that can arise if the relationships continue between banking and commercial firms. Both he and Secretary Rubin have testified to the need for closing the loophole. This amendment secures the safety and soundness of our financial system, and I urge that it be supported.

Let me just comment on some things that very knowledgeable people have said.

Secretary Rubin has said:

> [W]e support the prohibition against forming additional unitary holding companies, and [we] would further support an amendment terminating the grandfather rights. . . .

Former Federal Reserve Board Governor Paul Volcker said:

> Recent experience with the banking crises in countries as different in their stages of development as Japan, Indonesia, and Russia demonstrates the folly of permitting industrial-financial conglomerates to dominate financial markets and potentially larger areas of the economy.

The American Bankers Association, which has studied this very carefully, said:

> [C]ommercial and banking should not be allowed to mix in the wholesale fashion permitted under the unitary thrift concept. . . .

The Independent Bankers Association of America said:

> IBAA cannot support, and will oppose, any legislation that does not narrow the unitary thrift holding company loophole.

The Consumers Union said:

> We oppose permitting federally-insured institutions to combine with commercial interests because of the potential to skew the availability of credit. . . .

I close by saying that a mixture of banking and commerce is widely considered to be a significant cause of the recent Asian economic crisis. As Federal Reserve Board Chairman Alan Greenspan testified last year before the Senate Banking Committee:

> The Asia crisis has highlighted some of the risks that can arise if relationships between banks and commercial firms are too close.

Mr. President, I hope we will adopt this amendment. I think it strengthens the overall bill. I certainly intend to support the bill and intend to support this amendment. I urge support of it.

I yield the floor.

Mr. JOHNSON. I yield 5 minutes to my ranking member of the committee, Senator SARBANES.

Mr. SARBANES. I commend the very able Senator from South Dakota and his colleague from Wyoming for offering this amendment. I think it is a very important amendment. They have made some very strong arguments for it.

Both Chairman Greenspan and Secretary Rubin, who differ on other aspects of this legislation that is before us, are in agreement, along with Chairman Volcker and Henry Kaufman, and many others who have examined this issue, that we need to address this question.

It is called the unitary thrift loophole, because over time the powers of the thrifts have been expanded. So a provision, which at an early time may not have appeared to be a loophole, now becomes a loophole through which commercial companies can acquire thrifts and, in effect, eliminate the line drawn between banking and commerce.

The recent experience with banking crises in other countries—Japan, Korea, and so forth—where they had industrial financial conglomerates, indicates the difficulties and the dangers of allowing these arrangements.

I want to address very specifically the argument of limiting the transferability of a unitary thrift holding company—and this would limit it only in terms of being transferred to a commercial company; it would not limit it in terms of being transferred to a financial company. It would be unfair because companies bought thrifts at a time when they could sell them to any commercial company, and it is now being asserted that this would be a taking under the fifth amendment of the Constitution or perhaps, alternatively, a breach of contract by the government.

You cannot keep people from making any argument that is available to them. They can sort of reach out and grab hold of any argument that exists and sort of bring it in and try to set it down here in the middle of the Senate and say, aha, here is this argument and you have to pay attention to it.

You need to look at the argument and what is involved.

Let me just for a moment analyze this argument that it is a taking. The Supreme Court's rulings in the area of the fifth amendment takings of property have generally dealt with real property, not with business charters issued by the government, such as a thrift charter. However, even if a thrift charter did qualify as property for taking purposes, prohibiting transfers of thrifts to commercial companies would not give rise to liability under the standards which the courts have used to require compensation.

It is being asserted here that this is going to be a taking; you are going to have to pay compensation. Then you have to take a look at it. Is this limitation that is involved in this amendment, this limited limitation with respect to the transferability of this thrift, is that going to be considered a taking by the court? I submit it would not give rise to liability under the standards which the courts have used to require compensation. Courts have held that no compensation is owed if there is not an invasion of the property or a total diminution of economic value of the property. Closing the loophole would not involve either of these two things.

There is a considerable value in the thrift charter which would continue even if this limited amount of transferability is no longer permitted. In fact, these thrifts may be sold to thousands of other thrifts, banks, securities broker dealers, insurance companies and other financial companies under this legislation. Of course, this is the very kind of transfer that occurs in the vast majority of thrift transfers. It is to some other financial institution.

Of course, the legislation would permit that, and this amendment does not touch that. The potential for change in the powers of a unitary thrift holding company is in fact inherent in having an S&L charter. The holder of a federally granted charter cannot expect that the government will never change the laws under which the charter operates. The Constitution does not guarantee that a company allowed to engage in some activity will have the right to continue to do so in perpetuity.

I am as sensitive as any to the takings question. It is a very important part of our Constitution. It is an important part of the workings of our economic system. But we need to look at the cases in terms of what the court has interpreted as constitutional. We need to exercise some practical sense judgments. Clearly, the law has never been that a company engaged in some activities can never be limited or restrained by the government and has that right to go on in perpetuity. In the past, Congress has changed statutes governing savings associations and has required compliance with the amended statute.

In 1987, Congress imposed a qualified thrift lender test requiring thrifts to hold a percentage of their total assets as qualified thrift investments. New requirement. New limitation. A unitary thrift holding company owning a thrift that failed to comply with those new requirements would have been required to divest its commercial activities.

Also in 1987, we limited the transferability of nonbank banks by requiring that upon transfer the new owner bank would be required to register as a bank holding company. These actions have not been found to be takings.

Let me turn to the other possible argument; that is, that there is a breach of contract by the government.

The argument has been raised that closing the loophole may break a supposed contract. The Winstar case, U.S. v. Winstar Corporation et al, 518 U.S. 839, a 1996 case, has been used as a basis for this concern. However, closing the unitary thrift loophole involves facts that are materially different from those on which the case of U.S. v. Winstar Corporation was decided. In Winstar, the Supreme Court determined that the United States had made specific contractual promises to acquirers of failed thrifts and had breached those specific contractual promises.

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

Mr. SARBANES. How much time does the Senator have remaining?

The PRESIDING OFFICER. Five minutes 17 seconds.

Mr. SARBANES. Will the Senator yield me 2 more minutes?

Mr. JOHNSON. I yield such time as the gentleman requires.

Mr. SARBANES. The court found the government liable for breaching its contracts by not permitting the thrifts to count goodwill and capital credits toward regulatory capital requirements after the enactment of FIRREA. There had been a specific undertaking in the S&L cases that those goodwill arrangements could be counted and, in fact, they wouldn't have taken over the failed thrifts had they not been able to do so.

It is vastly different from the situation that we are confronting here.

There are no specific contracts here that promise acquirers of thrifts that they could sell them to commercial companies or that the law governing permissible thrift affiliations would never change. Prohibiting unitaries from affiliating with commercial companies is no different than many prohibitions the government legislatively imposes on industries each year with no financial liability to the government.

The difference with the supervisory goodwill cases couldn't be clearer. Those cases were based upon contract law. No contracts are involved in the unitary provisions of H.R. 10. No guarantee was made by anyone that these affiliations with a commercial firm could continue and the government is entitled, in order to achieve important public policy objectives, to make reasonable changes. I submit to you that this is one such reasonable change in order to ensure that the dividing line between banking and commerce remain firm.

All of the people have told us about the dangers of mixing banking and commerce. From the Fed, Alan Greenspan says:

> Failure to close this loophole now would allow the conflicts inherent in banking and commerce combinations to further develop in our economy and complicate efforts to create a fair and level playing field for all financial service providers.

Secretary Rubin has echoed those comments, as has Paul Volcker and many other distinguished commentators.

Mr. President, I reserve the remainder of our time. How much time is remaining?

The PRESIDING OFFICER. Twelve minutes 26 seconds.

Mr. GRAMM. Mr. President, how much time do we have?

The PRESIDING OFFICER. You have 6 minutes 20 seconds.

Mr. GRAMM. Six minutes. I yield 2 minutes of it to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, 2 minutes is all I will need.

In a perfect world, I would oppose the amendment with respect to the unitary thrift situation, but as the Senator from Texas has made clear, we do not live in a perfect theoretical world. We have existing institutions who have obligations to their shareholders and who have past history. However much I might like to see the past history be different, it is as it is.

Under those circumstances, I think we cannot penalize people who have gone forward on assurances from the Federal Government and say that those assurances will not now be honored just because we do not think they should have been given in the first place.

For that reason, Mr. President, I will be joining with the chairman of the committee and voting as he does on this issue.

I yield the floor.

Mr. GRAMM. Mr. President, as a courtesy to Senator JOHNSON, let me conclude my remarks, and then let him give the concluding remarks on the amendment.

First of all, we have had several references to the Asian crisis. I want to remind my colleagues that the Asian crisis was banking and government, not banking and commerce.

The second point is that Ford Motors, for example, at the strong urging of the Federal Home Loan Bank Board, put a billion dollars into Nationwide in the 1980s, and that billion dollars reduced the amount the taxpayer had to pay to guarantee those deposits by a billion dollars.

Here is the point. Nobody makes you go into some industry where your tax laws might be changed ex post facto. I am not for ex post facto laws, but we have passed them from time to time. But in this case, these thrifts were requested, asked, begged to make investments in the S&L industry for the benefit of the taxpayer and the insurance fund. I just want to read a couple of lines from some letters.

This is from the National Retail Federation:

> Seventy-nine failing thrifts were purchased and infused with $3 billion of new capital. Had these institutions undergone liquidation at taxpayers' expense, the cost would have been billions more. Capital from our industries looked pretty good at the time. We don't see what has changed.

They put up $3 billion to go into industries that let them be in retailing and in the S&L business, and now we are going to say to them, if you sell your holding company, you are going to have to tear up your business, drive down its value by 10 or 15 percent. They don't understand how we changed the rules of the game when they were asked to get into the business.

The National Association of Manufacturers wrote:

> Unitary thrifts were established in 1967 to attract private capital into the thrift industry during the thrift crisis. The National Association of Manufacturers' members responded, saving the taxpayer billions of dollars. Putative grandfathering of existing unitary thrifts serves only to eliminate competition and innovation.

I could read from the Home Builders, and others, but the bottom line is this: These companies have a case that they were urged to invest this money by the Government based on a set of rules. If we now come in and change the value of their companies on the equity market instantaneously by 10 or 20 percent, I believe there has been a taking, and I think most people would believe there has been a taking. As we all know, the Supreme Court has been increasingly willing in cases such as Lucas v. South Carolina and Dolan v. City to rule on takings, and to force the Federal Government to pay for it.

So if this amendment is adopted, I believe it would probably be prudent to have a second-degree amendment, which I hope would be agreed to, which would simply say that if there are court rulings that there has been a takings, we should raise the fees for the insurance fund to pay those costs, rather than letting those costs fall on the taxpayer.

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

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I commend the chairman for his work on the differential issue, which was originally a component of the Johnson-Thomas amendment. But we need to go further. It is an opportunity for this body to implement a financial services policy consistent with where both the banking and consumer organizations of the country want to go to implement policy that is agreed upon, in the agreed-upon direction that Mr. Greenspan and Mr. Rubin want to go. This is an opportunity that we cannot allow to be missed.

Mr. SARBANES. Will the Senator yield?

Mr. JOHNSON. Yes.

Mr. SARBANES. Mr. President, I commend the able Senator from South Dakota because the amendment, as he was going to originally propose it, included this closing of the unitary thrift company loophole but maintained the existing law on the differential payment by the S&L's and the banks. The chairman offered that and it was accepted earlier this morning. I think the fact that it was embraced—and I think the adoption of that amendment should be taken in the context of this amendment—reflects an effort to come up with a very balanced approach on the part of the able Senator from South Dakota.

Mr. JOHNSON. I thank the Senator. It would seem to me at this point there is no constitutional mandate that for some reason we must go down the road of mixing banking and commerce, that that is some of an irretrievable decision that is made and we are unable now to change that policy. This is an opportunity, I believe, to do what needs to be done in this legislation. One, to strike the provision of the bill which would, as it stands, permit commercial firms to acquire any of the 500 existing unitary thrift holding companies. And our amendment inserts a provision to allow existing unitary thrift holding companies to be transferred only to financial firms.

There are thousands of financial firms. The marketability of these unitary thrifts will remain high; there is no question about that. So I believe this is an amendment that is badly needed if this bill is going to ultimately be signed by the President. But it is also an amendment that is necessary for us to embark on what I think is a sensible and prudent fiscal policy, financial policy for this country. I ask support for the Johnson-Thomas amendment.

I yield back such time as I may have remaining.

Mr. GRAMM. Mr. President, I ask unanimous consent that following debate time on the pending amendment, it be temporarily set aside and the vote occur on or in relation to the Johnson amendment No. 309 at 3:45.

Let me also say, in fairness to Senator JOHNSON, why don't we have 5 minutes each at that point. We can probably do it a little faster. Would 3 minutes work for the Senator?

Mr. JOHNSON. Two or 3 minutes would be fine.

Mr. GRAMM. I ask that we have 3 minutes each prior to the vote to give each side an opportunity to restate the issue at that point.

Mr. SARBANES. If I could put a question to the chairman. There would be no intervening business between now and the vote on or in relation to the Johnson amendment, other than the debate time?

Mr. GRAMM. That's correct.

Mr. SARBANES. No intervening business with respect to this amendment?

Mr. GRAMM. Right. We are going to do a lot of other business, though.

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

Mr. GRAMM. Mr. President, I think we have come to the point where we are ready to begin debate on the question of whether or not banks should be able to provide broad financial services within the bank itself, or whether it should do so outside the bank. So let me request that Senator SHELBY and all those who wish to debate this issue come over. I am going to suggest the absence of a quorum for 15 minutes or so to give everybody an opportunity to come over.

I am hopeful that with a good outcome on this coming vote, we will be well on our way to passing this bill. I urge, again, anyone who has an amendment, Senator SARBANES and I are willing to look at them to see if we can take them, so please let us see that amendment.

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

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

Mr. ROBB. Mr. President, I ask unanimous consent I be permitted to speak in morning business.

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

(The remarks of Mr. ROBB pertaining to the introduction of S. 973 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROBB. Mr. President, 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. LEVIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. LEVIN. Mr. President, I ask unanimous consent I be allowed to proceed in morning business for 5 minutes.

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

## VIOLENCE IN OUR SOCIETY

Mr. LEVIN. Mr. President, earlier this week I addressed the Economic Club of Detroit, one of the most influential groups of community leaders in my State. I expressed the depth of my continuing concern about the level of violence in our society, particularly youth violence. I committed myself to continue to speak out against the easy access to guns, especially by young people. I intend to comment on this subject every week in the Senate, when the Senate is in session, to highlight the need of our Nation to face this critical issue, to discuss the growing crisis fueled by weapons among our young people, and to urge action to meet our responsibility in the Senate to work towards solutions.

There is no one cause of youth violence. The causes are many. But among them there is one that cannot be ignored or denied, the easy access to deadly weapons for our young people. If we are honest with ourselves, we will admit it is too easy for children to get their hands on guns because we made it too easy to get guns, period; too easy to get guns that have nothing to do with the needs of hunters and sportsmen, guns that are too often used to kill people.

Yes, we have all heard the glib rhetoric of the NRA, that "guns don't kill people, people kill people." This bumper-sticker logic obscures the real truth. People with guns kill people, and they do it some 35,000 times a year in this country. That is more deaths than we suffered in the 3-year-long Korean war. The number of times that handguns were used to commit murder is itself staggering, some 9,300 times in the United States in 1996. In that same year in Japan, a nation almost half our size, there were 15 murders with handguns—just 15 handgun murders for a country with half our population. There were 9,300 murders here in the United States.

We have every right as parents and as consumers to expect some responsibility from the entertainment industry. But I am told Japanese popular culture is even more violent than our own.

However severe this plague of gun violence is for society as a whole, for the young it is far worse. For young males, the firearm death rate is nearly twice that of all other diseases combined. A National Centers for Disease Control study found 2 of every 25 high school students reported having carried a gun in the previous 30 days. If those numbers were evenly distributed among communities and schools, that would mean that in the average classroom, two students have carried guns at some time in the previous month.

These figures are shocking, but they are hardly secret. We have grown so accustomed to the carnage that guns cause in America that only the most horrific acts of violence are capable of shaking us from our slumber. As I told the Economic Club of Detroit, the question we have to ask ourselves in the wake of the Columbine High School tragedy is: Are we willing to say that enough is enough? And will we say it not just today but next week and next month and next year?

The NRA is betting we will not. They believe their brand of single-minded, single-issue politics can once again paralyze us from acting, once these images of death and pain in Colorado fade from view. They are going to go on telling their members that even the most measured gun control proposal is a thinly veiled attempt to take away their legitimate hunting weapons. It will not stop there. They will use that membership as a potent political tool to intimidate candidates for office. It is a sad fact that, thus far, too many Americans and too many American children and their parents live in fear of gun violence because too many of us in Washington live in fear of the political power of the lobbyists of the NRA.

I believe there is also a power when people unite to demand action—businesspeople, labor union people, parents, teachers, police officers, young people, the clergy. When I look at the kind of coalition that could be represented by groups like that, I see a potential power that could dwarf any narrow special interest. The question is not whether we are in the majority. The polls show that a large majority of Americans will support strong action to reduce access of minors to guns. The question is not whether we have the power. We do. The question is whether we are willing to act to make America a safer country. For starters, we must ban the possession and sale of handguns, semiautomatic weapons, by and to minors.

We paused in this Chamber to observe a moment of silence in honor of the victims of gun violence in Colorado. We observe these moments of silence to pay tribute to those who have died and to express our sympathy for their loved ones. But now, with this latest tribute behind us, we need to be anything but silent. Those of us who want to act to reduce the gun violence need to be louder and clearer and stronger and, yes, more persistent than the NRA.

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

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

## FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. GRAMM. Mr. President, I ask unanimous consent that when Senator SHELBY offers an amendment related to operating subsidiaries there be 2 hours equally divided in the usual form prior to a motion to table, and that no amendments or other motions be in order to the amendment prior to the vote on tabling.

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

Mr. GRAMM. 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. DORGAN. 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. DORGAN. Mr. President, I have sought recognition, because I intend to offer a couple of amendments to the pending legislation. I would like to discuss the underlying bill just a bit more, and then also offer the amendments and discuss the amendments.

I spoke earlier today about this legislation, which is called the Financial

Services Modernization Act of 1999, and said then that I am probably part of a very small minority in this Chamber, but I feel very strongly that this is exactly the wrong bill at exactly the wrong time. It misses all the lessons of the past and, in my judgment, it creates definitions and moves in directions that will be counterproductive to our financial future.

What does this bill do? It would permit common ownership of banks, insurance, and securities companies, and to a significant degree commercial firms as well. It will permit bank holding companies, affiliates, and bank subsidiaries to engage in a smorgasbord of expanded financial activities, including insurance and securities underwriting, and merchant banking all under the same roof.

This bill will also, in my judgment, raise the likelihood of future massive taxpayer bailouts. It will fuel the consolidation and mergers in the banking and financial services industry at the expense of customers, farm businesses, family farmers, and others, and in some instances I think it inappropriately limits the ability of the banking and thrift institution regulators from monitoring activities between such institutions and their insurance or securities affiliates and subsidiaries raising significant safety and soundness consumer protection concerns.

This morning I described what is happening in the financial services sector by showing a chart of big bank mergers just in the last year. You couldn't help but to have picked up a daily paper at some point last year and read a headline about another bank deciding to combine or merge with another large bank.

April 6, Citicorp decided it was going to grab up Travelers Group and have a $698 billion combined asset corporation—not exactly a mom and pop, but two big very successful companies decide they want to get hitched.

NationsBank apparently fell in love with BankAmerica. Bank One decided it wanted to be related to First Chicago, and Wells Fargo likes NorWest. So we have merger after merger, buyout after buyout, and the big banks get bigger.

We already have a circumstance in this free market economy of ours in which you ought to have easy entry and easy exit into the marketplace and the right to make money and to lose money. We already have a circumstance in banking called ''too big to fail.'' If you are big enough, the ordinary market rules don't apply to you. You have the old Federal Reserve Board out there. And the Fed says we have a list of banks that are ''too big to fail,'' meaning they have become so big that if they were to fail and made some pretty dumb decisions, lose a lot of money, that their failure would be so catastrophic and such a shock to the economic system in this country that we couldn't possibly let that happen. So we have a list of banks at the Federal Reserve Board. That list says these banks are ''too big to fail''—no-fault capitalism. But the list is growing. That list of ''too big to fail'' banks in America is growing because the big banks are getting bigger, and this record-breaking orgy of mergers in our country moves now at an accelerated rate unabated.

In the context of all of this—it is not just with banks but all financial services companies—at a time when banks, investment banks, underwriters of securities, insurance, and others are showing very handsome profits in our country, we are told, ''You know, what is really wrong here with America is we need to modernize this system. The lack of modernization is hurting us. In fact, some U.S. banks are able to do things overseas they can't do here. What a shame. It is awful to hold them back,'' we are told. ''So let us modernize.''

In ranching parlance, this would be like if the horse gets out of the barn, you decide, ''Let's find out where the horse is and build a new barn around the horse.'' That is what this is all about. Where I grew up we raised horses. When a horse got out of the barn, you know what we did. We went and chased the horse, caught the horse, and brought the horse back to the barn. That is not rocket science. I didn't have to take a lot of school courses to teach me that. You go bring the horse back.

But now, what they have decided is no. We will just decide, all right, the horses are out of the barn, and in the way things are supposed to work, in a manner that preserves safety and soundness of our banks, in a manner that preserves separation of certain kinds of activities—some that are inherently risky as opposed to those that require safety and soundness—things have happened. We are persuaded to get rid of all of the old rules, and we will rewrite them in a way that circumstances and activities have been happening in our country. We'll say those who have done it, OK, that is where you are, a new day, we will call it modernization. We will just say it is just fine. Well, it is not fine with me.

It is interesting that we live in 1999, now in the month of May, having experienced this remarkable economy. I am one who, with all of my colleagues, would say what a remarkable opportunity, to live in an economy that has virtually no inflation, has virtually full employment, seems to have economic growth that continues unabated, and whose stock market continues to set new records—23 days, another 1,000 points. You get the feeling, gee, the stock market is like one of those slot machines that pays off every time you pull the handle. Every time you put a quarter in you get a return back beyond what you put in.

There are people who have begun to invest in this economy of ours through mutual funds, and in the markets and so on who apparently believe there is only one direction for our economy and only one direction for our markets, and that is up, and single digit returns are not sufficient. Returns are now expected of 15, 20, 25, 30 percent a year. Of course, that will not continue.

We want a country with the twin economic goals of stable prices, full employment, and economic opportunity and growth. But we have been through periods in this country where when you sit down and add things up somehow the answer doesn't seem correct. This isn't all going to continue. One day in one way there will be adjustments. Companies selling 300 and 400 times earnings, we think that is going to continue? I don't think so.

What has happened in recent years in this country, despite all of the good news, is a series of economic activities by firms that 20 and 40 years ago would never have thought of engaging in those activities, and those activities which really represent kind of a new form of gambling by firms that should not be involved in gambling represents now an acceptable kind of behavior.

Let me give you some examples of some of it. I started this morning. But I am going to read a bit more, because I think it is important for everybody to understand and hear this.

I mentioned ''too big to fail''—big banks that have become so big that our Government says they can't be allowed to fail. Of course, we continue then every day to see more mergers to allow more banks to join that ''too big to fail'' list.

It is not just the banks. I want to read the story again of Long Term Capital Management in an article from the Wall Street Journal last fall, because I think it is illustrative of not just what is happening at this moment in this chapter of our history but also what happened in 1994 with the massive losses across our country in derivatives described in this Fortune article, ''The Risk That Won't Go Away,'' ''Financial derivatives tightening their grip on the world economy, and no one knows how to control them.''

Derivatives, unregulated hedge funds, banks, holding companies that now fuse and merge, banks underwriting securities, insurance—is all of that a cause for concern?

Let me read a couple of things and see whether perhaps this can be interpreted in a manner differently than those who have drafted the current legislation.

It is not a secret that I have said I think this current bill, the underlying bill, financial modernization for 1999, is a terrible bill. I don't mean disrespect to either the chairman of the committee or the ranking member of the committee. I don't mean any disrespect to them.

This is moving this country in the wrong direction. This is terrible legislation to be considering at this point.

Long Term Capital Management is a private company; big investors, all rich. You have to be rich to invest in

Long Term Capital Management. You have to be smart. A smart operator with lots of money formed a private company called Long Term Capital Management and began betting. I will describe the bets in a moment.

It was Aug. 21, [last year] a sultry Friday, and nearly half the partners at Long-Term Capital Management LP were out of the office.

Inside, the associates that day logged on to their computer and they saw something that began to strike some fear in their hearts:

U.S. Treasuries were skyrocketing, throwing their relationship to other securities out of whack. The Dow Jones Industrial Average was swooning—by noon, down 283 points. The European bond market was in shambles. LTCM's [Long-Term Capital Management, this hedge firm, their] bets were blowing up, and no one could do anything about it.

By 11 a.m. [in the morning] the fund had lost $150 million in a wager [they made] on the prices of two telecommunication stocks engaged in a takeover. Then, a single bet tied to the U.S. bond market lost $100 million. Another $100 million evaporated [the next hour] in a similar trade in Britain. By day's end [this private hedge company] LTCM had hemorrhaged half a billion dollars. Its equity had sunk to $3.1 billion—down a third for the year.

This is the Wall Street Journal's recount of the story:

Partners scrambled out of their offices and onto the trading floor as associates stared at their screens in disbelief. Making frantic phone calls around the globe, they reached John Meriwether, the fund's founder, at a dinner in Beijing. He boarded the next plane to the U.S. Eric Rosenfeld, a top lieutenant, called in from Sun Valley, Idaho, where he was settling in for a vacation. He left his wife and children behind and made an all-night trip back to Greenwich.

Then the brass assembled the next morning. It is 7 o'clock now, 7 a.m. on Sunday.

One after another, LTCM's partners, calling in from Tokyo and London, reported that their market had dried up. There were no buyers, no sellers. It was all but impossible to maneuver out of large trading bets [that they had.] They had seen nothing like it.

The carnage that weekend set off events unprecedented in the world of high finance, culminating with a $3.625 billion bailout funded by a consortium of 14 Wall Street banks and engineered by the Federal Reserve [Board.] LTCM lost more than 90 percent of its assets by the time it was bailed out, and the markets were roiled for weeks. Longer term, it forced many of the world's most sophisticated institutional investors to redefine the ways they manage risk and triggered calls for tougher regulation of hedge funds, those freewheeling investment pools that cater to the wealthy.

Here is a company that lost $3.6 billion. What happened? It gets bailed out in a consortium of banks investing at the behest of the Federal Reserve Board at meetings arranged by the Federal Reserve Board.

We will hear a bit more about this case because it relates to an amendment I will be offering.

In an industry populated by sharp money managers, LTCM had the most renowned of all—including Nobel Prize winners Robert Merton and Myron Scholes. But in the end, it wasn't all rocket science. It was about smart marketing-appealing to a wealthy clientele who wanted to be able to say their money was being managed by a passel of Ph.D.s. And it was about massive borrowing, up to $50 for every dollar invested. Long-Term Capital Management was, ultimately, like a supermarket—a high-volume, low-margin business, trying to eke out small profits from thousands of individual transactions.

"Myron once told me they are sucking up nickels from all over the world," says Merton Miller, a University of Chicago business professor and himself a Nobel Prize winner in economics.

Continuing the quote:

"But because they are so leveraged, that amounts to a lot of money."

All of which helps to explain how so many geniuses, sometimes overcoming divisions within their ranks, got it so wrong. And all the while, vanity, greed and a cult of personality blinded some of the world's most reputable financial institutions, from Wall Street stalwarts to Swiss banks, to the pitfalls inherent in such a strategy.

The reason I offer this is to say we are now talking today on the floor of the Senate about a strategy that says we want to ignore the lessons of history. We want to ignore the fact that in the go-go 1920s, everybody was making money at about everything, and banks decided to fuse their activities and be involved not just in banking, but also in underwriting securities and a range of other very risky enterprises. We are going to ignore those lessons we learned during that period.

When studies were done to determine what happened in the 1920s, one of the things they discovered was what you expect. If you have something called banks whose perception of safety and soundness is at the root of their stability and viability, when banks are fusing their activities with inherently risky activities—underwriting securities, for example—ultimately those kinds of risks, those bets that exist, overcome the perception and the reality of safety and soundness, and people begin getting worried and nervous and pulling their money out of banks and we have bank failures.

So the Congress in the 1930s passed a bill called Glass-Steagall which said: Learn the lessons; my gosh, let us not put activities together with banks that are so inherently risky. We should separate them forever.

So we did. And we prohibited certain kinds of investment and acquisition by banks and required that certain enterprises do business and compete in their own sphere. Banks were prohibited from being involved in most of the securities issues, underwriting securities and insurance and more.

Over the years that served this country pretty well. Banks have made the case in recent years—and they are right about this—everybody else has wanted to invade their territory. Everybody now wants to be a bank. If you are selling cars, you want to finance the cars; you want to be a bank. Everybody wants to create some sort of homogenized one-stop station where people can buy their insurance, buy their home, finance it. So banks say people are intruding on their turf and the only conceivable way we can compete is if we can compete on their turf as well. They want Glass-Steagall repealed.

Guess what? Here it is. The bill that sits on the floor of the Senate today repeals Glass-Steagall. It forgets apparently 60 or 70 years of history. It will all be all right. Don't you see, the economy is growing, unemployment is down, inflation is down, the stock market is up. Don't you understand, Senator DORGAN?

I guess not. Maybe I am hopelessly old fashioned. I think it is a fundamental mistake to decide to repeal Glass-Steagall and allow banks and all of the other financial industries to merge into a giant smorgasbord of financial services. Those who were around to vote to bail out the failed savings and loan industry, $500 billion of the taxpayers' money, are they going to want to be around 10 or 15 years from now when we see bailouts of hedge funds putting banks at risk? Or how about the banks not just bailing out a hedge fund but banks having the ownership of the hedge funds?

That is what we have now. This bailout of Long Term Capital Management says we have significant investments by some of the largest banks in these hedge funds.

Or how about derivatives? I am not an expert in this area, but I wonder how many Members of this body know about derivatives. How many know that banks in this country are trading in derivatives—not for customers, but in their own proprietary accounts? They could just as well set up a bingo parlor in their lobby. They could just as well decide to have a casino somewhere in their lobby. The kind of betting and wagering that is going on in proprietary trading of derivatives in an institution whose assets are guaranteed by the taxpayers of this country is just wrong. Someday somebody is going to wake up and say: Why didn't we understand that? Why didn't we understand the consequences of hundreds of billions of dollars or, yes, even trillions of dollars of wagers out there with deposits at risk? Why didn't we understand that did not make any sense?

I wrote an article about this in 1994 that was published in the Washington Monthly. At that point there were $35 trillion in derivatives being traded. Now it is $70 trillion. It is hard for me to even say the number; $70 trillion in derivatives. Does anybody here know the exposure that exists in the largest banks of proprietary trading on derivatives? I will bet not. Does anybody understand what this bill does in these areas? It says: Hedge funds, we don't want to manage those; let them go, let them do what they will. How about derivatives? It doesn't do anything.

This is a GAO report from May, 1994. It is 5 years ago: "Financial Derivatives, Actions Needed To Protect The

Financial System.'' That report has been available for 5 years to all of the Members of Congress. If this legislation really was a modernization bill for financial institutions, you would have a solution to this issue in it. It would include my amendment that says no institution whose deposits are guaranteed by the American taxpayer will trade derivatives in their proprietary accounts—none of them. We will not allow gambling in the bank lobby. But of course the bill does not have that, so I will offer the amendment and it will be defeated because it is not in vogue, it is not in fashion. This bill moves in the other direction. It says, not only are things not wrong, don't be alarmed by hedge funds and derivatives; it says, let's just do more of what we have been doing that has caused some of this alarm.

As I mentioned, the piece of legislation before us repeals provisions of the Glass-Steagall Act that restrict the ability of banks and security underwriters to affiliate with one another. The bill repeals provisions in the Bank Holding Company Act by allowing a new category of financial holding company. This structure allows for a wide range of financial services to be affiliated, including commercial banking, securities underwriting, and merchant banking. And the new financial holding companies, by the way, may engage in the following: Lending and other traditional banking activities, insurance underwriting and agency activities, provide financial investment and economic advisory services, issue instruments representing interests in pooling of assets that a bank may own directly, securities underwriting and dealing, and mutual fund distribution, merchant banking. I think most listening to me understand my concern and deep reservations about the direction we are heading.

What about timing? This bill almost came to the floor of the Senate last year. I was one of those who objected, and as a result the legislation was not enacted. In fact, some of the folks who bring it to the floor today also objected because of some other issues. But it is now on the floor. It is in a different form than was passed out by the committee last year. But what about timing? It seems to me the past experiences we have had with banking and financial conglomerates in this country in this century, whose collapse has led to the adoption of the very financial protection laws they seek to repeal today, ought to be a cautionary note to those of us in Congress and to the American people. It seems to me the recent experiences we had with a nearly $500-billion bailout of a collapsed savings and loan industry ought to have some consequences, at least in terms of awareness of those in Congress who had to go through that experience.

It seems to me the question marks that hang over the international marketplace and the international economy ought to give pause to some—a very difficult collapsed economy in some parts of Asia, a Russian economy that has virtually collapsed, economic problems in other parts of the world, a description in the country of Japan of the keiretsu—the circumstances in a market system in Japan where a keiretsu allows the combining of virtually all economic activities into four or five firms that work together as partners to accomplish ends; you put the bank and the manufacturer all together.

What has happened as a result of that Japanese experience? Would we want to trade our economy for the Japanese economy? I don't think so. One would think that would give some folks pause.

Or how about the red flags that ought to have been flying for all of us with respect to the regulators' recent experiences dealing with excessive risk-taking in our system? Does it give anybody pause that on a Sunday night some of the smartest folks, the folks who were viewed as geniuses in New York, who put together this hedge fund, they had to be bailed out by the Federal Reserve Board running some folks across the street to convene an emergency meeting and then sitting there, apparently convening a group in which substantial numbers of large banks ante up billions of dollars to bail out a private firm? Is that a red flag for anybody? It suggests a conflict of interest for the Federal Reserve Board, of course, because they regulate the very banks that were incentivized to ante up money to bail out a private firm in order to avoid some sort of economic catastrophe, an economic catastrophe for the country. That is why the Fed was involved—because this private firm, too, was too big to fail. Does that raise any red flags with anybody? It does with me.

Or we are told, if we do not do this, it is going to be a disadvantage. To whom? Are the banks doing well in this country? You are darned right they are doing well, making lots of money. Security underwriting firms, merchant banking firms, are we doing well? America's corporations, are they doing well? Sure. Look at the stock market. Look at the profit reports. When we pass this bill, everybody in this Chamber knows what is going to happen. The first thing that is going to happen is, we are going to have more and more and more mergers because this turns on the green light at the intersection. It says if you all want to get together and just get into one big financial swamp here and have a smorgasbord of financial services, then buy each other up, that's just fine. This orgy of mergers we have already seen will simply accelerate. Will that be good for this country? Of course not.

Those who preach the loudest about the free market system do the least to protect it. I guarantee it is true. It has been true ever since I came to the Congress. Those who bellow the loudest about the free market do the very least in this country to protect it. We are going to have a fight a little later this year about antitrust enforcement. One way to be sure the free market remains free, open to fair, competitive competition, is to make sure you enforce your antitrust laws against cartels and monopolies. Interestingly enough, those, again, who talk a lot about the free market are the least likely to be supportive of aggressive antitrust enforcement, to make sure the market is free, open, and competitive.

This is a highly complicated issue. I know there are big stakes all around. We have the biggest economic interests in the country working very hard to see their interests are served versus other interests.

I understand all that, and I understand my view is not the prevailing view. George Gobel once said: ''Did you ever think the world was a tuxedo and you were a pair of brown shoes?'' I feel like George Gobel on this issue.

I understand this bill is on the floor, and it is going to get passed by the Congress. People do not want to entertain this notion, that, gee, there might be some inherent risk out here. This is a case, as I said earlier, of deciding this is where the industry has decided it wants to go, so let's go ahead and put a lodge up so we can accommodate all their interests and where they want to be.

We have been through this before. Where they want to be is not necessarily where this country ought to have them. This country ought to be concerned about safety and soundness of its financial institutions first and foremost. That does not fit—it has never fit—with the understanding that you can merge the interests of banks and other financial and economic activities that are risky.

When you put things together that require safety and soundness with enterprises that have an inherent high risk, you are begging for trouble, and this country will get it. Our banks say to us, ''Well, others have done it; you can do it in other countries.'' Do you want to trade our economy for any other country at the moment? I don't think so. What they are doing in other countries is not the litmus test for what we decide as Americans to do to strengthen our economy, and this bill, in my judgment, if passed, will represent a giant step backward for our economy.

Let me ask one additional question. With all of the debate that I have heard since this legislation came to the floor of the Senate, do you know I have not heard anything about whether or why or if this bill is good for people. Nothing. I wonder if anybody can describe one single thing in this legislation that will be helpful to ordinary folks?

This morning, I talked about the fact we have banks and credit card companies that are saying to their customers these days—it is 1999, so things have changed. I wonder what my grandmother would think if she heard me say there are banks and credit card companies saying to customers: If you pay off your bill every month, we are going to penalize you.

Isn't that Byzantine—we are going to penalize you for paying off your bill. In the old days, you got penalized for not paying your bill. No, the way you make money is for people to carry over a balance and charge a high interest rate. People who use a credit card to purchase every month and pay the full bill off every month are not very good customers; credit card companies do not want those folks around.

I read some examples this morning of companies that say, ''Well, you people, if you're going to pay off your bill like that, shame on you, we're going to charge you a service charge.''

Shame on them. What has financial service come to with this sort of behavior?

Another point. We have a circumstance in this country where —we are going to have a bankruptcy bill later this year, and we will have this discussion later—credit cards, of course, are distributed to everybody in America. I have a 12-year-old son. His name is Brendon. He is a great young guy, a wonderful baseball player. He is a great soccer player. He is a good student. For his benefit, I should say a great student, but he is a good student.

I can describe how wonderful he is in a thousand different ways, but he is only 12. He received a letter in the mail one day from the Diners Club. The Diners Club said: Brendon Dorgan, we want to send you a preapproved Diners Club credit card. So my 12-year-old son appreciates Diners Club. I am sure he has an appetite to spend money. I see it from time to time. It is normally not on big purchases. Normally it is something sweet or something that fizzes at the 7–Eleven, but my son does not need a Diners Club card.

Why would a 12-year-old get a Diners Club card? Why would Diners Club send my son a card? Because they send everybody a card. I assume it was a mistake, he got on the wrong list someplace. They send cards to college kids who have no income and no jobs and say, here is a preapproved bunch of credit for you; here is a card. It is just like a check. You go spend the money. We don't care you don't have a job. We don't care you don't have an income. Here is our card. Take it, please.

That is what is going on in our country today—penalizing people for paying their bills, sending credit cards to 12-year-old kids, sending credit cards to people who have no income or no job. Why, my grandmother would be mortified to think that is the ethic we think makes sense in this kind of an economy.

We cannot correct all of that in this discussion, but we can correct a couple things. I described not my son's credit card solicitation; I described derivatives traded on proprietary accounts in banks. I described potential regulation of risky hedge funds. Those are two big issues and very complicated issues. We can correct that.

I intend to offer two amendments. I will send the first amendment to the desk and then ask that it be set aside by consent, and then I will send to the desk the second one and describe it. The committee chairman and ranking member will then proceed with the bill. They have other amendments I know they are going to have to consider today. I know they want to move ahead and finish whatever business they have with this legislation.

My hope of hopes is enough Members of the Senate will take a look at this bill in final form and say this is a terrible bill, a terrible idea coming at a terrible time, and enough Members would vote against it to say: This is not modernization, this is a huge step back in time, and a huge pit in which we have lost the lessons that we learned earlier in this century. I do not have great hope that will happen, but, who knows, lightening strikes and perhaps at the end of this day, Members of the Senate will say: You know, this wasn't such a good idea after all.

AMENDMENT NO. 312

(Purpose: To prohibit insured depository institutions and credit unions from engaging in certain activities involving derivative financial instruments)

Mr. DORGAN. Mr. President, the first amendment that I send to the desk is an amendment dealing with derivatives. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative assistant read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 312.

Mr. DORGAN. 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:

**SEC. ____. LIMITATION ON DERIVATIVES ACTIVITIES.**

(a) INSURED DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

**''SEC. 45. DERIVATIVE INSTRUMENTS.**

''(a) DERIVATIVES ACTIVITIES.—

''(1) GENERAL PROHIBITION.—Except as provided in paragraph (2), neither an insured depository institution, nor any affiliate thereof, may purchase, sell, or engage in any transaction involving a derivative financial instrument for the account of that institution or affiliate.

''(2) EXCEPTIONS.—

''(A) HEDGING TRANSACTIONS.—An insured depository institution may purchase, sell, or engage in hedging transactions to the extent that such activities are approved by rule, regulation, or order of the appropriate Federal banking agency issued in accordance with paragraph (3).

''(B) SEPARATELY CAPITALIZED AFFILIATE.—A separately capitalized affiliate of an insured depository institution that is not itself an insured depository institution may purchase, sell, or engage in a transaction involving a derivative financial instrument if such affiliate complies with all rules, regulations, or orders of the appropriate Federal banking agency issued in accordance with paragraph (3).

''(C) DE MINIMIS INTERESTS.—An insured depository institution may purchase, sell, or engage in transactions involving de minimis interests in derivative financial instruments for the account of that institution to the extent that such activity is defined and approved by rule, regulation, or order of the appropriate Federal banking agency issued in accordance with paragraph (3).

''(D) EXISTING INTERESTS.—During the 3-month period beginning on the date of enactment of this section, nothing in this section shall be construed—

''(i) as affecting an interest of an insured depository institution in any derivative financial instrument that existed on the date of enactment of this section; or

''(ii) as restricting the ability of the institution to acquire reasonably related interests in other derivative financial instruments for the purpose of resolving or terminating an interest of the institution in any derivative financial instrument that existed on the date of enactment of this section.

''(3) ISSUANCE OF RULES, REGULATIONS, AND ORDERS.—The appropriate Federal banking agency shall issue appropriate rules, regulations, and orders governing the exceptions provided for in paragraph (2), including—

''(A) appropriate public notice requirements;

''(B) a requirement that any affiliate described in paragraph (2)(B) shall clearly and conspicuously notify the public that none of the assets of the affiliate, nor the risk of loss associated with the transaction involving a derivative financial instrument, are insured under Federal law or otherwise guaranteed by the Federal Government or the parent company of the affiliate; and

''(C) any other requirements that the appropriate Federal banking agency considers to be appropriate.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'derivative financial instrument' means—

''(A) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as defined in section 11(e)(8)); and

''(B) any other instrument that an appropriate Federal banking agency determines, by regulation or order, to be a derivative financial instrument for purposes of this section; and

''(2) the term 'hedging transaction' means any transaction involving a derivative financial instrument if—

''(A) such transaction is entered into in the normal course of the institution's business primarily—

''(i) to reduce risk of price change or currency fluctuations with respect to property that is held or to be held by the institution; or

''(ii) to reduce risk of interest rate or price changes or currency fluctuations with respect to loans or other investments made or to be made, or obligations incurred or to be incurred, by the institution; and

''(B) before the close of the day on which such transaction was entered into (or such earlier time as the appropriate Federal banking agency may prescribe by regulation), the institution clearly identifies such transaction as a hedging transaction.''.

(b) INSURED CREDIT UNIONS.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

**"SEC. 215. DERIVATIVE INSTRUMENTS.**

"(a) DERIVATIVE ACTIVITIES.—Except as provided in subsection (b), neither an insured credit union, nor any affiliate thereof, may purchase, sell, or engage in any transaction involving a derivative financial instrument.

"(b) APPLICABILITY OF SECTION 45 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 45 of the Federal Deposit Insurance Act shall apply with respect to insured credit unions and affiliates thereof and to the Board in the same manner that such section applies to insured depository institutions and affiliates thereof (as those terms are defined in section 3 of that Act) and shall be enforceable by the Board with respect to insured credit unions and affiliates under this Act.

"(c) DERIVATIVE FINANCIAL INSTRUMENT.—For purposes of this section, the term 'derivative financial instrument' means—

"(1) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as such term is defined in section 207(c)(8)(D)); and

"(2) any other instrument that the Board determines, by regulation or order, to be a derivative financial instrument for purposes of this section.".

(c) BANK HOLDING COMPANIES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) DERIVATIVES ACTIVITIES.—

"(1) IN GENERAL.—A subsidiary of a bank holding company may purchase, sell, or engage in any transaction involving a derivative financial instrument for the account of that subsidiary if that subsidiary—

"(A) is not an insured depository institution or a subsidiary of an insured depository institution; and

"(B) is separately capitalized from any affiliated insured depository institution.

"(2) APPLICABILITY OF SECTION 45 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 45 of the Federal Deposit Insurance Act shall apply with respect to bank holding companies and the Board in the same manner that section applies to an insured depository institution (as such term is defined in section 3 of that Act) and shall be enforceable by the Board with respect to bank holding companies under this Act.

"(3) DERIVATIVE FINANCIAL INSTRUMENT.—For purposes of this subsection, the term 'derivative financial instrument' means—

"(A) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as such term is defined in section 207(c)(8)(D)); and

"(B) any other instrument that the Board determines, by regulation or order, to be a derivative financial instrument for purposes of this subsection.".

Mr. DORGAN. Mr. President, I will not explain this in great detail, except to say, as I described in my earlier remarks, my intention is to say it is inconsistent with the obligations and our expectations of institutions whose deposits are insured by depository insurance and, in fact, guaranteed by the American taxpayer for them to be trading in derivatives on their own proprietary accounts.

I understand banks being a conduit for the trading of derivatives for customers, but for banks in their own proprietary accounts to be taking the kinds of risks that exist in derivatives I think exposes all taxpayers in this country who are the guarantors of that deposit insurance to those kinds of risks. They may just as well put some kind of a slot machine in the lobby of a bank if they are going to trade in derivatives on their own account.

I say to the people who own the capital in these banks, if you want to gamble, go to Las Vegas. If you want to trade in derivatives, God bless you. Do it with your own money. Do not do it through the deposits that are guaranteed by the American people and by deposit insurance. My amendment prohibits the trading of derivatives on their proprietary account.

I ask unanimous consent that the amendment be set aside.

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

AMENDMENT NO. 313

(Purpose: To subject certain hedge funds to the requirements of the Investment Company Act of 1940)

Mr. DORGAN. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative assistant read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 313.

Mr. DORGAN. 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 end of title III, insert the following:

**SEC. 312. TREATMENT OF LARGE HEDGE FUNDS UNDER INVESTMENT COMPANY ACT OF 1940.**

Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)) is amended—

(1) in paragraph (1), in the first sentence, by inserting ", which has total assets of less than $1,000,000,000, and" after "hundred persons"; and

(2) in paragraph (7), in the first sentence, by inserting "which has total assets of less than $1,000,000,000," after "qualified purchasers,".

Mr. DORGAN. Mr. President, I want to tell a story as I describe this amendment. About 10 years ago, I was serving in the House of Representatives on the Ways and Means Committee. Ten years ago, as you might recall, in this country we had the marketing of junk bonds; that is, noninvestment grade bonds by Drexel Burnham and Michael Milken. Junk bonds were used increasingly for hostile takeovers. It was a go-go economy. They held conferences and talked about how you could turn a minnow into a whale and arm a minnow with junk bonds and they will go and bite the tail off the whale. You had little companies buying big companies. It was a remarkable thing to see.

One of the things that occurred to me was how unhealthy and unholy it was in this country that junk bond sellers were parking junk bonds with savings and loans. Our savings and loans, whose deposits were insured by the Federal Government, were then ending up with junk bonds, noninvestment-grade bonds, in their portfolios, so that if the enterprise went belly up, the American taxpayers would end up paying the bill.

Let me give you the creme de la creme, the hood ornament on the excess. The hood ornament was that we had one of biggest casinos in the country built in Atlantic City, glitzy and big. Junk bonds were for the casino, noninvestment-grade bonds. With junk bonds they build the casino. The junk bonds get parked with the savings and loan. The savings and loan goes belly up. Guess who ends up with the junk bonds that are nonperforming and a big casino. The American taxpayer. The U.S. Government and the American taxpayer end up holding junk bonds that are nonperforming junk bonds in a casino.

How did that happen? Because it was all right according to our regulators, and all right according to law, for our savings and loans to go out and buy junk bonds and load up. One California S&L had, I think, nearly 60 percent of its assets involved in junk bonds.

So I got an amendment passed. It is now law. Some people have never forgiven me for it, because I got an amendment passed that said savings and loans—that is, those whose deposits are insured by the Federal Government—cannot purchase junk bonds and must divest those they have.

I had a devil of a time getting it passed, just an awful time. I got it passed. It became law and caused all kinds of chaos for those who were parking all these bonds at S&Ls, playing the financial roulette game they were playing. It was the right thing to have done for the taxpayers of this.

I mention that only because financial institutions will do what they must and will do what they can under the rules as long as we are looking the other way. I am not saying they are all irresponsible. I am saying they are all going to try to pursue the largest rate of return they can possibly pursue, especially if you have the deposits underwritten. Those institutions are going to take advantage of these opportunities. It was true in the 1980s; it will be true in the next decade as well.

The lesson with respect to junk bonds, the lesson with respect to derivatives and hedge funds, is that we have to be vigilant. Did the bank regulators jump on this and deal with it? No. In fact, the Secretary of the Treasury would come to the Ways and Means Committee. I would say: Mr. Secretary, we have a crisis going on here. What on earth are you doing? Sitting on your hands? Oh, no, Congressman DORGAN, there isn't a crisis at all; there's no problem. There is no problem here at all.

Well, the problem turned out to be hundreds of billions of dollars for the American taxpayer, because those who were supposed to be involved in regulation looked the other way.

As we pass this piece of legislation today, we would do ourselves a favor, I think, passing an amendment that would prohibit proprietary trading in derivatives by banks and also passing the amendment I just sent to the desk that would provide regulation for risky hedge funds that have at least $1 billion or more in assets. It is a handful of hedge funds, perhaps fewer than 50. They have aggressive leverage. It seems to me that while I would like to be more aggressive in the regulation of hedge funds, at least this should be a start in dealing with this issue.

Mr. President, I will not offer a third amendment. I will offer only these two amendments. I believe that the legislation is inappropriate at this time, and I intend to vote against the legislation on final passage. As I have said on a couple occasions this afternoon, I think this is a giant step backward. I think it is exactly the wrong direction for our country. I think it does nothing for ordinary people, does not address any of the issues. It is something that will make a number of the largest enterprises in this country that are already making substantial profits very, very happy. I guarantee every Member of this body that if this legislation is passed, when you wake up day after day, week after week, and month after month, you will read the news of more and more and more mergers and greater concentration.

Then don't you come to the floor of the Senate and talk to me about competition and don't you come to the floor of the Senate and started preaching about free markets. The opportunity to respond to real competition and free markets, in my judgment, is, by turning this legislation down, enforcing strong antitrust enforcement, and being thoughtful about the things we have to do in the future to preserve the safety and soundness of our banks and, yes, to encourage investment and encourage economic activity in other sectors of our economy.

Let me conclude by saying I am not someone who thinks that big firms are bad. I don't believe that at all. Nobody is going to build a 757 jet airplane in the garage in Regent, ND. Economies of scale are important. Some of the largest enterprises in our country have contributed mightily to this country and its economy. But I also believe that what contributes most to this country is good old-fashioned healthy competition, broad-based economic ownership. I know it is a timeworn and, some consider, old-fashioned Jeffersonian notion of democracy that broad-based economic ownership is what eventually guarantees economic freedom and what eventually underscores and guarantees political freedom as well. That is something that is very important to this country's future.

We do not advance in that direction by passing legislation that will further concentrate and further provide inducements for more mergers and bigger, more concentration and bigger companies. That will not advance this country's interests.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. GRAMM. 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. GRAMM. Mr. President, our current blueprint is that we are going to vote on the unitary thrift amendment at 3:45. Each side will have 3 minutes to speak on that issue. I will ask Senator GORTON to speak on behalf of the majority.

At the conclusion of that vote, the Shelby amendment will be considered. That is the amendment which would allow banks to provide broad financial services within the structure of the bank rather than through the holding company. We have agreed to a 2-hour debate on that amendment. If we were on that amendment, say, at 10 after 4, we would be through with that amendment at 10 after 6.

I do not know of another major amendment. I urge my colleagues who have amendments, since we have a lot of Members hoping not to be here tomorrow—Members walking by do not object to that, I assume—who would like to catch a flight back to their States at a reasonable hour, if they could, not to convenience me or to convenience my colleague, Senator SARBANES, but to convenience all 100 Members of the Senate, I urge Senators who have amendments to come to the floor and present them. Please don't show up at 6:10 and say, oh, by the way, I just had an idea last night while I was having dessert that I would like to redo the whole banking system of the United States of America and I would like to change the number of people on the Federal Reserve Bank board and I talked to the newspaperman today and he thought it was a great idea.

If you have an amendment, I hope you will come and let us look at it and talk about it. Hopefully, we can take some of these amendments and save time. I urge my colleagues, for the convenience of all of our Members, if you have amendments, to come down here before 4 and let us talk about them.

Please don't show up when the Shelby amendment is finished at 6:10 and say I have all these ideas and I want to deal with them.

I thank my colleagues in advance for their cooperation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. GRAMM. 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. GRAMM. Mr. President, I ask unanimous consent that the pending unanimous-consent agreement that we are operating under be temporarily set aside so that Senator SCHUMER can offer an amendment. If I understand the amendment correctly, I intend to accept it, and I assume Senator SARBANES will accept it. I think it is important to go ahead and get that amendment out of the way. Whenever he is ready, I wanted to be sure that we were in a position that he could be recognized without undoing any of the agreements on the vote at 3:45, or the unanimous-consent request on the Shelby amendment, starting whenever that vote is finished.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

## VISIT WILD AND WONDERFUL WEST VIRGINIA

Mr. BYRD. Mr. President, May 2–8 is National Tourism Week, and I would like to take a few minutes to encourage anyone planning their summer vacation—and this is the time; this is the time to plan the summer vacation. Let me tell you where the place is. This is the place: West Virginia. Anybody who is planning the summer vacation—or looking farther ahead to next year's winter vacation—should consider my favorite destination: West Virginia.

I have been in Rome. I have traveled to Agra. I have seen the Taj Mahal. I have walked in the shadows of the pyramids. I have seen the Pantheon and the Parthenon. I have met with great leaders all over the world, face to face, such as the late President Sadat and Generalissimo Chiang Kai-Shek. I joined with the Generalissimo and the madam on their birthday up at Sun Moon Lake many years ago. But let me tell you, after having been to these four points of the compass, my favorite destination is still West Virginia. And I have visited Texas, may I say to my friend, the senior Senator from the Lone Star State. I made 26 speeches in the Bible Belt of Texas in 1960. I traveled over the northeastern part of Texas making speeches—26 in 3 days. I even took my fiddle with me and played a few tunes. Anyhow, there is just nothing like West Virginia. That is my favorite destination.

Within an easy drive of much of the Nation, West Virginia offers one delight after another, whether for families, adventurers, romantic couples, or groups.

If you are interested in history, may I say to my Senate colleagues, West Virginia has plenty, from delicate millennia-old fern and trilobite fossils embedded in her coal seams and rock outcroppings to the monumental burial mounds of the mysterious Adena people that date back to 1000 B.C. And I can tell you about history that goes much farther back than that.

Frontier forts that mark West Virginia's time at the leading edge of American expansion are scattered across the State, and are populated with costumed, re-enactors who can weave fascinating true stories of the sometimes harrowing escapades experienced by our Nation's early settlers. Point Pleasant, WV, marks the site of the first land battle of the Revolutionary War. Numerous Civil War battlefields abound from West Virginia's tumultuous birth as a State, none more famous than Harper's Ferry, where in 1859 abolitionist John Brown led a raid on the U.S. arsenal, sparking a chain of events leading to that epic struggle.

Industries that sparked a different kind of revolution still operate in West Virginia, from the steel mill in Weirton, WV, where we have the largest ESOP in the world—that is, Employee-Stock Option Plan—to the coal mines in southern West Virginia. In Beckley, you can visit a coal mine and see firsthand the danger and effort involved in extracting the compressed energy that still provides almost half of the Nation's electricity. And those who love classic locomotives would feel at home there, as several steam excursions offer the opportunity to chug behind a puffing engine as it clickety-clacks through scenes of pastoral harmony.

West Virginia's history sings through the music festivals scheduled across the state throughout the year, ranging from classical to country, bluegrass to jazz. History also comes to life in the fine crafts produced in small village potteries and quilting bees as well as by storied West Virginia glass makers whose wares have been presented to presidents and foreign heads of state. And history continues to be made by her artisans, musicians, and writers, many of whom are accessible at craft and music festivals, or through factory tours.

West Virginia is not just for lovers of history, however. It is also for lovers of fun. The state boasts a great array of state parks with lodges and cabins perfect for family entertainment. All these one can see in West Virginia. At these public parks, as well as at many privately-owned facilities, activities can be found to suit everyone in the family, from golf courses designed by the greats in the game to horseback riding along mountain trails, from fishing in coursing streams or placid lakes to hiking to breathtaking vistas, and, of course, skiing at five major ski resorts.

Every season in West Virginia offers its own attractions. In the springtime, coursing white water thunders through rocky causeways bedecked in snowy rhododendron and dogwood, vibrant redbud and delicate trillium. In summer, cool springs bubble in shadow-filled woods where wild ginseng grows, while in meadows, Queen Anne's Lace, purple coneflowers, golden Rudbeckia, and blue chicory weave a madras plaid of wildflowers as ruby throated hummingbirds flit among the honeysuckle. In the fall, West Virginia's sugar maples, tulip poplars, sweetgums, and hickories flame in colors rivaling any in New England, and herds of whitetail deer and flocks of elusive wild turkeys fatten on the beechnuts, walnuts, and acorns. Winter's snows fall thick and white, creating an austerely beautiful palette of linear grey, black, and blue shadows on the hillsides that make the color and light of numerous Christmas festivals a welcome contrast.

If enjoying the scenery is not enough for the daredevil in you, then see if you can tame Seneca Rocks with a pair of climbing shoes, a bag of chalk, and a length of rope. Venture into the depths of Organ Cave in Ronceverte, where Thomas Jefferson, when he visited, did little more than sample the over forty miles of passages that have been mapped to date. Or challenge the mighty Gauley River, or the wild and scenic New River, in a raft or kayak, to learn just how powerful and devious a few thousand cubic feet of water can be when they are moving at great speed over car-sized boulders. Set your mountain bike upon trails that will strain your thighs as well as your bike brakes. Then, to relax, float lazily down the South Branch of the Potomac River in West Virginia, where it still looks as it must have to the early settlers, with mist rolling off the crystal waters as they wend their way between canyon-like walls, with bald eagles soaring overhead.

When the day is done, you can count on good food and a soft pillow anywhere in West Virginia. Bed and Breakfast establishments cater to every fancy, from homespun log cabins bedecked in quilts to antique-filled 'stately ladies' whose names reflect their historic pasts. Romance is easy to find before a crackling fire laid on a stone grate or on a porch swing overlooking the last violet rays of sunset. Hidden in the hills, too, are grand resorts and spas offering every amenity for the weary traveler. Some colonial-era spas are still active, while others have been more recently developed, but all offer blissful relaxation. Some also offer award-winning water. Berkeley Springs was founded by George Washington and others and originally called Bath after the spa town in England. The world famous Greenbrier in White Sulphur Springs lists royalty as well as Presidents, Senators, and Governors in its guest book.

The comforts of your home away from home may make it difficult to get out of bed, but the allure of shopping is strong in those hills. Outlet malls with true bargains compete with artist studios, artisan workshops, and factory stores to fill your car trunk, but with only a little planning, your Christmas and birthday giving may be highlighted by unique and thoughtful treasures.

Of course, the greatest treasure in West Virginia is her people. Friendly, smiling, and helpful, they can even make getting lost a pleasurable adventure. So do come, do come and share in the beauty, in the history, in the romance, in the adventure that is West Virginia. Come a tourist and leave a friend.

I hope I have sparked a little curiosity in the state that I am so proud to represent. As long winded as politicians are reputed to be, and it may be the case in my instance, I could filibuster for days on the things to see and do in West Virginia without beginning to name everything. For more information, come by and visit my office. My staff will give you a telephone number for the State's official travel guide so you can visit West Virginia, and you can also find a lot of these things on the World Wide Web.

I yield the floor and I thank Senators for listening.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Senator from West Virginia. It was pure delight to sit here and listen to the virtues of his State. I have now a thirst, a curiosity, to visit the parts of the State that I haven't been to.

Anyone who thinks that eloquence is no longer around, all they have to do is listen to our friend, the Senator from West Virginia, and they are sure to know it has reached its senatorian heights.

I thank the Senator. I am glad I had the pleasure of listening to his beautiful and rapturous remarks about his wonderful State.

Mr. BYRD. Let me thank the Senator for his courtesy, for his patience in allowing me to proceed. I think I took a bit of advantage of his being off the floor temporarily. I thank him very much for his kind words, especially about West Virginia.

Mr. DOMENICI. Will the Senator yield?

Mr. SCHUMER. I am delighted to yield to the Senator from New Mexico.

Mr. DOMENICI. Senator BYRD, I want to say you commented that you could filibuster for many days about the beauty of your State. I am particularly pleased that you did it this way rather than a filibuster.

A filibuster for some has a little bit of a negative connotation, and the remarks made don't deserve the slightest interference from anything else, just a straight up great speech about your State.

I was glad to be here.

Mr. BYRD. Mr. President, I thank our friend, the distinguished Senator from New Mexico. He is always most generous in his remarks concerning me and I am very grateful.

When I saw his fine wife this morning as I came into the Capitol, I started the day off right.

I thank the Senator for his kind words.

## FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 314

(Purpose: To make an amendment with respect to ATM fee reform)

Mr. SCHUMER. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 314.

Mr. SCHUMER. 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:

At the appropriate place, insert the following:

**TITLE VII—ATM FEE REFORM**

**SEC. 701. SHORT TITLE.**

This title may be cited as the ''ATM Fee Reform Act of 1999''.

**SEC. 702. ELECTRONIC FUND TRANSFER FEE DISCLOSURES AT ANY HOST ATM.**

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended by adding at the end the following:

''(3) FEE DISCLOSURES AT AUTOMATED TELLER, MACHINES.—

''(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall require any automated teller machine operator who imposes a fee on any consumer for providing host transfer services to such consumer to provide notice in accordance with subparagraph (B) to the consumer (at the time the service is provided) of—

''(i) the fact that a fee is imposed by such operator for providing the service; and

''(ii) the amount of any such fee.

''(B) NOTICE REQUIREMENTS.—

''(i) ON THE MACHINE.—The notice required under clause (i) of subparagraph (A) with respect to any fee described in such subparagraph shall be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer; and

''(ii) ON THE SCREEN.—The notice required under clauses (i) and (ii) of subparagraph (A) with respect to any fee described in such subparagraph shall appear on the screen of the automated teller machine, or on a paper notice issued from such machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

''(C) PROHIBITION ON FEES NOT PROPERLY DISCLOSED AND EXPLICITLY ASSUMED BY CONSUMER.—No fee may be imposed by any automated teller machine operator in connection with any electronic fund transfer initiated by a consumer for which a notice is required under subparagraph (A), unless—

''(i) the consumer receives such notice in accordance with subparagraph (B); and

''(ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

''(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

''(i) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' includes a transaction which involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

''(ii) AUTOMATED TELLER MACHINE OPERATOR.—The term 'automated teller machine operator' means any person who—

''(I) operates an automated teller machine at which consumers initiate electronic fund transfers; and

''(II) is not the financial institution which holds the account of such consumer from which the transfer is made.

''(iii) HOST TRANSFER SERVICES.—The term 'host transfer services' means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.''.

**SEC. 703. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS WHEN ATM CARD IS ISSUED.**

Section 905(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)) is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(3) by inserting after paragraph (9) the following:

''(10) a notice to the consumer that a fee may be imposed by—

''(A) an automated teller machine operator (as defined in section 904(d)(3)(D)(ii)) if the consumer initiates a transfer from an automated teller machine which is not operated by the person issuing the card or other means of access; and

''(B) any national, regional, or local network utilized to effect the transaction.''.

**SEC. 704. FEASIBILITY STUDY.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of requiring, in connection with any electronic and transfer initiated by a consumer through the use of an automated teller machine—

(1) a notice to be provided to the consumer before the consumer is irrevocably committed to completing the transaction, which clearly states the amount of any fee which will be imposed upon the consummation of the transaction by—

(A) any automated teller machine operator (as defined in section 904(d)(2)(D)(ii) of the Electronic Fund Transfer Act) involved in the transaction;

(B) the financial institution holding the account of the consumer;

(C) any national, regional, or local network utilized to effect the transaction; and

(D) any other party involved in the transfer; and

(2) the consumer to elect to consummate the transaction after receiving the notice described in paragraph (1).

(b) FACTORS TO BE CONSIDERED.—In conducting the study required under subsection (a) with regard to the notice requirement described in such subsection, the Comptroller General shall consider the following factors:

(1) The availability of appropriate technology.

(2) Implementation and operating costs.

(3) The competitive impact any such notice requirement would have on various sizes and types of institutions, if implemented.

(4) The period of time which would be reasonable for implementing any such notice requirement.

(5) The extent to which consumers would benefit from any such notice requirement.

(6) Any other factor the Comptroller General determines to be appropriate in analyzing the feasibility of imposing any such notice requirement.

(c) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study required under subsection (a); and

(2) the recommendation of the Comptroller General with regard to the question of whether a notice requirement described in subsection (a) should be implemented and, if so, how such requirement should be implemented.

**SEC. 705. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.**

Section 910 of the Electronic Fund Transfer Act (15 U.S.C. 1693h) is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR DAMAGED NOTICES.—If the notice required to be posted pursuant to section 904(d)(3)(B)(i) by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for failure to comply with section 904(d)(3)(B)(i).''.

Mr. SCHUMER. Mr. President, I very much appreciate the chairman from Texas accepting the amendment, which he has told me he will do, and I believe he mentioned it on the floor.

This important amendment involves, very simply, disclosure on ATM machines of fees. As many may know, on April 1, 1996, Visa and MasterCard, which run the largest ATM networks in the United States, ended their prohibition against surcharging ATM users. Before that, there could not be a second surcharge. This fee was in addition to any fee already imposed on a transaction from other bank customer withdrawals.

Three years later, 93 percent of all banks are imposing ATM surcharges on customers. That is 31 percent more than last year. The bigger the bank, the more likely they are to surcharge and at a higher rate. What this means is, if you have a BankAmerica card and you go to a Bank One machine, you will pay two fees, one to the Bank One machine—which everyone expects to pay—and the other to the BankAmerica card. People are paying two fees. It is very difficult to figure out what they are.

When the banks first started charging these fees, many of them didn't bother to tell their customers they would be charged. They had to figure it out by looking at the monthly statement. For anyone who has looked at their monthly bank statements and all the fine print, it is clear that the fees were not transparent. So, unsurprisingly, there was an outcry. I took to the House floor, when I was in that body, to show that banks were not disclosing these fees. I remember surveying the banks in New York City and finding out they were not disclosing them.

So what we are proposing to do here is to rectify that wrong. This amendment is in the great traditions of ADAM SMITH, pure capitalism. Some have said we ought to eliminate the fees. Some have said we ought to cap the fees. My view is to let the free market prevail. Let people see what the fee is before they enter into the transaction and then they can make a decision. That is the way it ought to work in capitalism, in free market enterprise. So that is what this amendment does.

Last year, a record $124 billion was generated in all-fee income. That is up 18 percent in 1 year from banks. The fees are going up. This amendment will not take away a penny of that, except from knowing consumers who decide not to enter into this transaction. We must do this. Awhile ago we forewent this amendment because most banks promised they were not going to impose surcharges, and to their credit for a few years they did not. But now they all do. It is time we have disclosure so when they say that they will always disclose, because some do it voluntarily, I simply say, ''trust but verify.''

This is a simple, straightforward, reasonable, balanced amendment. I hope it will pass without hesitation.

Mr. President, I yield my time. Is someone available to just accept it?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Senator from Texas is unable to be here. He has been gone for a couple of minutes. I am aware of his willingness to accept the amendment, and there is no objection on our side. I indicate that on behalf of Senator GRAMM.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 314) was agreed to.

Mr. SCHUMER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask consent I be permitted to speak for 7 minutes in morning business.

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

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI and Mr. DODD pertaining to the introduction of S. Res. 98 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Thank you, Mr. President. I thank the Chair and I thank the Senator from Texas for letting me talk about the tragic death of two great Americans.

## TRIBUTE TO TWO BRAVE AMERICAN SOLDIERS

Mr. VOINOVICH. Mr. President, yesterday, our Nation suffered our first casualties in the war of Yugoslavia. An Apache helicopter crashed in the Albanian mountains on what has been called a ''routine training mission.''

Two brave American soldiers—Chief Warrant Officer Kevin L. Reichert and Chief Warrant Officer David A. Gibbs—lost their lives for our Nation. They are heroes.

Kevin Reichert, 28 years old, was born in Chippewa Falls, WI, and David Gibbs hailed from Massillon, OH, which is west of Canton and about an hour or so south of Cleveland. He was 38 years old, married and had three children.

David joined the Marine Corps right out of Washington High School back in 1980. After 4 years of service, he left the Marines, only to enlist in the Army 18 months later.

His mother, Dorothy Gibbs, said he enlisted in the Army so he could fly helicopters. She said it was ''his dream'' and ''he was so happy when he flew.'' She also said he hoped to retire in 2 years to pursue a career in airport management.

From all accounts, David had accepted the dangers of flying military aircraft. He knew there was a chance there could be a problem.

David told his mother that he was so concerned about his mission in Kosovo, and she is quoted as saying:

> He didn't feel prepared enough because he didn't know enough about the terrain.

She also said:

> He hadn't gotten the terrain map and he was concerned about that.

A couple of weeks ago, I spoke to the Senate Armed Services Committee chairman, Senator WARNER, and I expressed my concern to him about the number of Ohioans who have been killed in helicopter accidents.

To illustrate, since 1991, 32 men and women from Ohio have died serving their Nation, not counting the Persian Gulf war. Of this number, 11 died in helicopter crashes. That is 34 percent of them. Why so many deaths from helicopters? All these deaths, but for one, were in noncombat situations.

Our military operates sophisticated machinery. Our mechanics are the best trained in the world. Our pilots are trained to meet and respond to all contingencies. Again, the question is: Why so many deaths due to helicopter accidents?

Remember, this is the second such accident in 9 days involving Apache helicopters in Albania. Are we giving our pilots specific and correct intelligence so they can avoid accidents or, worse, possible enemy fire?

Mr. President, I will not go into what is right or wrong about being in Yugoslavia, but we are at war and we have to ensure that our men and women have all the necessary tools to do their job and that the equipment they use is the best and we have the finest maintenance.

In the investigation that will follow the accident, I think it is imperative—in fact it is essential—that we find out whether there was a problem with the equipment in the helicopter or, in the alternative, whether it had proper maintenance.

War is serious business. People's lives are on the line, and there can be no room for error. If faulty equipment, lack of equipment, lack of communications, or improper information led to the death of these two men, it is critical that our military take necessary steps to correct such errors.

I am heartened in the knowledge that a peaceful settlement of this war appears to be in the works. However, I am saddened that it could not have come sooner to prevent the deaths of these two brave men and the destruction of Yugoslavia.

The United States owes David and Kevin a debt of gratitude that we will never be able to repay for they have paid the ultimate sacrifice. As John says in chapter 15:13, ''Greater love has no man than this, that a man lay down his life for his friends.''

Our thoughts and our prayers go out to David's family and especially to his wife Jean and three children, Allison, Megan, and David, and also his mother Dorothy, who lost David's father just this past Christmas.

As one who has lost a child, I know the days and months ahead will be difficult as the family deals with their grief and the absence of the physical presence of their father. I pray that the words of Matthew 5:4, ''Blessed are they that mourn, for they shall be comforted,'' apply to their family.

Thank you, Mr. President.

## FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from South Dakota, Mr. JOHNSON, has 3 minutes.

AMENDMENT NO. 309, AS MODIFIED

Mr. JOHNSON. Mr. President, I have a modification of my amendment at the desk and I ask unanimous consent that it be so modified.

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

The amendment, as modified, is as follows:

On page 149, strike line 12 and all that follows through page 150, line 21 and insert the following:

**SEC. 601. PREVENTION OF CREATION OF NEW S&L HOLDING COMPANIES WITH COMMERCIAL AFFILIATES.**

(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) PREVENTION OF NEW AFFILIATIONS BETWEEN S&L HOLDING COMPANIES AND COMMERCIAL FIRMS.—

''(A) IN GENERAL.—Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after May 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

“(i) under paragraph (1)(C) or (2) of this subsection; or

“(ii) for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956.

“(B) PREVENTION OF NEW COMMERCIAL AFFILIATIONS.—Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

“(C) PRESERVATION OF AUTHORITY OF EXISTING UNITARY S&L HOLDING COMPANIES.—Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on May 4, 1999, or that becomes a savings and loan holding company pursuant to an application pending before the Office on or before that date, and that—

“(i) meets and continues to meet the requirements of paragraph (3); and

“(ii) continues to control not fewer than 1 savings association that it controlled on May 4, 1999, or that it acquired pursuant to an application pending before the Office on or before that date, or the successor to such savings association.

“(D) CORPORATE REORGANIZATIONS PERMITTED.—This paragraph does not prevent a transaction that—

“(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

“(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company.

“(E) AUTHORITY TO PREVENT EVASIONS.—The Director may issue interpretations, regulations, or orders that the Director determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination that, notwithstanding the form of a transaction, the transaction would in substance result in a company acquiring control of a savings association.

“(F) PRESERVATION OF AUTHORITY FOR FAMILY TRUSTS.—Subparagraphs (A) and (B) do not apply with respect to any trust that becomes a savings and loan holding company with respect to a savings association, if—

“(i) not less than 85 percent of the beneficial ownership interests in the trust are continuously owned, directly or indirectly, by or for the benefit of members of the same family, or their spouses, who are lineal descendants of common ancestors who controlled, directly or indirectly, such savings association on May 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before May 4, 1999; and

“(ii) at the time at which such trust becomes a savings and loan holding company, such ancestors or lineal descendants, or spouses of such descendants, have directly or indirectly controlled the savings association continuously since March 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before May 4, 1999.”.

(b) CONFORMING AMENDMENT.—Section 10(o)(5)(E) of the Home Owners' Loan Act (15 U.S.C. 1467a(o)(5)(E)) is amended by striking “, except subparagraph (B)” and inserting “or (c)(9)(A)(ii)”.

Mr. JOHNSON. Mr. President, financial modernization should go forward but without mixing financial services and commerce. Preserving the unitary thrift loophole should not be allowed. Who believes this should be closed? Chairman LEACH, Chairman of the House Banking Committee, Fed Chairman Greenspan, and former Fed Chairman Volcker, Treasury Secretary Rubin, and banking and consumer organizations. There is bipartisan and, frankly, overwhelming support for loophole closure. I think there is a sense we do not want to go down the road of financial services and commerce mixing at this particular juncture. Allowing financial modernization to go forward should occur, but allowing unitary thrifts to merge with other financial institutions is the road to go rather than allowing merger with commerce at large.

I think we need to heed the urgent warnings of our Nation's leading economic minds. We appreciate that this issue is arcane in the minds of many in this body, no doubt. But when we have the support for closure of this loophole coming from the chairman of the House Banking Committee, Mr. Greenspan, Mr. Rubin, and Mr. Volcker, I think that ought to be compelling support for taking this step to make sure, in fact, we get a financial modernization bill out of this body that will, in fact, be signed by the President and will serve this country in good stead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I yield my 3 minutes to Senator GORTON.

Mr. GORTON. Mr. President, financial modernization should be about expanding chartering options and choices for consumers, not about stripping away the fundamental characteristics of consumer-oriented institutions. It is a paradox that the banks that are here seeking more powers wish to restrict the powers of their competitors in the same bill and are using this amendment to do so.

Proponents of this amendment contend that the unitary thrift charter is a “loophole” that allows for the mixing of banking and commerce. Those concerns are both misplaced and impossible under the very conditions of charter.

Federal law now expressly prohibits a unitarian thrift from lending to a commercial affiliate. By law, a thrift must focus on providing mortgage, consumer, and small business credit, and its commercial lending is severely restricted.

The thrift charter is unique. Martin Mayer, who is a guest scholar at the Brookings Institution and a foe of mixing banking and commerce, supports the commercial ownership of thrifts because of their unique lending focus on consumers and small businesses. In the more than 3 decades that unitary thrift charters have existed, there is a total absence of any evidence that unitary thrifts' commercial affiliations have either led to a concentration of economic power or posed a risk to the consumer or the taxpayer. To the contrary, the FDIC has testified that limits such as those proposed in this amendment would restrict “a vehicle that has enhanced financial modernization without causing significant safety-and-soundness problems.”

The issue under debate is not the creation of a banking-commerce Frankenstein. It is, rather, about the proper treatment of longstanding institutions focused on serving local communities. Congress should not limit the authorities of existing consumer-oriented companies without a compelling reason. To do so would be anticompetitive and anticonsumer.

I am adamantly opposed to any initiative that eviscerates the unitary thrift charter and urge Senators to oppose the Johnson amendment as a serious step backwards in our efforts to modernize our Nation's financial services laws.

I yield back the remainder of my time, and I move to table the Johnson amendment.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 309. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

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

The result was announced—yeas 32, nays 67, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—32

| | | |
|---|---|---|
| Akaka | Enzi | McConnell |
| Allard | Gorton | Murray |
| Bennett | Gramm | Nickles |
| Breaux | Hagel | Reed |
| Bunning | Inouye | Robb |
| Campbell | Kyl | Roth |
| Chafee | Lieberman | Smith (NH) |
| Cochran | Lott | Smith (OR) |
| Coverdell | Lugar | Stevens |
| Dodd | Mack | Warner |
| Domenici | McCain | |

NAYS—67

| | | |
|---|---|---|
| Abraham | Daschle | Hutchison |
| Ashcroft | DeWine | Inhofe |
| Baucus | Dorgan | Jeffords |
| Bayh | Durbin | Johnson |
| Biden | Edwards | Kennedy |
| Bingaman | Feingold | Kerrey |
| Bond | Feinstein | Kerry |
| Boxer | Frist | Kohl |
| Brownback | Graham | Landrieu |
| Bryan | Grams | Lautenberg |
| Burns | Grassley | Leahy |
| Byrd | Gregg | Levin |
| Cleland | Harkin | Lincoln |
| Collins | Hatch | Mikulski |
| Conrad | Helms | Moynihan |
| Craig | Hollings | Murkowski |
| Crapo | Hutchinson | Reid |

| | | |
|---|---|---|
| Roberts | Shelby | Torricelli |
| Rockefeller | Snowe | Voinovich |
| Santorum | Specter | Wellstone |
| Sarbanes | Thomas | Wyden |
| Schumer | Thompson | |
| Sessions | Thurmond | |

ANSWERED ''PRESENT''—1

Fitzgerald

The motion was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRAMM. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM. Mr. President, I ask unanimous consent to vitiate the order for the yeas and nays.

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

The question is on agreeing to the amendment.

The amendment (No. 309), as modified, was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

AMENDMENT NO. 315

Mr. SHELBY. Mr. President, I send an amendment to the desk on behalf of myself, Senator DASCHLE, Senator GRAMS, Senator REED, Senator BENNETT, Senator EDWARDS, Senator HAGEL, and Senator LANDRIEU.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will report.

The legislative assistant read as follows:

The Senator from Alabama (Mr. SHELBY), for himself, Mr. DASCHLE, Mr. GRAMS, Mr. REED, Mr. BENNETT, Mr. EDWARDS, Mr. HAGEL, and Ms. LANDRIEU, proposes an amendment numbered 315.

Mr. SHELBY. 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:

Redesignate sections 123, 124, and 125 as sections 125, 126, and 127 respectively, strike section 122, and insert the following:

**SEC. 122. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.**

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 (12 U.S.C. 25a) as section 5136B; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

**''SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.**

''(a) ACTIVITIES PERMISSIBLE.—

''(1) IN GENERAL.—A subsidiary of a national bank may—

''(A) engage in any activity that is permissible for the parent national bank;

''(B) engage in any activity authorized under section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Federal statute that expressly by its terms authorizes national banks to own or control subsidiaries (other than this section); and

''(C) engage in any activity permissible for a bank holding company under any provision of section 4(k) of the Bank Holding Company Act of 1956 other than—

''(i) paragraph (4)(B) of such section (relating to insurance activities) insofar as such paragraph permits a bank holding company to engage as principal in insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or to engage as principal in providing or issuing annuities; and

''(ii) paragraph (4)(I) of such section (relating to insurance company investments).

''(2) LIMITATIONS.—A subsidiary of a national bank—

''(A) may not, pursuant to subparagraph (C) of paragraph (1)—

''(i) underwrite insurance other than credit-related insurance;

''(ii) engage in real estate investment or development activities (except to the extent that a Federal statute expressly authorizes a national bank to engage directly in such an activity); and

''(B) may not engage in any activity not permissible under paragraph (1).

''(b) REQUIREMENTS APPLICABLE TO NATIONAL BANKS WITH FINANCIAL SUBSIDIARIES.—

''(1) IN GENERAL.—A financial subsidiary of a national bank may engage in activities pursuant to subsection (a)(1)(C) only if—

''(A) the national bank meets the requirements, as determined by the Comptroller of the Currency, of Section (4)(l)(1) of the Bank Holding Company Act of 1956 (other than subparagraph (C));

''(B) each insured depository institution affiliate of the national bank meet the requirements, as determined by the Comptroller of the Currency, of Section (4)(l)(1) of the Bank Holding Company Act of 1956 (other than subparagraph (C)); and

''(C) the national bank has received the approval of the Comptroller of the Currency by regulation or order.

''(2) CORRECTIVE PROCEDURES.—

''(A) IN GENERAL.—The Comptroller of the Currency shall, by regulation prescribe procedures to enforce paragraph (1).

''(B) STRINGENCY.—The regulation prescribed under subparagraph (A) shall be no less stringent than the corresponding restrictions and requirements of section 4(m) of the Bank Holding Company Act of 1956.

''(c) DEFINITIONS.—For purpose of this section, the following definitions shall apply;

''(1) AFFILIATE.—The term 'affiliate' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

''(2) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company that—

''(A) is a subsidiary of an insured bank; and

''(B) is engaged as principal in any financial activity that is not permissible under subparagraph (A) or (B) of subsection (a)(1) of this section.

''(3) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

''(4) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.

''(5) WELL MANAGED.—The term 'well managed' means—

''(A) in the case of an insured depository institution that has been examined, the achievement of—

''(i) a composite rating of 1 or 2 under the Uniform Financial Instutitions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the insured depository institution; and

''(ii) at least a rating of 2 for management, if that rating is given; or

''(B) in the case of an insured depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.''.

**SEC. 123. SAFETY AND SOUNDNESS FIREWALLS BETWEEN BANKS AND THEIR FINANCIAL SUBSIDIARIES.**

(a) PURPOSES.—The purposes of this section are—

(1) to protect the safety and soundness of any insured bank that has a financial subsidiary;

(2) to apply to any transaction between the bank and the financial subsidiary (including a loan, extension of credit, guarantee, or purchase of assets), other than an equity investment, the same restrictions and requirements as would apply if the financial subsidiary were a subsidiary of a bank holding company having control of the bank; and

(3) to apply to any equity investment of the bank in the financial subsidiary restrictions and requirements equivalent to those that would apply if—

(A) the bank paid a dividend in the same dollar amount to a bank holding company having control of the bank; and

(B) the bank holding company used the proceeds of the dividend to make an equity investment in a subsidiary that was engaged in the same activities a the financial subsidiary of the bank.

(b) SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

**''SEC. 45. SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.**

''(a) LIMITING THE EQUITY INVESTMENT OF A BANK IN A SUBSIDIARY.—

''(1) CAPITAL DEDUCTION.—In determining whether an insured bank complies with applicable regulatory capital standards—

''(A) the appropriate Federal banking agency shall deduct from the assets and tangible equity of the bank the aggregate amount of the outstanding equity investments of the bank in financial subsidiaries of the bank; and

''(B) the assets and liabilities of such financial subsidiaries shall not be consolidated with those of the bank.

''(2) INVESTMENT LIMITATION.—An insured bank shall not, without the prior approval of the appropriate Federal banking agency, make any equity investment in a financial subsidiary of the bank if that investment would, when made, exceed the amount that the bank could pay as a dividend without obtaining prior regulatory approval.

''(b) OPERATIONAL AND FINANCIAL SAFEGUARDS FOR THE BANK.—An insured bank that has a financial subsidiary shall maintain procedures for identifying and managing any financial and operational risks posed by the financial subsidiary.

''(c) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS.—

''(1) IN GENERAL.—Each insured bank shall ensure that the bank maintains and complies with reasonable policies and procedures to preserve the separate corporate identity and legal status of the bank and any financial subsidiary or affiliate of the bank.

''(2) EXAMINATIONS.—The appropriate Federal banking agency, as part of each examination, shall review whether an insured bank is observing the separate corporate identity and separate legal status of any subsidiaries and affiliates of the bank.

''(d) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section, the term 'financial subsidiary' has the same meaning as section 5136A(c)(2) of the Revised Statutes of the United States.

''(e) REGULATIONS.—The appropriate Federal banking agencies shall jointly prescribe regulations implementing this section.''.

(c) LIMITING A BANK'S CREDIT EXPOSURE TO A FINANCIAL SUBSIDIARY TO THE AMOUNT OF PERMISSIBLE CREDIT EXPOSURE TO AN AFFILIATE.—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' has the same meaning as section 5136A(c)(2) of the revised statutes of the United States.

''(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank that is not a financial subsidiary), and notwithstanding subsection (b)(2) and section 23B(d)(1)—

''(A) the financial subsidiary of the bank—

''(i) shall be deemed to be an affiliate of the bank and of any other subsidiary of the bank that is not a financial subsidiary; and

''(ii) shall not be deemed a subsidiary of the bank; and

''(B) a purchase of or investment in equity securities issued by the financial subsidiary shall not be deemed to be a covered transaction,

''(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 (that is not a subsidiary of a bank) shall not be deemed to be a transaction between a subsidiary of a bank and an affiliate of the bank for purposes of section 23A or section 23B of this Act.

''(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of this paragraph, the term 'affiliate' shall not include a bank, or a subsidiary of a bank that is engaged exclusively in activities permissible for a national bank to engage in directly or authorized for a subsidiary of a national bank under any federal statute other than section 5136A of the Revised Statutes of the United States.''.

**SEC. 124. FUNCTIONAL REGULATION.**

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) securities activities conducted in a subsidiary of a bank are functionally regulated by the Securities and Exchange Commission to the same extent as if they were conducted in a nondepository subsidiary of a bank holding company; and

(2) insurance agency and brokerage activities conducted in a subsidiary of a bank are functionally regulated by a State insurance authority to the same extent as if they were conducted in a nondepository subsidiary of a bank holding company.

(b) FUNCTIONAL REGULATION OF FINANCIAL SUBSIDIARIES.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), is amended by inserting after section 45 (as added by section 123 of this subtitle) the following new section:

**''SEC. 46. FUNCTIONAL REGULATION OF SECURITIES SUBSIDIARIES AND INSURANCE AGENCY SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS.**

''(a) BROKER OR DEALER SUBSIDIARY.—A broker or dealer that is a subsidiary of an insured depository institution shall be subject to regulation under the Securities Exchange Act of 1934 in the same manner and to the same extent as a broker or dealer that—

''(1) is controlled by the same bank holding company as controls the insured depository institution; and

''(2) is not an insured depository institution or a subsidiary of an insured depository institution.

''(b) INSURANCE AGENCY SUBSIDIARY.—Subject to Section 104 of the Act, an insurance agency or brokerage that is a subsidiary of an insured depository institution shall be subject to regulation by a State insurance authority in the same manner and to the same extent as an insurance agency or brokerage that—

''(1) is controlled by the same bank holding company as controls the insured depository institution; and

''(2) is not an insured depository institution or a subsidiary of an insured depository institution.

''(c) DEFINITIONS.—For purposes of this section, the terms 'broker' and 'dealer' have the same meanings as in section 3 of the Securities Exchange Act of 1934.''.

Mr. SHELBY. Mr. President, I rise today to offer this amendment, entitled the American Bank Fairness Amendment, to S. 900, the pending bill.

This amendment, which, as I have said, is cosponsored by Senator DASCHLE, the minority leader, and Senators GRAMS, REED, BENNETT, EDWARDS, HAGEL, and LANDRIEU, would permit national banks to conduct equity securities underwriting and merchant banking activities in an operating subsidiary, much as their foreign bank competitors that are allowed to conduct such activities in the United States today. I note that six of the seven sponsors of this amendment are members of the Banking Committee.

We are talking this afternoon about defining a fair and an efficient framework to allow all—yes, all—financial institutions to better provide service to their customers in America. This country needs financial modernization. I support national modernization.

I have great respect for the chairman, the Senator from Texas, Mr. GRAMM, and I supported the chairman in the committee. He helped to get this bill to the floor.

Unfortunately, this bill does more for the institutions in the top world financial centers—New York, Hong Kong, London—than it does for the average bank that serves the average person in America. That is the issue at hand.

I know many of my colleagues have made up their mind on this issue. Besides, in all honesty, the chairman of the Federal Reserve, Alan Greenspan, may not even be the Chairman of the Federal Reserve after next year, although I wish that he would continue. It is often reported in the press that Laura Tyson, Alice Rivlin, or even Catherine Bessant will be the next person President Clinton nominates to the Federal Reserve Board. Therefore, I do not believe it is fair for the issues of this debate to revolve around any one individual, although it is an individual I hold in great respect.

The truth is, we are here today to write the laws that will determine the future of the American financial system for the next 60 years. We are talking about the issues of banking law, corporate law, industrial organization.

Senators GRAMS, REED, and BENNETT have been the lead proponents of the operating subsidiary for several years and they should be commended for their deep understanding of the issue and the banking expertise they bring to the Senate Banking Committee.

Let me say from the very beginning, this debate is not about Chairman Alan Greenspan. It should never be. As I said, I have a deep respect for Chairman Greenspan. I hold him in very high regard. He is a tremendous central banker. I am not here to dispute that in any way.

The operating subsidiary amendment is not about monetary policy. Let me repeat, the operating subsidiary amendment is not about monetary policy. It is not about inflation, the money supply, or even the unemployment rate. I plead with Senators to listen to the facts. The key banking committee Senators supporting this amendment are not from big cities. They are not doing this for Citigroup or Merrill Lynch, Dean Witter, or Chase Manhattan Bank. The truth is, the large financial institutions want a bill so badly, they have forced their associations to oppose this amendment based on press reports that this bill will be pulled if it passes. We all know it is the multibillion-dollar financial institutions that control the associations, and they are the ones pushing this bill.

I just do not believe that, in passing a financial modernization bill, we should forget about the smaller, midsized, and regional banks that serve our local communities and our States. Those banks—the smaller, midsized, and regional banks—are the ones that are not being heard on this issue. They are being shut out and they have been discounted.

I am sorry, but I do not believe financial modernization should be only for the folks on Wall Street. I do not understand why this body would knowingly pass a financial modernization bill that would intentionally discriminate against domestic banks in favor of foreign banks.

If you want to talk about competition, free markets, and fair and equal treatment under the law, Senators should seriously consider the amendment that is before the Senate. The Shelby-Daschle and others amendment would provide more fair and equitable treatment of our national banks in comparison with our foreign competitors.

The American Bank Fairness Amendment, as we called it, would ensure that foreign banks receive no competitive advantage over our banks here in America.

S. 900, at the moment, as it is written, discriminates against domestic banks. Ask yourself, Why are we even here in the first place? Why are we even considering financial modernization, if it is to be globally competitive? Is it to ensure that our banks can compete on an international scale?

I received a letter from John Reed and Sanford Weill, cochairmen of Citigroup, this morning. They wrote to inform me that passage of financial modernization is imperative.

They said,

> As our financial services firms contort to comply with the current legal and regulatory structure, we become much less competitive with our non-U.S. counterparts. Our country's competitive position as the world's leader in financial services is at risk of being lost if we don't act now.

So, according to our friends at Citigroup, it appears we have become less competitive with our foreign competitors, and that our position as a world leader is at risk.

I received a similar letter from Phil Purcell, chairman of Morgan Stanley Dean Witter & Co. He said that Congress needs to pass this bill because:

> Financial modernization legislation is critical to the maintenance of the preeminence of American financial firms in global markets.

American preeminence, Mr. President? Is that the reason we are considering this legislation? If these are, indeed, the reasons, I must confess I am really confused. The reason for my confusion is S. 900, the bill we are debating today actually discriminates against domestic banks in favor of foreign banks. Simply put, national banks are not allowed to conduct merchant banking activities or equity underwriting activities in an operating subsidiary. Foreign banks, however, can conduct those activities today, and will actually expand their range of activities to include insurance underwriting, if this bill becomes law.

I actually have some charts to share with you to help demonstrate the blatant discriminatory treatment of our own national banks versus those of foreign banks' operating subsidiaries in America. Under current law, national bank subsidiaries are not permitted to conduct merchant banking activities. Merchant banking basically means that banks are permitted to make investments in a company subject to conditions designed to maintain the separation between banking and commerce. Foreign subsidiaries operating today in America can, however. Under current law, national bank subsidiaries are not permitted to underwrite any deal in equity securities. However, foreign bank subsidiaries can.

The last row under the ''current law'' is blank. That is, neither foreign bank subsidiaries nor national bank subsidiaries may underwrite noncredit-related insurance.

Let's look at a chart of permitted subsidiary activities that I have here if this financial modernization bill were enacted into law. Please notice that under the first column, here, national bank subsidiaries still will not enjoy the ability to conduct merchant banking activities or conduct equity securities underwriting. Foreign bank subsidiaries will not only be allowed to conduct those activities—merchant banking, underwriting and dealing in equity securities and insurance underwriting, as shown on the chart—but S. 900, as currently written, will actually expand their permissible activities to include noncredit-related insurance underwriting. This completely undermines the whole rationale for the bill.

That is the major flaw with this bill. How can the supporters of this bill say this will help our national banks compete when they are clearly put at a disadvantage by their own Federal Government? How can we in good conscience support a bill that discriminates against our own national banks?

Senator GRAMM and Chairman Greenspan say if national banks are allowed to conduct such activities in an operating subsidiary, these banks would have a funding advantage over their competitors because of an alleged ''subsidy.''

However, neither Senator GRAMM nor Chairman Greenspan can reconcile this argument with the competitive advantage of foreign bank subsidiaries. Since 1990, the Federal Reserve Board has issued approvals for 18 foreign banks to own subsidiaries that engage in securities underwriting activities in the United States. In fact, the size of these subsidiaries exceeds $450 billion in assets. The Federal Reserve admits that foreign banks may enjoy a ''home country'' subsidy. In approving the section 20 subsidiary application for the Canadian Imperial Bank of Commerce in 1990, the Federal Reserve noted:

> Although as banks, applicants [that is foreign banks] are not supported to any significant extent by the U.S. federal safety net, they have access to any benefits that are associated with their respective home country safety nets, from which they may derive some competitive advantage over U.S. bank holding companies operating under the section 20 framework or other U.S. securities firms.

Not only does the board basically admit there may be home country advantages, they also admit:

> . . . a foreign bank may establish and fund a section 20 subsidiary, while a U.S. bank may not.

Further, in their 1992 joint report on foreign bank operations entitled ''Subsidiary Requirements Study,'' the Federal Reserve Board and the Department of Treasury agreed that, ''. . . subject to prudential considerations, the guiding policy for foreign bank operations should be the principle of investor choice. The right of a foreign bank to determine whether to establish a branch or a subsidiary is consistent with competitive equity, national treatment and equality of competitive opportunity.''

Why is investor choice the guiding principle for foreign banks but not for our domestic banks? Why do foreign banks have the right to choose their own corporate structure but domestic banks do not?

The Federal Reserve Board stated that while a subsidy for foreign banks may exist:

> [T]he Board believes that any advantage would not be significant in light of the effect on them of the overall section 20 framework and the circumstances of these cases, and should not preclude foreign bank ownership of section 20 subsidiaries.

Basically, that means the rules and the regulations that apply to foreign section 20 subsidiaries should contain any possible subsidy.

Why do the rules and regulations in place contain any possible subsidy for foreign banks but not domestic banks, our banks? Why should any alleged subsidy preclude operating subsidiaries for U.S. banks but not for foreign subsidiaries? Fundamental fairness would suggest that foreign banks not be allowed to have a competitive advantage over domestic banks. It just makes no sense. Fundamental fairness suggests domestic banks should also have the choice of an operating subsidiary that our foreign banks have.

Critics of the operating subsidiary have voiced concerns about safety and soundness. But this is a red herring, I believe, and really no issue at all. Even Chairman Greenspan testified that safety and soundness is really not the issue with regard to operating subsidiaries, when asked by Congressman Bentsen in the House. I will quote the chairman:

> My concerns are not about safety and soundness. It is the issue of creating subsidies for individual institutions which their competitors do not have. It is a level playing field issue. Non-bank holding companies or other institutions do not have access to that subsidy, and it creates an unlevel playing field. It is not a safety and soundness issue.

The amendment before us, the operating subsidiary proposal, includes the same safety and soundness protections and lending restrictions as the Federal Reserve imposes on section 20 subsidiaries. But to further address any safety and soundness concerns, the amendment would also require that the parent bank deduct—yes, deduct—its entire equity investment in the subsidiary from its own capital and still remain well capitalized.

Furthermore, under the operating subsidiary, any alleged ''subsidy'' transferred to the subsidiary would be identical to that transferred to an affiliate because investments in the subsidiary would be limited to that which the bank could transfer to holding company affiliates in the form of dividends.

Lastly, the current Chairman of the Federal Deposit Insurance Corporation and three former chairmen—two Democrats, two Republicans—have stated that the operating subsidiary is more safe and more sound than the affiliate structure.

The FDIC chairmen argue that forcing activities in an affiliate actually exposes insured banks to greater risks than that of an operating subsidiary.

I want to respond to a letter Chairman Alan Greenspan wrote to Chairman GRAMM on May 4 in response to my "Dear Colleague" dated May 3. I believe this is a great letter in support of the operating subsidiary. In Chairman Greenspan's effort to explain why foreign bank subsidiaries do not have a competitive advantage and are justified, he actually makes the case for an operating subsidiary and confirms everything proponents have been saying all along.

In paragraph 2, Chairman Greenspan says that the International Banking Act requires foreign banks be allowed to operate in this country through operating subsidiaries. His major point is that it is not his choice, but that the law makes him do it, and this is due to the national treatment principles to which he refers in paragraph 3.

I understand the national treatment principles. However, those principles are not and should not be interpreted to mean that foreign banks be given advantages over U.S. banks.

In both the International Banking Act and the Bank Holding Company Act, the Federal Reserve Board is mandated to deny an application by a foreign bank to establish a U.S.-subsidiary if the Board finds that the proposal will result in "decreased or unfair competition, conflicts or interests, or unsound banking practices."

This is a very important point, I submit to my colleagues. By law, the Federal Reserve must have determined that foreign bank subsidiaries conducting securities underwriting and equity underwriting does not result in unsound banking practices.

Otherwise, the Federal Reserve would be in violation of the International Banking Act and the Bank Holding Company Act. That very fact supports our argument that conducting such activities in an operating subsidiary is both safe and sound.

In the third paragraph, Chairman Greenspan says:

> In the absence of any evidence that foreign banks are using their government subsidy to an unfair competitive advantage in the United States, there does not seem to be any compelling reason to abandon the current approach to foreign bank participation in this country.

Chairman Greenspan once again admits there is a government subsidy for foreign banks. He confirms what I shared with everyone in my "Dear Colleague" letter in the Senate. He then changes the subject to say there is no reason to abandon foreign banks subsidiaries. I never suggested such a thing in my "Dear Colleague" letter. In only asked that if it is appropriate for foreign banks, why isn't it appropriate for national banks?

The fifth paragraph of the letter states that, "foreign banks have not been able to exploit their home country subsidy . . ." and that foreign bank subsidiaries "have substantially underperformed U.S. owned section 20 companies." He actually admits that "the subsidy does not travel well." In other words, foreign banks have not been successful transferring their home country subsidy to their subsidiary in the U.S.

But wait a minute. You cannot have it both ways. I do not care who you are.

Chairman Greenspan just presented evidence to us in the fifth paragraph that foreign bank subsidiaries, which in the third paragraph he admits receive a home country subsidy, underperform their American competitors. Thus, if there is a subsidy, it must either be (1) insignificant, and not enough to affect market performance or (2) contained in the section 20 regulatory framework and therefore not an issue. In either case, the Chairman has just confirmed the arguments that proponents of operating subsidiaries have made.

To sum up, Chairman Greenspan, just 2 days ago, confirmed that: foreign bank subsidiaries receive home country subsidies; conducting such activities in a subsidiary does not result in unsound banking practices, otherwise the Fed is violating the law with regard to foreign bank subsidiaries; and the subsidiary does not "travel well," that is, it is not easily transferred from the bank to the sub.

The logic and the evidence presented by Chairman Greenspan in defense of foreign bank subsidiaries is the exact same logic and evidence that supports the Shelby-Daschle operating subsidiary amendment.

To be honest, I am quite surprised at the Chairman's uncompromising position on the issue. As a student of Public Choice economics, I am sure he is aware of the benefits of competition among regulators. I am surprised he supports making the Federal Reserve the monopoly umbrella regulator. Monopolies restrict output and increase prices.

There is no doubt in my mind that making the Federal Reserve the monopoly regulator will create even more bottlenecks in bank applications thereby increasing the regulatory cost of banks doing business with the Federal Reserve.

For the sake of competition, for the sake of free markets, for the sake of choice, I respectfully request that you support the Shelby amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Texas.

Mr. GRAMM. Mr. President, I think if anyone knows me and knows RICHARD SHELBY, they know that we came to Congress on the same day. We served on the House Energy and Commerce Committee together. We were both Democrats then. We both changed parties. We both ran for the Senate. And RICHARD and I have been very close friends since the first day we came. I think you always regret when you have these kinds of tough battles, but this is a tough battle. This is vitally important.

Let me basically outline what I want to say and then let me go about trying to say it.

First of all, there has been some speculation about whether or not, as chairman of the Banking Committee and a new chairman, chairman only for a few months, whether or not I would pull my own bill, which, as the Presiding Officer knows as a member of the committee, has been a great labor of mine for all these many months and has been the labor of Congress for 25 years. As to whether I would pull the bill over this issue, let me leave no suspense: I will pull this bill if the Shelby amendment is adopted.

You might think that is a very strong statement to make, but I think when you hear my presentation, you will understand why I make it, because with all the good things in the bill, I want people to understand that all of them combined together would not undo the harm that would be done by this amendment.

What I will do is answer Senator SHELBY on foreign banks. I will then go through and talk about the real issue: What is the issue for Democrats who are hearing from the Secretary of the Treasury? What is the issue for Republicans who are hearing from big banks? What is the public interest?

I will try to answer those issues. Let me begin with the foreign banks.

Senator SHELBY would have us believe that we need to start subsidizing American banks because foreign banks are subsidized. He would have us believe that somehow we have given foreign banks a different set of regulations to abide by in America than American banks have had and that therefore we need to do something about it.

Let me address that. And I want to address it first by reading Alan Greenspan's thoughtful letter. Interestingly enough, Senator SHELBY referred to part of it. But I think it goes right to the heart of the issue.

Reading his letter of May 4:

> First, the Board did not simply choose to let foreign banks operate in this country through subsidiaries. The law required it. The International Banking Act . . .

That was passed in 1978—

> . . . provides that a foreign bank shall be treated as a . . . holding company for purposes of nonbanking acquisitions.

That is the law of the land. That was adopted by Congress. That was signed by the President. The Chairman of the Board of the Federal Reserve had nothing to do with that. He simply had the responsibility of implementing it.

> Therefore, when the Board allowed U.S. bank holding companies to own securities companies, the Board was required to permit foreign banks that met the statutory conditions also to acquire such companies.
>
> The law treating foreign banks as holding companies was a practical response to an existing situation: most foreign banks do not have holding companies.

And I will get to that point in a minute because it is important.

Without the [International Banking Act's] approach, foreign banks generally would be excluded from the U.S. market, in violation of the national treatment principles embedded in U.S. law. . . .

The Board stated it would monitor, and in fact has monitored, this situation to assure that foreign banks do not in fact operate to the detriment of U.S. banking organizations. . . .

A recent Federal Reserve study of the performance of section 20 companies over the last eight years demonstrates that foreign bank-owned section 20 companies have substantially underperformed U.S.-owned section 20 companies. . . .

To cite the fact of foreign bank structure to support a similar structure in the United States is not only misleading, it is potentially harmful.

Let me explain what all that means in English. What it means is, we passed a law, and the law said that since foreign banks do not use holding companies—they use operating subsidiaries because it is permitted under their law—that for treatment purposes, they would be treated as holding companies in the United States. Senator SHELBY says this is unfair.

I would like to note that the Federal Reserve, noting a potential problem with it, set out a monitoring process to see if these foreign banks are benefiting relative to our banks in promoting unfair competition.

What the Fed found in 1995 was that not only were they not benefiting, but they lost 11 percent. In 1996, their rate of return was minus 8 percent. In 1997, their rate of return was 18 percent. And in 1998, their rate of return was 25 percent.

So the plain truth is, these foreign banks are poorly run, their subsidiary operations are a disaster, but if they were well run, and if they were getting a competitive advantage, we would do something about it. The point is, it has not created a problem.

Nineteen of these foreign banks are in the securities business. Together, they make up less than 2.6 percent of the American market. In terms of underwriting revenues, they earn 3.8 percent of the revenues. So the point is, these foreign banks are not effective in competing against American banks. The point is, because foreign governments subsidize their banks, do we want to subsidize our banks? As chairman of the Banking Committee, I can tell you, if these foreign subsidies started having an unfair effect in our market, we would take action to change the law and prevent this advantage.

But we have allowed this situation to exist for two reasons: One, it has not done us any harm, and, two, we sell $10 of financial services abroad for every $1 of financial services sold in America. So the last thing we wanted to do is get into a trade war in banking, because we are the world's greatest bankers, we are the world's greatest exporters of banking services. And so it was to our advantage to allow this to happen as long as it was doing no harm.

What is the real issue at stake in this amendment? I want to begin with a quote from Secretary Rubin. In fact, many people on the Democrat side of the aisle have been called by Secretary Rubin in the last few days. Some people on our side of the aisle have been called. I want to read you a quote from Secretary Rubin. And then I want to pose a question: What could this quote possibly be referring to?

This is a quote from the Secretary of the Treasury, Robert Rubin, on May 5, 1999, before the Finance Subcommittee of the House Commerce Committee. And I will read you the quote:

[O]ne of an elected Administration's critical responsibilities is the formation of economic policy, and an important component of that policy is banking policy. In order for the elected Administration to have an effective role in banking policy, it must have a strong connection with the banking system.

I remind my colleagues that the Comptroller of the Currency, who works for Robert Rubin, regulates national banks. And national banks make up 58 percent of the assets in American banks. Why isn't that "an effective role in banking policy"? Why is it not "a strong connection with the banking system"? I can tell you, Secretary Rubin is right: It is not a strong connection. The Comptroller of the Currency is an accountant. Banking policy is run by the Federal Reserve. And I thank God for that every single day.

I thank God every single day that in 1913, after the Treasury had run monetary policy in this country—we had a giant panic in 1907; the country had gone through continuing economic convulsions—the Congress put an end to it by setting up an independent monetary authority called the Federal Reserve.

The Federal Reserve, with an independent board—appointed by the President, confirmed by the Senate for very long terms—exercises independent monetary policy. So when the President wants to inflate the economy to get reelected, the Fed says no. When Congress feels we need to print more money to get things moving to help them in their elections, the Fed says no. We have an independent monetary authority.

So while the Comptroller of the Currency is an accountant that primarily audits national banks, he has no policy authority at all. Why? Because the Federal Reserve regulates the holding companies, and there are 6,867 holding companies in America that together make up about 96 percent of bank assets.

So sure enough, the Treasury sends out all of the accountants and auditors, but the Federal Reserve sets the policy. And what Robert Rubin is saying, in the clearest possible terms, is he wants to set banking policy, he wants to set monetary policy. That is exactly what he is saying.

The question is, Do we want to put the Treasury back in the position of setting banking policy in America? Do we want the President to have the ability to use banking policy as a political tool? Are we not talking about repealing the Federal Reserve Act?

Now, how all this comes about is a little complicated, but with a teeny bit of detective work, it becomes very, very clear.

Remember, the Fed does not regulate banks. Not a single bank in America is regulated directly by the Fed. But it regulates holding companies that control banks, and those holding companies have 97 percent of the assets of banks. Why do they have it? Because our law requires that banks not provide other financial services within the bank, for safety and soundness reasons, and so big banks and banks that have large assets are holding companies and they come under the Federal Reserve.

Now, if we adopted the Shelby amendment, let me read what Alan Greenspan and the Board of Governors of the Federal Reserve say would happen:

As I have testified, if profit is their goal, there is no choice. Because of the subsidy implicit in the Federal safety net, profit-maximizing management will invariably choose the operating subsidiary. As a consequence, the holding company structure will atrophy in favor of bank operating subsidiaries. Our [and "our" being the Federal Reserve] current ability rests principally on our role as holding company supervisor.

So here is the point: If you let banks perform these services within the bank itself, their securities affiliate or, in the future, their insurance affiliate or any other thing you allow them to do can get the advantage of the bank's FDIC insurance and the ability to borrow money from the Fed, which is the lowest interest rate in the world, and if they can use the Fed wire, the Fed has estimated that doing these things within the bank creates about a 14 basis points advantage over doing them outside the bank. Those little margins make a very big difference.

So, obviously, the Treasury and the Federal Reserve believe and both agree that if you let banks perform these functions inside the bank, banks will tend to close down their holding companies and bring these functions inside the bank.

Now, I am going to talk about that issue separately. But what does that mean in terms of monetary policy? It means that the Comptroller of the Currency, who will be regulating banks that will no longer be holding companies, will become the banking authority in the country, and the Federal Reserve will see the number of holding companies it regulates decline, decline, decline, and decline.

Now, interestingly, the Treasury and the Shelby amendment, one and the same, recognize this. They say, OK, for the 43 largest holding companies, we will force them to maintain their holding company, so that the Fed will continue to regulate them. That means that 6,824 other holding companies will be allowed to change their structure. They will be driven by the profit motive to do it. Therefore, over time the control of banking policy and ultimately monetary policy—because bank regulation is a source of strength for the Fed in implementing much of its policy—will shift from the Federal Reserve to the Treasury, from an independent agency to an arm of the President of the United States.

Now, you might say, well, the Federal Reserve still regulates 43 holding companies. But the holding companies have every incentive to conduct all of their activities within the bank, so the holding companies, the 43 left that the Fed would regulate, will be empty shells.

The Fed's power comes from the power to regulate banks. Their ability to get banks together to prevent a financial collapse—such as the Long Term Capital Management case in New York—was their ability, using moral suasion by the fact that they regulated the holding companies that were involved, to get people together and basically nudge them, encourage them, and, if you like, pressure them into dealing with that crisis before it got moving.

Now, I ask my colleagues on the first point: Do you want this administration, or any administration, to control banking policy? The Secretary of the Treasury says they should; it is part of the tools they say they need to conduct economic policy.

Let me tell you something, Mr. President. We had this debate in 1913. We decided we didn't want the President, in 1913, controlling banking policy. We have decided we do not want any President or did not want any President since that time.

Would we have been better off in the last 2 years of the Reagan administration if the Treasury had controlled banking policy instead of the Federal Reserve? I do not think so. When the Bush administration was in a reelection campaign and losing the election because the economy was recovering slowly, would we have wanted the Secretary of the Treasury and the Comptroller of the Currency—appointed by the President, removable by the President—would we have wanted them to have the ability to turn on the printing presses or to use expansionary policy with the banks? I do not think we would.

Do we want this President to have the ability to control banking policy when he orders the Comptroller of the Currency, who would be the new central banking regulatory authority under the Shelby amendment, to come to the White House for a fundraiser with bankers?

This is not a partisan matter. Bill Clinton is going to be President for 18 more months. We may well then have a Republican President. I hope so. But I do not want a Republican or Democratic President to control banking policy. We set up an independent Fed to do that, and I want them to do it. Have no doubt about it, when Robert Rubin is saying that this amendment is a way of expanding the administration's effective role in banking policy, he means transferring from the Fed to the Treasury the ability to set banking policy.

Now, if you are for that, if you believe the executive branch of American government ought to set banking policy, you should vote for the Shelby amendment. But if you believe we have done pretty well under Alan Greenspan and the Federal Reserve, if you believe that since 1913 the American economy has performed pretty well by taking banking policy away from Congress and away from the executive branch of government and putting it in an independent agency, if you believe that, do not vote for this amendment. This amendment is clearly an effort to transfer regulatory authority over banking from the Federal Reserve to the Treasury. That would be a disaster for America. That would be far more important in its negative impact than anything we could possibly do in terms of letting banks get into a few other areas of providing services.

This is a fundamental issue. I urge my colleagues not to get caught up on the Democrat side of the aisle with the fact that there is a Democrat President or that we have a very friendly, nice, and competent Secretary of the Treasury who is calling them up and saying, ''We need you to vote with us.'' This is not a partisan matter. An independent control of banking policy in America, an independent agency controlling banking policy, is not a partisan matter, it is a matter that this Congress, on a bipartisan basis, has stood for since 1913. I don't want to take any step, and I don't believe America, if it understood this issue, would want to take a step backward from that.

Let me talk to my Republican colleagues. We have written a bill, and I think it is a good bill. I had a lot to do with writing it, so obviously I think that. But I think other people are beginning to think it, too. This is a big bank, big securities, big insurance bill. That is just a reality. And I have to say that there is something a little bit obscene about big banks calling up Members of the Senate and saying: ''Well, you know we only got 95 percent of what we wanted in that bill. We could get another 15 percent and go up to 110 percent if you could let us provide these services within the bank, rather than doing it outside the bank.''

Now, the banks are not caught up in who is going to conduct banking policy. They are caught up in the fact that they are going to make more money if they can provide these services inside the bank, because they get the subsidies from the FDIC insurance, the Fed window and the Fed wire.

I don't so much complain about them taking this sort of narrow self-interested view as I complain about our responding to it, let me say. We have all heard: What is good for General Motors is good for America. That is not right. What is good for America is good for General Motors. I just say to my colleagues, whatever commitments you have made on this, whatever partisanship you feel on this, ask yourself a question: Is it good for America to give the Treasury—an agency controlled by the President—control over banking policy in this country and take that control, at least partially, away from the Federal Reserve?

Do we want monetary policy to continue to be based on an objective set out to maintain stable prices and economic growth, or do we want to bring politics into it? Obviously, Secretary Rubin wants the administration to conduct banking policy, and that is why he asked for this amendment. He says it in clear English. I don't want this administration to conduct banking policy, but at least you have to say I am a little broad-minded. I don't want any administration to conduct monetary policy.

To try to summarize, because it gets complicated: The Secretary of the Treasury wants this amendment adopted because banks, by providing these new services inside the bank, will find it cheaper to do that, more profitable, and they will fold their holding companies, which they only set up because the law required them for safety and soundness to undertake these riskier activities outside the bank. As they fold up these holding companies, the Federal Reserve loses regulatory control over them and the Comptroller of the Currency, and therefore the President, gains regulatory control over them. So what Secretary Rubin is talking about is basically giving the Treasury regulatory authority that the Federal Reserve now has.

Nothing in our bill takes power away from the Treasury. A lot of people have gotten confused that this is just a power struggle, where this bill would give the Federal Reserve more authority, and the Treasury wants to share it, or the Treasury wants more. Look, the Fed regulates bank holding companies. Virtually all the wealth is already in bank holding companies. The Comptroller audits national banks. There is no shift in the regulatory authority in our underlying bill.

But the amendment that Senator SHELBY has offered with Senator DASCHLE, supported by the Clinton administration, is the biggest regulatory shift, the biggest power grab, by a Federal bureaucracy that I have seen in my 20 years in Congress. And it is absolutely critical that we slam the door on this power grab, not because Rubin is a bad guy and Greenspan is a good guy, but because Rubin is a political appointee controlled by a President who, by the very nature of the Presidency—whether it is President Ronald Reagan or President William Clinton—he has political concerns to deal with, as he should.

We decided in 1913 to take banking policy out of the hands of politicians and put it into the Federal Reserve. We dare not take action to take it back.

Maybe Robert Rubin would do a good job with it. Maybe Bill Clinton might fire Rubin and appoint somebody else, or maybe Rubin might leave. But the point is, the Fed, whoever is there—and I hope Alan Greenspan will be there forever—will be independent, with a long term, and will be independent of the President, and so will the board members who share that power.

If this issue doesn't move you, then I have done a poor job, because I have been standing on the floor for 3 days and I am tired. If this issue doesn't move you, it is not because the issue is not moving; it is because I am not moving. I want to urge my colleagues to think long and hard before we take an action that, in reality, is a step toward repealing the essence of the Federal Reserve Act.

Let me turn to the other side of the story. It is an important story. I have explained first how this amendment is a step toward repealing the Federal Reserve Act by giving the control of bank regulation to the Treasury instead of the Federal Reserve. But let me explain that, for safety and soundness, for the well-being of the taxpayer, and for competition, this amendment is also a bad thing. Banks receive a subsidy from the Government because they have their principal asset—deposits—insured by the FDIC. They have deposit insurance. No other nonbanking institution has that guarantee. Your insurance salesman doesn't have it. Your securities broker doesn't have it. The stock exchange doesn't have it. The bank has it.

The bank also has the ability to go to the Federal Reserve and borrow at the lowest interest rates in the country. And they have the ability to use the Fed wire to transfer money that is guaranteed. What all that means is that if you let banks provide broad-based financial services, which this bill does—but it requires them to do it outside the bank—if you let them do it inside the bank, these huge banks with massive capital, when they are selling securities or underwriting them—or, ultimately, because if you let them do securities today, in 5 or 10 years, you are going to let them do insurance within the bank, and we all know it—these banks will have an enormous and unfair competitive advantage due entirely to the Federal subsidies they are receiving.

When they are selling securities, or selling insurance or underwriting it, they are going to have a competitive advantage because they can borrow money more cheaply than an insurance company or an independent stockbroker. So what is going to happen over time is, with that competitive advantage, they are going to end up dominating the securities industry, and in the long run, dominating the insurance industry.

I ask you the question: Do we want a banking industry that dominates the entire financial services industry? I helped write this bill to promote more competition. I did not write this bill so that 20 years from now we look like Japan, with 10 banks dominating the entire financial services area. I know about the Presiding Officer, but I don't know about other people. I happen to love my independent insurance agents and they love me, and I appreciate it. I happen to love my little independent stockbroker in my hometown; he was my campaign manager the first time I ever ran for Congress. I don't want to force these people out of business by giving an unfair competitive advantage to banks.

We are not talking about foreign banks who don't know how to do it, even with a Government subsidy; we are talking about American banks that know how to do it.

Now, Mr. President, the next problem is that we are going to create an unlevel playing field, and banks are going to dominate these industries not because they are better, but because their structure of being able to provide these services within banks is one that is cheaper to operate in.

The third and final problem is selling insurance—underwriting insurance—which ultimately will happen if we go this direction with op-subs on securities—selling securities; underwriting securities is risky business.

What we are doing, if we put that power within the structure of the bank, is that taxpayers are underwriting it, at least implicitly with Federal deposit insurance. So we are putting the taxpayer on the hook.

The alternative in the bill is, except for very small banks that can't afford to have holding companies, to require banks that have holding companies—and they are large enough to have them, they can provide all these new services—but they have to do them outside the banks. So the taxpayer is not on the hook for the deposit insurance for these activities, and the banks don't get a subsidy to conduct these activities due to the fact that capital is cheaper inside the bank, and we don't create a structure where the Treasury—a political institution—exercises more banking regulation and the Fed less.

Alan Greenspan, testifying before the House Commerce Committee last week, made a very strong statement. Those of you who know Alan Greenspan know that he is not prone to get to the point. In fact, we have reporters in this town who have become very successful by figuring out what Alan Greenspan is saying. He will go around the barn and the outhouse, and all over the barnyard, before he finally gets to the point. And, if he is saying something that he knows somebody isn't going to like, he is even more roundabout so as not to hurt anyone's feelings. Quite frankly, he does it perfectly. Every central banker in the world models himself after Alan Greenspan, who is the greatest central banker probably in the history of the world.

But he wasn't beating around the bush when he talked to the House Commerce Committee. He said, "I and my colleagues"—he means members of the Federal Reserve Board—"are firmly of the view that the long-term stability of U.S. financial markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted by the bank. . . ."

This is not just an average kind of Joe talking.

It is interesting to me that we talk to a few bankers on the telephone, and all of a sudden we think we know as much about banking policy as Alan Greenspan. This is the most successful central banker in history who is saying that when you look at the three problems with this approach, one, you put the taxpayer on the hook in a risky business that ought not to be inside the bank; that, two, you create an unfair playing surface that will create unfair competition and hurt the economy, and make the economy more vulnerable; and, finally, you transfer control of bank regulations from an independent agency—the Fed—to the Treasury and, therefore, to the President.

Based on those three things, Alan Greenspan—who is a strong supporter of this bill; he is for this bill; at the end of the last Congress, he spent numerous hours trying to get it passed, and he is for it now—says, if you adopt this amendment then the country would be better off with no bill at all.

My colleagues, it has been a long 3 days of debating. I never challenge anybody's sincerity. But I want to urge my colleagues, my Democrat colleagues who are getting all this pressure now, you know—Republicans have won on many of these issues, this is an opportunity for Democrats to win; the Secretary of the Treasury has said that the President will veto the bill if you do not give the Treasury control over banking policy. And I know that my Democrat colleagues are under a lot of pressure.

But I want to urge my colleagues to look at what we are doing here in terms of moving away from an independent banking authority toward putting the control of banking policy under the President. It is a very, very dangerous thing to do.

I urge my colleagues to resist the pressure and vote against this. Ordinarily two-thirds of the Democrat Members of Congress would oppose this amendment. But what is happening here, in part because the issue has become so partisan—and I am partly to blame for this—but what is happening is we have a dynamic where an amendment that should not be even seriously considered is going to have a very, very close vote, and could very well pass.

I just urge my colleagues, if you are not swayed by risk to the taxpayer, if you are not swayed by unfair competition and concentration of industry—and many of my Democrat colleagues are swayed by those things in most of the issues—if you are not swayed by that, be swayed by Secretary Rubin who thinks the administration ought to control banking policy. We decided in 1913 not to let him do it. Do we want to go back and change that decision today? I don't think so.

I want to conclude by saying to my Republican colleagues—I know Senator SHELBY is very persuasive. That is one of the reasons that I love him and that we are very good friends. I know a lot of people have been torn with me grabbing them and screaming in one ear, and Senator SHELBY grabbing them and screaming in their other ear. I know they are ready for this thing to be over. But this is not a parochial issue, or a personal issue, or a regional issue.

When we are talking about reversing a policy established in 1913 for independent banking authority because the Secretary of the Treasury wants the President to conduct banking policy, something we rejected in 1913, this goes way beyond hearing from your bank back home that says, ''Gee, I would rather do it this way. I appreciate the bill. You have done it. It is going to help me. But you could help me more by letting me do it this way.'' I think we have to resist that siren song.

I don't want to sound too preachy, so let me just stop and urge my colleagues to give some long and prayerful deliberation on this amendment, because I think it is very important. I know it is a hard vote. I wish it weren't so hard.

But I think it is a very clear vote. I think if you stand back and look at it, it is hard to think of a vote we have cast around here that was much clearer in terms of what is the national interest. It can't be good for your bank back home if it is bad for America. I think that is the key issue I would like people to remember.

Mr. President, can you tell me how much time I have left, and how much time Senator SHELBY has?

The PRESIDING OFFICER. The Senator from Texas has 19 minutes 53 seconds; the Senator from Alabama has 37 minutes.

Mr. GRAMM. I had better let him talk more. I yield the floor.

Mr. SHELBY. Mr. President, I yield such time as the Senator may consume to the distinguished Senator from Rhode Island, Mr. REED.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I thank the Senator for yielding. I am pleased to support his amendment, together with Senator DASCHLE.

I think it underscores the bipartisan nature of this amendment that both Senator SHELBY and Senator DASCHLE are here today to advance a very important issue. It is a very important issue that I have been working on for over a year.

In fact, in the last Congress, I had an amendment in the Banking Committee that was very similar to this, and my impetus is to suggest this amendment was based upon my experience as not only a Senator but also as someone who was a lawyer and involved in banking matters in my home State of Rhode Island.

It is very important to clear up a misconception that might be operating at the moment that the Federal Reserve is the exclusive repository of banking direction and regulation in the United States. Such a claim is just wrong. Banking policy in the United States is the province of many different organizations. The Federal Reserve principally, starting in 1956 with the Bank Holding Company Act, regulates the operations of bank holding companies.

Here is a simple schematic of what a bank holding company is. It is a holding company—a corporation under State law usually owning a bank, and also owning the other affiliates.

This bank holding structure became an issue in the 1950s, and as a result the Federal Reserve was empowered by Congress—I should emphasie ''by Congress,'' not by its own direction—to regulate bank holding companies. But long before that, beginning in the 1860s, national banks were regulated under the Department of the Treasury and the Comptroller of the Currency. Indeed, other financial entities, other depository entities, are regulated by the Office of Thrift Supervision.

We should be very clear. This is not an attempt to wrench away from the Federal Reserve their exclusive prerogative to run the banking system in the United States. This amendment is attempting to provide flexibility to banking organizations so they can conduct a limited range of activities in either a subsidiary of the bank or an affiliate of the bank.

If they are conducted in the affiliate, they will be regulated under current law and under our anticipated legislation by the Federal Reserve; if they are conducted in the subsidiary, they will be regulated by the Office of the Comptroller of the Currency or the other regulator of this particular bank.

It is also important to note that there are only two rather narrowly defined activities that could be conducted under the Shelby-Daschle amendment: Securities underwriting or merchant banking activities. I should hasten to add that these two activities would also be regulated by the functional regulator. If it is securities activities, it would be regulated by the Securities and Exchange Commission. We are talking about a very narrow band of activities. It is important to keep that in mind.

We are in no way talking about displacing the Federal Reserve as a principal regulator of bank holding companies. What we are talking about is giving banking organizations the flexibility to decide, based upon their own analysis, whether they want to conduct these two limited activities, either an affiliate or a subsidiary of the bank.

What the underlying legislation, S. 900, would do essentially is give the Federal Reserve all the authority. It would cut out effectively what currently exists, the regulating authority of the Comptroller of the Currency to determine a limited range of activities that either could or could not be done either in the bank itself or a subsidiary bank.

Many have described this as a turf fight. I don't think that is a proper description. What we should be doing and what the Shelby amendment is attempting to do is to provide the type of regulatory balance necessary, first, to guarantee safety and soundness; and, second, to give banking institutions the flexibility to conduct the business the way they decide rather than the way we might dictate here in Washington.

Now, one of the interesting things to know is that we are attempting to change a high bond regulatory structure that was erected in the wake of the 1930s. I note that the Senator from Texas noted that all of our financial problems were solved in 1913 when we created the Federal Reserve, but there was a brief interlude in the 1930s where the economy was in disarray during the Depression.

As a result of that, we created the Glass-Steagall Act that separated various activities. We now recognize, because of many different factors, that we should in fact undo this very rigid structure and provide flexibility for a combination of different financial activities—insurance activities, security activities, depository activities. However, this amendment, the Shelby-Daschle amendment, goes to the heart of that flexibility by providing the kind of business flexibility that banks should have in this new, very fast paced international economic environment.

I explained basically the structure of the typical bank holding company, and I think that is useful because for the last several weeks we have been hearing jargon such as ''op-sub'' and ''affiliate,'' et cetera. It is exactly what I suggested before: A bank holding company, a company that is typically a commercial enterprise, a State-chartered company, owns a depository institution; in turn, they operate some activities and subsidiaries throughout the affiliate. That is basically what we are talking about now.

The question is, What should we do to ensure that, first, safety and soundness is protected; and, two, that the banks have the kind of flexibility they need and the corporate governance to operate effectively?

What we are proposing with this amendment is that in these two limited activities—securities activities and merchant banking—the bank holding company have the choice of either doing it in a subsidiary or affiliate. As I understand it, the underlying legislation would allow a very small bank holding company to conduct these activities in a subsidiary. So this is, in some respects, an issue of size. But the principle already exists within the context of the underlying legislation that these activities can, in fact, be conducted in subsidiaries.

Looking ahead at what the amendment requires, it is very important to note that in order to conduct these activities a bank would have to meet certain tests. First of all, the bank would have to be well managed and well capitalized. This is a requirement that would be similar on bank holding companies.

In addition to this, the bank would also have to do specific things to allow or qualify for the conduct of these activities. First of all, if the bank was going to conduct the activities in a subsidiary, it would have to deduct its equity investment in the subsidiary from its own equity. As a result, this provides protections for the bank and for the overall depository system. In addition, it would have to remain well capitalized after the equity deduction.

The point here is that the regulators essentially could be satisfied that even as this subsidiary failed, even if the whole investment were lost, it would not adversely affect the capital bank, which is at the heart of their notion of protecting safety and soundness.

In addition to that, they would be limited to the amount of money they could invest in a subsidiary. It would be limited to this same amount of money they could ''dividend upwards'' to the bank holding company—another check on the safety and soundness provisions in this legislation.

Moreover, if these activities are conducted in a subsidiary, the whole relationship would be governed by section 23(a) and 23(b) of the Federal Reserve Act. These two sections govern transactions between bank affiliates and other holding company affiliates. Essentially, it requires that there be arm's-length dealing between these two entities.

For example, section 23(a) imposes a percentage cap on transactions between a bank and our operating subsidiary—the subsidiary cannot be the exclusive source of business for the bank, and vice versa. In addition, section 23(a) provides safeguards with respect to collateral that could and must be used for lending transactions between the bank and subsidiary. In sum, there are provisions in the amendment to guard against the self-dealing that would lead to breaches of safety and soundness.

All of these things together suggest very strongly that what we are proposing is entirely consistent with the safety and soundness of the banking system. Indeed, that should be our primary legislative motivation, to be sure that whatever we do here is consistent with safety and soundness.

There has been a great deal of discussion about the mysterious subsidy that Chairman Greenspan is talking about, the fact that ''...the reason I oppose this is because of this hidden subsidy,'' because of this transfer.

In his words, ''My concerns are not about safety and soundness.'' I am glad, because I think we have convinced or at least we have suggested that we have considered very thoroughly and carefully the safety and soundness issues.

> It is the issue of creating subsidies for individual institutions which their competitors do not have. It is a level playing field. . ..

The subsidy, as explained before, rests upon essentially the guarantee of deposit by Federal deposit insurance.

Now, what we have done, first, is protected safety and soundness; second, these subsidies are frequently offset in discussions—indeed, many times complaints—about the restrictions that go along with the depositor insurance. We debated yesterday at length about CRA. That adheres to a bank because of its deposit insurance. That is a cost that other competitors could not have.

So when we look at this whole notion of subsidy, there is a very real argument, when it is balanced out, that this subsidy is not particularly significant, that in the margin it will not make a difference whether you conduct this activity in a subsidiary or in an affiliate. Moreover, when a bank holding company is attempting to go to the equity markets to raise equity through stock offerings or through commercial debt paper, no one looks exclusively, uniquely, solely at the bank; they look at the combined activities of the holding company.

So if there is a subsidiary at the bank, that all washes out through the bottom line of the bank holding company balance sheet. This notion that the subsidiary is the driving force I don't think is entirely correct.

Moreover, when you look at experts who have dealt with this whole issue of whether or not these activities should be conducted in a subsidiary, those in fact who have been responsible for the operation of the FDIC, most of the recent chairpersons—Ricky Halperin, William Isaac, and William Seidman—have argued very strongly and forcefully that in fact placing these activities into a subsidiary would, in fact, be a beneficial and not a detrimental aspect and, in fact, potentially could be a plus for the Bank Insurance Fund.

It would be so because if, in fact, there was a troubled bank with a healthy subsidiary, either in the securities business or in the merchant banking business, those healthy assets would be a source of funds to cover depository losses, potentially in the bank. Such coverage from a subsidiary would offset the need for a contribution by the taxpayer-supported deposit insurance fund.

It has been mentioned before that foreign banks, in fact, have these powers within the continental United States because of international banking agreements. In fact, there are 19 foreign banks with securities underwriting subsidiaries in the United States and these banks have about $450 billion in assets and they would be allowed to continue their operations under the S. 900 bill, the underlying legislation. As Senator SHELBY pointed out, this is on the surface a disparate treatment between domestic banks and foreign banks, but I think it reveals something else. It goes right back to that issue of: Is there a subsidy? Because these foreign banks are also subsidized by deposit insurance, in most cases, in their country of origin, the country of incorporation. And they are also subsidized in the same way as are our banks, by government policies, by access to the central bank's discount window, by a whole series of governmental programs that assist banking institutions.

If you put back Chairman Greenspan's words—again, let me remind you, he is not talking about safety and soundness. He is talking about this mysterious subsidy. Those are his words, but what are the actions of the Federal Reserve when it comes down to approving the applications of these foreign banks to operate security subsidies in the United States?

First of all, the Federal Reserve, in the applications they had to approve, looked at the whole subsidiary issue. And they found that technically there was probably a subsidy to the subsidiaries. But what they suggested in approving these applications, which they did, is that by essentially imposing restrictions, as we have done, in terms of capital contributions, in terms of the possible transactions between the bank and subsidiary—that they would be offset. So essentially what the Chairman says and what the Federal Reserve does are two different things. He says this is a dangerous subsidy, yet when they have to approve an application of a foreign bank to operate a subsidiary in the United States, they say they can control that subsidy, essentially, by the same means that we are suggesting—capital contributions and other techniques.

So, if you listen to what is being said but look at what is being done in the world, I think, deeds speak louder than words. And the deeds are that this subsidy issue is a false one. Any subsidy is either dissipated through the holding company system or is offset in our amendment by the requirements to deduct capital, by the requirements to limit the investment into a subsidiary to the amount that you could upstream to a holding company for further investment in an affiliate.

There is another aspect which I think is telling with respect to the Federal Reserve, their position. I think this could come as a surprise to lots of people. American banks today can own operating subsidiaries and do own operating subsidiaries which can in fact perform merchant banking activities and securities activities—the activities that we are authorizing in this amendment. But they can only have these subsidiaries overseas, and interestingly enough, these subsidiaries are regulated by the Federal Reserve Bank. They are called Edge Act companies.

So what we are proposing today in this amendment is no novel redistribution of regulatory opportunities or banking opportunities, really. What we are saying, essentially, is if the Federal Reserve can regulate and authorize American banks through foreign subsidiaries to conduct insurance activities and securities activities and merchant banking activities overseas, why do they object to American banks doing the same thing in the United States? The same thing—limited, of course, to securities activities and merchant banking.

There are, as we estimated, subsidiaries with $250 billion in assets, subsidiaries of American banks operating overseas, subject to the regulation not of the Securities and Exchange Commission, but whatever foreign regulator is looking at their operation. Of course, the Fed concludes—they must conclude—this does not pose a threat to the safety and soundness of American banks. Of course, they must conclude that whatever subsidy they are getting through deposit insurance, it is not unfair for them to apply that overseas to invest in foreign subsidiaries to conduct these activities. In fact, the operations of these banks' subsidiaries overseas, these Edge Act companies, are far less regulated than what we are proposing in our amendment. These are not bound by section 23 (a) and (b). They are also not bound by our restrictions, by the amount of money that can be invested in the subsidiary.

So I think the Federal Reserve position—in terms of the facts, not the rhetoric, not the appeals to the history—is very weak indeed. The facts establish, No. 1, that in fact they have no objection to American banks' operating subsidiaries' overseas securities activities. It does not pose a threat to safety and soundness in their view. It is not an unfair use of the subsidy if that subsidy exists.

So I think we have to be very careful to conclude that what we have here is an amendment that gives banks flexibility, that does not implicate the safety and soundness of the banking system, that does not in any way distort the monetary policymaking role of the Federal Reserve. That in fact is consistent with over 100 years of banking regulation in the United States, which is a shared function between many different banking regulators in the United States. In fact, it is something that will provide the flexibility that is at the heart of this legislation.

I hope we will, in fact, support this amendment. It represents a bipartisan attempt to be consistent with the overall theme of this legislation, which is to unshackle our banking institutions from the hidebound rules of the Glass-Steagall Act, to give them an opportunity to compete but to do so in a way that does not implicate, intimidate or, undermine the safety or soundness of the banking system which is our ultimate responsibility.

I hope, again, we will accept, adopt and support this amendment. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

(Mr. GRAMM assumed the chair.)

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank you for the opportunity to address what we have been looking at in the Banking Committee now for a couple of years. We have had very detailed hearings, where both Alan Greenspan and Secretary Rubin have presented their case. I have to admit, during most of those everybody has said: What kind of a turf battle are we looking at here? The comments have been kind of mixed because it is an extremely difficult area to understand. It is an area between the Federal Reserve and the Treasury. But it is an area that affects the ways that banks will operate. We are trying to design, under this bill, a mechanism for the American banking system to succeed, to provide for security and soundness for the banking system, to provide for safety. Now, is that done under the Treasury or is it done under the Federal Reserve?

As one of those accountants, I suggest that the Treasury handles the accounting function very well. They do an excellent job of auditing our banks. They do an excellent job of overseeing the accounting aspects of the bank. But the Federal Reserve does the outstanding job of overseeing the banking policy for our country. If we begin to establish a system where the administration, who can reflect to times of election, has control over the banks and the banking establishment and the banking policy, our country could be in trouble.

If the banking policy is established by the administration with the benefit of the Federal wire and the Federal funds and the lower loan rates, our country could begin to react more to elections than to the economy.

We have had a fantastic system that has brought our economy to new heights, and it has been working under the Federal Reserve System. Let's not shift all of this around and allow the banks to have another technique where they can put businesses under their bank and have transactions—and I think everybody realizes that the transactions, while there are generally accepted accounting principles for how those are done, they are not nearly as much in the open under a subsidiary as they are under an affiliate.

We have some accounting techniques here that provide daylight for the banking industry which provide safety and soundness for the banking industry and the consumers.

I suggest that Alan Greenspan and whoever holds that position has to have enough ability to control the economy of the banks and the power of the banks to keep the economy of this Nation going.

This is an issue that is extremely difficult to understand. After all of the hearings we have held on it, it is possible to see it still is under a cloud of misunderstanding. I hear the terms brought out about how foreign banks are involved and how foreign banks are allowed to operate. The foreign banks are not the ones providing the Federal Deposit Insurance Corporation money. They are not the ones insuring the money of the consumers of this country. I opt for the safety and soundness provided by the Federal Reserve. I ask that you defeat the amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. What is the parliamentary situation?

The PRESIDING OFFICER. The authors of the amendment have 16 minutes, and the opponents of the amendment have 15 minutes.

Mr. SARBANES. Will the Senator yield me 4 minutes?

Mr. REED. I do not control time.

Mr. SARBANES. Will the Senator yield me 4 minutes?

Mr. SHELBY. I yield to the Senator from Maryland 4 minutes.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Maryland for 4 minutes.

Mr. SARBANES. Mr. President, in view of the comments that were just made by my able colleague from Wyoming, I want to address this safety and soundness issue. The Federal Deposit Insurance Corporation, to which he referred, the regulatory agency with the most at stake in terms of protecting the deposit insurance funds, sees the op-sub as equivalent to the holding company structure for safety and soundness reasons.

The argument was just made that there are some safety and soundness problems. The FDIC Chairman, Donna Tanoue, wrote a letter to the Banking Committee:

> With the appropriate safeguards, the operating subsidiary and the holding company structures both provide adequate safety and soundness protection. We see no compelling public policy reason why policymakers should prefer one structure over the other. And absent such a compelling reason, we believe the Government should not interfere in banks' choice of organizational structure.

That is the current Chairman of the FDIC. Lest someone says that is only the current Chairman, let me refer to an article written by three previous FDIC Chairmen, both in Democratic and Republican administrations: Ricki Tigert Helfer, William Isaac, and William Seidman, all of them with many years of direct experience in this area. They all agree with the current FDIC Chairman and have offered strong support for the operating subsidiary approach.

In fact, I will quote from their article. I ask unanimous consent that this article be printed in the RECORD at the conclusion of my statement.

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

(See Exhibit 1.)

Mr. SARBANES. The article says:

The debate on banks conducting financial activities through operating subsidiaries has been portrayed as a battle between the Treasury and the Federal Reserve. The Treasury believes banks should be permitted to conduct expanded activities through direct subsidiaries. The Fed wants these activities to be conducted only through holding company affiliates.

Curiously, the concerns of the Federal Deposit Insurance Corp. have been largely ignored. The FDIC, alone among the agencies, has no ''turf'' at stake in this issue, as its supervisory reach extends to any affiliate of a bank. The FDIC's sole motivation is to safeguard the nation's banks against systemic risks.

They go on to say:

Every subsequent FDIC chairman, including the current one, has taken the same position . . .

In other words, allowing with the view toward bank subsidiaries conducting these activities.

In fact, they point out that requiring the bank-related activities be conducted in holding companies will place insured banks in the worst possible position. They will be exposed to the risk of the affiliates' failures without reaping the benefits of the affiliates' successes.

It is very clear that the regulator concerns of the Federal Deposit Insurance Corporation are supportive of doing it either way.

Will the Senator yield me 1 more minute?

Mr. SHELBY. I will be glad to yield 1 minute.

Mr. SARBANES. Mr. President, let me quickly run through some important safety mechanisms that are in the Shelby-Daschle-Reed amendment:

One, a full capital deduction for investments in subsidiaries so that all such investments would be fully deducted from the bank's regulatory capital. Banks must remain well capitalized after this deduction, meaning even if the subsidiary fails, the bank's capital will remain intact.

Two, downstream investments in subsidiaries be no greater than the total amount that a bank could upstream as a dividend to a holding company. So they have exactly the same extent to which they can engage in new financial activities between the subsidiary or the affiliate.

We remove any advantage for subsidiaries in terms of transactions with their parent banks by applying sections 23(a) and 23(b) of the Federal Reserve Act to subsidiaries, just like affiliates. It would require the maintenance of subsidiaries as separate corporate entities.

The bank's credit exposure to a subsidiary be no greater than it could have been to an affiliate.

Real estate investment and insurance underwriting is not permitted in the subsidiary.

All of these features, I think, go to ensuring the safety and soundness of the approach contained in the Shelby-Daschle-Reed amendment, and I am supportive of this amendment.

I thank the Senator for yielding time.

EXHIBIT 1

[From the American Banker, Sept. 2, 1998]

EX-FDIC CHIEFS UNANIMOUSLY FAVOR THE OP-SUB STRUCTURE

(By Ricki Tigert Helfer, William M. Isaac, and L. William Seidman)

The debate on banks conducting financial activities through operating subsidiaries has been portrayed as a battle between the Treasury and the Federal Reserve. The Treasury believes banks should be permitted to conduct expanded activities through direct subsidiaries. The Fed wants these activities to be conducted only through holding company affiliates.

Curiously, the concerns of the Federal Deposit Insurance Corp. have been largely ignored. The FDIC, alone among the agencies, has no ''turf'' at stake in this issue, as its supervisory reach extends to any affiliate of a bank. The FDIC's sole motivation is to safeguard the nation's banks against systemic risks.

In the early 1980s, when one of us, William Isaac, became the first FDIC chairman to testify on this subject, he was responding to a financial modernization proposal to authorize banks to expand their activities through holding company affiliates.

While endorsing the thrust of the bill, he objected to requiring that activities be conducted in the holding company format. Every subsequent FDIC chairman, including the current one, has taken the same position, favoring bank subsidiaries (except Bill Taylor who, due to his untimely death, never expressed his views). Each has had the full backing of the FDIC professional staff on this issue.

The bank holding company is a U.S. invention; no other major country requires this format. It has inherent problems, apart from its inefficiency. For example, there is a built-in conflict of interest between a bank and its parent holding company when financial problems arise. The FDIC is still fighting a lawsuit with creditors of the failed Bank of New England about whether the holding company's directors violated their fiduciary duty by putting cash into the troubled lead bank.

Whether financial activities such as securities and insurance underwriting are in a bank subsidiary or a holding company affiliate, it is important that they be capitalized and funded separately from the bank. If we require this separation, the bank will be exposed to the identical risk of loss whether the company is organized as a bank subsidiary or a holding company affiliate.

The big difference between the two forms of organization comes when the activity is successful, which presumably will be most of the time. If the successful activity is conducted in a subsidiary of the bank, the profits will accrue to the bank.

Should the bank get into difficulty, it will be able to sell the subsidiary to raise funds to shore up the bank's capital. Should the bank fail, the FDIC will own the subsidiary and can reduce its losses by selling the subsidiary.

If the company is instead owned by the bank's parent, the profits of the company will not directly benefit the bank. Should the bank fail, the FDIC will not be entitled to sell the company to reduce its losses.

Requiring that bank-related activities be conducted in holding company affiliates will place insured banks in the worst possible position. They will be exposed to the risk of the affiliates' failure without reaping the benefits of the affiliates' successes.

Three times during the 1980s, the FDIC's warnings to Congress on safety and soundness issues went unheeded, due largely to pressures from special interests:

The FDIC urged in 1980 that deposit insurance not be increased from $40,000 to $100,000 while interest rates were being deregulated.

The FDIC urged in 1983 that money brokers be prohibited from dumping fully insured deposits into weak banks and S&Ls paying the highest interest.

The FDIC urged in 1984 that the S&L insurance fund be merged into the FDIC to allow the cleanup of the S&L problems before they spun out of control.

The failure to heed these warnings—from the agency charged with insuring the soundness of the banking system and covering its losses—cost banks and S&Ls, their customers, and taxpayers many tens of billions of dollars.

Ignoring the FDIC's strongly held views on how bank-related activities should be organized could well lead to history repeating itself. The holding company model is inferior to the bank subsidiary approach and should not be mandated by Congress.

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

The PRESIDING OFFICER (Mr. BENNETT). Ten minutes 30 seconds.

Mr. SHELBY. I yield 5 minutes to the distinguished Senator from Minnesota.

Mr. GRAMS. Thank you very much, Mr. President.

I rise in strong support of the Shelby amendment and urge the Senate to approve this amendment today. I say this with utmost respect for my committee chairman, Senator PHIL GRAMM. As you know, I support PHIL GRAMM and we agree on so many issues across the board, but this is one time when I have to disagree with my chairman. As I say, even his lovely wife Wendy disagrees with Senator PHIL GRAMM on a few issues. I hope he realizes the respect I have for him and his arguments on this amendment, but I feel that I have to support this.

As a Senator who worked on a bipartisan basis last year with Senator REED of Rhode Island to draft a compromise operating subsidiary amendment, I have invested a great deal of time studying the pluses and minuses of this option. I have come to the conclusion that it is appropriate for national banks to conduct full financial activities, with the exception of insurance underwriting and real estate development in the operating subsidiary.

This amendment preserves corporate flexibility by allowing subsidiaries of well-capitalized and well-managed national banks to conduct many of the same activities—such as securities underwriting and merchant banking—as bank holding companies and foreign bank subsidiaries.

I would like to note that insurance underwriting and real estate development are not permitted in the subsidiary.

Although some have claimed that the subsidiary approach could lead to a competitive advantage for banks, the amendment prevents competitive advantages by imposing the same prerequisites for conducting new financial activities on national banks as are placed on bank holding companies.

The subsidiary also is safer for national banks. First, the amendment includes a number of appropriate safety and soundness ''firewalls'' to ensure that the subsidiary remains an asset to—and not a liability of—the bank.

These firewalls include: one, requiring that capital invested in the subsidiary be deducted from the capital of the bank and that the bank remains well-capitalized after the deduction; two, prohibiting the consolidation of assets of the subsidiary and the bank; three, limiting the investment the bank may make in the subsidiary to the same amount that the bank could ''upstream'' to holding company affiliates by way of dividends; four, requiring the bank to maintain procedures for identifying and managing financial and operational risks posed by the subsidiary; five, requiring the bank to maintain—and regulators to ensure—a separate corporate identity and separate legal status from the subsidiary; and six, imposing the lending restrictions found in Sections 23A and 23B of the Federal Reserve Act on extensions of credit from the bank to the subsidiary—total extensions of credit to any one subsidiary may not exceed 10 percent of the bank's capital and total extensions of credit to all subsidiaries may not exceed 20 percent of the bank's capital.

The operating subsidiary approach adds another safety and soundness element because the subsidiary could be used as an asset to protect the taxpayer if the bank runs into trouble.

FDIC Chairman Donna Tanoue—the Federal Government's point person protecting the taxpayer against claims on the deposit insurance fund—testified that:

> From a safety and soundness perspective, both the bank operating subsidiary and the holding company affiliate structure can provide adequate protection to the insured depository institution from the direct or indirect effects of losses in nonbank subsidiaries or affiliation.
>
> Indeed, from the standpoint of benefits that accrue to the insured depository institution, or to the deposit insurer in the case of a bank failure, there are advantages to a direct subsidiary relationship with the bank.
>
> When it is the bank that is financially troubled and the affiliate/subsidiary is sound, the value of the subsidiary serves to directly reduce the exposure of the FDIC.
>
> If the firm is a nonbank subsidiary of the parent holding company, none of these values is available to insured bank subsidiaries, or to the FDIC if the bank should fail. Thus, the subsidiary structure can provide superior safety and soundness protection.

The last point made by FDIC Chairman Tanoue actually argues against the purported subsidy argument point put forward by some. Take for example two identical banks—Bank A and Bank B.

Bank A conducts its nonbank activities in a subsidiary and Bank B conducts its nonbank activities in the holding company.

In this case, the FDIC's exposure in Bank A is less than in Bank B because the amount of capital which could be raised either from the sub's assets or from the sale of the sub would actually reduce the losses of Bank A.

Thus, the FDIC's exposure in Bank B is higher because, as proven in the Bank of New England case, the sale of the affiliate cannot be counted on to reduce the banks losses.

Since both banks are identical and thus, have paid identical FDIC insurance premiums, Bank B receives a higher subsidy from deposit insurance because their return on FDIC insurance premiums paid is higher than Bank A, whose losses were lessened by the amount of capital raised by the sub.

Therefore, the operating subsidiary structure is safer from a safety and soundness perspective.

The amendment also removes the arbitrary $1 billion cap which is contained in the underlying bill. FDIC Chairman Donna Tanoue testified before the Senate Banking Committee that ''There is no valid reason to threat national banks differently on the basis of size or holding company affiliation.''

Another benefit of this amendment is that it provides competition among regulators. And that is so important. A recent conversation I had with a banking lawyer convinced me that this amendment is prudent public policy.

The attorney shared with me that in his dealings with the Federal Reserve Board and the Office of the Comptroller of the Currency, one of the agencies had been cooperative in helping his client work through issues and find creative ways to deal with their problems while the other had done nothing to help.

If we were to eliminate the competition, regulators would have no incentive to be responsible to the institutions they regulate and American banks would have nowhere to turn if they are unhappy with their treatment.

In closing, I think this amendment should not be portrayed as a killer amendment. And I hope and I urge the chairman and the majority leader to accept the will of the Senate and to allow the vote. Whether the amendment passes or fails, I pledge to vote for the bill—no matter how the amendment turns out.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I yield 5 minutes to the Senator from New Mexico, Mr. DOMENICI.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Senator. I thank the Presiding Officer for recognizing me.

First, I compliment Senator GRAMM on the marvelous work he has done on a very complicated bill. And I hope we get new legislation in this area before the week is out. Coming out of conference, I hope that we will have something fundamentally positive for the banking industry of the United States.

Mr. President, I have been in the Senate about 27 years. And I guess I would have to say, the institution of the United States for which I have the most respect is the Federal Reserve Board. In fact, I marvel at the 1913 act, the Federal Reserve Act. Frankly, I marvel at the caliber of people that have chaired the Fed and who act with total independence once they are appointed. Only one time in my 27 years have I thought that the Federal Reserve Board Chairman and the President of the United States were negotiating among themselves about interest rates and the like. For the most part, the Federal Reserve has been a marvelous institution for stability and nonpolitical involvement in the banking industry of America and for conducting the monetary policy of America.

I see this issue as a very simple one. Do you want the Federal Reserve Board to continue to be a major, major player in the banking system of the United States or do you want to send responsibility over to the White House?

When Congress created the Federal Reserve Board, there was a different problem. But we decided to create the Fed independent of the White House and keep it out of politics. Now we are here engaged in a fight, in an argument, in a close vote on sending a big part of the Federal Reserve Board's responsibility back to the White House. This amendment would allow a substantial portion of bank policy to be dictated by the White House. I do not believe it belongs there.

I am not saying this because of Secretary Rubin. I have agreed with almost all of his policies. As a matter of fact, I have said his economic policies remind me of Republicans and that probably is what saved the President in terms of the policies that he has put into effect. I have told the Secretary that. I do not know whether he was pleased or not so pleased to hear that, but I congratulated him nonetheless.

Essentially, this is the issue: Do you want to take a big piece of American banking policy and put it back in the political arena? Because no matter what we think of the Comptroller of the Currency, he is a political appointee. And it is most amazing, in the hierarchy of those who have power in America, it is not even a powerful position. It will be powerful if the amendment before us passes, because we will be giving the Comptroller tremendous control over our banking policy instead of vesting it where it truly belongs, with the most significant independent group in America's economic recovery since 1913—the Federal Reserve Board and its Chairman. I hope we do not do that.

I am amazed. It seems as though the White House believes that this is one of the most important issues it has ever faced. The lobbying pressure is enormous, with different levels of White House people—not the President,—but in the White House, Secretaries, Cabinet members. Maybe it is because they like Mr. Rubin so much they do not want him to lose this one. Maybe that is it. But it can't be that kind of issue unless it is seen by the executive branch as involving such power that Presidents might want to have it, rather than leave that power in the hands of the independent, successful management of the Federal Reserve Board.

I thank you for yielding me time, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY. How much time do I have?

The PRESIDING OFFICER. Five minutes.

Mr. SHELBY. How much time does the Senator from Texas have?

The PRESIDING OFFICER. Eleven minutes, give or take a few seconds.

Mr. GRAMM. Let me yield 5 minutes to the distinguished Senator from Florida, Mr. MACK.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Thank you, Mr. President. And I thank Senator GRAMM for yielding me time.

This was an issue that I did not expect to be drawn into as far as the debate was concerned. But as I have listened to it, and as I have observed my colleagues over the last several days, as the lobbying on both sides of this issue has been going on, and seeing people move back and forth, I have become concerned about how people are making decisions.

Finally, we have gotten down to the crux of the matter here, and that is, at least in my opinion, how monetary policy in the United States is going to be carried out.

I believe it is so important that we focus on the issue of monetary policy, because one of the underlying strengths, one of the major factors in the economic growth that we have experienced for almost 16 years is the role of the Federal Reserve, a Federal Reserve that has been committed to price stability. To do something that will weaken the influence of the Federal Reserve with respect to monetary policy would be a tragic mistake.

Here is my reasoning as to how this will come about. The Treasury is selling their idea to Members that all we really want to do is give the bankers a choice—that seems to be a fair and reasonable thing to do—let them decide.

I was in the banking business. This is really not a choice. You are saying to the bankers, you make a choice about where you are going to put this. They know where the cost of capital is the cheapest, and the cost of capital is going to be the cheapest in an operating subsidiary.

Why is the operating subsidiary going to be the cheapest cost to them? Because there is a subsidy attached to the bank, and so the bankers naturally will go to where their costs are the cheapest. They will, in fact, put these new powers into an operating subsidiary. Having done that, there is no longer a need for them to be involved in a holding company. The holding company is the vehicle, if you will, that allows the Federal Reserve to carry out its monetary policy.

The second thing that is going to occur is by voting for the use of an operating subsidiary, you are really saying you want the taxpayers to expand the subsidy that goes into the banking industry or into the financial services industry. That is an individual decision that people can make. But I think it is wrong to try to approach this question about whether I am for the bankers or whether I am not for the bankers. This is an issue about whether you want to have a monetary policy that is of value to this country.

I ask Members to consider what has happened in this country in these past 16 years as far as growth is concerned. The foundation of that growth has been the commitment that this Federal Reserve, and Alan Greenspan in particular, has had to the objective of price stability. We have finally reached the point where we have attained price stability, and we are talking about tinkering around with legislation that could lessen the influence of the Federal Reserve.

As Senator DOMENICI indicated earlier, as you lessen that influence, you are going to increase the influence in the executive branch over the banking industry and monetary policy in this country. That would be a tragedy.

I ask my colleagues who may be wavering on this issue, this is not a choice between Secretary Rubin or Alan Greenspan or commercial banks. This is a decision about monetary policy in this country and who should, in fact, have control of it.

I ask you to support the position outlined by the chairman of the Banking Committee, Senator GRAMM.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Alabama.

Mr. SHELBY. How much time do I have?

The PRESIDING OFFICER. Four minutes 53 seconds.

Mr. SHELBY. Mr. President, I will be brief.

First, I point to the fifth paragraph of the Greenspan letter to Chairman GRAMM. It says, basically, that foreign bank-owned section 20 companies have substantially underperformed U.S.-owned section 20 companies. He goes on to say, ''The subsidy does not travel well.''

Are you suggesting the subsidy travels from New York to London but not London to New York? In other words, not from foreign banks to the United States? The Federal Reserve's own letter says the subsidy is nontransferrable.

Safety and soundness? In Chairman Greenspan's own words, he says:

> My concerns are not about safety and soundness. It is the issue of creating subsidies for individual institutions which their competitors do not have. It is a level playing field issue. Nonbank holding companies or other institutions do not have access to that subsidy, and it creates an unlevel playing field. It is not a safety and soundness issue.

That is Chairman Greenspan's own words.

Lastly, is this a power grab? This legislation makes the Federal Reserve the monopoly umbrella regulator. I do not have to educate the distinguished chairman, who is a smart Ph.D. economist, on the abuses of a federally sanctioned monopoly. He has talked about it since I have known him, and he is right on that.

My amendment would allow for competition for banks to choose their regulator. It does not mandate that any bank in the United States must conduct such activities in an operating subsidiary. It allows the bank to choose.

I am sure a free market economist like Senator GRAMM understands more than I do the benefits of market discipline. Competition among regulators will not allow a national bank regulator to run amok.

Does Chairman Greenspan support the bill? Of course. We are granting him a monopoly. We are granting his successor a monopoly, whoever that is. I can't believe that Chairman GRAMM, a distinguished economist in his own right, is advocating a monopoly.

This amendment I am offering will promote competition. It promotes choice. I hope my colleagues will support it.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I guess the best place to conclude is to quote the principals in this debate. Secretary Rubin before the House Commerce Committee said:

> [O]ne of an elected Administration's critical responsibilities is the formation of economic policy, and an important component of that policy is banking policy. In order for the elected Administration to have an effective role in banking policy, it must have a strong connection with the banking system.

What is being said here is that the Secretary of the Treasury believes that the President should exercise more control over the banking system. Now, if you believe the time has come to turn back the clock to 1913 and take banking policy away from the independent Federal Reserve, you agree with Secretary Rubin. I do not agree with Secretary Rubin. The fact that I do not agree has nothing to do with the fact that he is a Democrat and Bill Clinton is President. I do not believe any President should have control of banking policy. We decided in 1913 to put it in an independent agency, and that should not change.

All of you know that Alan Greenspan is not prone to overstatement—quite the contrary—but Alan Greenspan has said that he and every member of the Board of Governors of the Federal Reserve, most of them appointed by President Clinton, are firmly of the view that the long-term stability of U.S. financial markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than adopting this amendment.

Now, that is as clear as you can make this debate. It is partly about risk. It is riskier to be in the securities business inside a bank than it is outside the bank, when the taxpayer guarantees the bank depositors. That is part of the reason to vote no on the Shelby amendment. You do get a subsidy for a bank when they are doing activities inside the bank, instead of having to take capital out and investing it like everybody else. And if you are worried about a level playing surface, that is a reason to vote against the SHELBY amendment. But finally, if you believe that the Federal Reserve ought to conduct banking policy, and not the Treasury, that is the strongest reason to vote against the Shelby amendment.

Finally, two points: No. 1, if my colleagues will vote to table the Shelby amendment, we will work in conference to preserve the primacy of the Fed to deal with problems of unfair competition and subsidy, and yet try to find a way to let banks choose between operating subsidiaries and affiliates, to do these activities inside the bank or out.

Secondly, as hard as I have worked on this, and as strongly as I feel about it, given Alan Greenspan's position and given that I believe he is right, we are not going to pass this bill tonight if we adopt the Shelby amendment. So I urge my colleagues, if you want this bill, if you want an independent banking policy, give me an opportunity in conference to sit the Secretary of the Treasury down and sit the head of the Federal Reserve down and give us a chance to come up with ways to do op-subs without letting the Treasury take over banking policy.

We can do that by simply not changing the regulator based on whether you have a holding company or not, or what the holding company does. And we can find ways to require banks to have good capital and to see that the subsidy doesn't exist. But to do that, we need to defeat this amendment and pass this bill.

I know my colleagues are tired of being cajoled. They think a lot of overstatements have been made. I simply would like to say, from my part, I believe this is a critical vote. If you think passing the Federal Reserve Act was a good thing, if you think we prospered under an independent banking authority—and I do—then you want to vote ''no'' on this amendment.

That doesn't mean that we can't later come up with a way of trying to do this that works, and I pledge to my colleagues my best effort in conference to do that. But we can't do that if we can't pass this bill. And we can't pass this amendment and pass this bill. So that is where we are. I know people have commitments out everywhere, and they are going to make somebody mad no matter what they do. But there is an old adage my grandmother used to say: ''If you are going to catch hell no matter what you do, do the right thing.'' That is what I ask my colleagues to do—the right thing.

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

The PRESIDING OFFICER. All time has been yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

Mr. SARBANES. I object.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The legislative assistant continued with the call of 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, I will use my leader time to make a few remarks on this amendment prior to the time we have our vote.

I am very appreciative of the efforts made by the distinguished Senator from Alabama and the Senator from Maryland and for their extraordinary leadership in offering this amendment. I am proud to be a cosponsor.

We call this proposal the American Bank Fairness Amendment. It is cosponsored by a number of our colleagues on both sides of the aisle. On this side, the Senator from Rhode Island, Mr. REED, is a leading expert and a long-time champion of this measure. We are grateful to him for the work he has done.

In a nutshell, this amendment, as my colleagues have noted, would give American banks the freedom to organize their activities in a way that makes the most sense to them. That is basically what it is. It is that simple. Let's give the banks the freedom and the opportunity to make their own choice. We are not going to have Government tell them what is the best choice; we are going to let them make up their own minds. Instead of forcing the banks to organize using an expensive holding company structure, as the underlying bill does, our proposal simply gives banks an option. They can conduct activities through a holding company, or they can conduct their activities through an affiliated operating subsidiary.

By giving banks this choice, our amendment will lead to better services at lower costs for all sorts of financial services, from banking to brokerage services to insurance.

I want to talk about two specific points—two specific and substantial ways in which our amendment improves on the pending bill.

On the issue of safety and soundness, our proposal is actually stronger than the bill offered by the chairman. That is not my assertion. The current Chairman of the FDIC and his four predecessors—three Republicans and two Democrats—all agree. They say that banks face greater risks if forced to use the holding company structure.

I think everybody ought to know here that we are talking about an entirely new system. We are talking about moving into uncharted waters. We are talking about making sure that each financial institution has the best option available to it to make the best choice. What we are saying is that as a financial institution makes the choice as it goes into all these uncharted waters, the most important thing we can do is guarantee its safety and soundness.

What are we getting? We are getting a virtually unanimous report from the FDIC Chairmen—the current one and four predecessors—that we are using an option here advocating a position that creates more safety and soundness than we have in this bill.

So if you want safety and soundness, vote for this amendment.

Mr. President, the chairman's bill exposes banks. And I have to say because it exposes banks, it exposes taxpayers to greater risks than our alternative.

There are two reasons for that. First, subsidiaries are assets of the bank. They can be sold to satisfy creditors. Affiliates are not considered bank assets.

The second reason subsidiaries are safer is because profits from a successful bank subsidiary accrue to that bank. But the profits from a company that is part of a holding company do not directly benefit the bank.

Mr. President, it is no secret that of all the issues pending before us, one of those issues into which our Treasury Secretary has put the greatest amount of time and the greatest amount of effort, because he is so concerned about safety and soundness, is this. He wants a tough bill when it comes to safety and soundness. He agrees with the FDIC Chairman and her predecessors, that if we are going to have strong safety and soundness, it is absolutely critical that we ensure we have the structure available to make it happen.

Even Fed Chairman Greenspan, who the chairman likes to cite in connection with this bill, agrees that safety and soundness is not the issue here.

In his exact words, ''My concerns are not about safety and soundness. . . . It is not a safety and soundness issue.''

Our proposal corrects a second serious flaw in the underlying bill as well. It does so by giving American banks the same freedom as foreign banks to choose their operating structure.

It is absolutely astounding to me that the chairman, who talks so passionately about free markets, actually dictates in his bill how financial services companies must organize their activities. He gives them one—and only one—choice, which means he gives them no choice at all.

Forcing activities into affiliates would place American banks at a competitive disadvantage not only in the international markets; it would actually place American banks at a disadvantage in America.

We already give foreign banks the freedom to choose the structure that best serves the business plan. Since 1990, the Federal Reserve has issued approvals for 18 foreign banks to own subsidiaries that engage in securities underwriting activities in the United States. All told, I am told these foreign-owned subsidiaries exceed $450 billion in assets.

In a 1992 joint report on foreign bank operations, the Federal Reserve Board and the Treasury Department agreed that ''subject to prudential considerations, the guiding policy for foreign bank operations should be the principle of investor choice.''

The bottom line, therefore, Mr. President, is this: The chairman's bill discriminates against American banks in favor of foreign banks. We say that is wrong. Our amendment levels the playing field. Safety and soundness, basic fairness, these are the important issues that are underlying this amendment that we will be voting on in just a couple of minutes.

There is one other important point we need to consider. The President made it absolutely clear that he will veto the financial services modernization bill unless we fix the problem with operating subsidiaries. So the choice is ours—or perhaps I should say it is the chairman's choice.

Does he really want a bill badly enough to negotiate and find some solution? Does he want a bill badly enough to give up some potential leverage he might get in conference to deal with this legislation in a way that allows us to focus on the real problems?

I hope he will reconsider what threats he has made to pull this bill if his position does not prevail on this amendment.

Let's recognize for the good of our country, for the good of our financial institutions, for the good of choice, for the good of safety and soundness, for moving this bill along, that we only have one choice. It is to pass this amendment, and I hope we will do it tonight.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I move to table the Shelby 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 of the Senator from Texas to table the amendment of the Senator from Alabama. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—53

| | | |
|---|---|---|
| Abraham | Frist | Nickles |
| Allard | Gorton | Roberts |
| Ashcroft | Gramm | Roth |
| Bond | Grassley | Santorum |
| Brownback | Gregg | Schumer |
| Bunning | Helms | Sessions |
| Burns | Hutchinson | Smith (NH) |
| Byrd | Hutchison | Smith (OR) |
| Chafee | Inhofe | Snowe |
| Collins | Jeffords | Specter |
| Coverdell | Kyl | Stevens |
| Craig | Lott | Thomas |
| Crapo | Lugar | Thompson |
| DeWine | Mack | Thurmond |
| Domenici | McCain | Voinovich |
| Dorgan | McConnell | Warner |
| Enzi | Moynihan | Wellstone |
| Feingold | Murkowski | |

NAYS—46

| | | |
|---|---|---|
| Akaka | Edwards | Leahy |
| Baucus | Feinstein | Levin |
| Bayh | Graham | Lieberman |
| Bennett | Grams | Lincoln |
| Biden | Hagel | Mikulski |
| Bingaman | Harkin | Murray |
| Boxer | Hatch | Reed |
| Breaux | Hollings | Reid |
| Bryan | Inouye | Robb |
| Campbell | Johnson | Rockefeller |
| Cleland | Kennedy | Sarbanes |
| Cochran | Kerrey | Shelby |
| Conrad | Kerry | Torricelli |
| Daschle | Kohl | Wyden |
| Dodd | Landrieu | |
| Durbin | Lautenberg | |

ANSWERED ''PRESENT''—1

Fitzgerald

The motion was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, while there are so many Members on the floor, I want to engage the chairman of the committee in a discussion and maybe we can let Members know where we are going.

This was the last of the very large—I do not want to suggest that any amendment any Member has to offer is not a large amendment; I recognize that, but this was the last of a series of large amendments that we had lined up. I know the chairman and leader's intention is to try to finish this evening. As I understand it, there are some amendments around. I guess we will find out very shortly. Maybe we can dispose of them or deal with them in a fairly reasonable way in a short period of time and then go to the final vote on this bill.

As I understand it, the leader said that if we voted final passage tonight, there would be no votes tomorrow. Members, I think, would have to figure whether it is worth investing a little more time this evening in order to finish up. That is how I see the lay of the land. I just ask the chairman to comment.

Mr. GRAMM. We have a cleanup amendment. I think it is ready. We can do it. I hope there are no other amendments, and I am ready to vote. I yield to Senator BRYAN.

Mr. BRYAN. If I may engage the floor manager and the distinguished chairman, I have an amendment, and I would like about 10 to 15 minutes. I do not intend to ask for a rollcall vote.

Mr. GRAMM. Can the Senator let us move ahead for the convenience of everybody who have flights and have you do that after the vote? If the Senator can do that, it would be very much appreciated.

Mr. BRYAN. I want to accommodate the Senator in any way I can. I want to make sure what I am agreeing to. There are several other Senators who may have amendments. I do not want to be at the end. I am simply willing to yield for the purpose of the amendment.

Mr. GRAMM. If there is no other amendment, if the Senator can do that, I am sure Members will accommodate and I will stay and listen to it if he would like me to.

Mr. BRYAN. I am not sure I understand. I want to offer the amendment before we have a final rollcall vote itself.

Mr. GRAMM. Can the Senator offer it and, if he is going to withdraw it, withdraw it and then speak after the vote? Can that be done? If not, let's go ahead and start.

Mr. BRYAN. I am willing to enter into an agreement of 10 minutes.

Mr. GRAMM. All right. Whatever works, I am willing to do.

Mr. WELLSTONE. Before my colleague starts, I do have an amendment.

The PRESIDING OFFICER (Mr. ENZI). There is a pending amendment, the Dorgan amendment No. 313.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. BENNETT. I have two amendments at the desk that I believe will be accepted by both sides after modification. I would like the opportunity to call those up before the final vote.

Mr. GRAMM. If the Senator will let us just work on them and put them in the managers' package and we will do them all at once, if he can get those to us.

Mr. BENNETT. I will do that.

Mr. LEVIN addressed Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I have an amendment which I am likely to offer, but I need to engage in some floor discussion with the managers prior to making that decision. I think it may take about a half an hour to an hour to go through a discussion with the managers on this subject.

It is a very important subject. It has to do with whether or not the SEC is going to be able to regulate the purchase and sale of stock when they are done by banks. The SEC sent me a letter yesterday strongly objecting to language in this bill, and what they are pointing out is that the language in the committee report is different from the language in the bill.

I want to talk to the managers about an amendment which would incorporate in the bill what the committee report says is the intent of the bill. It is possible that this will be accepted because this is committee report language which I am trying to get into the bill, but I do not know until after we go through the discussion process on the floor. I just want to alert colleagues that could take perhaps a half an hour to an hour.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, just on the order of business, I have an amendment I was going to offer with Senator HARKIN. I know colleagues want to leave. I need to talk with Senator HARKIN and make a decision as to what we want to do here, if the manager can give us a couple of minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken to both managers of the bill. Senator DORGAN and I have an amendment. It is simple in nature. I think it is something that should be accepted. It is something that could be reviewed in conference. It would require an independent audit of the Federal Reserve Board. Otherwise, we will offer that amendment. It will not take long.

Mr. GRAMM. If the Senator will give us that amendment and let us look at it, we might be able to include it in the managers' package.

Mr. SARBANES. I suggest to the chairman, maybe if we take about 5 or 10 minutes to engage in a discussion with the people who have these amendments, we can find a way to perhaps accept some of them and go to conference with them at least and deal with the others, and then we can still move to final passage this evening and complete this legislation, which I think is highly desirable.

Mr. GRAMM. I agree with that. The thing to do is to plow ahead. Is the distinguished Senator from Nevada going to withdraw the amendment?

Mr. BRYAN. Yes.

Mr. GRAMM. Can I suggest, again, the Senator offer the amendment and speak for a couple of minutes and withdraw it, and then after the vote, if he wants to speak longer on it, he can. Will that work? If not, go ahead and speak.

Mr. BRYAN. Mr. President, I will be willing to do that. Can I have a little flexibility, if you are still trying to work things out. I am not trying to delay this.

Mr. GRAMM. Let's just start.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 316

(Purpose: To give customers notice and choice about how their financial institutions share or sell their personally identifiable sensitive financial information, and for other purposes)

Mr. BRYAN. Procedurally, I ask unanimous consent to lay aside the pending amendment, and I ask that an amendment dealing with personal privacy be sent to the desk for immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN] proposes an amendment numbered 316.

Mr. BRYAN. 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 150, after line 21, add the following:

**TITLE VII—FINANCIAL INFORMATION PRIVACY**

**SEC. 701. SHORT TITLE.**

This title may be cited as the ''Financial Information Privacy Act of 1999''.

**SEC. 702. DEFINITIONS.**

In this title—

(1) the term ''covered person'' means a person that is subject to the jurisdiction of any of the Federal financial regulatory authorities; and

(2) the term ''Federal financial regulatory authorities'' means—

(A) each of the Federal banking agencies, as that term is defined in section 3(z) of the Federal Deposit Insurance Act; and

(B) the Securities and Exchange Commission.

**SEC. 703. PRIVACY OF CONFIDENTIAL CUSTOMER INFORMATION.**

(a) RULEMAKING.—The Federal financial regulatory authorities shall jointly issue final rules to protect the privacy of confidential customer information relating to the customers of covered persons, not later than 270 days after the date of enactment of this Act (and shall issue a notice of proposed rulemaking not later than 150 days after the date of enactment of this Act), which rules shall—

(1) define the term ''confidential customer information'' to be personally identifiable data that includes transactions, balances, maturity dates, payouts, and payout dates, of—

(A) deposit and trust accounts;

(B) certificates of deposit;

(C) securities holdings; and

(D) insurance policies;

(2) require that a covered person may not disclose or share any confidential customer information to or with any affiliate or agent of that covered person if the customer to whom the information relates has provided written notice, as described in paragraphs (4) and (5), to the covered person prohibiting such disclosure or sharing—

(A) with respect to an individual that became a customer on or after the effective date of such rules, at the time at which the business relationship between the customer and the covered person is initiated and at least annually thereafter; and

(B) with respect to an individual that was a customer before the effective date of such rules, at such time thereafter that provides a reasonable and informed opportunity to the customer to prohibit such disclosure or sharing and at least annually thereafter;

(3) require that a covered person may not disclose or share any confidential customer information to or with any person that is not an affiliate or agent of that covered person unless the covered person has first—

(A) given written notice to the customer to whom the information relates, as described in paragraphs (4) and (5); and

(B) obtained the informed written or electronic consent of that customer for such disclosures or sharing;

(4) require that the covered person provide notices and consent acknowledgments to customers, as required by this section, in separate and easily identifiable and distinguishable form;

(5) require that the covered person provide notice as required by this section to the customer to whom the information relates that describes what specific types of information would be disclosed or shared, and under what general circumstances, to what specific types of businesses or persons, and for what specific types of purposes such information could be disclosed or shared;

(6) require that the customer to whom the information relates be provided with access to the confidential customer information that could be disclosed or shared so that the information may be reviewed for accuracy and corrected or supplemented;

(7) require that, before a covered person may use any confidential customer information provided by a third party that engages, directly or indirectly, in activities that are financial in nature, as determined by the Federal financial regulatory authorities, the covered person shall take reasonable steps to assure that procedures that are substantially similar to those described in paragraphs (2) through (6) have been followed by the provider of the information (or an affiliate or agent of that provider); and

(8) establish a means of examination for compliance and enforcement of such rules and resolving consumer complaints.

(b) LIMITATION.—The rules prescribed pursuant to subsection (a) may not prohibit the release of confidential customer information—

(1) that is essential to processing a specific financial transaction that the customer to whom the information relates has authorized;

(2) to a governmental, regulatory, or self-regulatory authority having jurisdiction over the covered financial entity for examination, compliance, or other authorized purposes;

(3) to a court of competent jurisdiction;

(4) to a consumer reporting agency, as defined in section 603 of the Fair Credit Reporting Act for inclusion in a consumer report that may be released to a third party only for a purpose permissible under section 604 of that Act; or

(5) that is not personally identifiable.

(c) CONSTRUCTION.—Nothing in this section or the rules prescribed under this section shall be construed to amend or alter any provision of the Fair Credit Reporting Act.

Mr. BRYAN. I thank the Chair.

Mr. President, earlier today, the Senate adopted an amendment offered by the distinguished chairman of the Banking Committee dealing with the fraudulent procurement of personal information by information brokers. Last Congress, Senator D'Amato and I offered an identical provision, and we were successful in incorporating that in last year's financial modernization bill, H.R. 10.

Unfortunately, that measure died along with H.R. 10 which was filibustered at the end of the last session. I commend the Senator from Texas. The antifraud provision is a good first step, but as Senator SARBANES articulated earlier today, it is in no way a substitute for meaningful privacy protections.

The Gramm amendment deals with a small, but pernicious, group of information brokers that obtain personal information under false pretenses. This practice should be shut down. In fact, the Federal Trade Commission recently brought action against such practices.

While thousands of Americans are harmed by fraudulent information brokers, each and every American who has a bank account, stock portfolio or an insurance policy is subject to a massive invasion of his or her personal privacy that cries out for legislative remedy.

I applaud the fact that the chairman has indicated we are going to hold a series of hearings.

I applaud the chairman's promise to hold a series of hearings on the financial privacy issue. Many of us who worked on the Community Reinvestment Act would have hoped we might have had similar opportunities before moving forward with the CRA changes in this bill.

While the chairman's amendment and his hearings are good first steps, I encourage us to take one more step that Senator SARBANES and Senator DODD and I have been urging for some time.

My amendment is quite simple. What we are talking about is financial privacy. I want to make it very clear that I am a strong supporter of the restructuring bill that is before us, the financial modernization. I freely acknowledge and recognize that we need a regulatory framework which comports with the realities of the marketplace today.

So my purpose in offering this amendment is in no way to denigrate the need to make the kind of changes which essentially are outlined in S. 900, or a part of H.R. 10 in the previous session. But I think my colleagues and the American people would be absolutely shocked if they knew how little privacy they have in their personal financial information with the very people who are going to be players in this financial reorganization—banks, security brokerages, and insurance.

Here is what the American people have to say on the issue of privacy. When asked recently: ''Would you mind if a company you did business with sold information about you to another company?'' Ninety-two percent said yes, they would object to it. The source of that information is the AARP.

Let me cite an illustration of precisely what does occur and will continue to occur. This is a financial transaction, I say to my colleagues, that occurred at a bank. A lady came in and deposited $109,451.59. At this bank, teller No. 12 made the following notation: ''She came in today,'' referring to the depositor, ''and wasn't sure what she would do with her money.'' That is the bank teller.

This bank has a relationship with a brokerage house. Here is what the teller then did. The teller then contacts ''David''—David is the individual with the brokerage house—and says, ''See what you can do! Thank you.''

So in effect the privacy of this individual's personal bank account is compromised, as the bank teller then notifies the brokerage house: ''You'd better get ahold of this lady. She has $109,000. She doesn't know what she wants to do with it. You contact her.''

This is a real-life situation. Under the current law—under the current law—your information with respect to your insurance accounts may be freely sold to a third party, or maybe transferred to an affiliate under the proposed arrangements that are contemplated in this bill. Your bank account information can be sold to a third party—a total stranger to you and to your financial transaction.

So you have a situation in which all of a sudden you have a certificate of deposit that is coming due next month, and you start to get a stream of information from vendors who are marketing financial services and saying, ''Mrs. Smith,'' ''Mr. Jones, I know your certificate of deposit is due next month. Let me show you what our financial package can provide for you.'' And you are saying, ''How does this outfit know that I've got a certificate of deposit that is maturing next month?'' And the answer is, that information can be sold to a third party, and that information is valuable to a particular vendor of services.

So the amendment that we propose does two things: No. 1—and I do not see how you can argue against this proposition—

The PRESIDING OFFICER. The Senate is not in order. If conversations do not relate to the bill at hand, would you please take them into the other room. The Senator deserves consideration. Would conversations near the Senator please cease.

Mr. BRYAN. I thank the Presiding Officer.

The point that I was making is that your financial information with respect to insurance brokerage accounts and bank accounts is not protected under the present law. That information can be sold or marketed to a total stranger. An outfit, for example, that may be selling penny stocks all of a sudden contacts you and says, ''Look, I know you've got a certificate of deposit or bank account with a sufficient balance involved.''

So what we are proposing in this amendment is something very hard to argue against. We are saying that with respect to these financial organizations—banking, insurance and brokerage—that they cannot sell to a total stranger, a third party, without your consent. What is wrong with that?

So rather than being able to sell to any vendor your very personal and private information—your insurance coverages, whatever information might be available about any medical condition that you might have, your brokerage account, your bank account—cannot be sold to a third party without your prior consent. I suspect if you ask the American people—Democrat, Republican, independent, whether they are to the right of center or to the left of center or in between—you would get almost a unanimous vote that would say, ''That is what I want as a protection for my privacy.''

I understand that in this modern consolidation of financial services the thrust of this bill is going to permit banks and insurance and brokerage to be involved in affiliated relationships. I understand that. So we are told, ''Do not, Senator, do anything that would impair or compromise the synergy of the marketplace. Don't do that.''

Well, this is what we propose with respect to those affiliate arrangements. This would not be a total stranger or a third party. If they are going to transfer and make available that information, they need to notify you and give you the opportunity to opt out. They do not have to get your prior consent, but they have to give you the right to opt out.

That concept is recognized in the law. Many of you will recall that I took the lead some years back in securing amendments to the Fair Credit Reporting Act. And we said there, with respect to information that is collected, with respect to your credit history, that before that information can be made available for marketers and others, they need to notify you where that information came from and that you had the right, after receiving a solicitation, to say, ''Look, no more. Take me off the list'' in effect the right to opt out.

So that is what we are proposing in this amendment—An absolute requirement that if the information is made available to a total stranger, a third party, that has no affiliate relationship, a vendor of any number of financial services, they must obtain your prior consent; that if the information, the financial information, is to be transferred from one of their affiliates, they need to give you the opportunity to opt out if you choose to avail yourself of that option. Now, I am hard pressed to understand why anybody would object to that. I think any one of us would be somewhat surprised to know that our bank accounts, our insurance, and our brokerage accounts can be made available to anyone under the existing law. If we are going to provide these new financial services, which I believe we ought to provide to recognize the change in the marketplace, that does not strike me as being an unreasonable proposition to advocate.

So this is a provision that I think needs attention. I must say that the ranking member has taken a lead on this. He has been a strong advocate, as has the senior Senator from Connecticut. I know he had a question or two to which I would be happy to respond.

Mr. SARBANES. If the Senator will yield, I commend the Senator for his very strong statement. This is an extremely important issue. I appreciate the Senator speaking out on it. We have joined together, actually, in introducing legislation on this privacy question, along with Senators LEAHY and DODD and HOLLINGS. Earlier today we raised the issue with the chairman.

I think it would probably be helpful if the chairman could provide—the Senator may want to question him himself—the similar assurances he gave earlier about the committee committing itself to examining this issue in a comprehensive way, with hearings and with the idea in mind, of course, to try to bring forth legislation that will address what the chairman himself has conceded is an important issue that needs to be addressed.

Mr. GRAMM. Will the Senator yield?

Mr. BRYAN. The Senator is pleased to yield.

Mr. GRAMM. The Senator was not on the floor today when I offered the amendment which adopted the provisions that were in the Sarbanes substitute. I said at the time that I did not believe it solved the problem. I committed to hold extensive hearings. I committed to allow anyone who had any kind of substantive opinion to express it, and I committed that we would take a hard look at it.

This whole issue is a very serious issue, and it is one we have to learn to live with. It is one about which I share a great deal of concern with others.

Mr. BRYAN. Mr. President, I appreciate the Senator's commitment. If I might engage the distinguished chairman in a follow-up inquiry—I know the Senator is trying to process this bill. As Henry VIII said to his third wife, I shall not keep you long—the question I have of the able chairman is, Would the Senator not agree that before a financial services institution sells personal information about your bank accounts, your insurance policies, about your brokerage accounts, it is not unreasonable that they get your consent before doing so?

Mr. GRAMM. Well, if the Senator will yield, first of all, we adopted some provisions today from the Sarbanes substitute that were a first step.

Mr. BRYAN. Yes.

Mr. GRAMM. But I made it clear they were only a first step. I believe as a matter of principle they should. If the Senator will take yes for an answer, I will say yes.

Mr. BRYAN. The Senator is delighted to take yes for an answer. I am most appreciative of the response.

If the able chairman is saying that perhaps my time has expired, I will be happy to yield the floor in just a moment. I inquire whether or not the ranking member has further colloquy he wishes to engage me in.

Mr. SARBANES. I simply want to underscore, the importance of this issue and the contribution which the very able Senator has made to it. Isn't it correct, most people don't realize these things can happen?

Mr. BRYAN. I say to the senior Senator from Maryland, not only do they not realize it, they are absolutely dumbfounded and amazed. Most people believe that in the world of high finance, brokerage accounts, insurance and banks, there is a system of Federal law that protects their privacy. I say to the Senator from Maryland, we all recognize that we are entering a new era of financial transactions, the Internet; computers have transformed the way in which we transact our business; the old green eyeshade guys are gone.

Today the right of privacy as we know it in America is threatened, I say to my friend from Maryland. More than a century ago the able, later Justice of the U.S. Supreme Court advocated, in a Harvard Law Review article, a right of privacy. That right was later enshrined in subsequent opinions of the U.S. Supreme Court.

I think the very essence of a right of privacy ought to be your personal financial information—how much money you have in your bank account; to whom you choose to make payments; your insurance coverages; any medical conditions that might be a part of that insurance record; what stocks and bonds and securities you hold; when those certificates of deposit might mature. To say that all of that can be sold, transferred without your knowledge, without your consent, to some total stranger who may not, I say to my friend from Maryland, be a legitimate vendor—we don't know who these guys might be. All of a sudden you get a ton of mail coming in and saying: Mrs. Smith, I know your husband just died last year, and I know you have some certificates of deposit. They are getting a 5-percent return. As a widow, you need to know, if you invest with us, we can quadruple that rate of return.

That is what is happening, I say to my friend from Maryland. That is something that I think is appropriate for the Congress and the Federal Government to say, that is wrong.

I appreciate the leadership of the ranking member on this. This is something that ought not to divide us, Democrat or Republican, liberal or conservative.

Mr. SARBANES. The Senator is absolutely right. I want to make it very clear, the provision that was adopted earlier today was an antifraud provision. It was designed to get at people who get this information by fraud. The fact of the matter is, under the current arrangements there is no restriction that precludes a financial institution from providing this information or selling this information to others.

I think you are absolutely right; people would be dumbfounded to know that this information they are giving to their financial institution has no privacy protections around it. I think it is extremely important, as the Senator has emphasized, to establish such protections.

It has an issue of some complexity to it. We need to work through it. I think the hearings that have now been committed to will give us the opportunity to do it. There are many members on the committee on both sides of the aisle who are interested in this issue. I hope we can move forward and bring a significant piece of legislation to the floor of the Senate.

Mr. BRYAN. I look forward to working with the senior Senator from Maryland on this.

Let me say, I am going to withdraw this amendment, because of the lateness of the hour and because we want to move forward to process this.

I say to my friend from Maryland—I know he feels this very strongly—the word should go out tonight from this Chamber to the industry groups that believe this is an issue that is going to go away. It is not going to go away. What we are talking about is the essence of reasonableness and fairness. If you are talking about selling some information or making it available to a total stranger, you as an individual ought to have the right to make that decision. That is something that is fundamental and basic. As an accommodation to these new affiliate arrangements that can be entered into under this new legislation, we say, with respect to any transfers between the affiliates, an opt-out provision is a reasonable compromise.

I encourage our friends from the industry to work with us on this. I say to the Senator from Maryland, because this is not going to go away, we are going to address this issue, and the American people are going to be thoroughly outraged when they become aware that these new arrangements permit this continuation of an invasion of their privacy in the most personal way possible.

Mr. SARBANES. If the Senator will yield, I echo his observation that this is not an issue that is going to go away. Those who are involved need to take a constructive attitude in arriving at effective ways to protect the privacy of the American people. There is no doubt about it.

Mr. BRYAN. I thank the Senator from Maryland. I am prepared to yield the floor.

Mr. President, from a procedural point of view, I would like to withdraw the amendment. May I do so, or do I need unanimous consent?

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I was going to introduce an amendment tonight with respect to low-cost lifeline bank accounts with Senator HARKIN from Iowa and my colleague, Senator SCHUMER from New York. This amendment would require banks that establish a bank holding company under the S. 900 guidelines to offer low-cost banking services to their customers.

I am not going to talk about this amendment at all tonight, except to say I think this is a most important consumer amendment; it is very important to senior citizens and very important to low- and moderate-income citizens.

My understanding, with my colleague from Texas, the chairman, is that we will have an opportunity to bring this amendment up when another banking-related bill comes to the floor, and we will be able to debate this and have an up-or-down vote; am I correct, I ask my colleague from Texas?

Mr. GRAMM. Mr. President, I told both of my colleagues that because in the past when they and others had sought to offer an amendment parliamentary maneuvers had been made to prevent that, on a future banking bill—and as Senator SARBANES noted, we already have reported three banking bills out of the committee. So we will have banking bills—I will guarantee them an opportunity to offer the amendment and to have an up-or-down vote on it.

Mr. WELLSTONE. I thank the chairman. I yield to my colleague from Iowa.

Mr. HARKIN. I thank the Senator from Texas for the assurance that we can offer this amendment later on. Again, this is an important amendment and we can't let it go too much longer. So I hope we will have some kind of banking bill this year. I hope it doesn't go into next year, because consumers are getting gouged. Most people don't carry more than $1,000 in their checking accounts and they are the ones who have to pay the fees. In all my life until just recently, checking accounts used to be free. Now if you have less than $1,000, you pay fees. Who has less than $1,000? It is the elderly, the low-income people; they have to pay the fees to keep the checking accounts. It is not fair.

Mr. SARBANES. If the Senator will yield, the committee has brought out—in fact, it is on the calendar—a regulatory relief bill to lessen the regulatory burdens on the financial institutions, and it seems to me in that spirit of lessening burdens, this basic banking amendment would certainly be an opportune amendment to offer to that bill when it is before the Senate. I am pleased that the chairman has committed to having an up-or-down vote.

I think the Senators are onto a very important issue, and it really is just a basic issue of equity and fairness for small people. I very much appreciate not only their raising it, but insisting that at some reasonable point we be given an opportunity to vote up or down on this important matter.

Mr. HARKIN. I thank the Senator from Maryland.

Mr. WELLSTONE. Mr. President, I also thank the Senator from Texas and the Senator from Maryland. We will certainly bring this amendment to the floor.

Mr. CHAFEE. Mr. President, last night the Senate approved a motion to table the Bryan CRA amendment by a vote of 52–45. I voted in favor of the tabling motion, and would like to take a moment to outline my position on this matter.

What did Senator BRYAN propose in his amendment? The Bryan amendment would have stricken two provisions in the underlying bill related to the Community Reinvestment Act, as follows: (1) the so-called CRA integrity provision and (2) the exemption for small, rural banks. In addition, the Bryan amendment would have conditioned approval of a bank's affiliation with a securities firm or insurance company on CRA compliance.

On this last point, linking approval of new financial activities to CRA compliance, I want to acknowledge Senator BRYAN's efforts to develop a pragmatic approach to this issue. Unlike some of the more far-reaching proposals that have been put forward, this provision would not have expanded CRA to apply to nonbank institutions, nor would it have required holding companies to divest themselves of a bank that falls out of compliance. Despite the relative appeal of this portion of the Bryan amendment, however, I found myself unable to support the overall package.

With regard to the integrity provision, I have long thought that banks that do a good job under CRA should get some credit for it. Under current law, however, a bank with an outstanding CRA rating that seeks to merge or expand potentially is subject to the same challenges from community groups as a bank with a rating of substantial noncompliance. This situation simply is not fair, in my judgment.

Now, the opponents of this provision point out that 97 percent of the banks receive a satisfactory CRA rating, and thus the bill offers the protection of the ''substantial, verifiable information'' standard to nearly every institution in the country. Admittedly, I would prefer to see the integrity provision deal only with ''outstanding'' banks. Unfortunately, the procedural situation did not permit an opportunity to make such a change.

Turning to the small bank exemption, only one financial institution in my state fits the bill's description of a small, rural bank. Nevertheless, I'm sympathetic to the hundreds of tiny banks across the country—institutions with only a handful of employees—that face a daunting, expensive regulatory burden in terms of CRA recordkeeping. In addition, I found particularly persuasive Senator GRAMM's observation that of the 16,380 audits of these small, rural banks in the past nine years, only three have been found to be substantially out of compliance.

I fully recognize the important role CRA has played in expanding the availability of credit in Rhode Island and across the nation. Small business owners, homebuyers, and renters alike have benefitted from the pressure CRA exerts on banks to make loans in neighborhoods they might otherwise overlook. At the end of the day, however, I determined that Senator GRAMM's proposed CRA reforms had some merit to them. For these reasons, I voted against the Bryan amendment.

Mr. MOYNIHAN. Mr. President, we have been debating the subject of banking in the Senate since the 18th century. We began to ask ourselves a question, could we have a national bank, which Mr. Hamilton, of New York, thought we could do and should do. We created one. It had a very brief tenure. It went out of existence just in time that the Federal Government had no financial resources for the War of 1812. So it was reinstituted, as I recall, in 1816 for 20 years, and went out of existence just in time for the panic of 1837. We went through greenbacks. There must have been a wampum period. We went to gold coinage. Then a free coinage of silver dominated our politics for almost two decades, as farmers sought liquidity and availability of credit. Finally, at the end of the century of exhaustive debate, we more or less gave up and adopted what we now call the Federal Reserve System.

To say we debated this matter for a century is certainly true. In the past few years, we have turned our focus to the nonbank bank. You are really reaching for obscurity when you define an issue as we have done, and yet that seems to be the term with which we have to deal.

The issue of the nonbank banks, also referred to as financial modernization, is facing the Senate today. As we consider Chairman PHIL GRAMM's (R-TX) bill I would like to make two points. The first being that we need financial modernization, that depression era banking laws need to be amended. We all agree on that. The second point that I would like to make is that we must do this in a prudent manner—preserve the things which need to be preserved, and remedy the things which need to be remedied.

It strikes me as odd that most corporations are free to engage in any lawful business. Banks, by contrast, are limited to the business of banking. It is generally agreed that the Glass-Steagall Act of 1933 and the Bank Holding Company Act of 1956 need to be amended. Banks, security firms, and insurance companies should be allowed to offer each other's services. They already do by finding loopholes in the law. Congress must catch up, and pass a law that condones this activity. London does it. Tokyo too. Why not New York, which, if I may say, is one of the world's banking capitals?

This is a real problem for the existing banks which find themselves under serious constraints they have lived with under depression-era banking laws. Suddenly, they find that their activities are encroached upon and they are not able to do things that they ought to do, that they are going to need to do, if they are going to survive in a competitive world economy.

Now is the time to modernize our financial institutions. But the bill before us has certain problems. The most serious of which is that it weakens the Community Reinvestment Act. The CRA, enacted in 1977, has played a critical role in revitalizing low and moderate income communities. New York has benefited from this. A Times editorial states that ''in New York City's South Bronx neighborhood, the money has turned burned-out areas into havens for affordable homes and a new middle class. The banks earn less on community-based loans than on corporate business. But the most civic-minded banks have accepted this reduced revenue as a cost of doing business—and as a reasonable sacrifice for keeping the surrounding communities strong.''

It is for this reason that I cannot support Chairman GRAMM's bill. I voted for the Democratic substitute which was offered by Senator SARBANES. This bill too amends Glass-Steagall and the Bank Holding Company Act. But it preserves the CRA. I want financial modernization as much as the next person. But we cannot do it at the detriment of the CRA.

I ask unanimous consent that the New York Times editorial from March 17, 1999 be printed in the RECORD.

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

[The New York Times, Wednesday, March 17, 1999]

MISCHIEF FROM MR. GRAMM

Cities that were in drastic decline 20 years ago are experiencing rebirth, thanks to new homeowners who are transforming neighborhoods of transients into places where families have a stake in what happens. The renaissance is due in part to the Federal Community Reinvestment Act, which requires banks to reinvest actively in depressed and minority areas that were historically written off. Senator Phil Gramm of Texas now wants to weaken the Reinvestment Act, encouraging a return to the bad old days, when banks took everyone's deposits but lent them only to the affluent. Sensible members of Congress need to keep the measure intact.

The act was passed in 1977. Until then, prospective home or business owners in many communities had little chance of landing loans even from banks where they kept money on deposit. But according to the National Community Reinvestment Coalition, banks have committed more than $1 trillion to once-neglected neighborhoods since the act was passed, the vast majority of it in the last six years.

In New York City's South Bronx neighborhood, the money has turned burned-out areas into havens for affordable homes and a new middle class. The banks earn less on community-based loans than on corporate business. But the most civic-minded banks have accepted this reduced revenue as a cost of doing business—and as a reasonable sacrifice for keeping the surrounding communities strong.

Federal bank examiners can block mergers or expansions for banks that fail to achieve a satisfactory Community Reinvestment Act rating. The Senate proposal that Mr. Gramm supports would exempt banks with assets of less than $100 million from their obligations under the act. That would include 65 percent of all banks. The Senate bill would also dramatically curtail the community's right to expose what it considers unfair practices. Without Federal pressure, however, the amount of money flowing to poorer neighborhoods would drop substantially, undermining the urban recovery.

Mr. Gramm argues that community groups are ''extorting'' money from banks in return for approval, and describes the required paperwork as odious. But community organizations that build affordable housing in Mr. Gramm's home state heartily disagree. Mayor Ron Kirk of Dallas disagrees as well, and told The Dallas Morning News that he welcomed the opportunity to explain to Mr. Gramm that ''there is no downside to investing in all parts of our community.''

In a perfect world, lending practices would be fair and the Reinvestment Act would be unnecessary. But without Federal pressure the country would return to the era of redlining, when communities cut off from capital withered and died.

Mr. SANTORUM. Mr. President, I rise today in support of the Senate Banking Committee's bill, the Financial Services Modernization Act of 1999, S. 900.

As a new member to Banking Committee, I am pleased to be part of the Committee's effort to bring this bill to the floor. First, let me commend the Chairman for his hard work and heavy-lifting in crafting a bill that will frame the way financial activities are conducted as we move into the next century. The Chairman began this effort during a very busy and trying time for this body at the beginning of the 106th Congress, and I appreciate his leadership in keeping the Committee focused on our priorities and the work at hand.

Considering the scope of activities covered by a financial services modernization bill, crafting a piece of legislation to update 60 year old laws while allowing flexibility for forward-thinking products is a Herculean task. At the heart of the bill is the matter of addressing structure and regulation of financial services firms. Even a casual observer has taken notice of the changing face of our domestic financial sector over the past several months. While merger-mania has dominated the news, other forces such as changing regulation, court decisions, and market innovation have outpaced current law. And although S. 900 is a work in progress, with accommodations to be made by all interested parties, I believe the time is ripe to pass legislation that allows for the affiliation among the various sectors of the financial services industry. This legislation provides a constructive framework to tackle the issue of financial services modernization while also including appropriate safeguards.

As with most major legislative initiatives, this bill has not been without controversy. Specifically, there has been an ongoing debate about provisions in the bill pertaining to the Community Reinvestment Act (CRA). As many know, the Community Reinvestment Act was enacted by Congress in 1977 and required federally-insured banks and thrifts to make loans in their service areas, including low- and moderate- income communities, consistent with safe and sound banking practices. Compliance with CRA requirements can encompass loans made for the purposes of mortgage lending; business lending; consumer credit; and community investments. The benefit of capital investment and financing in such communities has strengthened parts of our nation that may not have otherwise known their current prosperity. To date, CRA lending has surpassed the $1 trillion mark for investment in low- and moderate-income communities while private sector lending has increased 45% from 1993 to 1997. As I have heard from many community reinvestment groups located throughout the Commonwealth of Pennsylvania, there has been one very positive additional benefit that numbers can't quantify: the relationships formed between members of the banking community and those advocating on behalf of their neighborhoods and communities. These working relationships now aim to meet the mutual goal of jumpstarting the economic viability of urban and rural regions across the United States.

For those very reasons, I chose not to support the amendment offered during mark-up of S. 900 that would have exempted small, rural banks with less than $100 million in assets from CRA requirements. I certainly appreciate the very real concern of added regulatory and paperwork burdens that banks assume to comply with this law. In fact, reforms made in 1997 to the CRA recognized this very problem and streamlined the examination process for small banks with less than $250 million in assets. However, I could not support a wholesale exemption from this Act.

As the Chairman outlined from the beginning of the process of developing a financial services modernization bill, the role of the CRA will be further examined by the Committee in a separate forum. I suspect that a thorough evaluation of CRA successes and shortcomings will be addressed within the context of oversight hearings, and I look forward to participating in that process. While CRA has made significant contributions to the empowerment of marginalized communities, I believe we still need to find the right balance to ensure prosperity for low- and moderate- income neighborhoods and the flexibility for lenders to meet community needs.

Mr. President, while the future of this bill has been linked to the resolution of certain issues, like the CRA, I believe the heart of the debate, financial services modernization, is larger than partisanship. The time has come to make commonsense reform of our nation's financial structure a reality in order to remain the strong competitive force in world markets that our country has so capably demonstrated.

Mr. REID. I rise before you today, not to complicate an already controversial bill, but instead to try to accomplish what I have tried to do through legislation in past years.

This is, to pass legislation requiring an independent audit of the Federal Reserve System, as is standard in every other Government entity in this country.

In fact, back in 1993, Senator DORGAN and I, requested a GAO investigation of the operations and management of the Federal Reserve System.

We were concerned because no close examination of the Fed's operations had ever been conducted.

As you may recall Mr. President, we found out quite a bit about the Federal Reserve.

We found, among other things, that the Fed has a 'slush fund', or what they refer to as a 'rainy day fund,' that they have kept there for over 80 years.

At the time of the GAO investigation, the Fed has squirreled away $3.7 Billion in taxpayer money.

The last report that I have from January 1998, shows that this fund has reached $5.2 billion.

You can bet that figure has gone up since then.

The Fed claims that this 'slush fund' is needed to cover system losses.

Since its creation in 1913, however, the Fed has never operated at a loss.

The report that Senate DORGAN and I requested in 1993 also found that the Interdistrict Transportation Service had been engaging in questionable business activities.

These activities included the awarding of non-competitive contracts for the implementation of Interdistrict Transportation Services, gifts of payments for missing backup and grounded aircraft to nonperforming contractors and a pattern of studied indifference by supervisors to clear evidence of waste, fraud and abuse within its operations.

It was further troubling to find that the activities sanctioned by the Federal Reserve supervisors, was intended to have the practical effect of distorting marketplace behavior by competing unfairly against private sector companies in the air courier business.

In what remains as the first and only independent comprehensive review of the Federal Reserve System, the conclusions reached by the GAO paints a dreary picture of internal Federal Reserve operations and budgeting procedures.

This GAO report that I am referring to, makes a strong case for increased Congressional oversight of the Federal Reserve System operations that are unrelated to monetary policy.

Furthermore, only 1,600 out of nearly 25,000 Federal Reserve employees deal with monetary policy.

I have a Wall Street Journal article and I ask unanimous consent it be printed in the RECORD.

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

[From The Wall Street Journal, Sept. 12, 1996]

SHOWING ITS AGE: FED'S HUGE EMPIRE, SET UP YEARS AGO, IS COSTLY AND INEFFICIENT

IT HAS FAR TOO MANY BANKS, OFTEN IN WRONG PLACES; LOSSES IN CHECK-CLEARING

''POST OFFICE PROBLEM'' LOOMS

(By John R. Wilke)

MINNEAPOLIS.—Construction cranes rising above the Mississippi River hoist the final stone blocks for the elegant new Federal Reserve Bank headquarters here, the latest monument to the U.S. central bank's immense wealth and power.

The $100 million building site on nine acres of prime riverfront, with a 10-story stone clock tower overlooking terraces and gardens. It will offer fortress-like security and robot-attended, automated vaults, plus an indoor pistol range, a fitness center and subsidized dining. The Fed's construction boom also includes the lavish new $168 million Dallas Fed and a planned $178 million Atlanta Fed.

Located in a dozen cities—with branches in another 25—the Fed's palatial banks suggest permanence and importance. They operate with great independence far from the Fed's power center in Washington and, with $451 billion of assets, are staggeringly wealthy. Their job is to run the basic plumbing of the nation's economy by monitoring local banks, distributing currency, processing checks and settling interbank payments.

But the plumbing at the Fed banks seems to be getting rusty, despite their heavy spending. Rapid changes in technology, consolidation in banking and rising competition in some of their basic services threaten to make Fed banks costly relics. Except for the New York Fed, the system's link to world markets, many Fed functions could be centralized at far less cost and some Fed banks could be closed, federal auditors say.

''It's not about saving nickels and dimes,'' says James Bothwell, a General Accounting Office auditor who recently completed a two-year study of the Fed's books. ''There are serious, long-term questions about their mission and structure.''

The Fed's best-known mission—steering U.S. monetary policy and thus charting the course of the economy—isn't at issue. Even its critics hail the Fed's success in holding down inflation.

What concerns some in Congress and its GAO watchdog agency is the sprawling Fed empire, which reaches far beyond its marble headquarters in Washington to maintain a presence in most major American cities. The Fed has 25,000 employees, runs its own air force of 47 Learjets and small cargo planes, and has fleets of vehicles, including personal cars for 59 Fed bank managers. It publishes hundreds of reports on itself each year—even Fed comic books on monetary policy for kids. A full-time curator oversees its collection of paintings and sculpture.

Yet Fed spending gets little public scrutiny, even as the rest of the federal government struggles to tighten its belt. That's because the Fed funds itself from the interest on its vast trove of government securities acquired in its conduct of monetary policy. Last year, it kept $2 billion of those interest earnings for itself and returned the rest, $20 billion, to the Treasury. Thus, every dollar spent on a new building in Minneapolis—or anything else—is a dollar that could have been used to cut the federal deficit. Unlike every other part of government, the Fed doesn't have to ask Congress for money, and that's the key to its independence from political interference on monetary-policy issues.

The Minneapolis Fed would seem a prime candidate for downsizing. Its spending is in striking contrast to the cutbacks and consolidations at many of the commercial banks it serves; only two major banks are left in its six-state district. And its biggest job, processing and clearing checks for local banks, is under increasing pressure from private competitors and new electronic payment technologies.

Without check-clearing, the Minneapolis Fed might not need its costly new building and the hundreds of employees who work three shifts shuffling checks. It could eliminate huge overhead costs and focus on distributing U.S. currency and monitoring the local economy.

The basic structure of the Federal Reserve System has changed little since it was created in 1913, despite huge shifts in the nation's population and economy. Back then, Fed banks were sited according to the politics of the day and the quaint principle that a commercial banker should be able to reach a Fed branch within one-day train ride, in case he needed cash for unexpected withdrawals.

Today, these locations make little sense. Missouri, once an economic and political power because of its riverboat economy, has two Fed banks; booming Florida has none. California and its vast economy have only one Fed bank—which also serves eight other states and covers 20% of the U.S. population. Yet when Fed policy makers meet in Washington, the San Francisco Fed president can vote only one year of three, less often than the presidents from Cleveland or Chicago.

''It reflects the economy and politics of a long time ago,'' says Robert Parry, the San Francisco Fed's president. ''If you were doing it today, you'd do it differently.'' Michael Belongia, a University of Mississippi professor and former Fed economist, says that three Fed banks and 16 branches could be closed and that four other banks could be downsized to branches. He calculates the savings at $500 million a year, even without trimming back the check-clearing businesses.

''The taxpayer pays billions of dollars for this monolithic system that isn't efficient anymore,'' he says.

Fed Chairman Alan Greenspan rejects many GAO findings, especially the idea of closing some Fed banks. He says it would take years to recoup the cost of closing one. ''We're strongly committed to ensuring that the Federal Reserve System is managed efficiently and effectively,'' he said in recent congressional testimony. Most important, he defends the Fed banks' independence as crucial to keeping the Fed free of political interference and aware of regional economic conditions.

Yet he has expressed some misgivings about Fed spending. With the new Dallas building, for example, he said, ''My first reaction was, 'For God's sake, why do you have to build a new building'? Dallas is in a state of commercial real-estate recession. You should be able to pick and choose at zero cost. But he added that he was ultimately persuaded that no existing building met the bank's special needs.

The Fed banks are even less accountable to Congress than the Fed Board of Governors in Washington, whose seven members are appointed by the president and confirmed by the Senate. The 12 Fed bank presidents, by contrast, are chosen by their private-sector boards, though their annual budgets and building plans are subject to review by the governors in Washington. Congress has no say over who runs the regional banks, despite their important role in running the nation's monetary system.

Congress doesn't even set the regional presidents' salaries. The Minneapolis president gets $195,000 a year, and others range as high as $229,000, far exceeding Chairman Greenspan's $133,100.

Even so, only 1,600 Fed employees, including a stable of economists and statisticians, work on monetary policy. Most of the rest, and the lion's share of the Fed's $2 billion budget, go to the Fed banks' check-clearing and other services—the jobs under the most pressure from competitors and changes in banking. The Fed banks also process Treasury checks, but a new law mandating electronic distribution will eliminate 400 million Treasury checks annually in three years.

As their workload dwindles, Fed banks could be left with what insiders delicately term ''the Post Office problem'': They will be handling checks for mostly small, high-cost customers such as rural banks. Already, less than 25% of Fed customers create 95% of check volume. So, the Fed is vulnerable as major banks begin processing more checks through private clearinghouses or other cheaper alternatives, such as Visa International.

At the Minneapolis Fed, check-clearing already resembles the work inside the city's main Post Office nearby. Every day, trucks back up to the Fed's loading dock and drop off pallets of checks. Workers feed them into 25-foot-long automated sorters, and the checks, guided by codes identifying the paying bank, cascade into pouches. Lately, many of the tens of thousands of checks have been small—$2 razor-blade rebates and $4.69 drafts cashed by Huggies diaper customers. Minneapolis handles three million checks a day—a low-margin, labor-intensive business, not unlike delivering the mail.

In most countries, private companies or banks handle check-processing, with central banks playing a supervisory role to ensure the payment system is sound. In the U.S., new players ranging from Microsoft Corp. to Merrill Lynch & Co. are racing to offer electronic alternatives to bank-based payment systems, and some bankers fear the Fed's dominance will impede innovation and leave them behind.

Lee Hoskins, who once ran the Cleveland Fed and now heads Ohio's Huntington National Bank, says the Fed should get out of check-clearing. ''The central bank no longer has a legitimate role as a provider of payment services,'' he says.

Huntington helped start the National Clearinghouse Association, which includes most large U.S. banks and has begun competing head-on with the Fed at lower prices. The Fed is fighting back with a new, lower-priced national check-sorting service and has cut prices in some cities where it is losing market share. As the Fed's volumes have declined, Fed officials concede, its check-clearing failed to cover costs two years ago and fell short again last year. But they say it turned the corner in the first half of 1996.

Despite its problems, the Fed is a tough competitor and has continued investing in check-clearing and other services. It changed the formula used to figure whether or not it is making a profit and made unusual transfers, including some $36 million a year from an overfunded pension plan, into the check business, federal auditors say. It also let at least one Fed bank defer the huge cost of a new computer system so the outlay wouldn't be included in profit calculations, effectively understating the cost of clearing checks.

The Fed has also squeezed smaller firms that haul bank checks in competition with the Fed's own transport service, which flies pouches of checks overnight from bank to bank. It tried to force an aggressive rival, the U.S. Check unit of AirNet Systems Inc., of Columbus, Ohio, from the Florida market by providing its own contractor with subsidized jet fuel, according to documents and depositions collected by Rep. Henry Gonzalez. The Texas Democrat, a longtime Fed critic, says the Fed also subsidizes its higher costs by putting other cargo, such as its own interoffice mail, on its planes, and charging Fed banks for the service.

''I'm not saying they are competing unfairly, but I'd like to know how they cut prices when they're losing money,'' says Andy Linck, administrator at the National Clearinghouse. Under a 1980 law, the Fed is supposed to price services by commercial standards, but its rivals are reluctant to complain. ''We're forced to compete with our own regulator,'' says an executive of a major Western bank with a big check business. ''They can make life pretty difficult for us if we make trouble.''

Fed officials say they play by the rules and use appropriate bookkeeping.

''We're competing fairly—and we're doing it with one arm tied behind our backs,'' says Ted Umhoefer, a check-clearing manager at the Minneapolis Fed. ''I have to charge the same price to the Citizen's State Bank of Pembina, North Dakota, that I charge to them,'' he says, waving toward a big commercial bank in a nearby skyscraper. ''Yet my counterparts in the private sector can cut volume deals with other big banks, leaving us with all the junk they can't make money on.''

In Washington, Fed officials reject the suggestion they should leave check-clearing to private companies. ''That's how the Fed banks make their living,'' says Edward Kelley, the Fed governor who oversees many Fed bank activities and is leading an effort to improve planning and efficiency. ''We'll be in that business until checks disappear or the Congress takes us out of it.'' The Fed grosses nearly $800 million a year from check-clearing and bank services.

Until recently, Chairman Greenspan spent almost all his time on monetary policy and rarely focused on Fed operations. But in recent testimony before Congress, he said he is now ''actively reviewing the appropriate infrastructure for providing certain financial services, taking into consideration both cost efficiency and service quality.'' He said that although he believes the Fed should have a continuing role in the payments system to ensure its integrity—particularly the wholesale cash-transfer system known as Fedwire, which handles $1.5 trillion a day—he hinted for the first time that the Fed might privatize or downsize its retail check business.

''It is quite possible, if not likely, that as changes occur in the financial services marketplace . . . our role in providing other services such as check collection may change.'' But he said something will have to be done to ensure that small banks have access to check services ''because I don't think that they believe they're going to be able to pay the prices (they) will be forced to pay by the market.'' He said Congress may be asked to subsidize these small-bank services so that bank customers in small towns don't have to pay higher check fees.

Officials say the Fed banks already are taking steps to scale back check-clearing and have cut 600 jobs at various locations. But Fed critics contend that the institution is unlikely to undertake the fundamental reform they say is needed because it could require thousands of layoffs—and the loss of substantial prestige.

Prestige seemed important in Minneapolis when Fed officials decided to abandon their grand looking but poorly designed downtown tower. They considered moving to a cheaper, more convenient site by the airport, but that idea was dropped after it raised eyebrows at the Fed in Washington. ''What would we have called it, the Federal Reserve Bank of Eagan, Minnesota?'' one official asks. ''The location is written into the law, and changing it would have required an act of Congress.''

Indeed, that may be what the Fed fears most. ''Do we really want to have 435 congressmen tinkering with what is supposed to be an independent institution?'' asks Ernest Patrikis, first vice president of the New York Fed. Arthur Rolnick, research director at the Minneapolis Fed, says Congress ''didn't have economic efficiency in mind when it created the Fed.'' Above all, he says they wanted a decentralized institution, independent of both big banks and politicians.

''I wouldn't be surprised if a hard look at the system shows that some of Fed branches should be closed,'' Mr. Rolnick adds. ''The market has changed, and the technology has changed. . . . [But] do we really want to fool around with the Fed's independence just to save a few hundred million dollars a year?''

Mr. REID. In this article, it states that the rest of these 25,000 employees deal with the Federal banks' check-clearing and other services.

Also cited in this article is another example of extreme waste by the Federal Reserve—that is, that the Federal Reserve has a fleet of 47 Learjets and small cargo planes.

Furthermore, the Fed publishes hundreds of reports on itself each year that includes something that strikes me as an absurd waste of funds—the Fed publishes a comic book for children on monetary policy—now, Mr. President, I know that we have advanced children in this country, and I'd like to think of my grandchildren as being part of that group, but I don't know many children that have an interest in the Federal Reserve's monetary policy, nor do I know any that would understand it.

Mr. President, this amendment, in requiring a yearly audit, would help ensure, to the American taxpayers, and my constituency in Nevada, that the Federal Reserve is run more efficient and responsibly.

This amendment intentionally leaves monetary policy to Chairman Greenspan and his team.

It is my belief that the economy is great and that Chairman Greenspan is doing a great job.

In fact, many would say that our economy has never been better, which brings to mind the saying ''if it ain't broke, don't fix it.''

Well, Mr. President, while the economy is not broken, much of the inner workings of the Federal Reserve is, and I, along with many others, intend to fix it.

Again, I want to make it very clear—I do not rise before this body today to meddle with monetary policy.

I am not attempting to interfere with, or impugn, the monetary policy of the Fed.

I am seeking greater accountability in the operating expenses and internal management of one of our more influential institutions.

This amendment simply requires a yearly audit that covers the operations of each Federal Reserve bank, the Federal Reserve Board of Governors, and the Federal Reserve System in the form of a consolidated audit.

As my good friend and colleague Senator BENNETT pointed out to me last night, an audit of each of the 12 regional reserve banks is conducted now—however, these audits are not conducted in accordance with generally accepted accounting principles.

For the audits that take place now, the accounting information is given to the auditor by the regional bank staff and the banks basically say, ''accept our figures, that's all you get.''

In short, this amendment requires the Fed to use an independent auditor and for that auditor to use generally accepted accounting practices.

This amendment also requires that the report be made available to Congress, in particular the Committee on Governmental Affairs in this body and the Committee on Governmental Reform in the House of Representatives.

I believe that the Federal Reserve could do more to increase its cost consciousness and to operate as efficiently as possible.

This amendment will be one step closer to that end.

I encourage all Senators to support this amendment and to show our bosses, the American taxpayers, that we are looking out for them by ensuring accountability at the Federal Reserve.

Mr. DODD. Mr. President, I congratulate Chairman GRAMM for the fairness in which these proceedings have been held, and my colleague from Maryland, Senator SARBANES should also be commended for his leadership.

We will soon vote on final passage of S. 900, the Financial Services Modernization Act. I will, unfortunately, be unable to support what I believe in many ways is a very good product.

I am a strong supporter of financial modernization. If the anti-CRA provisions were corrected, I would help to lead the charge in supporting this bill. There are important differences of opinion on various facets of this legislation. We have had good debates on many of these facets.

Although I did not support the amendment offered by Senator JOHNSON to restrict the transferability of unitary thrifts, He should be congratulated for his fine work on the amendment. It is an important issue that I am sure that we will revisit in conference.

The chairman earlier today staked his support of this bill on the outcome of the operating subsidiary amendment which was narrowly defeated. I admire the stand he took and the conviction with which he made his arguments. He should be congratulated for prevailing on his point of view.

I would also like commend Chairman GRAMM for broaching one of the most critical issues that Americans face as we approach the dawning of the new millennium, and that is the steady erosion of the privacy of consumers' personal, sensitive financial information. Although I supported the chairman's amendment that addresses the subject of pretext calling, I believe that it simply does not go far enough.

Several factors have contributed to the erosion of financial privacy. We must examine each of these factors in order to craft legislation that will protect financial privacy in a meaningful, effective way.

Although advances in technology have produced many positive results and benefits for our economy over the years, one of the potential drawbacks has been that they have also facilitated the collection and retrieval of a vast amount and array of citizens' financial information. That personal information has become a very valuable commodity and is being sold and traded among businesses all over the world.

In addition, the formation of new, diversified business affiliations has allowed companies quick access to personal data on each other's customers. Financial modernization legislation, if it becomes law, will only make it easier for companies to share their customers' personal data.

Much of the data ''mining''—searching, collecting, and sorting—and actual use of that personal data is nearly imperceptible to the consumers whose very own information is being conveyed. Companies do not generally tell their customers about the personal data they obtain and they sell or rent.

Current Federal law permits bank affiliates to share information from credit reports and loan applications as long as the customer gets one opportunity to notify the bank not to disclose the information. Most consumers are unaware of this opportunity because the one notice that the company gives them is buried in the fine print in lengthy materials mailed to the customer that most never read.

An even more critical factor causing the erosion of privacy rights is that no current federal law prevents banks from disclosing ''transaction and experience data,'' which includes customers account balances, maturity dates of CDs, and loan payment history.

This erosion of the privacy of our most personal, sensitive financial information can and must be stopped. And we must take action to stop it.

We should have hearings to address these issues so that we may take a very careful look at all of the factors involved, so that we may address them in a careful, thoughtful and meaningful way. I was pleased to hear Chairman GRAMM this morning commit to holding such hearings in the Senate Banking Committee.

I am a coauthor of Senator SARBANES' Financial Information Privacy Act, S. 187, introduced this Congress. This important legislation would require banks and securities firms to protect the privacy of their customers' financial records: their bank account balances, transactions involving their stocks and mutual funds, and payouts on their insurance policies. Customers would be given the important opportunity to prevent banks and securities firms from disclosing or selling this information to affiliates. Before banks or securities firms could disclose or sell the information to third parties, they would be required to give notice to the customer and obtain the express written permission of the customer before making any such disclosure.

I look forward to working with Senator GRAMM and Senator SARBANES on this important issue.

But like my good friend from Texas did for me earlier today, I would like to make something very clear to him—I will not support any bill that weakens the Community Reinvestment Act. Also, I will promise him that no bill that weakens CRA will become law. If we do pass this bill out of this body, let me assure you that as hard as I will fight for financial services modernization, I will fight even harder for preserving CRA.

I know how strongly the chairman feels against the CRA. Let me tell him, that if it is possible, I feel even stronger about preserving the CRA.

I urge my colleagues to reject any and all legislation that fails to preserve CRA.

### BLUE CROSS/BLUE SHIELD OF NORTH CAROLINA

Mr. EDWARDS. Mr. President, I have a particular situation in my State of North Carolina that I want to make sure is not going to be affected by some of the insurance language in this bill.

A few years ago, Blue Cross/Blue Shield of North Carolina was considering converting from non-profit status to for profit. The North Carolina legislature looked into the plan, and decided that if Blue Cross were to convert to for-profit, it should be required to set up a charitable foundation as part of the process. It did so in order to make sure that funding for medical expenses would be available to many North Carolinians who had benefited from the services of the non-profit Blue Cross. During the Banking Committee's consideration of the bill, I was concerned that the earlier insurance language would have preempted the North Carolina law if a bank wanted to affiliate or purchase Blue Cross after the conversion.

As a result of the Senator's amendment during the committee markup, the insurance language in the bill now is quite different. But I want to make sure that my concern about the Blue Cross/Blue Shield of North Carolina conversion law is addressed by the new language in S. 900.

Mr. BRYAN. Mr. President, I believe the situation the Senator describes would fall under Section 104(c)(2) of the bill. That language allows states to take action on required applications or other documents concerning proposed changes in or control of a company that sells insurance, unless the action has the practical effect of discriminating against an insured depository institution.

The concern the Senator voiced is one of the situations we envisioned when we made the changes from the earlier text, and it is my intent that the current language would protect the North Carolina state law on the Blue Cross/Blue Shield of North Carolina conversion agreement.

LOW-INCOME HOUSING

Mr. JEFFORDS. Mr. President, I thank Senator GRAMM for allowing me to discuss an important issue that is quickly becoming a serious national problem—American families, elderly and disabled are increasingly unable to afford, or continue to live in, privately-owned housing units.

Several recent studies have shown that low-income housing opportunities are on the decline nationwide. In Vermont, rents for housing have increased 11 percent in three years, making it increasingly difficult to find affordable shelter. The need to also expand the number of housing units for low-income families is critical as the vacancy rate in areas such as Burlington has fallen to less than one percent. On any given day there are only 60 available rental units in a city of over 40,000 people, making it simply impossible to find a place to live, much less one that is affordable. Such problems are reflected in increased rates of homelessness, as the number of families seeking help from Burlington's emergency shelter rose from 161 in 1997 to 269 in 1998. Even though additional Section 8 federal subsidies will be available next year, the 800 Vermonters on the Section 8 waiting list would be hard pressed to find somewhere to use this voucher should they receive one.

Fewer opportunities for affordable housing are also due to inadequate maintenance. Vermont and the nation desperately need legislation that increases new low-income housing opportunities—whether through new housing construction, rehabilitation of existing housing, additional incentives to keep landlords in the Section 8 market, and expansion of existing tax incentives such as the Private Activity Bond Cap and the Low-Income Housing Tax Credit.

Mr. GRAMM. I thank the Senator from Vermont for his thoughtful remarks. As Chairman of the Committee on Banking, Housing and urban Affairs, which has jurisdiction over federal housing programs, I very much appreciate the Senator's strong interest in affordable housing.

I commend Senator JEFFORDS for bringing to our attention housing conditions which are national in scope and affect rural and urban areas alike. It is very important that we protect our nation's vulnerable populations, particularly the elderly and disabled living on fixed incomes. It is also extremely important that we preserve the American taxpayer's existing investment in affordable housing. Congress must seek to preserve our existing housing stock and protect current residents first.

Mr. JEFFORDS. Mr. President, I am developing legislation that will help preserve existing low-income housing stock, promote the development of new affordable housing, and increase opportunities for the purchase of housing projects by resident councils through a dollar-for-dollar matching grant program. My bill will establish a grant program for states to promote cooperation and partnership among Federal, State and local governments, as well as between the private sector in developing, maintaining, rehabilitating, and operating affordable housing for low-income Americans. These types of initiatives are critical components to meet the growing needs of low-income housing in Vermont and the nation.

While the State of Vermont has largely avoided an overwhelming dislocation of tenants from opt-outs and mortgage prepayments, it is unable to accommodate the hundreds of families that seek new federally subsidized housing opportunities in the State. Reform efforts must focus both on preservation of existing federally subsidized housing units, as well as the creation of new opportunities for families seeking an affordable place to live.

Mr. GRAMM. Mr. President, I applaud Senator JEFFORDS for stepping forward with legislation to address affordable rental housing needs. It is my understanding that the bill which he plans to introduce will present several options for approaching solutions to complex housing problems.

I pledge to work with the Senator from Vermont, Housing and Transportation Subcommittee Chairman ALLARD, and Members of the Senate and House to craft comprehensive solutions to our nation's housing ills. It is imperative that any legislative solutions be fiscally responsible.

Mr. ALLARD. I would like to reiterate Senator GRAMM's remarks and thank Senator JEFFORDS for his interest and insights. As chairman of the Subcommittee on Housing and Transportation, I plan to hold a hearing to examine the need for preservation of affordable rental housing. Specifically, I will focus on the Department of Housing and Urban Development (HUD) Section 8 program with particular attention to prepayment and opt-out issues. I also plan oversight of HUD's implementation of the Multifamily Assisted Housing Reform and Affordability Act.

I would like to invite Senator JEFFORDS to testify at this hearing. I share many of his concerns and appreciate his willingness to work with me on these important issues.

Mr. GRAMM. I thank Senator ALLARD for his diligence and effectiveness as Subcommittee Chairman. The Subcommittee Chairman and I both welcome Senator JEFFORDS' willingness to be a leader for affordable rental housing and look forward to working with him throughout the legislative process.

Mr. JEFFORDS. Mr. President, I look forward to working with the chairmen of the Banking Committee and the Housing Subcommittee to address this growing problem. I thank Senator GRAMM and Senator ALLARD for their kind remarks and I appreciate the opportunity to discuss this issue on the floor today.

Mr. GRAMM. Mr. President, we now have one outstanding matter. We are looking at several amendments. I urge staff to get together on these. Senator LEVIN is trying to work out his language right now.

I would prefer to go ahead and pass the bill tonight rather than put it off. We are going to try to do it quickly. But I hope we don't lose so many people that we would end up not passing the bill. I guess we could move to reconsider and bring it back. But I urge my colleagues with outstanding matters to move quickly. I am going to be here all night. I would be willing to stay here and talk to anybody. A lot of people want and need to leave, but I am not going anywhere. So I am not asking you to accommodate me but to accommodate both our Democrat and Republican colleagues. Please give me your language in the next few minutes so we can move ahead and pass the bill.

Mr. President, 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. GRAMM. 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. GRAMM. Mr. President, let me yield to our distinguished colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, in a moment I am going to send an amendment to the desk. But I want to explain exactly the reason for this amendment.

A couple of days ago, I wrote to the Securities and Exchange Commission and asked them what their reaction was to the bill as drafted in terms of protecting investors. The answer that I got back from Arthur Levitt dated May 5 is that the provisions of the bill raise serious concerns about investors' protection, and, if adopted, could hamper the Commission's effective oversight of U.S. security markets.

The letter also indicated that:

> A loophole exempting bank trust activities from Federal securities laws would, therefore, seriously weaken the commission's ability to protect investors.

And:

> Adoption of the bank trust exemption in S. 900, in addition to other securities provisions

in the bill, would undermine the important investor protections that make our markets the most transparent, most liquid in the world. It is for these reasons that the commission strongly opposes the bill.

Mr. President, I ask unanimous consent that the letter from Mr. Levitt be 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, May 5, 1999.*

Hon. CARL LEVIN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR LEVIN: Thank you for your letter of May 4 requesting the SEC's analysis of provisions in S. 900 related to bank trust activities. As currently drafted, these provisions raise serious concerns about investor protection, and, if adopted, could hamper the Commission's effective oversight of U.S. securities markets.

The bank trust activities provisions in S. 900 would permit banks to act as ''fiduciaries'' without being covered by Federal securities laws. Virtually all bank securities activities will be able to be labeled ''fiduciary'' under the bill, and banks will be able to charge commissions for those securities transactions without being subject to SEC regulation. Under S. 900, a bank and its personnel could have economic incentives—a so-called ''salesman's stake''—in a customer account, without being subject to the strict suitability, best execution, sales practices, supervision, and accountability requirements under Federal securities laws. Fiduciary law also varies by state, and, in many cases, permits investor protections to be lessened, if not eliminated entirely, by contractual provisions. In addition, while broker-dealers are also ''fiduciaries,'' Congress has determined that securities laws should apply to them to provide customers with full investor protections. A loophole exempting bank trust activities from Federal securities laws would therefore seriously weaken the Commission's ability to protect investors.

My main concern with any financial modernization bill is the consistent regulation of securities activities, regardless of where they occur. Adoption of the bank trust exemption in S. 900, in addition to other securities provisions in the bill, would undermine the important investor protections that make our markets the most transparent, most liquid in the world. It is for these reasons that the Commission strongly opposes this bill. Moreover, as I have testified, the securities provisions in all of the bills currently under consideration in both the House and the Senate have been so diluted that the Commission opposes all of them. I appreciate your continued interest in financial modernization legislation and look forward to working with you as the bill moves forward.

Sincerely,

ARTHUR LEVITT,
*Chairman.*

Mr. LEVIN. Mr. President, I also received a letter from the North American Securities Administrators Association. This is the association that was organized in 1919, and consists of the 50 States' securities agencies that are responsible to protect investors.

The letter from the North American Securities Administrators Association indicates very strong problems with this bill, because, in its words, sections 501 and 502 would allow the bank to act as an investment adviser if the bank receives a fee, and ''as currently drafted, despite the claim that S. 900 would facilitate functional regulation of the securities activity in banks, banks will remain largely exempt from regulation as either a broker or dealer under the Securities and Exchange Act of 1934.''

This is very, very troubling. This is a very big issue, because it is stated in the report which accompanies the bill that the bill generally adheres to the principle of functional regulation, which holds that similar activities should be regulated by the same regulator, and that the bill is intended to ensure that banking activities are regulated by bank regulators, securities activities are regulated by securities regulators, and insurance activities are regulated by insurance regulators.

The report that accompanies the bill indicates that the intent is to adhere to the principle of functional regulation, which would mean that securities regulators would indeed regulate securities transactions, but the securities regulators write us that that is not what the bill does because of the way in which the exemption is drafted in the bill; that in effect all purchases and sales of stock by banks could be run through a trust department and be exempt from the Securities and Exchange Commission protection and from local regulations.

That is a major problem with the bill. When you are a securities regulator, and when the people who are there intending to protect the public who are buying stocks indicate strong opposition to the bill based on that, it seems to me that some alarm bells ought to be going off in this Chamber.

Mr. President, I ask unanimous consent that the letter from the North American Securities Administrators Association be printed in the RECORD.

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

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.,
*Washington, DC, May 5, 1999.*

Hon. CARL LEVIN,
*Washington, DC.*

DEAR SENATOR LEVIN: Thank you for requesting the views of the North American Securities Administrators Association (''NASAA'') on proposed Sections 501 and 502 of S. 900, the Financial Services Modernization Act, and specifically, the extent to which these bill provisions would exempt bank securities transactions from state securities regulation and oversight.

Cumulatively, the above-referenced provisions, in conjunction with the proposed repeal of the Glass Steagall Act, would permit banks to offer and sell securities on bank premises through bank employees almost exclusively outside of the purview of federal or state securities regulations. As you have correctly pointed out, Section 502 of the bill proposes to exempt from the definition of securities ''dealer'' activities of a bank generally involving the buying or selling of securities for investment purposes in a fiduciary capacity. The bill goes on to define ''fiduciary capacity'' to include wide-ranging activities that far exceed activities performed under the common law concept of ''fiduciary duty'' traditionally tied to persons acting as trustees. Specifically, in Sections 501 and 502, the term ''fiduciary capacity'' is defined to permit, among other things, a bank to act as ''an investment adviser if the bank receives a fee for its investment advice or services.'' A similar exemption exists from the definition of ''broker.''

Thus, as currently drafted, despite the claim that S. 900 would facilitate functional regulation of the securities activities of banks, banks will remain largely exempt from regulation as either a broker or dealer under the Securities Exchange Act of 1934. In fact, banks will be permitted to conduct ongoing and unlimited investment advisory activities well outside traditional trust department activities, yet will continue to be excluded from regulation as an ''investment adviser'' under the Investment Advisers Act of 1940. Banks would no longer need to establish separate investment advisory affiliates or subsidiaries and would perform such activities in-house.

S. 900 purports to implement and foster functional regulation of banks engaging in securities activities. The reality is that given the breadth of the trust activities exception, there will not be any such activities to functionally regulate. The exception is so broad that all the securities activities in which a bank may wish to engage could be classified as ''trust activities,'' so that the exception would consume the rule. Securities regulators would have nothing to regulate. The ''trust activities'' exception should be limited to those traditional banking activities by a trustee involving fiduciary duty and nothing more. Retail securities business should be conducted by and through registered licensed broker-dealers, investment advisers and their representatives regulated by state and federal securities regulators.

Thank you for your consideration of this very important matter.

Respectfully,

PHILIP A. FEIGIN,
*Executive Director.*

Mr. LEVIN. Mr. President, I ask unanimous consent that the testimony of the Secretary of Treasury Rubin before a House commerce subcommittee be printed in the RECORD.

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

EXCERPTED TESTIMONY OF TREASURY SECRETARY ROBERT RUBIN BEFORE HOUSE COMMERCE SUBCOMMITTEE, MAY 5, 1995

Representative DIANA DEGETTE. [I]n your prepared testimony you say that you continue to believe that any financial modernization bill must have adequate protections for consumers, and you point out that you are hoping that this committee will add additional protections over the bill that came out of the Banking Committee. Are you talking specifically there about the Federal Home Loan bank system and the other issue on affiliations between commercial firms and savings associations, or are there additional consumer protections you would like to see?

Secretary RUBIN. I was referring there primarily to trying to work with the SEC in order to better enable them to perform their function of regulation. Look, the SEC has concerns, and I think they're well taken.

Representative DEGETTE. Me, too.

Secretary RUBIN. I think they're well taken. As you know, this bill was designed to eliminate the exemption from the SEC of these various securities activities they conduct in banks at the same time. Then there are all sorts of exceptions to the exemptions. And the exceptions to the exemptions—(laughs)—could be read so broadly as to reestablish the exemption. And that's a concern the SEC has. We share that concern, and what we'd like to do, if there's a way that it can practically be done, is to work with the SEC on these issues. And that was my primary reference.

Mr. LEVIN. Mr. President, Senator SCHUMER is a cosponsor of an amendment which I am now offering which reads as follows. It is fairly short. I simply want to read this amendment. Then I will send it to the desk.

The amendment has now been accepted by the manager of the bill. I think it will help somewhat to allay some concerns in this area. But the critical issue is what will come out of conference. That, of course, we don't know. But this is the language of the amendment, which I will be sending to the desk on my behalf and on behalf of Senator SCHUMER.

It is the intention of this act, subject to carefully defined exceptions which do not undermine the dominant principle of functional regulation, to ensure that securities transactions affected by a bank are regulated by securities regulators notwithstanding any other provision of this act.

The intention is to keep the principle that securities transactions will be regulated by securities regulators, and acknowledges that there could be some carefully drafted exceptions which do not undermine the dominant principle.

That, it seems to me, would be an improvement in this area.

I want to again thank my friend from Texas for looking at this language, indicating that it would be acceptable to him, and then, of course, the proof of the pudding as to whether we are really protecting purchasers of stock through the regulators who are there to protect purchasers and sellers of stock will be determined in conference. But the general principle enunciated in this amendment would go to conference as the principle that is governing this bill.

I also want to thank my good friend from New York, because he has worked so closely with me on this issue.

I can't yield the floor to him. But I will yield the floor. But, before doing so, and I know he does wish to speak for a few minutes, I will send the amendment to the desk.

AMENDMENT NO. 317

(Purpose: To ensure bank securities activities are regulated by securities regulators)

Mr. LEVIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself, and Mr. SCHUMER, proposes an amendment numbered 317.

Mr. LEVIN. 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:

On page 124, line 25, before ''Section'' insert the following:

''(1) It is the intention of this Act subject to carefully defined exceptions which do not undermine the dominant principle of functional regulation to ensure that securities transactions effected by a bank are regulated by securities regulators, notwithstanding any other provision of this Act.

(2)''.

Mr. LEVIN. I yield the floor but hope the Senator from New York will be recognized briefly for a comment.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the President, and I thank both my colleague from Michigan and my colleague from Texas, the chairman, for their work.

It is a very important amendment. In fact, if this amendment had not been adopted, we might have seen the virtual unraveling of the strong framework of securities law that we have built up in this country since the 1940s.

When I see my friends on Wall Street sometimes complaining about the SEC—and they can be very, very strict and sometimes hardheaded on specific issues—I remind them that in the general framework of regulation, a tough and strong disclosure has made our securities markets the strongest in the world. It is the reason that billions of dollars come from overseas to the United States, because they know basically that our markets are on the level.

This bill, while in the report language said that we wish to have what is called ''functional regulation,'' that is, having the correct regulator for the type of function, not by the type of institutions, and therefore if a bank gets securities regulation it would be regulated by the SEC, just as if a securities firm did securities regulation it would be regulated by the SEC. It is a fundamental principle, particularly if this bill becomes law, which, if we change CRA, I hope it will.

It means very simply that if you underwrite securities, if you sell a security, you must abide by the SEC strict disclosure. The banking regulators have never been very good at this type of regulation, and weren't intended to be.

The securities regulators—the SEC—have always been the tough guy who is an adversarial regulator. The banking regulators have always been a friendly regulator, sort of akin to a big brother making sure the banks didn't get too far into trouble—for two good reasons: One, the banking industry had Federal insurance, and we had to protect that investment; and, two, the banks were engaged traditionally in not very risky activity.

The securities markets have no Federal insurance. They are raw capitalism, and they have had risky activities. Therefore, you really need full disclosure.

The amendment which the Senator from Michigan has put forward, which I am proud to cosponsor, is a very simple one. It says keep that functional regulation.

Let me explain to my colleagues just in a brief minute, because I know we all want to hurry, what would have happened if this amendment had not been adopted.

First, the whole regulation—the whole SEC regimentation of regulation—would not have been applied to banks as they entered the securities industry, and they will enter it massively. Then securities firms, being put at an unfair competitive disadvantage because their banks would not be regulated, would start having their securities activity occur under a bank holding company.

The entire structure of regulation which has worked so well—and every person on Wall Street I know admits it; it is tough, it is strong, but it keeps our markets on the level—would have unraveled. This bill in effect had a Trojan horse.

The amendment being proposed by the Senator from Michigan and myself closes that door. We will have to work out the language in conference, but I for one, if I am lucky enough to be a conferee, or even if I am not, I am going to work very hard to see whatever loopholes are placed in there are very narrow and very limited.

I know the hour is late but this amendment may be the most important amendment we are adding to the entire bill. It keeps the structure of functional regulation there. It has securities-type activities, wherever they be done, be regulated by the SEC. It is a system that has worked. We should not undo it right now as our capital markets are enjoying the tremendous success they have.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question in on agreeing to the amendment.

The amendment (No. 317) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I thank my friend from Texas, as well as the Senator from Maryland, for their work, but particularly the Senator from New York.

AMENDMENT NO. 310, AS MODIFIED

Mr. GRAMM. Mr. President, I have a little technical correction that has been cleared, as I understand. I call up amendment No. 310 and ask unanimous consent that amendment No. 310 be modified by the text I am sending now to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for Mr. BENNETT, proposes an amendment numbered 310, as modified.

Mr. GRAMM. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment (No. 310), as modified, is as follows:

At the appropriate place in the bill, insert the following:

Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c–1) is amended to read as follows:

''Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank based on a determination that the purchase is a sound investment for the bank irrespective of the fact that an affiliate of the bank is a principal underwriter of the securities.''

Mr. SARBANES. Mr. President, what did this deal with?

Mr. BENNETT. Mr. President, it is my understanding that this amendment has been cleared on both sides.

It addresses the CRA issue in what I hope is a noncontroversial way in that it calls for reporting of what happens to the CRA loans. Many of these loans are being made now with no regulation at all and no public understanding of what is happening. I, for example, asked a simple question as I went through the CRA debate. I said, What is the rate of default of CRA loans compared to non-CRA loans? And, specifically, what is the rate of default of those loans that are made through the advocacy groups that become loan brokers?

I was told the rate of failure for CRA loans generally is about six or seven times higher than normal loans but there was no information as to the rate of default among those loans that were made through the advocacy groups that have become loan brokers. I think we are entitled to know that.

This is simply a sunshine amendment that will report the facts. It does not change the regulatory situation in any way, it does not damage CRA in any way; it simply says the Congress will know what is happening with respect to CRA loans that are currently being made in the dark.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 310), as modified, was agreed to.

Mr. GRAMM. Mr. President, 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. GRAMM. Mr. President, I ask unanimous consent further proceedings under the quorum call be dispensed with.

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

AMENDMENT NO. 318

Mr. GRAMM. On behalf of Senator SARBANES and myself, I send managers' amendments to the desk. I ask they be considered en bloc and adopted en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas (Mr. GRAMM), for himself and Mr. SARBANES, proposes an amendment numbered 318.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

THE PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 318) was agreed to.

The motion to reconsider the motion to lay on the table was agreed to.

Mr. GRAMM. It is my understanding we are now ready for a vote on final passage. I thank everyone for their assistance and patience.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I guess I should state I am going to vote against this bill on final passage. We have had a very spirited debate. We have had a number of very close votes on important amendments, and in my view the bill has not been improved sufficiently to warrant an affirmative vote, therefore I intend to vote against it. I am not, obviously, going to lay out all the reasons at this hour of night because I know we want to go to a vote here.

Mr. GRAMM. Mr. President, there are two Dorgan amendments that are pending. We had an agreement to have a voice vote.

I ask that occur now.

VOTE ON AMENDMENT NO. 313

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 313) was rejected.

VOTE ON AMENDMENT NO. 312

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 312) was rejected.

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.

Mr. GRAMM. Mr. President, 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. SARBANES. 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. 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.

The Democratic leader.

SENATOR JOSEPH BIDEN CASTS HIS 10,000TH VOTE

Mr. DASCHLE. Mr. President, today I join my colleagues in recognizing a historic achievement by one of the Senate's most remarkable Members. With the vote we are about to cast, Senator JOE BIDEN becomes the youngest Member of this body ever to cast 10,000 votes.

It should come as a surprise to none of us that Senator BIDEN should set such a record. He has always been a few steps ahead of the crowd. In 1972, at the age of 29, he mounted his first Senate campaign against a popular incumbent, Republican Senator J. Caleb Boggs. No one—not even his own Democratic party—thought he could do it. But in 1973 he was sworn in as the second-youngest person ever to be popularly elected to the Senate.

The first issue Senator BIDEN tackled was campaign finance reform—as we all know, this is a difficult issue for anyone, much less a first-year member. But as we also all know, JOE BIDEN has never shied away from a fight. His candor, strength of character and commitment to principle have led him through many battles over the years.

As chairman and ranking member of the Judiciary Committee, Senator BIDEN helped this institution, and this nation, sort through the complexities of the most controversial issues of our day—from flag burning, to abortion and the death penalty,

Senator BIDEN also presided over perhaps the most contentious Supreme Court nominations hearings in history. In the midst of the controversy surrounding nominee Robert Bork, Senator BIDEN maintained a level of intellectual rigor that raised the bar for committee consideration of all future nominations.

We also recall his leadership and doggedness in crafting what may well be the most difficult and important pieces of legislation in recent years, the Violent Crime Control and Law Enforcement Act. This included the Violence Against Women Act, the very first comprehensive piece of legislation to specifically address gender-based crimes.

He was also instrumental in creating the position of national ''Drug Czar,'' which has been invaluable in our fight against illegal drugs. His commitment to keeping drugs off the streets remains steadfast.

The Senate and this nation have also benefitted from Senator BIDEN's leadership in the foreign policy arena. As ranking member on the Foreign Relations Committee, he is widely regarded as one of the Senate's leading foreign policy experts.

He was one of the first to predict the fall of communism and anticipate the need to redefine our policies to fit a post-cold war world. And, as far back as early 1993, Senator BIDEN called for active American participation to contain the conflict in Bosnia. In his public service and personal life, JOE BIDEN sets a high standard we can all admire.

His steel will, dedication and compassion, reinforcing a powerful intellect and impressive communication skills, have made Senator BIDEN an exceptional Senator and friend. The number of people he has inspired through his commitment to his family, his values and his beliefs is legion.

Mr. President, it is indeed a pleasure to serve with JOE BIDEN, and to count him as a friend. On behalf of all the Members of this Senate, I congratulate JOE on this historic achievement and thank him for his numerous contributions to the United States Senate and to his country.

I yield the floor.

Mr. LOTT. Mr. President, I am pleased to congratulate my good friend and colleague, Senator JOE BIDEN, on casting his 10,000th vote in the United States Senate.

All of us who have listened—and listened—to Senator BIDEN on the Senate floor have come to deeply respect his leadership and commitment to causes of concern.

He led the historic effort for NATO expansion with courage and conviction.

He has a deep concern for America's role in the world and is a true leader of our foreign policy establishment.

Senator BIDEN has been a champion of victims of crime, particularly crimes against women.

Most of all, those of us who know him, have watched his grace and courage through personal suffering and serious illness.

I join my colleagues in recognizing Senator BIDEN's contributions to the Senate and extend my congratulations to him.

I congratulate the Senator from Delaware. I note he is only 56. I am 1 year older and he has already cast 10,000 votes. What an achievement.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to pay Senator BIDEN a tribute. He is an outstanding Senator and an outstanding man.

When anyone reflects on their life, they do so by thinking about significant personal and professional benchmarks and milestones. Today, one of our colleagues—and my good friend—JOE BIDEN is marking just one such accomplishment, his 10,000th career vote in the Senate.

Casting your 10,000th vote is a momentous occasion for many reasons. Beyond being an indication that a Senator has served in this body for a substantial period of time, casting 10,000 votes is a testament to an individual's commitment to public service. Furthermore, it is proof that a Senator is doing a good job, for his or her constituents have seen fit to keep an official in office long enough to achieve this accomplishment. Then again, given the type of person JOE BIDEN is, it should come as no surprise to us that the people of Delaware have repeatedly sent him to the Senate since 1972. He is a man who is motivated by a desire to help others and is dedicated to serving the people of his state and our nation. JOE BIDEN clearly entered his life in public service for the proper reasons and with the best of motives, and he is an individual who represents all that is positive about those who seek elected office.

I have had the good fortune of knowing JOE BIDEN from the beginning of his Senate career and it is hard to believe that almost thirty years could have elapsed so quickly. During the course of his tenure, I have watched JOE establish an impressive and respected record of work. He has distinguished himself in the fields of the judiciary and foreign affairs, and he is considered a forceful, passionate, and articulate advocate on both these issues. Though he is often sought for analysis and insight regarding international developments, making our streets safe, or any number of other issues before the Senate, JOE BIDEN first and foremost works tirelessly to serve the people of Delaware. The people of his state are indeed fortunate to be represented by such a capable individual.

As most of you already may know, JOE and I have worked closely together for years as members of the Judiciary Committee. We have both served as each other's chairmen and ranking members of this very important committee and I have the highest regard for JOE's intellect, leadership, and ability. Ironically, we not only sat next to each other on the committee for years, but we have been neighbors in the Russell Building for many years as well, our offices being literally right next to one another. You would be hard pressed to find a finer, more dedicated, or more friendly group of people than those who work for JOE BIDEN and I hope that he stays my neighbor for as long as he is in the Senate.

Beyond being a congenial colleague and a good neighbor, JOE BIDEN is my friend. He is someone whose word can be trusted, who wants to do what is right, who is devoted to his family, and whose heart is good. These are rare qualities in any individual, but they can be especially scarce in this town. That JOE has not changed over the years is testament to the man he is and the son his parents raised. I am proud to call JOE BIDEN my friend as I know each of my colleagues is as well.

I do not think I am going out on a limb when I predict that JOE BIDEN is going to be in the United States Senate for a long time to come, and that as long as he is a Member of this body he will continue to make valuable contributions to public policy and the nation. JOE, I thank you for your service, I thank you for all your assistance, and most of all I thank you for your many years as a loyal and kind friend.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I join in the felicitations of our distinguished colleague from Delaware. He suffered as a young lad a handicap of stuttering. He tried to overcome that by addressing the student body. We in the Senate can well attest to the fact that he has overcome it. He has led the way in foreign policy for NATO and in judicial matters.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I add my words of praise for the Senator from Delaware and make a point that he is going to be here a long time. If he matches his current record—he took office in 1973—if he does this, he will be only 82 when he casts approximately his 20,000th vote, and he will then be a kid compared to Senator THURMOND, who will be there at the time congratulating him on his 20,000th vote.

JOE BIDEN has been such a good friend to me.

When I was in the House, I asked him to introduce the Senate companion bill to my legislation to protect dolphins.

JOE did not hesitate, and he enthusiastically took up the cause—with the strong support of his beautiful daughter Ashley! And he has been a steadfast ally in that important environmental fight. He was the Senate sponsor of my Ocean Protection Act. I was the House sponsor of his VAW Act.

I am now a proud member of the Foreign Relations Committee, where JOE BIDEN shows why he is one of the most respected foreign policy experts in the country.

Congratulations, I say to my good friend, and many, many more years of success and happiness with your good friends and colleagues here and your wonderful family at home in Delaware.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the distinguished Senator from Delaware is the only person in this body who is younger than I am but senior to me at the same time. I congratulate him on his 10,000th vote. I jumped over the cliff with him on more than a few of those votes. I look forward to the day when I might match his record.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I know everybody wants to go home, but let me say, if we tried to review JOE BIDEN's accomplishments, it would take all night. Let me put it this way: I opposed most of them.

(Laughter.)

Furthermore—this is serious—JOE BIDEN is a caring person. I work with him on the Foreign Relations Committee. He is great to work with. JOE, I am proud of you.

(Applause.)

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, this next vote is a milestone for a friend of mine—a distinguished colleague and a leader in this chamber. It represents the ten-thousandth vote cast by JOE BIDEN, and I would like to take a moment not only to bring it to the attention of our colleagues, but to reflect on a career that has been—and continues to be—a bright legacy of service.

To put this vote into perspective, Mr. President, only twenty Senators in history have reached this milestone—only twenty Senators out of the 1,851 who have had the honor of serving in this distinguished body. Each of us who has the honor of representing our state in the Senate understands what a rare privilege it is to cast a vote on this floor. In fact, the first vote we cast ranks among the most memorable moment in our lives—a moment not to be forgotten.

I'm sure that when JOE cast his first vote on January 23, 1973—over twenty-five years ago—he could not have foreseen this moment. Through the years, he has achieved many distinguished honors. He has gained national stature, as a candidate for President. He has established himself as a foremost expert on judicial and foreign policy matters. And though I know that we often differ philosophically, I can say that each vote JOE has cast, his focus has been on doing what's best for Delaware and our Nation, at large.

JOE, on this special occasion, I salute you. Ten thousand votes speak volumes about a life dedicated to public service. On behalf of our colleagues I congratulate you. And on behalf of our friends and neighbors in Delaware I thank you.

For me, it has been an honor, a pleasure, and a privilege to serve these many years with Senator BIDEN. He always does what he thinks is in the best interests of our country and our people of Delaware. I am proud to count him a friend.

Mr. KENNEDY. Mr. President, I join in commending our colleague from Delaware on reaching this major milestone in his brilliant Senate career.

For nearly three decades, he has done an outstanding job serving the people of Delaware and the Nation in the Senate. He has been an effective leader on a wide range of issues in both domestic policy and foreign policy.

It has been a special privilege for me to serve with our distinguished colleague on the Senate Judiciary Committee, and I particularly commend his leadership over the past quarter century on the many law enforcement challenges facing the nation. It is a privilege to serve with Senator BIDEN—and I am sure he will compile an equally outstanding record on his next 10,000 votes.

Mr. BIDEN. Mr. President, I will respond after everyone votes so I get to cast my 10,000th vote.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, unlike Senator BIDEN, I don't have a lot to say.

I ask unanimous consent that all Senators have until the close of business next Thursday, a week from today, to insert their statements in the RECORD and that all statements that are submitted appear at one place in the RECORD.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

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

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—54

| | | |
|---|---|---|
| Abraham | Frist | McConnell |
| Allard | Gorton | Murkowski |
| Ashcroft | Gramm | Nickles |
| Bennett | Grams | Roberts |
| Bond | Grassley | Roth |
| Brownback | Gregg | Santorum |
| Bunning | Hagel | Sessions |
| Burns | Hatch | Shelby |
| Campbell | Helms | Smith (NH) |
| Chafee | Hollings | Smith (OR) |
| Cochran | Hutchinson | Snowe |
| Collins | Hutchison | Specter |
| Coverdell | Jeffords | Stevens |
| Craig | Kyl | Thomas |
| Crapo | Lott | Thompson |
| DeWine | Lugar | Thurmond |
| Domenici | Mack | Voinovich |
| Enzi | McCain | Warner |

NAYS—44

| | | |
|---|---|---|
| Akaka | Edwards | Lieberman |
| Baucus | Feingold | Lincoln |
| Bayh | Feinstein | Mikulski |
| Biden | Graham | Moynihan |
| Bingaman | Harkin | Murray |
| Boxer | Inouye | Reed |
| Breaux | Johnson | Reid |
| Bryan | Kennedy | Robb |
| Byrd | Kerrey | Rockefeller |
| Cleland | Kerry | Sarbanes |
| Conrad | Kohl | Schumer |
| Daschle | Landrieu | Torricelli |
| Dodd | Lautenberg | Wellstone |
| Dorgan | Leahy | Wyden |
| Durbin | Levin | |

ANSWERED "PRESENT"—1

Fitzgerald

NOT VOTING—1

Inhofe

The bill (S. 900), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. GRAMM. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

## MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

## TRIBUTE TO SENATOR JOSEPH R. BIDEN ON HIS 10,000th VOTE

Mr. HATCH. Mr. President, I rise today to recognize a very dear friend of mine in the Senate and his historic 10,000th vote. His name is Senator JOSEPH BIDEN of Delaware, a friend and colleague whose distinguished career has elevated both the quality and stature of the Senate. The number 10,000 is an important landmark in a career that has many milestones, but I believe Senator BIDEN will be best remembered for the significance of his varied votes. I have seen many of those notable votes cast.

In every one of those votes he was careful, deliberate, and respectful of his duty to the people of Delaware. JOE and I have served in the Senate for roughly the same amount of time. He has been here a couple of years longer than I. We have worked closely together in the Senate Judiciary Committee, which he chaired and which I now chair. On occasion we have agreed to disagree. In fact, I wish he had cast more of those 10,000 votes with me. In all seriousness, however, JOE and I have found many areas where we strongly have agreed.

JOE has long been a leader on the issue of youth violence, an issue which has affected countless lives in Delaware, Utah, and the rest of the Nation. In 1974, he was the lead sponsor of the Juvenile Justice Prevention Act. In 1992, he sponsored the Juvenile Justice Prevention Act Amendments, which provided States with Federal grants for a complete and comprehensive approach to improve the juvenile justice system and controlling juvenile crime.

He has long advocated a tough stand against illegal drugs. He authored the law creating the Nation's drug czar, and in 1986, he was the guiding force for the enactment of groundbreaking drug legislation. He has probably done as much if not more than anybody in the Senate with regard to the antidrug stances that we all should support and that we all appreciate today.

With regard to juvenile justice, next week we bring up a juvenile justice bill. Senator BIDEN has been a mainstay in helping to resolve conflicts that we have in that bill and hopefully helping it to become a bipartisan bill that all of us can support. What I admire most about JOE is the fact that he is the staunchest defender of his party's beliefs, yet he does not hesitate to cross party lines to forge a consensus position when he believes it is the right thing to do. Nowhere is that more evident than with the issue of juvenile crime.

JOE has a history of standing up for what is right when it comes to juvenile crime, and I believe he will continue to do so. We look forward to working with him next week.

While chairman of the Judiciary Committee, he authored the Violent

Crime Control and Law Enforcement Act, which was signed into law in 1994. While I differed with much that was contained and dropped from the bill, this legislation contained the Biden-Hatch Violence Against Women Act, the first comprehensive law to address gender-based offenses. Senator BIDEN's leadership on this issue changed how many Americans view the issue of violence against women. He even changed how we refer to domestic abuse in the Senate by continually asking, ''What's domestic about beating your wife?''

JOE is widely regarded as a foreign policy expert. Many remember his leadership on NATO expansion in 1998. He stood out as a strong advocate for the inclusion of several Eastern European nations into the alliance. NATO is now engaged in its greatest test, and I am convinced that JOE's leadership was integral in strengthening the alliance.

In 1997, Senator BIDEN showed these same leadership skills when he led the successful effort in the Senate to ratify the Chemical Weapons Convention. JOE BIDEN has truly had a distinguished career in the Senate.

All that said and done, I could go on and on about his distinguished career, but it is his personal qualities that have impressed his friends, his family, and his colleagues, including, of course, myself as a friend and as a colleague.

Many may not know that Senator BIDEN overcame two operations for a near-fatal brain aneurysm in 1988 and returned to the Senate in 1989. I remember those days and I remember how catastrophic they were for him, his family, and for those of us who prayed for him. He showed great courage and persistence in overcoming that adversity. Nobody was more thankful than his wife and three children, to whom he is a loving husband and father. Indeed, he is renowned for putting his family first, as demonstrated by his daily commute to and from Delaware. The fact that he takes a 2-hour train ride to get here every day makes the accomplishment of reaching 10,000 votes all the more astounding.

So it is with great honor that I ask my colleagues to join me and others in congratulating Senator JOSEPH R. BIDEN on his 10,000th vote. His many contributions to this body are appreciated and recognized. I am sure that I speak for all of my colleagues when I say we will enjoy keeping a close eye on the many votes yet to come.

Just as a gift this evening, this is the last CD that we have done. It is, frankly, Santita Jackson, Jesse Jackson's daughter, singing with a wonderful young African American from Nashville, who is as good a singer as anybody in the world, named Chris Willis. This CD is entitled ''Put Your Arms Around the World.'' I think it kind of applies to JOE BIDEN. When he listens to the song written by Peter McCann and me—Peter McCann wrote ''It's the Right Time of the Night'' and ''Want to Make Love''—called ''Take Good Care of My Heart,'' that particular song, I think, really applies to Senator BIDEN because, in his own way, with his tremendous interest in foreign policy, tremendous interest in the law, his tremendous interest in overcoming injustice in our society not only here but throughout the world, I think this song will mean something to him. It certainly does to me. Santita Jackson and Chris Willis are two of the rising young stars in America. I would like to give this CD to Senator BIDEN at this time and say that I look forward to serving with him for a long time to come. So hang in there.

Thank you, Mr. President. I yield the floor.

Mr. SARBANES. Mr. President, I join with my colleagues in paying this tribute to JOE BIDEN on the occasion of him casting his 10,000th vote in the Senate. The casting of that vote is an occasion to pay tribute not for voting but for a real career of service and of great distinction. It has been one of the pleasures of my service in this body to have served with JOE BIDEN, and one of my pleasures that we represent adjoining States. Therefore, we interact on a number of issues that otherwise would not be the case amongst Members of the Senate.

He has had an extraordinary career here. He is now in his fifth term. He got elected before he was old enough, actually, under the Constitution, before he was old enough under the Constitution to be a Member of the Senate. He was elected at the age of 29, and he has just had a terrific career of accomplishment. Those who have worked with him derive great pleasure from it. We have marveled at his legislative skill.

I want to talk about two or three of the things in which he has been very much involved. We have served together on the Senate Foreign Relations Committee all of these years. And he has exercised extraordinary leadership of the Senate Judiciary Committee at various points during his career. We are making a lot of the fact now in America that crime rates are going down all across the country. So everyone is sort of looking to see what is the cause of that, or who ought to get the praise for it. I have to tell you that JOE BIDEN ought to get a lot of the praise for the fact that crime has gone down across this land. He has authored every significant anticrime initiative in the Congress over a period of time that he has been here—the Juvenile Justice Prevention Act, the Victims of Crime Act, the Violent Crime Control and Law Enforcement Act, and on and on and on.

Senator BIDEN has been a great champion of law enforcement and of those who work in law enforcement. He has been sensitive on the important civil liberties and civil rights cases, which a democracy ought to be sensitive to. He has understood how you can balance those and put it together. There are thousands and thousands of cops on the street today giving us safer neighborhoods and more secure cities and communities all across America because of JOE BIDEN's initiatives.

Senator BIDEN was the first to include the provisions with respect to violence against women and really raise to a very high level the whole issue of gender-based crimes. He has consistently focused our attention onto that area.

He has dealt in a very effective way with the gun issue, which is not easy to deal with in this body, and certainly not an easy issue to deal with effectively. I have to tell you that I think throughout all of this period Senator BIDEN had a clear perception and focus on how to do something about the crime issue. He did not demagog it. He did not seek to emotionalize it. He worked hard to develop the real programs that would make a difference in our communities all across the country. I am extremely grateful to him for that.

On the Foreign Relations Committee, he has consistently been an advocate of an international stance by the United States—actually, the expansion of NATO was in large part a consequence of his very effective advocacy and leadership. He has been sensitive to the importance of human rights and democratic values in American foreign policy. I have been very privileged to serve with him on the Foreign Relations Committee and to see his effective leadership in that arena.

Finally, let me just say he is a terrific friend. I can't tell you how much I value and treasure his friendship, how much it has meant, how much I enjoy his sense of humor, and even how much I like to listen to his speeches—which occasionally go on for a while. But this institution has been honored by having him as a Member. It is extraordinary that at what is really, for the Senate, still a very young age, he has achieved his 10,000th vote. I wish him many, many, many thousands more. I thank him for his extraordinary service to the country and for his deep friendship to all of us.

I yield the floor.

Mr. ENZI. Mr. President, I, too, add my congratulations to the Senator for his 10,000th vote. At this point in my Senate career, that is really an incredible number. I have known Senator BIDEN for a long time. I was the State Jaycee President when the U.S. Jaycees recognized him as one of the 10 outstanding young men of this country in Mobil, AL. I can't tell you how incredible it was to get to meet him at that point and how even more incredible it was when I got to join this body and meet him here after he must have done 9,000 votes. I read about him in the newspaper and have gotten to work with him, and I have enjoyed that experience.

Mr. BIDEN. Mr. President, if it is appropriate, may I respond briefly?

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I am truly appreciative of the comments my friends have made—my old-new friends, my old-old friends, and my close buddies from across the State line.

I began to wonder about casting my 10,000th vote on the occasion of the majority leader indicating there would be no more votes for 4 days and the last planes heading west were leaving. I thank my colleagues who put in the RECORD their comments. I will withhold specific comment until I read them, because God only knows what they said. But let me say that I find it no particular feat to have cast 10,000 votes. If you are around here long enough and still standing, that happens.

I hope I have cast some votes that have made this country a little bit better. I am confident there is none that I have cast that have enhanced the standing of America, or the condition of the American people, that weren't bipartisan. I can't think of any that were done that weren't done in a bipartisan manner in the end.

I look at ORRIN HATCH. ORRIN HATCH came here, and is still one of the leading conservative lights on the American political scene, and yet we have worked together for years and years and years. I cannot think that we have ever had a cross word to one another in 25 years. We have had very different views.

PAUL SARBANES, who is literally one of the brightest people I have served with—just raw, pure, gray matter, raw horsepower—to have him say the things that he said about me in reference to our personal friendship is meaningful, particularly since my wife, who works as a professor in Delaware and seldom is in Washington, is sitting in the galleries listening to this, and my No. 2 son, who is now living in Washington, heard it as well.

I am sure they know better. But my mother probably believes everything PAUL said, because I met PAUL's mother as well.

I think, if I can make one, in a sense, political observation, the first vote I cast in January of 1972 was a vote I was told—I didn't remember this—on an Assistant Secretary, I believe, the No. 2 person at State. I am not positive of that.

I remember the day, although I was obviously very junior, when I was sworn in by the Secretary of the Senate, Mr. Valeo, who actually came to me in Wilmington to swear me in, because of unusual circumstances. After he gave me the little certificate that we get when we are sworn in, he said, "You have arrived to the Senate, to the best of my knowledge, the least senior than any man in history," because seniority is based on the previous offices that you have held. It keeps narrowing down to State, size, population, and age ultimately.

But when I got here, there were a number of giants in the Senate. We often hear it said today that there are no giants left in the Senate. In truth there are. There are women and men who serve in this body today who are equal to and in some ways surpass the capacity of some of the great people I have had the honor of serving with over the past almost 27 years.

So the caliber has not changed. What has changed a little bit—and I am referencing this tonight, because of my colleagues who are here on the floor—what has changed since then is the impression that we don't like each other very much, that we don't get along with one another very well, that we are nakedly partisan in all of our undertakings.

I wish the public could see that there is still a degree of camaraderie here, a degree of mutual respect that crosses that sometimes "chasm" called the "center aisle," what makes this body more unique than any other legislative body at least in modern history. I will not challenge Senator BYRD about whether it equals or surpasses the Roman Senate, but I am confident that it does surpass any other legislative body in modern history.

I would just conclude by saying the lubricant that allows that to happen is genuine and personal respect that most of us have for one another. I think it is the defining feature of this institution.

I remember now meeting Senator ENZI back in 1972—or 1973, I guess it was—when I received that award. But I have not gotten—because we don't serve on committees together—to know him personally as well as I know my two colleagues who remain. Notwithstanding the wonderful words they have both uttered relating to me, the genuine testimony I take from what they have done is that they are here. It is 9 o'clock at night. There are no votes. The Senator from Maryland has a long drive home, because, he, like me, commutes every day to Baltimore, MD. And he drives. My friend from Utah probably missed a plane to go back to Utah this weekend.

I truly, truly appreciate it.

Let me yield the floor by saying, Mr. President, that I am asked sometimes what is the best, the most significant perk that exists being a Senator. I always answer that there are two things.

Before I became a Senator, as a young man campaigning in the midst of the Vietnam war, and the civil rights crisis, and the assassination of men who I had an incredible regard for in 1968—both Martin Luther King and Robert Kennedy—I came here thinking that all that had to happen was that we elected women and men who had a greater degree of intellectual capacity, had a better education and were smarter. I got here and I was truly dumbfounded—truly dumbfounded—by how many people who serve in this body who are so incredibly bright, who are so significantly schooled in the areas in which they speak. I arrived and I found out that Jack Javits could tell you as much about modern art as he could about foreign policy. There was Mike Mansfield, who could tell you as much about Chinese history as he could about the politics in Montana.

PAUL SARBANES can tell you as much about the international monetary system, about the history of the Balkans, about the banking system, as he can tell you about his hometown baseball team and the local politics of Baltimore.

ORRIN HATCH is a man who used to be a card-carrying union guy from Pittsburgh, who goes out as a boxer, goes out to his now home State of Utah, and gets elected after having a career as an incredible trial lawyer.

I mean it is amazing—the diversity here.

I will not mention the judge's name. But I was having lunch with a Justice once in my capacity as chairman of the Judiciary Committee. The issue was about pay raises for judges. This particular Justice said publicly—this Justice accidentally said it. He didn't intend to be quoted—that he could understand why the public wouldn't want Congresspersons and Senators to get a raise but judges were different, they were academically qualified. I know the Senator from Utah knows who I am talking about.

To this particular, very competent Justice—I was in his office—I said, "May I close your door, Mr. Justice?" I said, "Mr. Justice, I have sat in the Judiciary Committee for years. I have had the opportunity as either ranking member or chairman for, I think, a 14-year period to look at the background of every single person who has come on the bench." At that time it was 10 or 12 years. I said, "I am willing to make you a bet. I will take the intellectual potential of the Senate"—in the House I didn't know as well—"and match it against the entire judiciary." They are bright, they are competent. If I am not mistaken in time, we had, like Senator SARBANES, seven Rhodes scholars in the Senate. We had a half a dozen Marshall scholars—not me. I don't qualify on that account. We have men and women in here whose academic distinction exceeds that of 99 percent of the people—all the jobs anywhere in America, corporate, labor, business, academia.

The greatest perk I have had as a Senator was access to people with serious, serious minds and a serious sense of purpose, and who cared about something. If I dropped dead tomorrow, I would be thankful to the people of Delaware, for the individuals they have allowed me to be exposed to, to argue with, to fight with, to debate with, to agree with Members. I will be thankful to them for the gift they gave me in having that access. I don't believe there is any other place in the Nation I could have gotten that kind of exposure.

The second thing I found that has been the greatest gift in those 10,000 votes during that period is that this is the ultimate graduate education. If you take this job serious, as all my colleagues do on this floor, you learn one thing: You don't get a driver, you don't get a house, you don't get a bodyguard, nor should we, but what you do get is the ability to pick up the phone and call anybody in the world and they will take your call. You can call Nobel laureates, you can call experts in any field, and if you want to learn, this is the ultimate seminar if you take it seriously. There is no other place I can think of that a person can do that.

Mr. President, I have a lot more to learn. And of those 10,000 votes, I am sure there are many that were not as enlightened as I thought they were at the time I cast them. Hopefully, I have learned. Hopefully, I will get a chance to learn more than I know now. If you want to do it, and if you take it seriously and if you reach out across that chasm, you reach out across that aisle, believe it or not, there is somebody on the other side willing to talk to you, willing to exchange ideas with you. If you work hard enough, you actually may do a little bit—just a little bit—to change the state of affairs in this great country. That is all we can do here.

I have no illusions about the significance of the Senate in terms of determining national policy, but within the context and the role the Senate plays, we get to play little parts. The only time it works is when we cross that chasm. That is the only time it works.

I thank my colleagues. They are honorable men. They are men of achievement. I think the public gets a pretty good buy for their investment in the men that are sitting here on the floor today and the women and men who cast all the votes today; they are competent.

It has been a pleasure working with them. I hope I get to cast a few more votes. I hope I get to convince ORRIN HATCH and Senator ENZI to cast more votes my way. The truth of the matter is, as I said, nothing gets done unless you reach across that aisle. I appreciate the fact there has always been somebody on this side to talk to me.

I thank all my colleagues. For those who made other statements, I will respond in the RECORD and not take the time of my colleagues. The Baltimore-Washington tunnel is probably clear by now. We can both head north.

I yield the floor.

## FINANCIAL SERVICES MODERNIZATION ACT OF 1999

Mr. ENZI. Mr. President, I wish to make brief comments about the bill.

I congratulate all of the people that have been involved in passing this bill today. It is a significant piece of banking legislation. It is a significant piece of legislation for this country. It will make a difference to consumer safety, to banks, to insurance companies, to securities companies, to all of the financial institutions of any form in this country.

I want to congratulate the staff people who worked on that bill. They were tireless, they were diligent. They have worked for longer hours than I have seen people work. I want to congratulate my fellow Senators on the Banking Committee for not only their tireless effort, but the way they debated, brought issues and amendments to the floor, and worked through the process together. This could have been a much more lengthy process than the 3 days that it took.

I particularly want to commend the ranking member on the committee. It has been a tremendous education working with him through these days. I want to congratulate the chairman, as well. I point out the contrast between the ranking member and the chairman: One is very quiet and one is very vocal. But together they worked through this issue, helped to expedite the votes that we took, helped to expedite the debates, and worked together well so we could reach this point.

I have to make a few comments about the chairman who is one of the most tireless and focused people that I have seen. I know he was an economics professor and I appreciate the amount of research he did for this, and saw that as an example of the effort he probably put in when he was teaching.

I listened to him speak. I think I would have liked to have had him as one of my professors. He can take things that are very detailed and make them interesting. If banking can be made entertaining, he does it. He has a unique use of charts and words that help to paint a picture. Unlike some economists, he is not doing the ''on the one hand and on the other hand,'' he is very decided in his opinions.

I have to mention that in Banking Committee after one of our hearings he was asked how the procedure would go on this bank reform. It was a leftover issue from last year, and a number of people were concerned and wanted it to progress. So they asked him how it would work.

He said: We are going to have a number of hearings on it, and then following the hearings we will draft the bill, and then I want Senators to have an opportunity to talk to their constituents, to talk to their banks, to talk to all of their insurance agents and to talk to their securities dealers and companies. Following that, we will have a markup.

He said: On Tuesday, Wednesday, and Thursday we will have hearings, the draft will be available on Friday, and Tuesday we will do a markup. We did have the hearings on Tuesday, Wednesday, and Thursday. The draft wasn't available until Monday so we did not do the markup until Thursday. That has to be some classic action on a bill.

It was not just a matter of taking the bill from last year, it was a matter of simplifying that. He insisted that since we had language in there that was to simplify banking language and to force the banks to operate in plain language, it was only fair that we do that too. It changed the bill from a 308-page bill to a 150-page bill.

We have had the opportunity to debate that. There are still some things to be worked out. I look forward to the conference committee. Even if I am not on it I will observe it, because I am sure it will be educational. With the intellect of the chairman and the ranking member, it will be a fascinating study and well worth watching. It is one that everybody who is hoping the playing field gets leveled and specified will be holding their breath about.

## THE OCEANS ACT

Mr. STEVENS. Mr. President, it has been 30 years since the Stratton Commission took a close look at our Nation's coastal policies. The Stratton Commission's recommendations have served as a guide for U.S. oceans policy for three decades, yet as we move towards the next millennium, it is imperative that we once again consider the direction and coherence of our policies towards this immense resource. I applaud Senator HOLLINGS' efforts to explore ways to again examine these policies, and to determine the action necessary to responsibly steward this resource into the next century. I look forward to working with Senator SNOWE and others to create bipartisan support for an Oceans Act that will craft policy for a healthy ocean for our children and for their grandchildren.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 5, 1999, the Federal debt stood at $5,573,001,415,759.57 (Five trillion, five hundred seventy-three billion, one million, four hundred fifteen thousand, seven hundred fifty-nine dollars and fifty-seven cents).

One year ago, May 5, 1998, the Federal debt stood at $5,486,129,000,000 (Five trillion, four hundred eighty-six billion, one hundred twenty-nine million).

Five years ago, May 5, 1994, the Federal debt stood at $4,573,713,000,000 (Four trillion, five hundred seventy-three billion, seven hundred thirteen million).

Ten years ago, May 5, 1989, the Federal debt stood at $2,770,989,000,000 (Two trillion, seven hundred seventy billion, nine hundred eighty-nine million) which reflects a doubling of the debt—an increase of almost $3 trillion—$2,802,012,415,759.57 (Two trillion, eight hundred two billion, twelve million, four hundred fifteen thousand, seven hundred fifty-nine dollars and fifty-seven cents) during the past 15 years.

## CLOSING THE SCHOOL OF THE AMERICAS

Mr. FEINGOLD. Mr. President, I rise today to express my strong support for the closing of the United States Army School of the Americas, located at Fort Benning, Georgia. I am pleased to be an original cosponsor of S. 873, a bill to close this troubled school once and for all, which was introduced recently by the Senator from Illinois, Mr. DURBIN.

The School of the Americas (SOA) was created in 1946 to train Latin American military officers in combat and counterinsurgency skills with the goal of professionalizing Latin American armies and strengthening democracies. Originally located in Panama, SOA moved to Fort Benning in 1984. There has been a great deal of controversy surrounding some of SOA's alumni, leading it to be called ''the School for Dictators.'' Some of SOA's notorious graduates include Manuel Noriega, Argentinian dictator Leopoldo Galtieri, at least 19 Salvadorean officers implicated by El Salvador's Truth Commission in the murder of six Jesuit priests, and two of the three officers prosecuted in Guatemala for their roles in the murder of anthropologist Myrna Mack.

In 1991, following an internal investigation, the Pentagon removed certain SOA training manuals from circulation. On September 22, 1996, the Pentagon released the full text of those training manuals and acknowledged that some of those manuals provided instruction in techniques that, in the Pentagon's words, were ''clearly objectionable and possibly illegal.'' The ''techniques'' in question included such awful activities as torture, extortion, false arrest, and execution.

Not only are the human costs of this training program unjustifiable, but so are its financial costs. When I first ran for this body in 1992, I included the School of the Americas as an item on my 82+ point plan for deficit reduction. With a national debt in excess of $5 trillion, we must carefully scrutinize every program to ensure that federal tax dollars are wisely spent. We certainly do not need to spend taxpayer dollars on this kind of activity.

Since coming to the Senate in 1993, I have been contacted by hundreds of Wisconsinites who support closing the School of the Americas. Just this week, a number of Wisconsin residents joined scores of individuals from around the country at a protest here in Washington, D.C., against the continued operation of the school. The group from my home state included students, human rights activists, and members of several religious communities. I am pleased that so many Wisconsin residents are committed to working toward the closing of this school.

Numerous organizations, including Public Citizen, the Washington Office on Latin America and Human Rights Watch also support the elimination of SOA.

As a member of the Senate Committee on Foreign Relations, I am committed to promoting human rights throughout the world. In my view, our government cannot continue to support the existence of a school that counts so many murderers among its alumni. While it may be appropriate for the United States military to train its colleagues from other nations, it is inexcusable that this training should take place at an institution with a reputation as far beyond salvage as that of the School of the Americas. This legislation gives members of this body the opportunity to separate the legitimate training exercises conducted by the United States military from the sordid acts of many individuals who have been trained at SOA. We must lift the cloud of suspicion that has fallen on these programs by closing SOA.

I am pleased that S. 873 includes language expressing the sense of the Congress that all foreign military training conducted by the United States should stress respect for human rights, the proper role of the military in a democratic society, and accountability and transparency in defense and security policy. This is an excellent opportunity for the Congress, which has oversight responsibilities for military training programs, to reiterate the importance of these basic principles to the Administration, the American people, and perspective candidates for military training from other countries.

The bill also calls on the Department of Defense to vigorously screen all candidates for military training programs to ensure that they have not been implicated in human rights abuses, corruption, or drug trafficking.

I urge my colleagues to support S. 873 and close the ''School for Dictators'' once and for all.

## SBP BENEFIT IMPROVEMENT ACT OF 1999

Mr. BURNS. Mr. President, I am pleased to rise to join my Senate colleagues in supporting the Survivor Benefit Plan (SBP) Benefit Improvement Act of 1999. This bill corrects a discrepancy between what Congress intended at the creation of this Act in 1972, and how it eventually got implemented.

I have always believed that the people most affected by military service are not the service members, it is the family. The spouses that raise kids on their own during a deployment. The sons and daughters that change schools in the middle of a school year because a parent got assigned to a new base. It's hard to make up for missed soccer games and scout meetings. The Senate has already passed legislation to try to improve some of these areas of quality of life, but S.4 was passed absent one item that I feel is very important, especially to our elderly military retirees living in Montana.

The uniformed services spousal benefit annuity provides 55 percent of retirement pay for a surviving military spouse, as long as the spouse is under age 62. Once the survivor reaches age 62, the benefit drops as low as 35 percent of retired pay. Let me put it on a more familiar level. If a Korean War-era Marine had signed up for this plan after his 20 years of military service, when he passed on, his wife would only get 35 percent of his eligible retirement pay, instead of the 55 percent she would have received if she was under age 62. No other federal retirement plan has this age-oriented cut. It was also intended for Congress to pay 40 percent of the benefit, and premiums for the plan were set up with that target in mind. Unfortunately, the actuaries were too pessimistic, and as a result, premiums now pay for 73 percent of the cost, with congress paying for 27 percent. This is a far cry from the 40 percent we originally intended. Other federal civilian survivor benefit plans pay up to a 50 percent subsidy with no reduction after age 62.

This bill corrects the problem by stepping up the federal share of military retirement to 45 percent by FY 2005. Given the sacrifices by our service men and women and their families, it's time we provided fair survivors benefits and fulfill our original Congressional intent.

I'm grateful to Senator THURMOND for introducing this legislation to correct this discrepancy and for letting me vocalize my support for this bill by including me as a co-sponsor. I'm confident that the Armed Services Subcommittee will give this a favorable review, and I look forward to supporting it when it comes to the floor. I encourage my colleagues to lend their support to this important provision as well.

## FUNDING OF ACADEMIC HEALTH CENTERS

Mr. KENNEDY. Mr. President, the combination of Medicare payment cuts and the growth of managed care has become a devastating one-two punch against many of the nation's most respected academic health centers. A front-page article in today's New York Times documents what is happening. Teaching hospitals across the country are losing money and facing the prospect of cutting back the research, the teaching and training, and the advanced medical care that have made American medicine the envy of the world. These centers are also major safety-net institutions that provide extensive care for the uninsured.

Every American depends for quality health care on doctors trained in the nation's teaching hospitals. Research conducted at these hospitals is the basis for much of the astounding progress that we are making in medical science, and these institutions are indispensable in bringing advances in the laboratory to the bedside of the patient. For the most serious and intractable illnesses, teaching hospitals are the caregivers of last resort. They have the newest and most sophisticated equipment. The physicians who practice there are on the cutting edge of new treatments, and they see the largest number of such cases.

It would be an American tragedy if, as a result of short-sighted Medicare payment policies and equally short-sighted pressures for HMO profits, academic health centers are forced to close their doors or to curtail the research, training, and advanced care that make them such indispensable components of modern American health care.

I ask unanimous consent that the New York Times article be printed in the RECORD, and I urge my colleagues to review it carefully. It is becoming increasingly clear that this Congress has an obligation to act before irreparable damage is done to these essential institutions.

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

TEACHING HOSPITALS BATTLING CUTBACKS IN MEDICARE MONEY

(By Carey Goldberg)

Boston, May 5—Normally, the great teaching hospitals of this medical Mecca carry an air of white-coasted, best-in-the-world arrogance, the kind of arrogance that comes of collecting Nobels, of snaring more Federal money for medical research than hospitals anywhere else, of attracting patients from the four corners of the earth.

But not lately. Lately, their chief executives carry an air of pleading and alarm. They tend to cross the edges of their palms in an X that symbolizes the crossing of rising costs and dropping payments, especially Medicare payments. And to say they simply cannot go on losing money this way and remain the academic cream of American medicine.

Dr. Mitchell T. Rabkin, chief executive emeritus of Beth Israel Hospital, says, ''Everyone's in deep yogurt.''

The teaching hospitals here and elsewhere have never been immune from the turbulent change sweeping American health care—from the expansion of managed care to spiraling drug prices to the fierce fights for survival and shotgun marriages between hospitals with empty beds and flabby management.

But they are contending that suddenly, in recent weeks, a Federal cutback in Medicare spending has begun putting such a financial squeeze on them that it threatens their ability to fulfill their special missions: to handle the sickest patients, to act as incubators for new cures, to treat poor people and to train budding doctors.

The budget hemorrhaging has hit at scattered teaching hospitals across the country, from San Francisco to Philadelphia. New York's clusters of teaching hospitals are among the biggest and hardest hit, the Greater New York Hospital Association says. It predicts that Medicare cuts will cost the state's hospitals $5 billion through 2002 and force the closing of money-losing departments and whole hospitals.

Dr. Samuel O. Thier, president of the group that owns Massachusetts General Hospital, says, ''We've got a problem, and you've got to nip it in the bud, or else you're going to kill off some of the premier institutions in the country.''

Here in Boston, with its unusual concentration of academic medicine and its teaching hospitals affiliated with the medical schools of Harvard, Tufts and Boston Universities, the cuts are already taking a toll in hundreds of eliminated jobs and pockets of miserable morale.

Five of Boston's top eight private employers are teaching hospitals, Mayor Thomas M. Menino notes. And if five-year Medicare cuts totaling an estimated $1.7 billion for Massachusetts hospitals continue, Mayor Menino says, ''We'll have to lay off thousands of people, and that's a big hit on the city of Boston.''

Often, analysts say, hospital cutbacks, closings and mergers make good economic sense, and some dislocation and pain are only to be expected, for all the hospitals' tendency to moan about them. Some critics say the hospitals are partly to fault, that for all their glittery research and credentials, they have not always been efficiently managed.

''A lot of teaching hospitals have engaged in what might be called self-sanctification—'We're the greatest hospitals in the world and no one can do it better or for less'—and that may or may not be true,'' said Alan Sager, a health-care finance expert at the Boston University School of Public Health.

But the hospital chiefs argue that they have virtually no fat left to cut, and warn that their financial problems may mean that the smartest edge of American medicine will get dumbed down.

With that message, they have been lobbying Congress in recent weeks to reconsider the cuts that they say have turned their financial straits from tough to intolerable.

''Five years from now, the American people will wake up and find their clinical research is second rate because the big teaching hospitals are reeling financially,'' said Dr. David G. Nathan, president of the Dana-Farber Cancer Institute here.

In a half-dozen interviews, around the Boston medical-industrial complex known as the Longwood Medical Center and Academic Area and elsewhere, hospital executives who normally compete and squabble all espoused one central idea: teaching hospitals are special, and that specialness costs money.

Take the example of treating heart-disease patients, said Dr. Michael F. Collins, president and chief executive of Caritas Christi Health Care System, a seven-hospital group affiliated with Tufts.

In 1988, Dr. Collins said, it was still experimental for doctors to open blocked arteries by passing tiny balloons through them; now, they have a bouquet of expensive new options for those patients, including springlike devices called stents that cost $900 to $1,850 each; tiny rotobladers that can cost up to $1,500 and costly drugs to supplement the reaming that cost nearly $1,400 a patient.

''A lot of our scientists are doing research on which are the best catheters and which are the best stents,'' Dr. Collins said. ''And because they're giving the papers on the drug, they're using the drug the day it's approved to be used. Right now it's costing us about $50,000 a month and we're not getting a nickel for it, because our case rates are fixed.''

Hospital chiefs and doctors also argue that a teaching hospital and its affiliated university are a delicate ecosystem whose production of critical research is at risk.

''The grand institutions in Boston that are venerated are characterized by a wildflower approach to invention and the generation of new knowledge,'' said Dr. James Reinertsen, the chief executive of Caregroup, which owns Beth Israel Deaconess Medical Center. ''We don't run our institutions like agribusiness, a massively efficient operation where we direct research and harvest it. It's unplanned to a great extent, and that chaotic fermenting environment is part of what makes the academic health centers what they are.''

''There wouldn't have been a plan to do what Judah Folkman has done over the last 20 years,'' Dr. Reinertsen said of the doctor-scientist at Children's Hospital in Boston who has developed a promising approach to curing cancer.

Federal financing for research is plentiful of late, hospital heads acknowledge. But they point out that the Government expects hospitals to subsidize 10 percent of 15 percent of that research, and that they must also provide important support for researchers still too junior to win grants.

A similar argument for slack in the system comes in connection with teaching. Teaching hospitals are pressing their faculties to take on more patients to bring in more money, said Dr. Daniel D. Federman, dean for medical education of Harvard Medical School. A doctor under pressure to spend time in a billable way, Dr. Federman said, has less time to spend teaching.

The Boston teaching hospitals generally deny that the money squeeze is affecting patients' care, (a denial some patients would question,) or students' quality of medical education (a denial some students would question,) or research—yet.

The Boston hospitals' plight may be partly their fault for competing so hard with each other, driving down prices, some analysts say. Though some hospitals have merged in recent years, Boston is still seen as having too many beds, and virtually all hospitals are teaching hospitals here.

Whatever the causes, said Dr. Stuart Altman, professor of national health policy at Brandeis University and past chairman for 12 years of the committee that advised the Government on Medicare prices, ''the concern is very real.''

''What's happened to them is that all of the cards have fallen the wrong way at the same time,'' Dr. Altman said. ''I believe their screams of woe are legitimate.''

Among the cards that fell wrong, begin with managed care. Massachusetts has an unusually large quotient of patients in managed-care plans. Managed-care companies, themselves strapped, have gotten increasingly tough about how much they will pay.

Boston had already gone through a spate of fat-trimming hospital mergers, closings and cost cutting in recent years. Add to the troubles some complaints that affect all hospitals: expenses to prepare their computers for 2000, problems getting insurance companies and the Government to pay up, new efforts to defend against accusations of billing fraud.

But the back-breaking straw, hospital chiefs says, came with Medicare cuts, enacted under the 1997 balanced-budget law, that will cut more each year through 2002. The Association of American Medical colleges estimates that by then the losses for teaching hospitals could reach $14.7 billion, and that major teaching hospitals will lose about $150 million each. Nearly 100 teaching hospitals are expected to be running in the red by then, the association said last month.

For years, teaching hospitals have been more dependent than any others on Medicare. Unlike some other payers, Medicare has compensated them for their special missions—training, sicker patients, indigent care—by paying them extra.

For reasons yet to be determined, Dr. Altman and others say the Medicare cuts seem to be taking an even greater toll on the teaching hospitals than had been expected. Much has changed since the 1996 numbers on which the cuts are based, hospital chiefs say; and the cuts particularly singled out teaching hospitals, whose profit margins used to look fat.

Frightening the hospitals still further, President Clinton's next budget proposes even more Medicare cuts.

Not everyone sympathizes, though. Complaints from hospitals that financial pinching hurts have become familiar refrains over recent years, gaining them a reputation for crying wolf. Critics say the Boston hospitals are whining for more money when the only real fix is broad health-care reform.

Some propose that the rational solution is to analyze which aspects of the teaching hospitals' work society is willing to pay for, and then abandon the Byzantine Medicare cross-subsidies and pay for them straight out, perhaps through a new tax.

Others question the numbers.

Whenever hospitals face cuts, Alan Sager of Boston University said, ''they claim it will be teaching and research and free care of the uninsured that are cut first.''

If the hospitals want more money, Mr. Sager argued, they should allow in independent auditors to check their books rather than asking Congress to rely on a ''scream test.''

For many doctors at the teaching hospitals, however, the screaming is preventive medicine, meant to save their institutions from becoming ordinary.

Medical care is an applied science, said Dr. Allan Ropper, chief of neurology at St. Elizabeth's Hospital, and strong teaching hospitals, with their cadres of doctors willing to spend often-unreimbursed time on teaching and research, are essential to helping move it forward.

''There's no getting away from a patient and their illness,'' Dr. Ropper said, ''but if all you do is fix the watch, nobody ever builds a better watch. It's a very subtle thing, but precisely because it's so subtle, it's very easy to disrupt.''

## 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 sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT ON TELECOMMUNICATIONS PAYMENTS TO CUBA—MESSAGE FROM THE PRESIDENT—PM 24

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:*

As required by section 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104–114, 110 Stat. 785, I transmit herewith a 6-month periodic report on telecommunications payments made to Cuba pursuant to Department of the Treasury specific licenses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 6, 1999.*

## REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT—PM 25

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 Small Business.

*To the Congress of the United States:*

I am pleased to present my fifth annual report on the state of small business. In 1996, the year covered by this report, more than 23.2 million small business tax returns were filed. A record 842,000 new small employes opened their doors and new incorporations hit a record high for the third straight year. Corporate profits, employment compensation, and proprietorship earnings all increased significantly. Industries dominated by small firms created an estimated 64 percent of the 2.5 million new jobs.

Small businesses represent the individual economic efforts of our Nation's citizens. They are the foundation of the Nation's economic growth: virtually all of the new jobs, 53 percent of employment, 51 percent of private sector output, and a disproportionate share of innovations come from small firms. Small businesses are avenues of opportunity for women and minorities, first employers and trainers of the young, important employers of elderly workers, and those formerly on public assistance. The freedom of America's small businesses to experiment, create, and expand makes them powerhouses in our economic system.

### AN UNPRECEDENTED RECORD OF SUCCESS

Looking back to the 1986 White House Conference on Small Business, one of the top priorities on the small business agenda was deficit reduction. Small business capital formation efforts had been undermined by interest rates driven sky-high by the demand for funds to service the growing national debt. Today I'm proud to say we've done what was thought nearly impossible then. This year we have converted the deficit to a surplus—and the budget deficit is no longer the issue it once was.

And my Administration is committed to continuing the dramatic growth of the small business sector. We continue to pay close attention to the perspectives and recommendations of America's small business owners. The 1995 White House Conference on Small Business sent a list of 60 recommendations to my Administration and the Congress—the result of a year-long series of conferences and a national meeting on the concerns of small firms. In their 1995 recommendations, the small business delegates told us they need less onerous regulation, estate tax relief for family-owned businesses, and still more access to capital to start and expand their businesses.

On each of these fronts, and on many others, impressive steps have been taken. I have signed 11 new laws that address many of the delegates' concerns. In fact, meaningful action has been taken on fully 86 percent of the 1995 White House Conference on Small Business recommendations.

### EASING THE TAX BURDEN

The Taxpayer Relief Act, which I signed in 1997, includes wins for small businesses and the American economy in the form of landmark tax reform legislation. The law will provide an estimated $20 billion in tax relief to small business over the next 10 years. It extends for three years the exclusion from taxable income of money spent by an employer on education for an employee. The unified gift and estate tax credit will increase the amount excluded from taxation on a transferred estate to $1.3 million for small family-owned businesses.

The new law expands the definition of a home office for the purpose of deducting expenses to include any home office that is the business' sole office and used regularly for essential administrative or management activities.

And capital gains taxes are reduced from 28 percent to 20 percent. This will help small businesses by encouraging investments in businesses that reinvest for growth rather than investments in companies that pay heavy dividends. The law also improves the targeted capital gains provisions relating specifically to small business stocks. Moreover, small corporations are exempted under the new law from alternative minimum tax calculations. This provision saves about 2 million businesses from complex and unnecessary paperwork.

### CAPITAL FOR SMALL BUSINESS GROWTH

One of the Small Business Administration's (SBA) highest priorities is to increase small business access to capital and transform the SBA into a 21st century leading-edge financial institution. The SBA's credit programs—including the 7(a) business loan guarantee program, the Section 504 economic development loan program, the microloan program, the small business investment company program, the disaster loan and surety bond programs—provide valuable and varied financial assistance to small businesses of all types. The Small Business Lending Enhancement Act of 1995 increased the availability of funds for SBA's lending programs. In the 7(a) program in fiscal year 1997 alone, with approximately 8,000 bank and nonbank lenders approved to participate, 45,288 loan guarantees valued at $9.5 billion was approved as of September 1997.

My Administration developed community reinvestment initiatives that revised bank regulatory policies to encourage lending to smaller firms. When combined with lower interest rates, this led to a sizable increase in commercial and industrial lending, particularly to small businesses. And in the first year of implementation under the Community Reinvestment Credit Act, new data were collected on small business loans by commercial banks. The SBA's Office of Advocacy has been studying and publishing its results on the small business lending activities of the Nation's banks.

And the Office of Advocacy launched a nationwide Internet-based listing service—the Angel Capital Electronic Network (ACE–Net) to encourage equity investment in small firms. ACE–Net provides information to angel investors on small dynamic businesses seeking $250,000 to $3 million in equity financing.

REFORMING THE REGULATORY PROCESS

The Small Business Regulatory Enforcement Fairness Act (SBREFA), fully implemented in 1997, gives small businesses a stronger voice where it's needed—early in the Federal regulatory development process. The law provides for regulatory compliance assistance from every Federal agency and legal remedies where agencies have failed to address small business concerns in the rulemaking process.

The new process is working. Agencies and businesses are working in partnership to ensure that small business input is a part of the rulemaking process. In the summer of 1997, for example, the Occupational Safety and Health Administration, in conjunction with the SBA's Office of Advocacy, convened four regional meetings with small firms to discuss a safety and health program under development.

Small firms are also witnessing more agency compliance assistance once regulations are in effect. Agencies are routinely providing compliance guides and lists of telephone numbers and e-mail addresses for small business assistance.

And the law provides for a national ombudsman and 10 regional regulatory fairness boards to make it simple for small businesses to share their ideas, experiences, and concerns about the regulatory enforcement environment. The ombudsman boards are addressing many concerns expressed by the small firms in dealing with regulating agencies.

EXPANDING TECHNOLOGY AND INNOVATION

Initiatives like the Small Business Innovation Research Program, the Small Business Technology Transfer Program, and the National Institute of Standards and Technology's Manufacturing Extension Partnership and Advanced Technology Program were put in place in the 1980s to channel more Federal funding to small business research and to help small businesses move ideas from the drawing board to the marketplace. Clearly, progress has been made; much remains to be done. New Internet-based initiatives like the Access to Capital Electronic Network and the U.S. Business Advisor are designed to help many more small businesses made the connections they need to commercialize their innovative technologies.

ENHANCING INTERNATIONAL TRADE AND FEDERAL PROCUREMENT OPPORTUNITIES

During my Administration, our Nation has led the way in opening new markets, with 240 trade agreements that remove foreign barriers to U.S.-made products. Measures aimed at helping small firms expand into the global market have included an overhaul of the Government's export controls and reinvention of export assistance. These changes have cleared a path for small businesses to enter the international economy.

To make certain that small companies can do business with the Government, my Administration and the Congrees, my Administration and the Congress have streamlined the Federal Acquisition Reform Act of 1996. The changes instituted in these reforms are cost-effective for the Government and are intended to enable businesses to compete more effectively for Government contracts worth billions of dollars.

I am pleased that the SBA has instituted a new electronic gateway to procurement information, the Procurement Marketing and Access Network, or Pro-Net. This database on small, minority-owned, and women-owned businesses will serve as a search engine for contracting officers, a marketing tool for small fims, and a link to procurement opportunities.

THE HUMAN FACTOR

My Administration is moving to anticipate 21st century demands on our most important resource—our people. As a recent report by the SBA's Office of Advocacy points out, small businesses employed more people on public assistance in 1996 than did large businesses. Our welfare to Work Partnership has already had positive results—we've moved two million Americans off welfare two full years ahead of schedule. And we are enlisting the help of more and more small business people to expand that record of success.

We want to educate and train a work force that will meet all our future global competition. For those in the work force or moving into it, I recently signed legislation that consolidated the tangle of training programs into a single grant program so that people can move quickly on their own to better jobs and more secure futures. The Balanced Budget Act of 1997 encourages employers to provide training for their employees by excluding income spent on such training from taxation. The SBA has also increased training opportunities for businesses by funding new export assistance centers and women's business centers across the country.

Women have been starting their own businesses at a dramatic rate in recent years. More than 6 million women-owned proprietorships were in operation in 1994, a phenomenal 139 percent increase over the 2.5 million that existed in 1980. But it is also women who are most affected by the lack of adequate child care. The SBA's Office of Advocacy has found that while small firms value the benefits of child care as much as large businesses, small businesses have been less likely to offer this benefit than large firms for a variety of reasons related to cost. The bottom line is that we've got to raise the quality of child care and make it more affordable for families. I have proposed tax credits for businesses that provide child care and a larger child care tax credit for working families.

I am pleased that so many Americans of all races and nationalities are asserting their economic power by starting small businesses. This report documents the growth: the number of businesses owned by minorities increased from 1.2 million to almost 2 million in the 5-year period from 1987 to 1992. The Federal Government has a role in widening the circle of economic opportunity. Programs are in place to ensure that socially and economically disadvantaged businesses have a fair chance in the Federal procurement marketplace. The share of Federal contract dollars won by minority-owned firms has remained at 5.5 percent for two years running—up from less than 2 percent in 1980. And recently the SBA and the Vice President announced new small business lending initiatives directed to the Hispanic and African American small business communities to give these Americans better access to the capital they need.

We have been working for the past 5 years to bring the spark of enterprise to inner city and poor rural areas through community development banks, commercial loans in poor neighborhoods, and the cleanup of polluted sites for development. The empowerment zone and enterprise community program offers significant tax incentives for firms within the zones, including a 20 percent wage credit and another $20,000 in expensing and tax-exempt facility bonds. Under the leadership of the Vice President, we want to increase the number of empowerment zones to give more businesses incentives to move into these areas.

FUTURE CHALLENGES

America's small business community is both the symbol and the embodiment of our economic freedom. That is why my Administration has made concerted efforts to expand small business access to capital, reform the system of Government regulations to make it more equitable for small companies, and expand small business access to new and growing markets.

This is an important report because it annually reflects our current knowledge about the dynamic small business economy. Clearly, much is yet to be learned: existing statistics are not yet current enough to answer all the questions about how small, minority-owned, and women-owned businesses are faring in obtaining capital, providing benefits, and responding to regional growth or downsizing. I continue to encourage cooperative Government efforts to gather and analyze data that is useful for Federal policy-making.

I am proud that my Administration is on the leading edge in working as a partner with the small business community. Our economic future deserves no less. The job of my Administration, and its pledge to small business owners, is to listen, to find out what works and to ensure a healthy environment for small business growth.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 6, 1999.*

## MESSAGES FROM THE HOUSE

### ENROLLED BILLS SIGNED

At 11:11 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 453. An act to designate the Federal building located at 709 West 9th Street in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building.''

S. 460. An act to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Bankruptcy Courthouse.''

The enrolled were signed subsequently by the President pro tempore (Mr. THURMOND).

At 6:01 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 bill, in which it requests the concurrence of the Senate:

H.R. 833. An act to amend title 11 of the United States Code, and for other purposes.

At 8:19 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the house has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1664. An emergency supplemental appropriation for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999, and for other purposes.

## MEASURE REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1664. An emergency supplemental appropriation for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999, and for other purposes; to the Committee on Appropriations.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on May 6, 1999, he had presented to the President of the United States, the following enrolled bills:

S. 453. An act to designate the Federal building located at 709 West 9th Street in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building.''

S. 460. An act to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Courthouse.''

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2884. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Farm Interest Rates'', (Revenue Ruling 99–20), received on April 27, 1999; to the Committee on Finance.

EC–2885. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Accounting Grace Period'' (Notice 99–19), received on April 6, 1999; to the Committee on Finance.

EC–2886. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Public Disclosure of Material Relating to Tax-Exempt Organizations'' (RIN1545–AV13), received on April 9, 1999; to the Committee on Finance.

EC–2887. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Nonconvential Source Fuel Credit, Section 29 Inflation Adjustment Factor, and Section 29 Reference Price'' (Notice 99–18), received on April 6, 1999; to the Committee on Finance.

EC–2888. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Electronic Funds Transfer—Temporary Waiver of Failure to Deposit Penalty for Certain Taxpayers'' (Notice 99–20), received on April 9, 1999; to the Committee on Finance.

EC–2889. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Post-1997 Distributions of Capital Gains from Charitable Remainder Trusts'' (Notice 99–17), received on April 9, 1999; to the Committee on Finance.

EC–2890. A communication from the Assistant Secretary, Tax Policy, Department of the Treasury, transmitting, a draft of proposed legislation relative to Puerto Rico and the Virgin Islands; to the Committee on Finance.

EC–2891. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 99–21'', received on April 8, 1999; to the Committee on Finance.

EC–2892. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Firearms and Ammunition Excise Taxes, Parts and Accesories'', received on April 19, 1999; to the Committee on Finance.

EC–2893. A communication from the Assistant Commissioner (Examination), Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Mining Industry Coordinated Issue: Excess Moisture'', received on April 6, 1999; to the Committee on Finance.

EC–2894. A communication from the Acting General Counsel, Department of Defense, transmitting, a draft of proposed legislation relative to tax consequences for members of the armed forces; to the Committee on Finance.

EC–2895. A communication from the Board Members, Railroad Retirement Board, transmitting, a draft of proposed legislation relative the National Directory of New Hires; to the Committee on Finance.

EC–2896. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation entitled ''Comprehensive Electricity Competition Act''; to the Committee on Finance.

EC–2897. A communication from the Vice President, Health, American Academy of Actuaries, transmitting, a report of comments on the 1999 Annual Report of the Board of Trustees of the Federal Hospital Insurance and Supplementary Medical Insurance Trust Funds; to the Committee on Finance.

EC–2898. A communicaton from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Import Restrictions Imposed on Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus'' (RIN1515–AC46), received April 9, 1999; to the Committee on Finance.

EC–2899. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Withdrawal of International Airport Designation of Akron Fulton Airport'' (R.P. 97–13), received April 12, 1999; to the Committee on Finance.

EC–2900. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Rul. 99–23'', received April 30, 1999; to the Committee on Finance.

EC–2901. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 99–23: Revisions to Schedule P (Form 1120–FSC)'' (Notice 99–23), received April 29, 1999; to the Committee on Finance.

EC–2902. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 99–25'' (SPR–107460–99), received April 29, 1999; to the Committee on Finance.

EC–2903. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 99–24: Extension of Time to File FSC Grouping Redeterminations Under Transition Rule to be Included in Final Regulations'' (Notice 99–24), received April 29, 1999; to the Committee on Finance.

EC–2904. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Rul. 99–21, May 1999 Applicable Federal Rates'', received April 20, 1999; to the Committee on Finance.

EC–2905. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 1999'', received April 27, 1999; to the Committee on Finance.

EC–2906. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''TD 8819: Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder and Reversionary Interests'' (RIN1545–AX14), received April 29, 1999; to the Committee on Finance.

EC–2907. A communication from the Deputy Executive Secretariat, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled

"Implementation of Section 403(a)(2) of the Social Security Act-Bonus to Reward Decrease in Illegitimacy Ratio" (RIN0970–AB79), received April 22, 1999; to the Committee on Finance.

EC–2908. A communication from the Health Insurance Specialist, Health Care Financing Administration, transmitting, pursuant to law, the report of a rule entitled "State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1999" (HCFA–2032–N), received April 27, 1999; to the Committee on Finance.

EC–2909. A communication from the Acting Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Maximum Family Benefits in Guarantee Cases" (RIN0960–AE03), received April 9, 1999; to the Committee on Finance.

EC–2910. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Delegation of Authority" (RIN1512–AB87), received April 6, 1999; to the Committee on Finance.

EC–2911. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of six rules entitled "Acid Rain Program; Continuous Emission Monitoring Rule Revisions" (FRL #6320–8), "Approval and Promulgation of Implementation Plans: Washington" (FRL #6322–5), "Approval and Promulgation of Implementation Plans: State of Iowa" (FRL #6322–1), "Implementation Plan and Redesignation Request for the Muscogee County, Georgia Lead Nonattainment Area" (FRL #6321–1), "National Emission Standards for Hazardous Air Pollutants for Source Categories: Amendments for Hazardous Air Pollutants Emissions from Magnetic Tape Manufacturing Operations" (FRL #6321–8) and "National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production" (FRL #6322–8), received April 6, 1999; to the Committee on Environment and Public Works.

EC–2912. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of five rules entitled "Approval and Promulgation of Air Quality State Implementation Plans, Texas: Recodification of, and Revision to the State Implemation Plan; Chapter 114" (FRL #6117–3), "Approval and Promulgation of Implementation Plans: Oregon" (FRL #6127–4), "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District" (FRL #6333–4), "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants Allegheny County, PA; Removal of Final Rule Pertaining to the Control of Landfill Gas Emission from Existing Municipal Solid Waste Landfills" (FRL #6111–8) and "Missouri: Final Authorization of State Hazardous Waste Management Program Revision for Corrective Action" (FRL #6333–2); received on April 27, 1999, to the Committee on Environment and Public Works.

EC–2913. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled "Approval and Promulgation of Implementation Plans Georgia: Revisions to the Georgia State Implemation Plan" (FRL #6318–3) and "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Maryland; Control of Emissions from Large Municipal Waste Combustors" (FRL #6330–7), received on April 20, 1999; to the Committee on Environment and Public Works.

## EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. WARNER, for the Committee on Armed Services:

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brig Gen. Harry D. Gatanas, 5957.

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

*To be brigadier general*

William D. Catto, 0000.
Tony L. Corwin, 0000.
Robert C. Dickerson, Jr., 0000.
Jon A. Gallinetti, 0000.
Timothy F. Ghormley, 0000.
Samuel T. Helland, 0000.
Leif H. Hendrickson, 0000.
Richard A. Huck, 0000.
Richard S. Kramlich, 0000.
Timothy R. Larsen, 0000.
Bradley M. Lott, 0000.
Jerry C. McAbee, 0000.
Thomas L. Moore, Jr., 0000.
Richard F. Natonski, 0000.
Johnny R. Thomas, 0000.

(The above nominations were reported with the recommendation that they be confirmed)

## 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. DODD:

S. 970. A bill to amend the Public Health Service Act to establish grant programs for youth substance abuse treatment services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself and Mr. JEFFORDS):

S. 971. A bill to amend the Public Health Service Act to revise and extend the grant program for services for children of substance abusers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG:

S. 972. A bill to amend the Wild and Scenic Rivers Act to improve the administration of the Lamprey River in the State of New Hampshire; to the Committee on Energy and Natural Resources.

By Mr. ROBB (for himself, Mr. KERRY, and Mrs. FEINSTEIN):

S. 973. A bill to provide for school safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER (for himself and Mr. LEVIN) (by request):

S. 974. A bill to authorize appropriations for fiscal years 2000 and 2001 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 2000 and 2001, and for other purposes; to the Committee on Armed Services.

By Mr. EDWARDS:

S. 975. A bill to amend chapter 30 of title 39, United States Code, to provide for a uniform notification system under which individuals may elect not to receive mailings relating to skill contests or sweepstakes, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. DODD, Mr. DEWINE, Ms. MIKULSKI, and Ms. COLLINS):

S. 976. A bill to amend title V of the Public Health Service Act to focus the authority of the Substance Abuse and Mental Health Services Administration on community-based services children and adolescents, to enhance flexibility and accountability, to establish programs for youth treatment, and to respond to crises, especially those related to children and violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 977. A bill to provide for the conveyance by the Bureau of Land Management to Douglas County, Oregon, of a county park and certain adjacent land; to the Committee on Energy and Natural Resources.

By Mr. WARNER:

S. 978. A bill to specify that the legal public holiday known as Washington's Birthday be called by that name; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself and Mr. MCCAIN):

S. 979. A bill to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. THOMAS, Mr. HARKIN, Mr. GRASSLEY, Mr. CONRAD, Mr. ROBERTS, Mr. FRIST, Mr. JOHNSON, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. WELLSTONE, and Mr. MURKOWSKI):

S. 980. A bill to promote access to health care services in rural areas; to the Committee on Finance.

By Mr. DODD:

S. 981. A bill to provide training to professionals who work with children affected by violence, to provide for violence prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WELLSTONE (for himself and Mr. KERRY):

S. 982. A bill entitled "Clean Money, Clean Elections Act"; to the Committee on Rules and Administration.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 983. A bill to require the Secretary of Transportation to issue regulations to provide for improvements in the conspicuity of rail cars of rail carriers; to the Committee on Commerce, Science, and Transportation.

By Ms. COLLINS (for herself and Mrs. BOXER):

S. 984. A bill to amend the Internal Revenue Code of 1986 to modify the tax credit for electricity produced from certain renewable resources; to the Committee on Finance.

By Mr. CAMPBELL:

S. 985. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. REID (for himself and Mr. BRYAN):

S. 986. A bill to direct the Secretary of the Interior to convey the Griffith Project to the Southern Nevada Water Authority; to the Committee on Energy and Natural Resources.

By Mr. DeWINE:

S. 987. A bill to expand the activities of the Eisenhower National Clearinghouse to include collecting and reviewing instructional and professional development materials and programs for language arts and social studies, and to require the Eisenhower National Clearinghouse to collect and analyze the materials and programs; to the Committee on Health, Education, Labor, and Pensions.

S. 988. A bill to provide mentoring programs for beginning teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

S. 989. A bill to improve the quality of individuals becoming teachers in elementary and secondary schools, to make the teaching profession more accessible to individuals who wish to start a second career, to encourage adults to share their knowledge and experience with children in the classroom, to give school officials the flexibility the officials need to hire whom the officials think can do the job best, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

S. 990. A bill to provide for teacher training facilities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCAIN:

S. 991. A bill to prevent the receipt, transfer, transportation, or possession of a firearm or ammunition by certain violent juvenile offenders, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself, Mr. DODD, Mr. COCHRAN, Mr. LIEBERMAN, Mr. FRIST, Mr. DORGAN, Ms. MIKULSKI, Mr. COVERDELL, Mr. CLELAND, Mr. BENNETT, Mr. ROCKEFELLER, Mr. BROWNBACK, Mr. ENZI, Mrs. MURRAY, Mr. SARBANES, Mr. BURNS, Mr. KOHL, Mr. BINGAMAN, Mr. DEWINE, Ms. COLLINS, Mrs. FEINSTEIN, Mr. BOND, Mr. INHOFE, Mr. SMITH of Oregon, Mr. REID, Mr. WELLSTONE, Mr. CHAFEE, Mr. GREGG, Mr. AKAKA, Mr. BAUCUS, Mr. KENNEDY, Mrs. HUTCHISON, Mr. THURMOND, Mr. HUTCHINSON, Mr. BREAUX, Mr. CONRAD, Mr. JOHNSON, Mr. BYRD, Mr. WARNER, Mr. MURKOWSKI, Mr. BUNNING, Mr. HAGEL, Mr. ALLARD, Mr. VOINOVICH, Mr. GORTON, Mr. STEVENS, Mr. NICKLES, Mr. LOTT, Mr. SPECTER, Mr. ROBERTS, Mr. MACK, Mr. CRAIG, Mr. BIDEN, Ms. SNOWE, Mr. GRAMS, Mr. FITZGERALD, and Mr. MOYNIHAN):

S. Res. 98. A resolution designating the week beginning October 17, 1999, and the week beginning October 15, 2000, as ''National Character Counts Week''; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD:

S. 970. A bill to amend the Public Health Service Act to establish grant programs for youth substance abuse treatment services; to the Committee on Health, Education, Labor, and Pensions.

TEEN SUBSTANCE ABUSE TREATMENT ACT OF 1999

• Mr. DODD. Mr. President, I rise today to introduce the Teen Substance Abuse Treatment Act of 1999. This legislation fills an important gap in our national strategy for combating substance abuse in our communities. Specifically, this bill creates a dedicated funding commitment for treating youth with alcohol and drug problems.

We have made important progress in impacting the number of our youth using alcohol and drugs. However, studies reveal that alcohol is still the drug of choice for many Americans—and our youth are no exception. Studies reveal that fifty-two percent of senior high school students report using alcohol in the past month and 25% are using drugs on a monthly basis.

Each year, 400,000 teens and their families will seek substance abuse treatment but find that it is either unavailable or unaffordable. Some teens in need of treatment may have incomes too high to receive Medicaid, but too low to afford private insurance or to pay for treatment out of pocket. Those who do have private insurance through a managed care plan may find that length of treatment is severely restricted. At best, 20% of adolescents with severe alcohol and drug treatment problems who ask for help will receive any form of treatment.

Those teens who are fortunate enough to get treatment often find that available services do not adequately address their needs. The physical, hormonal, developmental, and emotional changes of the adolescent years pose challenges to health care providers, many of whom have not been trained to deal specifically with this population. Providing teens with access to research-based, developmentally and age-appropriate treatment which will address their specific needs can increase their rates of recovery and better prevent relapses.

Without intervention teen substance abusers may also engage in other risky behaviors. Teen alcohol and drug abuse may spiral into academic failure and involvement with the juvenile justice system. Juvenile courts report that in over 50 percent of their cases substance abuse is a contributing factor. In a survey of teens receiving substance abuse treatment, 59% had been arrested at least once and 16% had been arrested for felonies. In addition, teens who use alcohol are more likely to become sexually active at earlier ages and to engage in unsafe sex, increasing the chances of unplanned pregnancies and sexually transmitted diseases such as HIV/AIDS.

We also know that substance abuse is associated with aggressive, anti-social, and violent behaviors and that chemical dependency can magnify existing behavioral problems. The facts are alarming: children who abuse alcohol and drugs are at a greater risk for killing themselves or others. Alcohol-related traffic crashes are the leading cause of teen death, and alcohol is also involved in homicides and suicides, the second and third leading causes of teen deaths respectively.

Alcohol and drug use has a huge price tag both for families and society at large—and we can't afford to sit idly by while it continues to rise. Seven thousand youth in my state of Connecticut alone are in need of treatment. That is why I am introducing the Teen Substance Abuse Treatment Act. This legislation will provide grants to give youth substance abusers access to effective alcohol and drug treatment services that are developmentally and culturally appropriate. Specifically, this bill will address the particular issues of youth involved with the juvenile justice system and those with mental health or other special needs. Finally, this legislation will contribute to the development of treatment models that address the relationship between substance abuse and aggressive, anti-social, and violent behaviors.

While I am disappointed that this bill is not currently included in the Substance Abuse and Mental Health Services Reauthorization legislation that will be introduced today, I am encouraged that Senator FRIST has agreed to work with me, Senator REED, and Senator BINGAMAN prior to a markup of the bill to craft legislation to comprehensively address the substance abuse needs of adolescents.

The Teen Substance Abuse Treatment Act of 1999 expresses a commitment to ensuring that no child who asks for help with a substance abuse problem will be denied treatment. I urge my colleagues to support this legislation.•

By Mr. DODD (for himself and Mr. JEFFORDS):

S. 971. A bill to amend the Public Health Service Act to revise and extend the grant program for services for children of substance abusers; to the Committee on Health, Education, Labor, and Pensions.

SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS REAUTHORIZATION ACT

• Mr. DODD. Mr. President, I rise to join Senator JEFFORDS in introducing the Children of Substance Abusers Reauthorization Act'' (COSA). This legislation represents a vital step in expanding and improving early intervention, prevention, and treatment services for families confronting substance abuse. In addition, this legislation addresses the devastation generated in the wake of parental substance abuse—the physical and emotional difficulties faced by children of substance abusers, abuse and neglect, and adolescent substance abuse and violence.

Children with substance abusing parents face serious health risks, including congenital birth defects and psychological, emotional, and developmental problems. For example, fetal exposure to alcohol puts a child in danger of fetal alcohol syndrome and other congenital birth defects. In addition, each year around 500,000 babies are born prenatally exposed to some form of addictive substance including crack, alcohol, and tobacco, compromising their long-term ability to thrive and to learn.

We also know that substance abuse plays a major role in child abuse and neglect—irreparably damaging family bonds and threatening to further strain an already over-burdened child welfare system. In fact, over the past 10 years, fueled by parental substance abuse, the number of abused and neglected children has more than doubled from 1.4 million in 1986 to more than 3 million in 1997, a rise more than eight times greater than the increase in the child population. The disturbing link between parental substance abuse and child abuse is irrefutable. It is estimated that children whose parents abuse drugs and/or alcohol are three times more likely to be abused and four times more likely to be neglected than children whose parents are not substance abusers. In a 1998 report, the General Accounting Office estimated that two-thirds of all children in foster-care had substance abusing mothers and that 80% of those mothers had been using drugs or alcohol for at least five years—many of them for ten years or more.

Alcohol and drug use exact a huge price tag on both children and society at large. Estimates are that parental substance abuse costs the nation approximately $20 billion a year. Of that amount, the federal government pays 44%, states 44%, and local governments 12% of the cost. We also know that the toll that substance abuse takes on families is immeasurable. Parents sacrifice the joys of watching their children grow and thrive and their children lose the opportunity to learn and grow in a safe, supportive home.

In Connecticut alone, there are an estimated 12–15,000 children of substance abusers who are in desperate need of integrated, specialized support services. To assist those families and the thousands of others across this nation battling substance abuse, this legislation seeks a broad-based commitment from schools, social service agencies, health providers, community centers, and the other entities serving families to join together to promote aggressive outreach, prevention and treatment services. Because parental substance abuse impacts so many aspects of children's lives, this legislation would also provide comprehensive, family-centered services addressing health, mental health, violence, child abuse and neglect, HIV and family planning services, child care, and transportation. In addition, COSA will strengthen the systems which provide these services by funding the education and training of providers.

COSA represents a bipartisan commitment to lessen the terrible toll that substance abuse takes on families. I am grateful for Senator JEFFORDS' co-sponsorship and am pleased that Senator FRIST and the Health, Education, Labor, and Pensions Committee have agreed to include COSA within the larger Substance Abuse and Mental Health Services Reauthorization legislation that will be introduced today.

I ask my colleagues to join me in supporting this legislation.●

● Mr. JEFFORDS. Mr. President, I want to join my colleague from Connecticut in introducing the Children of Substance Abusers Reauthorization Act (COSA). Senator DODD is to be saluted for his keen ability to identify conditions that place families and children at risk and for developing innovative solutions and strategies for alleviating those conditions.

Substance abuse affects us all. Many of us have a close friend or family member who is a substance abuser or is in recovery. Even those of us not familiar with the personal struggles of substance abuse are affected. My office just received a report from General McCaffrey at the National Drug Control Policy Office that states that drugs play a part in virtually every major social issue in America today, be it health care, crime, mental illness, the dissolution of families, or child abuse. There is no question that Americans want to do "something" about substance abuse, but 78 percent of Americans think that the "War on Drugs" has failed. So what options for combating substance abuse and addiction should policy makers explore?

My state of Vermont has an innovative strategy it is eager to employ. Vermont has done its research and learned that among its school-aged youth a significant portion used illicit drugs; 51% used alcohol, 32% used marijuana, and 5% used cocaine. Twenty-nine percent of Vermont 9th graders (those are 14–15 year-olds!) used marijuana in the past month. About 49% of Vermont students in grades 8 through 12, (almost 19,000 youth) were in need of substance abuse treatment or intervention in 1996. Yet only about 10% of the youth in need of treatment or intervention indicated having received the services.

Now the really striking results. Youth in need of alcohol, drug treatment, or intervention services were significantly more likely than those not in need of services to report an array of other school- and health-related problems. Twice as likely to report fighting in the last year; twice as likely to report being threatened or injured with a weapon at school in the past year; two to three times as likely to report having ever had sex; six times more likely to report having ever had sex with four or more people; and three to four times as likely to report having been pressured or forced into having sex. The Vermont report underscored clearly the challenges posed to primary care and substance abuse treatment and intervention providers in Vermont and indicated the wide range of services that are needed to identify and respond to the multiple needs of these kids and their parents. So what options for combating substance abuse and addiction should policy makers explore?

We know that prevention is most effective when it is directed at impressionable children. Just as adolescents are the most susceptible to the allure of illicit drugs, so too is it the most imperative to delay or prevent the first use of illicit drugs, alcohol and tobacco. Case studies from the national Centers for Substance Abuse Prevention demonstrate that prevention programs work, especially when the prevention message is reinforced by parents, teachers, clergy, mentors and other role models. The options we policy makers explore must include a comprehensive strategy that provides the constellation of prevention services needed by children of substance abusers and their families.

Vermont is ready to implement just such a strategy. Working with the national Center for Substance Abuse Treatment (CSAT), Vermont has confirmed that it's adult based substance abuse treatment models are not age appropriate, they don't work for adolescents, and they need to be redeveloped specifically for youth. Problems with engagement, retention in treatment, and relapse have been chronic in our current system. The CSAT treatment needs assessment determined that almost 40% of youth leave treatment after only one session, or leave against medical advice. Vermont has developed and is ready to implement a strategy but it needs assistance.

Vermont would like to build on the demonstrated success of the wraparound models of youth services. Adolescents will receive expanded case management, a broader array of outpatient options, easy access to intensive outpatient care, residential treatment, and encouragement to participate in collateral family treatment. The focus would be on ease of movement between levels of care, case management and integration of community based treatment plans.

The bill introduced today can provide States like Vermont much needed assistance in these areas. COSA will provide grants to nonprofit and public entities to provide a constellation of services needed by children and affected families to prevent substance abuse and stop the devastation it causes. Those services can include chid care, remedial education, counseling, therapeutic intervention services, job training. The children of substance abusers and their families is a group that desperately needs help. If we start now, we can begin to bring a close to the endless cycle of inter-generational drug abuse and this measure is the start we need to prevent further substance abuse by the next generation.

Mr. President, I would hope that my colleagues will not let this opportunity go unheeded.●

---

By Mr. GREGG:

S. 972. A bill to amend the Wild and Scenic Rivers Act to improve the administration of the Lamprey River in the State of New Hampshire; to the Committee on Energy and Natural Resources.

A BILL TO AMEND THE WILD AND SCENIC RIVERS ACT

Mr. GREGG. Mr. President, I rise today to introduce a bill to amend the

Wild and Scenic Rivers Act. This bill improves the administration of the Lamprey River in the State of New Hampshire by adding a twelve-mile segment to its Wild and Scenic Designation. In so doing, New Hampshire residents and visitors to my state will enjoy the many benefits associated with the Wild and Scenic River program, which is administered by the National Park Service.

It has been four years since I proudly sponsored the designation of the Lamprey River in Lee, Durham and Newmarket, New Hampshire into the National Wild and Scenic River Program. I am greatly pleased to welcome the Town of Epping into the partnership, and I am honored to offer this bill which will make this possible.

Contrary to concerns which are sometimes raised by other rivers' towns, Lee, Durham and Newmarket have told me that the Wild and Scenic program has stimulated a plethora of meaningful benefits to the Lamprey River and to the residents of the towns by which it flows. I applaud the extent to which this work has occurred through volunteer efforts and through monies solicited from towns, the State of New Hampshire and private foundations. As a result, groups like the Lamprey River Advisory Committee have been able to leverage a relatively small federal investment into substantial benefits.

Within the past month, the Board of Selectmen from the Town of Epping, New Hampshire, the Epping Conservation Commission, and the Lamprey River Advisory Committee have contacted me to request that I introduce this legislation which will increase the designated area from eleven and a half to twenty-three and a half miles.

The Lamprey River is situated in coastal New Hampshire and is the largest of the rivers that discharge into Great Bay, a designated National Estuarine Research Reserve consisting of 4,500 acres of tidal waters and wetlands and 800 acres of upland. Both in physical dynamics and biological productivity, the Great Bay estuary contributes immeasurable economic value to the Northeast and clearly constitutes one of New Hampshire's prime natural areas. The Lamprey's size alone marks its importance to Great Bay. Its good water quality and intact riparian habitat throughout the watershed create an important link between the estuary and inland areas.

The Lamprey is considered New Hampshire's most significant river for all species of anadromous fish and it contains every type of stream and river fish you could expect to find in New England. Botanical studies have documented 329 species of vascular plants of which 252 are restricted to wetlands and floodplain communities. In addition, according to the State Architectural Historian, the Lamprey is one of New Hampshire's most historic streams.

Perhaps what is most important about this bill is that it will help to assure that future generations will enjoy recreational opportunities on this great river. Undeveloped along most of its entire length, it is a beautiful river to be on and fish. For a quiet retreat into the woods the Lamprey is superb—where one can expect quiet canoe or kayak paddling past densely forested banks of hemlocks and hardwoods. In upstream reaches, people most often use the river recreationally for fishing, canoeing, kayaking, and swimming in the summer. In the winter, people trade in their boats and fishing poles for cross-country skis. This is a truly exceptional river offering a vast variety of activities for anyone who cares for the outdoors and I am pleased to offer this legislation to assure that it will remain in the same condition for generations to come. I ask unanimous consent that my statement and a copy of the bill be placed in the RECORD.

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

S. 972

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LAMPREY RIVER, NEW HAMPSHIRE.**

(a) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by striking paragraph (158) and inserting the following:

''(158) LAMPREY RIVER, NEW HAMPSHIRE.—

''(A) DESIGNATION.—

''(i) IN GENERAL.—The 23.5 mile segment extending from the Bunker Pond Dam in Epping to the confluence with the Piscassic River in the vicinity of the Durham-Newmarket town line (referred to in this paragraph as the 'segment') as a recreational river.

''(ii) ADMINISTRATION.—

''(I) COOPERATIVE AGREEMENTS.—The segment shall be administered by the Secretary of the Interior through cooperative agreements under section 10(e) between the Secretary and the State of New Hampshire (including the towns of Epping, Lee, Durham, and Newmarket, and other relevant political subdivisions of that State).

''(II) MANAGEMENT PLAN.—

''(aa) IN GENERAL.—The segment shall be managed in accordance with the Lamprey River Management Plan, dated January 10, 1995, and such amendments to that plan as the Secretary of the Interior determines are consistent with this Act.

''(bb) REQUIREMENT FOR PLAN.—The plan described in item (aa) shall be considered to satisfy the requirements for a comprehensive management plan under section 3(d).

''(B) MANAGEMENT.—

''(i) COMMITTEE.—The Secretary of the Interior shall coordinate the management responsibility under this Act with respect to the segment designated by subparagraph (A) with the Lamprey River Advisory Committee established under New Hampshire RSA 483.

''(ii) LAND MANAGEMENT.—

''(I) IN GENERAL.—The zoning ordinances duly adopted by the towns of Epping, Lee, Durham, and Newmarket, New Hampshire, including provisions for conservation of shoreland, floodplains, and wetland associated with the segment, shall—

''(aa) be considered to satisfy the standards and requirements of section 6(c) and the provisions of that section that prohibit Federal acquisition of lands by condemnation; and

''(bb) apply to the segment designated under subparagraph (A).

''(II) ACQUISITION OF LAND.—The authority of the Secretary to acquire land for the purposes of this paragraph shall be—

''(aa) limited to acquisition by donation or with the consent of the owner of the land; and

''(bb) subject to the additional criteria set forth in the Lamprey River Management Plan.''.

(b) CONFORMING AMENDMENT.—Section 405 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 1274 note; Public Law 104–333) is repealed.

---

By Mr. ROBB (for himself, Mr. KERRY, and Mrs. FEINSTEIN):

S. 973. A bill to provide for school safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SCHOOL SAFETY ENHANCEMENT ACT OF 1999

Mr. ROBB. Mr. President, I rise this afternoon to introduce legislation that I have been working on for several months and had not planned to introduce until later this year when the Senate considers the reauthorization of the Elementary and Secondary Education Act. However, the tragic event in Littleton has moved everyone's timetable forward.

When I was Governor of Virginia, education was my top priority. I might note that I know it was a top priority for the Presiding Officer when he was Governor of Ohio. Since I have been in the Senate I have become increasingly concerned about school safety. We simply cannot have good schools unless we have safe schools.

In 1993 I was able to get legislation enacted to create a commission on school violence. Regrettably, that commission was never funded, but it should have been. Two years ago the Senate approved an amendment I offered to allow COPS funding to be used for school safety. Last year we significantly expanded on that program, and I am grateful for the Senate's and the President's commitment to that important effort.

Over the past year, a year in which we have had too many horrible tragedies in our schools, we have all noticed that the most common questions asked following an incident of school violence are: Why didn't we see it coming? What could we have done to spot the warning signs and intervene before it was too late?

The legislation I offer today is designed to address one essential component of the school violence crisis: Prevention and intervention. In the coming weeks the Senate will consider a variety of proposals to address the issues of preventing school violence, how to manage crises when they occur, and how to punish those who engage in violence in our schools. I look forward to working with our colleagues to develop a comprehensive approach to school violence which incorporates this legislation and acknowledges the need for prevention and intervention efforts.

Out of respect for the families in Littleton and deference to the majority leader's request that we not take up legislation until next week at the earliest, I will not make extended remarks at this time and will defer to a later time. For now, I simply offer my continued prayers for those in Littleton who are still coping with a tremendous loss to their community.

Simply going to school should not be an act of courage.

---

By Mr. EDWARDS:

S. 975. A bill to amend chapter 30 of title 39, United States Code, to provide for a uniform notification system under which individuals may elect not to receive mailings relating to skill contests or sweepstakes, and for other purposes; to the Committee on Governmental Affairs.

SWEEPSTAKES TOLL-FREE OPTION PROTECTION ACT OF 1999

Mr. EDWARDS. Mr. President, I rise today to introduce the Sweepstakes Toll-Free Option Protection Act of 1999, the ''STOP Act.'' I hope this measure will help put a stop to a practice I find extremely troublesome: the flooding of consumers' mailboxes with unwanted and misleading sweepstakes mailings.

The Permanent Subcommittee on Investigations recently held hearings on deceptive mailings and sweepstakes promotions. I'd like to thank Senators COLLINS and LEVIN for bringing this important issue to light.

Mr. President, during the course of these hearings, it became clear to me that strong measures must be taken to curb the use of misleading sweepstakes promotions. Too many people are getting swamped with solicitations. And too many people are spending their life savings trying to win prizes. The primary victims are our nation's elderly who are led to believe that if they purchase magazine subscriptions or other products, they will increase their chances of winning.

Well, purchases do not increase the chances of winning. But often times, what purchases actually do is increase the number of solicitations sweepstakes companies send out to people, encouraging them to buy even more products. With each new purchase, consumers are led to believe that they are coming closer and closer to winning a prize. The sad truth is they are not getting closer, but the cycle of deception keeps going.

The legislation I am introducing today would require sweepstakes companies to set up a uniform toll-free telephone number that consumers can call to have their names and addresses removed from all sweepstakes mailing lists. People will no longer have to contact each and every sweepstakes promoter to stop these misleading mailings.

My legislation is a sensible approach to helping regular people who want to stop the flood of sweepstakes mailings and protect themselves from misleading solicitations. Let me tell you the story of Bobby Bagwell to help illustrate the need for this measure.

One day, Pamela Bagwell went to visit her elderly father-in-law, Bobby. When she arrived at Bobby's home, Pamela found stacks and stacks of solicitations from sweepstakes companies. She asked Bobby about them and found out that he had made numerous purchases thinking that buying products would increase his chances of winning a prize. He was so convinced he would win a prize that he even invited his neighbors to his house on the day that the Publishers Clearing House prize patrol was supposed to deliver the grand prize check.

Pamela estimates that Bobby spent more than $20,000 in 10 months on products he thought would help his chance of winning. Now as I mentioned before, Bobby is an elderly man.

But this is not the worst part of this story. Bobby also has dementia. Pamela, who has power of attorney for Bobby, contacted Publishers Clearing House at least 6 times in October last year to demand that the company stop sending Bobby solicitations. She even went so far as to send the company a doctor's certification that Bobby has dementia. And yet, the sweepstakes mailings continued to flood Bobby's mailbox. Pamela said that sometimes Bobby was receiving up to twenty per day, from many different companies.

During the hearings, I asked representatives from the four major sweepstakes companies, Publishers Clearing House, Time, American Family Enterprises and Reader's Digest, to check their records and remove Bobby's name and address from their mailing lists. All of the companies agreed to do so. However, I find it unacceptable that the only recourse someone like Pamela has is to hope that a United States Senator makes such a request for her.

Pamela and Bobby Bagwell's situation is not unique. Since the hearings, my office has received numerous calls and letters, not just from North Carolinians, but from people all over the country who tell similar, disturbing stories about their experiences with sweepstakes companies. Mr. President, my proposal is a reasonable way to help them.

I believe that people should have the right to easily put a stop to these mailings. And sweepstakes promoters should be legally required to honor such a request.

Now let me tell you how my legislation would work.

First, as I have already mentioned, it requires that sweepstakes companies set up a uniform toll-free number that individuals or people with power of attorney for such individuals, can call to get their name and address removed from all sweepstakes mailing lists. After a person places that one phone call, they will receive a removal request form to fill out and send in to the notification system. After the system receives that form, the person's name will be removed from all sweepstakes mailing lists. The form will serve as written evidence that the person made a request to have their name removed.

Second, the sweepstakes companies must include a statement in their mailings that people have the option of having their names removed from sweepstakes mailing lists and that they can initiate this process by calling the specific toll-free number that has been established. The statement must be clear and conspicuous, which is important in order to effectively alert people about their right to stop the mailings.

Finally, my bill requires that if an individual makes a request to have their name removed from sweepstakes mailings lists, the sweepstakes companies must comply with this request. If the companies continue to send mailings against the wishes of the caller, each mailing will subject the company to a $10,000 civil penalty.

Mr. President, in closing, I should mention that the American Association of Retired Persons participated in the sweepstakes hearings and testified as to ''the severe effects'' deceptive sweepstakes mailings have on AARP members. AARP supports my idea of a toll-free uniform notification system.

My legislation is a common sense solution to a growing problem, and I am confident that it will indeed go a long way toward stopping harrassing, deceptive sweepstakes mailings.

I ask unanimous consent that the text 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. 975

*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 ''Sweepstakes Toll-Free Option Protection Act of 1999''.

**SEC. 2. REQUIREMENTS OF PROMOTERS OF SKILL CONTESTS OR SWEEPSTAKES MAILINGS.**

(a) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding after section 3015 the following:

**''§ 3016. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings**

''(a) DEFINITIONS.—In this section, the term—

''(1) 'promoter' means any person who originates and causes to be mailed any skill contest or sweepstakes;

''(2) 'removal request form' means a written form stating that an individual—

''(A) does not consent to the name and address of such individual being included on any list used by a promoter for mailing skill contests or sweepstakes; and

''(B) elects to have such name and address excluded from any such list;

''(3) 'skill contest' means a puzzle, game, competition, or other contest in which—

''(A) a prize is awarded or offered;

''(B) the outcome depends predominately on the skill of the contestant; and

''(C) a purchase, payment, or donation is required or implied to be required to enter the contest; and

''(4) 'sweepstakes' means a game of chance for which no consideration is required to enter.

''(b) NONMAILABLE MATTER.—

''(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described under paragraph (2)—

''(A) is nonmailable matter;

''(B) shall not be carried or delivered by mail; and

''(C) shall be disposed of as the Postal Service directs.

''(2) NONMAILABLE MATTER DESCRIBED.—Matter that is nonmailable matter referred to under paragraph (1) is any matter that—

''(A) is a skill contest or sweepstakes; and

''(B) is addressed to an individual who made an election to be excluded from lists under subsection (e).

''(c) REQUIREMENTS OF PROMOTERS.—

''(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a clear and conspicuous statement that—

''(A) includes the address and toll-free telephone number of the notification system established under paragraph (2); and

''(B) states the system can be used to prohibit the mailing of any skill contest or sweepstakes to such individual.

''(2) NOTIFICATION SYSTEM.—Any promoter that mails a skill contest or sweepstakes shall participate in the establishment and maintenance of a uniform notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from any list of names and addresses used by any promoter to mail any skill contest or sweepstakes; and

''(d) NOTIFICATION SYSTEM.—

''(1) CALL TO TOLL-FREE NUMBER.—If an individual contacts the notification system through use of the toll-free telephone number published under subsection (c)(2), the system shall—

''(A) inform the individual of the information described under subsection (c)(1)(B);

''(B) inform the individual that a removal request form shall be mailed within such 7 business days; and

''(C) inform the individual that the election to prohibit mailings of skill contests or sweepstakes to that individual shall take effect 30 business days after receipt by the system of the signed removal request form or other signed written request by the individual.

''(2) REMOVAL REQUEST FORM.—Upon request of the individual, the system shall mail a removal request form to the individual not later than 7 business days after the date of the telephone communication. A removal request form shall contain—

''(A) a clear, concise statement to exclude a name and address from the applicable mailing lists; and

''(B) no matter other than the form and the address of the notification system.

''(e) ELECTION TO BE EXCLUDED FROM LISTS.—

''(1) IN GENERAL.—An individual may elect to exclude the name and address of such individual from all mailing lists used by promoters of skill contests or sweepstakes by mailing a removal request form to the notification system established under subsection (c).

''(2) RESPONSE AFTER MAILING FORM TO THE NOTIFICATION SYSTEM.—Not later than 30 business days after receipt of a removal request form, all promoters who maintain lists containing the individual's name or address for purposes of mailing skill contests or sweepstakes shall exclude such individual's name and address from all such lists.

''(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall—

''(A) be effective with respect to every promoter; and

''(B) remain in effect, unless an individual notifies the system in writing that such individual—

''(i) has changed the election; and

''(ii) elects to receive skill contest or sweepstakes mailings.

''(f) PROMOTER NONLIABILITY.—A promoter, or any other person maintaining the notification system established under this section, shall not have civil liability for the exclusion of an individual's name or address from any mailing list maintained by a promoter for mailing skill contests or sweepstakes, if—

''(1) a signed request for removal form is received by the notification system; and

''(2) the promoter or person maintaining the system has a good faith belief that the request is from—

''(A) the individual whose name and address is to be excluded; or

''(B) another duly authorized person.

''(g) PROHIBITION ON COMMERCIAL USE OF LISTS.—

''(1) IN GENERAL.—

''(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) in a list described under subparagraph (B) to another person for commercial use.

''(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) used, maintained, or created by the system established by this Act.

''(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service.

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any promoter—

''(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of $10,000 per violation for each mailing of nonmailable matter; or

''(B) who fails to substantially comply with the requirements of subsection (c)(2) shall be liable to the United States.

''(2) ENFORCEMENT.—The Postal Service shall assess civil penalties under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3015 the following:

''3016. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.''.

**SEC. 3. STATE LAW NOT PREEMPTED.**

Nothing in this Act shall be construed to preempt any provision of State or local law.

**SEC. 4. EFFECTIVE DATE.**

The amendments made by this Act shall take effect 1 year after the date of enactment of this Act.

---

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. DODD, Mr. DEWINE, Ms. MIKULSKI, and Ms. COLLINS):

S. 976. A bill to amend title V of the Public Health Service Act to focus the authority of the Substance Abuse and Mental Health Service Administration on community-based services children and adolescents, to enhance flexibility and accountability, to establish programs for youth treatment, and to respond to crises, especially those related to children and violence; to the Committee on Health, Education, Labor, and Pensions.

YOUTH DRUG AND MENTAL HEALTH SERVICES ACT

• Mr. FRIST. Mr. President, as a physician and father of three young boys, I am alarmed at the current level of drug use in America. In April of 1998, the Office of National Drug Control Policy reported that 74 million Americans have tried illicit drugs at least once in their lifetime. Of these, 22 million Americans have tried cocaine, 4.6 million have tried crack cocaine and 2.4 million have tried heroin. Last year, 23 million Americans used an illicit drug, and today there are 13 million Americans who are current drug users which means they have used an illicit drug in the last month.

The rapid decline of overall drug use in America that began in the mid eighties, thanks in part to the efforts of Presidents Reagan and Bush, has stagnated and leveled off.

It is true that cocaine use has decreased from 5.7 million users in 1985 to its current stagnate level of around 1.5 million in 1997 and marijuana use is also down from 19 million users in 1985 to around 11 million in 1997. However, before we become too satisfied, we as a nation must face the very troubling fact that drug and alcohol use is dramatically on the rise among our youth.

In 1992, the percentage of 10th graders that admitted to using an illicit drug at least once in the last 30 days according to the Office of National Drug Control Policy was 11 percent. By 1997 that figure had more than doubled to 23 percent. Most troubling is the dramatic increase in heroin use among our nation's teenage population.

Let us not forget about the drug of choice for our youth and adolescents, alcohol. Although the legal drinking age is 21 in all States, the National Household Survey on Drug Abuse undertaken by SAMHSA reports that more than 50 percent of young adults age eighteen to twenty are consuming alcohol and more than 25 percent report having five or more drinks at one time during the past month.

There are many factors for this increase in youth substance abuse but the factors that I, as a father, am most concerned with is the overall decline of the disapproval of drug use and the decline of the perception of the risk of drug use among our youth.

Against this alarming challenge I am pleased to introduce the ''The Youth Drug and Mental Health Services Act of 1999.''

This important and needed legislation will reauthorize the Substance Abuse and Mental Health Services Administration (SAMHSA) to improve this vital agency by providing greater flexibility for States and accountability based on performance, while at the same time placing critical focus on youth and adolescent substance abuse and mental health services. Joining me in sponsoring this effort is Senator KENNEDY who, as ranking member of my Subcommittee on Public Health, has been instrumental in developing this legislation. Joining Senator KENNEDY and me as original cosponsors are Senators JEFFORDS, DODD, DEWINE, MIKULSKI and COLLINS.

SAMHSA, formerly known as the Alcohol, Drug Abuse, and Mental Health Services Administration (ADAMHA) was created in 1992 by the Public Law 102–321, the ADAMHA Reorganization Act. SAMHSA's purpose is to assist States in addressing the importance of reducing the incidence of substance abuse and mental illness by supporting programs for prevention and treatment. SAMHSA provides funds to States for alcohol and drug abuse prevention and treatment programs and activities, and mental health services through the Substance Abuse Prevention and Treatment (SAPT) and the Community Mental Health Services (CMHS) Block Grants.

SAMHSA's block grants account for 40 percent and 15 percent respectively of all substance abuse and community mental health services funding in the States. They are a major portion of this nation's response to substance abuse and mental health service needs.

In introducing the legislation, I have targeted six main goals which include: promote State flexibility in block grant funding; ensure accountability for the expenditure of Federal funds; develop and support youth and adolescent substance abuse prevention and treatment initiatives; develop and support mental health initiatives that are designed to prevent and respond to incidents of teen violence; insure the availability of Federal funding for emergencies; and support programs targeted for the homeless to treat mental health and substance abuse.

In 1981, President Ronald Reagan revolutionized Federal support for mental health and substance abuse services by eliminating what were many discretionary programs for which States, local governments, and providers had to compete for funds. Instead he created the Alcohol, Drug Abuse and Mental Health Services (ADMS) Block Grant. This Block Grant awarded funds to States based on a formula. States were eligible to receive the funds as long as the Federal government was assured the State would comply with certain requirements. This shift to a block grant gave primary responsibility for providing mental health and substance abuse services to the States—where it should be to allow our States to respond to local needs.

Unfortunately, over the years, the Block Grant program has become more prescriptive. As a result, these additional requirements place burdens on States and remove State flexibility, which was the main purpose of the Block Grant program. We need more State flexibility and my bill accomplishes this by implementing a number of recommendations from the States. It repeals a requirement in the substance abuse block grant that requires States to use 35 percent of their funds for alcohol related activities and 35 percent for drug related activities. The requirement that States maintain a $100,000 revolving fund to support recovery homes is made optional. New waivers are created for several other requirements in the substance abuse block grant. Application requirements in the mental health block grant are minimized, and States will be able to obligate their block grant funds over two years instead of one giving them more time to plan for and use the funds.

If this bill is enacted, the Governors will be able to make a one time infusion of funds into the States substance abuse or mental health treatment system without having to commit themselves to increases in future years when budgets might not accommodate that funding. As a result of this bill, States will have more flexibility in their use of funds than they have had in the past ten years.

With more flexibility, comes the need for more accountability. Therefore, my bill changes the way States are held accountable for their use of Federal funds. For example, under the current substance abuse block grant, States are required to spend a prescribed amount of money to address the needs of pregnant addicts and women with children. States are held accountable as to whether they spent the prescribed amount of funds, not on the true outcomes of whether that population is being successfully treated which is how they should be held accountable. The Federal government should be less concerned with whether the State spent the required amount of funds and more concerned on whether the State is being successful in reducing the number of infants born addicted or HIV positive.

My bill sets a process in place over the next 2 years to develop a system based on performance measures to monitor States' progress. The reason why the bill does not implement such a system now is that the State treatment systems are not prepared to make that change. First, because there is no agreement on what measures to use. Second, the current State data systems are not adequate to collect and report on performance data. Very few States currently have data systems that could provide the necessary data.

To respond to these concerns, this bill requires the Secretary of Health and Human Services to submit a plan to Congress within 2 years detailing the performance measures to be used in such a system that have been agREED to by the States and Federal government. That plan is to include the data elements that States will have to collect, the definitions of the data elements and the legislative language necessary to implement the recommended program.

The bill also authorizes a grant program for the Secretary to provide financial support to States for developing the data infrastructure necessary to collect and report on the performance data.

As I have previously discussed, the increase in youth drug and alcohol abuse is a problem that threatens to undermine our society. To increase the focus of SAMHSA on youth substance abuse, the bill places a new emphasis on youth in developing treatment programs.

Although I believe that none of our children is truly safe when it comes to drugs and alcohol, there are children, because of their environment or state of mental health, that are more at risk to become drug or alcohol abusers. Children of substance abusers, victims of physical or sexual abuse, high school drop outs, the economically disadvantaged or those with mental health problems or who have attempted suicide are all at risk of drug and alcohol abuse. In order to develop effective techniques for prevention and treatment for these children, the bill also reauthorizes a grant program to develop effective models for the prevention and treatment of drug and alcohol abuse among high risk youth.

During discussions regarding the increased incidence of youth substance abuse several of my colleagues on the Health, Education, Labor and Pensions Committee have approached me to express their concern and desire to develop provisions to address the problem of youth substance abuse: Senator DEWINE has expressed an interest in developing provisions that would offer early intervention and prevention; Senator DODD has correctly pointed out that there has been little focus thus far on developing techniques to provide effective treatment for our children; Senator REED has pointed out that over 60% of youth in the juvenile justice system may have substance abuse disorders, compared to 22% in the general population; and Senator BINGAMAN has offered his help to address the problems with youth substance abuse in rural areas, Native American communities and other areas that are either underserved or where there is an emerging substance abuse problem among youth.

We will be working over the next few weeks to incorporate the elements addressed above into a bipartisan proposal. In the meantime, the bill creates the authority for a new program on youth treatment which will be strengthened by the bipartisan proposal when the Health, Education, Labor and Pensions Committee takes action on the bill.

The issue of children of substance abusers is also addressed in this bill. As I have mentioned, children of substance abusers are at high risk of being substance abusers themselves. The Department of Health and Human Services reported to Congress last month that 8.3 million, or 11 percent, of American children live with at least one parent who is either an alcoholic or in need of treatment for the abuse of drugs. This report also sadly confirms that between 50 to 80 percent of children in the child abuse, neglect and foster care systems have parents who need substance abuse treatment. To address this, the bill reauthorizes the Children of Substance Abusers Act (COSA) and moves its authority to SAMHSA from the Health Resources and Services Administration (HRSA) for better coordination. Funding under COSA, which was authored by Senator DODD and enacted during the 102nd Congress, would be used for identification and evaluation of families experiencing substance abuse and offer treatment and prevention services.

Another area I am addressing in this bill is youth violence and mental health services. As we have seen by the many tragedies in our nation's schools, the issue of youth violence causes us much pause for thought. Although I believe we cannot legislate a less violent society, this bill has programs which we hope will begin to address the issue of youth violence and assist communities by helping them meet the mental health needs of youth to cope with violence related stress.

The first step the bill takes is to authorize a provision that will assist local communities in developing ways to assist children in dealing with violence, building upon the actions last year of Senators SPECTER and HARKIN in the Senate Appropriations Subcommittee on Labor, HHS and Education. This bill will authorize SAMHSA to make grants in consultation with the Attorney General and the Secretary of Education to assist local communities. These grants will support activities that include: financial support to enable the communities to implement programs designed to help violent youth; technical assistance to local communities; and assistance in the creation of community partnerships among the schools, law enforcement and mental health services. In order to receive funding for services under this provision an organization would have to ensure that they will carry out six activities which include: security of the school; educational reform to deal with violence; the review and updating of school policies to deal with violence; alcohol and drug abuse prevention and early intervention; mental health prevention and treatment services; and early childhood development and psychosocial services. The funds, however, may only be used for prevention, early intervention, and treatment services.

In order to help youth and adolescents cope with violence and emergency crises, the bill establishes grants for developing knowledge with regard to evidence-based practices for treating mental health disorders resulting from violence related stress. In addition, the bill will establish centers of excellence to provide technical assistance to communities in dealing with the emotional burden of violence if and when it occurs.

By law, SAMHSA discretionary grant awards must be peer reviewed which regularly take up to six months to approve which makes SAMHSA unable to act quickly in a emergency. To ensure the availability of funding for emergencies, the bill establishes an emergency response fund to allow the federal government to address emergency substance abuse or mental health needs in local communities. For example, this funding could be available to assist communities exposed to violence or terrorism or communities experiencing a serious substance abuse emergency such as increased drug traffic or inhalant abuse.

The final theme of the bill that I would like to highlight is the issue of services for the homeless.

Individuals who are homeless face major barriers to access and utilize mainstream addictive and mental disorder treatment and recovery services, including lack of income verification documentation, difficulties in maintaining schedules, and lack of transportation. Furthermore, most providers are not equipped to handle the complex social and health conditions which the homeless population presents. An insufficient number of mainstream providers offer the long-term, residentially-based aftercare and housing services that are essential for homeless individuals adherence to treatment and residential stability. Mainstream providers are not typically linked to the full range of health, housing, and human development services that homeless individuals with addictive and mental disorders require for recovery and residential stability.

In order to help address the unique challenges of serving the homeless, the bill reauthorizes grants to develop and expand mental health and substance abuse treatment services for homeless individuals.

In addition, it reauthorizes the successful Projects for Assistance in Transition from Homelessness program, know as PATH. PATH is a formula grant program which provides funds to States to provide mental health services to homeless individuals including outreach, screening and treatment, habilitation and rehabilitation.

Mr. President, thus far I have laid out the major legislative changes my colleagues and I are undertaking to improve SAMHSA programs. However, I would like to talk about the great work that is accomplished locally by discussing recent efforts in my home State of Tennessee.

SAMHSA provides over 70 percent of overall funding for the Tennessee Department of Health's Bureau of Alcohol and Drug Abuse Services, which is headed by Dr. Stephanie Perry.

Last year Tennessee received over $25 million from the Substance Abuse Prevention and Treatment Block Grant to spend on treatment and prevention activities. With this funding the Tennessee Bureau of Alcohol and Drug Abuse Services provides funding to community-based programs that offer a wide range of services throughout the State.

In the area of prevention services, the funding allows for the Intensive Focus Group program which provides structured, short term educational and counseling programs for youth and their families. In addition, the State is also able to fund Regional Prevention Coordinators who are assigned to each region of the State to assist communities in the development, implementation and coordination of alcohol and drug prevention activities. One additional program, I would like to highlight is the Faith Initiative which is a voluntary involvement of faith leaders to establish the role of interfaith communities in substance abuse and violence prevention.

In the area of treatment, where Tennessee spends 65 percent of its total substance abuse dollars, there are several different treatment programs that focus on youth residential and day treatment, family intervention and referral services. Other offered services include medical detoxification which is a 24 hour a day, 7 days a week program that provides residential service for alcohol and drug abusers. Overall, the block grant funds permit nearly 6,500 Tennesseans to receive the substance abuse treatment they desperately need.

I am pleased that Tennessee has focused on serving individuals with co-occurring disorders. There are an estimated 25,000 Tennesseans identified as having co-occurring disorders, meaning they require both mental health and substance abuse services. The Co-Occurring Disorders Project is a partnership between Tennessee's Division of Mental Heath Services and Bureau of Alcohol and Drug Services, allowing the patient to overcome the difficult circumstances that make their recovery complex by allowing them to receive both substance abuse treatment and mental health treatment in an integrated system of care.

Another project that SAMHSA makes possible is the Central Intake Process which Tennessee developed to establish a uniformed system for anyone who requires alcohol and/or drug use treatment. Here is how this program works as demonstrated by the true case of a man named John.

John, is a 35 year-old, black male who was referred to Central Intake by his probation officer. John's past legal history includes 12 assault charges, 3 contempt of court charges, 15 public drunk charges and one DUI. John is a high school graduate, and has 24 months of technical training in operating heavy equipment. In the 30 days prior to his assessment, John had used 2 pints of alcohol a day, smoked crack cocaine on 22 days and marijuana on 4 days. John has been abusing alcohol for 27 years, marijuana for 21 years and cocaine for 4 years. He also has reported heroin use.

He was diagnosed as alcohol, cocaine and marijuana dependent and referred to a residential program with a step-down transitional living facility outside his geographic region. Upon completion of the program, the Central Intake case manager arranged a placement with a halfway house in another part of the State. The case manager for John reports that he has been clean and sober for 10 months, continues to live in the halfway house, is employed, involved in Alcoholics Anonymous and is a member of a church. By establishing Central Intake, Tennessee, thanks to Federal block grant dollars is able to evaluate and offer appropriate treatment for individuals like John to help put their lives back together.

With the $4.4 million that the Tennessee Department of Mental Health received in 1998, Tennessee was able to utilize and enhance an array of services dedicated to mental health. Overall the block grant money was distributed to 16 private not-for-profit community health centers and nine community health agencies throughout the State. SAMHSA block grant funds were used for consumer and family support groups. In addition the major allocation of funding is spent on drop-in/socialization services across the State. In all there are 35 consumer-operated centers which provide a place for consumers to meet and socialize with other consumers of mental health services. In addition funding is used for co-occurring disorder projects which train clinicians, establish resource centers, and establish a statewide network for dual diagnosis advocacy.

To address the youth population, the Tennessee Department of Mental Health uses SAMHSA block grant dollars to fund a program called BASIC. BASIC which stands for Better Attitudes and Skills in Children is a public school based early intervention and prevention program that identifies and works with children with serious emotional disturbance with a goal of reducing the incidence of adolescent and adult mental health problems. This project also focuses on enhancing awareness and capacity for response of school personnel to the mental health needs of children.

SAMHSA funds also pay for the early children intervention project which targets preschool children with behavior problems that are in a day care setting. The purpose of this program is to intervene at the point which behavior problems become obtrusive and problematic for the parents, teaching staff and other children in the day care center.

Finally, I would like to mention the Respite Services program for families of children identified as seriously emotionally disturbed, or dually diagnosed as emotionally disturbed and mentally retarded. Respite consultants assist in identifying and developing community-based respite resources, and work with families to utilize these resources in the most effective manner.

Mr. President, the bill I introduce today will ensure that Tennessee and other states will continue to receive critically needed Federal funds for community based programs to help individuals with substance abuse and mental health disorders. The changes that I have outlined will dramatically increase State flexibility in the use of Federal funds and ensure that each State is able to address its unique needs. The bill also provides a much needed focus on the troubling issue of the recent increase in drug use by our youth and addresses how we can be helpful to local communities in regard to the issue of children and violence. I am pleased to offer this bill today and I look forward to working on theses issues with my colleagues as the bill is considered by the Senate.●

● Mr. KENNEDY. Mr. President, today, we are introducing a bill to bring mental health and substance abuse treatment services into the next century. I commend Senator FRIST for his effective leadership on this issue. We have worked closely together on this important legislation to define the types of mental health and substance abuse treatment and services research that deserve to be funded, and to improve the process of accountability for clinical outcomes.

The bill also contains a number of provisions to address the alarming increase in violence in our schools and communities and the traumatic consequences of such violence. The legislation emphasizes a number of programs to prevent and reduce the impact of mental disorders and substance abuse in children and adolescents.

The tragic events in Colorado earlier this month are a reminder of how much more we need to help families, to protect children, and to make our schools and communities safer.

This legislation provides new support for children who are witnesses and survivors of domestic and community violence. Too often, these children are at great risk for long term psychological problems, including developmental delays, psychiatric symptoms such as anxiety or depression, and even the risk that these traumatized individuals will grow up to become perpetrators of violence themselves.

Another major feature of this bill is the attempt to address a number of concerns that were not apparent when we established the Substance Abuse and Mental Health Services Administration in 1992. We need to do more to help states identify the kinds of assistance that are most relevant to the persons they are currently serving and to do so in the most efficient and effective ways. Our bill accomplishes this by streamlining the services, and helps assure that the right services are going to those who most need them.

We also intend to address the needs of persons with both mental disorders and substance abuse. We must give greater priority to programs that support the mental health and substance abuse treatment needs of patients in primary care clinics.

I look forward to working closely with my colleagues to enact this legislation. We know that we can deal more effectively with the serious problems of substance abuse and mental illness, and enable far more of our fellow citizens to lead fulfilling and productive lives.●

●Mr. JEFFORDS. Mr. President, I rise today to join my colleague from Tennessee, Senator FRIST, in introducing the "Youth Drug and Community-Based Substance Abuse and Mental Health Services Act." I am proud to be a cosponsor of this legislation that will reauthorize the very important work conducted by the Substance Abuse and Mental Health Services Administration (SAMHSA). I want to commend Senator FRIST for his valuable leadership in this effort.

Substance abuse affects us all. Many of us have a close friend or family member who is a substance abuser or living in recovery, and persons with mental illness continue to needlessly face obstacles to their successful treatment that can, and should be eliminated.

SAMHSA's role is to improve access to quality mental health and substance abuse services in the nation. It carries out this responsibility to the tremendous advantage of States, local governments, and communities across the nation. This reauthorization bill will improve access and reduce barriers to high quality, effective programs and services for individuals who suffer from, or are at risk for, substance abuse or mental illness, as well as for their families and communities. It strengthens SAMHSA's national leadership in ensuring that knowledge, based on science and state-of-the-art practice, is effectively used for the prevention and treatment of addictive and mental disorders.

SAMHSA fosters Federal-State partnerships by supporting State and local community mental health and substance abuse programs. SAMHSA's budget of $2.3 billion is distributed through grants to states, local communities, private organizations, and schools. This reauthorization will increase flexibility for the States and for the Secretary in the provision of these services. This bill will repeal and/or make optional several existing requirements, and instead allows the States to use the grant funds to better serve their particular mental health and substance abuse populations. It dramatically reduces the administrative burden of federal mandates and allows the States greater flexibility to coordinate programs to develop a seamless system of care.

This flexibility necessitates a need for increased accountability. This bill improves the way States are held accountable for their use of Federal funds. Under the current system, States are required to spend certain amounts on certain populations and their success is determined on whether they have spent the required amount of funds. Not on whether they are accomplishing program goals. We will change these programs to focus on performance and results as Congress has done with other programs.

I would now like to speak about what I see as the most important provisions of this bill. The first is the Title I provisions relating to services for children and adolescents. It is critical that we focus on treatment for youth. The substance abuse treatment system in this country is focused primarily on adult addicts. A system of care for adolescents is not routinely available. And yet the statistics show that adolescents are more frequently using drugs than they did five years ago. This reauthorization facilitates a system of care that addresses their needs.

The events of Littleton, Colorado have made us all keenly aware of the mental health of children in dealing with violence. The provision on Children and Violence in this bill pulls together the abilities of the Departments of Health and Human Resources, Education and Justice to support programs to address children and violence issues at the community levels. Mental health professionals, educators, and law enforcement officials can collaborate so that at-risk youths with disorders can be diagnosed early and moved into the proper treatment setting.

School districts will implement the wide range of early childhood development, early intervention and prevention, and mental health treatment services that appear to have the greatest likelihood of preventing violence among children. To ensure the availability of funding for emergencies, the bill establishes an emergency response fund to allow the federal government to support communities which have experienced trauma due to teen violence. To help youth and adolescents cope with violence and emergency crises, the bill establishes grants for developing knowledge with regard to best practices for treating psychiatric disorders resulting from emergency crisis. This is an approach that I understand is supported by both the research and service communities. It makes sense to me and I know that such programs will be helpful in every community in America.

I must also point out that this bill includes the formula compromise included in last years's omnibus appropriations bill for the Substance Abuse Prevention and Treatment Block Grant funds. This is an issue of paramount importance to small and rural states, and I am pleased that this legislation ratifies last year's agreement.

Mr. President, this is an important bill that will greatly improve the quality of substance abuse and mental health treatment in this nation. I look forward to considering this bill in the near future in committee, and then I hope it will receive the full attention of the Senate. I would like to once again thank Senator FRIST for putting so much time and effort into crafting legislation that will benefit so many American families.●

● Mr. DODD. Mr. President, I rise to express my support for the Substance Abuse and Mental Health Services Administration (SAMHSA) Reauthorization Act and to commend Senator FRIST for his leadership on this issue. I am pleased to join him as a co-sponsor of this legislation.

This reauthorization will support SAMHSA in achieving its mission to improve the quality and availability of mental health and substance abuse prevention, early intervention, and treatment services. The SAMHSA Act allows States to develop comprehensive systems to provide better quality mental health care so that children and adults with serious emotional disturbances may remain in the comfort of their home and within a familiar environment as they receive treatment. The flexibility provided by this piece of legislation will also allow States to build partnerships with schools and neighborhoods so that we can better confront the causes and impact of violence on our schools and communities. I am pleased that this legislation will also continue to support homeless individuals who need mental health services and will allow States to be innovative in addressing the needs of special populations such as pregnant, addicted women and those with HIV.

I am particularly pleased that this legislation incorporates a bill introduced by Senator JEFFORDS and myself, the ''Children of Substance Abusers Act'' (COSA). Children with substance abusing parents face serious health risks, including congenital birth defects, psychological, emotional and developmental problems, and the increased likelihood of becoming substance abusers themselves. Additionally, they are three times more likely to be abused and four times more likely to be neglected than children whose parents are not substance abusers. COSA addresses the devastation generated in the wake of parental substance abuse by promoting aggressive outreach to families in need and providing early intervention, prevention, and treatment services, and education and training for health and social services providers on recognizing and serving these families.

Although this legislation is an excellent beginning, I am concerned about the omission of two critical issues which have not been adequately addressed by federal efforts to date— the need to provide treatment to teens who are abusing alcohol and drugs and the use of restraints and seclusion on children in mental health facilities.

Statistics reveal that in senior high schools across the country, twenty-five percent of students use an illicit drug on a monthly basis, and seven percent on a daily basis. In 1997, fifty-two percent of senior high school students reported monthly alcohol use, meaning more than four million teens consumed alcohol in any given month. Yet, only twenty percent of the 648,000 adolescents with severe substance abuse problems receive treatment. The legislation that I have introduced today, the ''Teen Substance Abuse Treatment Act of 1999'' would fill an important gap in our national strategy for combating substance abuse in our communities by dedicating funding for treating youth with alcohol and drug problems. This legislation would authorize grants to develop innovative services aimed at the specific needs of teenagers, including services that coordinate mental health and substance abuse services. In addition this legislation would address the interaction between substance abuse and violent and antisocial behavior.

While I am disappointed that this bill is not currently included in the SAMHSA Reauthorization legislation that will be introduced today, I am encouraged that Senator FRIST has agreed to work with me, Senator REED, and Senator BINGAMAN prior to a markup of the bill to craft legislation to comprehensively address the substance abuse needs of adolescents.

Secondly, Mr. President, I also today want to briefly mention an issue that I hope will eventually be addressed within SAMHSA's reauthorization. This issue, the misapplication of restraints and seclusion within facilities providing mental health care services, signals a national tragedy that must be addressed. As evidenced last year by the Hartford Courant in a ground breaking investigative series that confirmed 142 deaths that occurred during or shortly after restraints were applied, the federal government must do better to protect individuals with mental illnesses from the punitive and deadly misuse of restraints and seclusion. Additionally, because many of these deaths go unreported, the actual number of restraint-related deaths may be many times higher. More than 26 percent of restraint-related deaths were children—nearly twice the proportion they constitute in mental health institutions.

The alarming number of deaths reported in the series illustrates the need for national, uniform standards for the use of restraints in the mental health care field. Low pay for mental health care workers, little-to-no training, and a lack of accountability and oversight, all contribute to the deplorable conditions found in many of the nation's mental health care treatment centers. The initiative that I hope to include within SAMHSA will establish uniform standards for restraint use, ensure adequate training and appropriate staffing levels, and allow protection and advocacy organizations to review deaths that occur at mental health care facilities. Legislation concerning the use of restraint and seclusion use is badly needed. As the Hartford Courant series mentioned, the federal government monitors the size of eggs but does not record the number of deaths caused by the use of restraints and seclusion in mental health care facilities. I look forward to working with Senator FRIST toward the inclusion of this important initiative within SAMHSA's reauthorization.

Mr. President, this bill demonstrates our continuing support for SAMHSA and for sustaining programs which improve the quality and availability of substance abuse and mental health services. I am pleased that Senator FRIST has moved this legislation forward and look forward to working with him to include provisions to address the substance abuse treatment needs of adolescents and to enact standards regarding the use of restraint and seclusion. I again offer my support and cosponsorship of this bill.●

---

By Mr. WARNER:

S. 978. A bill to specify that the legal public holiday known as Washington's Birthday be called by that name; to the Committee on the Judiciary.

GEORGE WASHINGTON BICENTENNIAL ACT OF 1999

●Mr. WARNER. Mr. President, I rise today to introduce legislation to reestablish the third Monday in February as a national holiday called ''Washington's Birthday.''

Current law provides that the third Monday in February is a legal public holiday designated as ''Washington's Birthday.'' Nonetheless, there is an inaccurate misconception that this federal holiday is called ''President's Day.'' Not only does the use of the phrase ''President's Day'' in reference to the third Monday in February have no force in federal law, the misnomer obscures the true meaning of the holiday.

Simply put, the true meaning of the federal holiday known as ''Washington's Birthday'' is to celebrate the birthday of the father of our country. Washington's role in achieving our Nation's independence, in helping to create our Constitution, and as the first President of the United States of America cannot be overestimated.

As one of Virginia's delegates to the Second Continental Congress assembled in Philadelphia in May 1775, Washington was elected Commander in Chief of the Continental Army. As Commander in Chief of the Army, Washington helped ensure the independence of our Nation when he, with the help of French allies, forced the surrender of British forces at Yorktown. After the war, Washington soon realized the problems associated with the Articles of Confederation, and he became a prime mover in the steps leading to the Constitutional Convention in Philadelphia in 1787. Washington presided over the Constitutional Convention and ultimately yielded to the cries that he serve as our country's first President. After the Constitution was ultimately ratified, the electoral college twice unanimously elected Washington to serve as President of the United States.

As the father of our country, President Washington deserves to be distinguished from other Presidents. Federal law recognizes this deserved distinction in that President Washington's birthday is the only President's birthday recognized as a federal holiday. However, because this holiday is all too often misconceived as ''President's Day,'' this legislation is necessary to reestablish that the federal holiday is in fact ''Washington's Birthday.''

This legislation would achieve this objective by simply requiring all entities and officials of the United States Government, as well as federally funded publications, to refer to this day as ''Washington's Birthday.'' This bill in no way infringes on the right of any State or local government to recognize a ''President's Day'' or any other holiday. In fact, ''President's Day'' is a State holiday in a number of states.

President Buchanan emphasized the importance of Washington's birthday when he stated, ''when the birthday of Washington shall be forgotten, liberty will have perished from the earth.'' I urge my colleagues to support this bill to ensure that President Washington receive the distinction he deserves.●

---

By Mr. CAMPBELL for himself and Mr. MCCAIN):

S. 979. A bill to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, and for other purposes; to the Committee on Indian Affairs.

TRIBAL SELF-GOVERNANCE AMENDMENTS OF 1999

● Mr. CAMPBELL. Mr. President, today I introduce amendments to the Indian Self-Determination and Education Assistance Act of 1975 (''ISDEA'') to provide for greater tribal self-governance for the programs and services of the Department of Health and Human Services (''HHS'').

Over the years the poor circumstances and conditions of Native Americans have been compounded by vacillating federal policies and federal domination of matters affecting Indian people.

This situation began to change in 1970, when President Nixon delivered his now-famous ''Message to Congress on Indian Affairs'', which laid the foundation for a more enlightened federal Indian policy. This new policy allowed tribes to forge their own destiny and challenged the federal government to find new, innovative ways to administer Indian programs.

Because of the tangible benefits it has brought, this shift away from federal domination and toward Indian self-determination has been supported by every Administration since 1970.

Indian self-determination fosters strong tribal governments and reservation economies. This policy has encouraged tribes to assume more responsibility for their own affairs, caused a reduction in the federal bureaucracy and, most importantly, improved the quality of services to tribal members.

The most definitive expression of the policy change brought about by President Nixon was the ISDEA which authorized tribes to negotiate and enter into agreements with the U.S. to assume control over and operate federal programs which had been previously administered by federal employees.

In the years after enactment of the ISDEA, Congress expanded on the framework by enacting tribal ''self-governance'' laws which created a demonstration project that authorized tribes to enter into ''compacts'' with the U.S., so that they may administer an array of services.

The principles of the ISDEA are similar to those of block granting to the states. Instead of the federal government micro-managing Indian tribes, the federal government is contracting with tribes to perform those functions. Like states, tribes know best which governmental programs best serve their communities and how programs should be delivered. In short, the concept of local administration of federal dollars works.

By continuing to build tribal capacity and expertise in the administration of programs and services previously administered by employees of the Department of the Interior and the HHS, the Act has forged stronger tribal governments and economies and led to a smaller federal presence in Indian affairs.

The current self governance ''demonstration project'' in health care involves approximately 50 tribes. The legislation I introduce today builds on these successes, makes the self governance program permanent and expands an array of eligible functions available for tribal self governance to include the many programs, services and activities of the HHS, such as clinical services, public health nursing, mental health, substance abuse, community health representatives, and dental health.

The bill ensures continued participation by the tribes now participating in the self governance project, and provides for participation by an additional 50 tribes or tribal organizations annually.

This is far from a ''no-strings attached'' approach to federal programs. To participate, tribes must successfully complete legal and accounting requirements, as well as demonstrate financial stability and financial management capability.

This legislation also addresses the issue of which functions may be performed by tribes and which may not. This bill differentiates between those services and activities that are federal, and therefore ineligible for tribal performance through a self-governance compact, and those that are not inherently federal, and therefore eligible for tribal performance through a self-governance compact.

To track the progress made in raising the health status of Indians, the bill requires participating tribes to report health-related data to the Secretary so that an accurate picture of Indian health can be drawn.

I am mindful that there are issues we need to explore further, such as contract support cost funding, and I fully anticipate that interested parties will have full and fair opportunity to raise their concerns during the legislative process.

I am hopeful that after working with the tribes, the Administration and other interested parties, and after careful consideration by the Committee on Indian Affairs, we will be able to enact this important legislation to raise the health status of Native Americans and continue the unparalleled success of the Indian self-determination policies.●

---

By Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. THOMAS, Mr. HARKIN, Mr. GRASSLEY, Mr. CONRAD, Mr. ROBERTS, Mr. FRIST, Mr. JOHNSON, Mr. ROCKFELLER, Mr. JEFFORDS, Mr. WELLSTONE, and Mr. MURKOWSKI):

S. 980. A bill to promote access to health care services in rural areas; to the Committee on Finance.

PROMOTING HEALTH IN RURAL AREAS ACT OF 1999

Mr. BAUCUS. Mr. President, I rise today to introduce the Promoting Health in Rural Areas Act of 1999.

All Americans deserve access to quality health care. But in rural America health care delivery is often difficult, given the great distances and extreme weather conditions that typically prevail. That's why Senator DASCHLE and I, along with bipartisan group of Senators, are introducing this important legislation. Its provisions are many, but it purpose is singular: to correct the federal government's tendency to view all areas—urban and rural—with a one-size-fits all lens.

Before I begin explaining what this bill does, I want to recognize the tremendous contributions of some of the cosponsors' staff who have worked on the bill.

The Minority Leader is known in the Senate not only for this tremendous leadership, but for the quality of his staff. Elizabeth Hargrave is no exception. On loan from the Department of Health and Human Services, she has worked tirelessly to see this bill through to introduction. With her expertise and attention to the intricate details of health policy, we have come up with a solid, comprehensive bill, much improved from that which was introduced last year.

Tom Walsh on the Senate Aging Committee has also done tremendous work. His knowledge of Medicare law is vast, and his parent demeanor has done wonders toward making negotiations on this bill amicable and fruitful. Heidi Cashman with Senator ROBERTS, Neleen Eisinger with Senator CONRAD, Diane Major and Stephanie Sword with Senator THOMAS, Sabrina and Bryan with Senator HARKIN, The list goes on. The Promoting Health in Rural Areas Act is the product of many long meetings, extensive research, and a great deal of cooperation. Would that we could all work so well together.

So why is this bill important? As you know, Mr. President, a couple of years ago Congress passed the Balanced Budget Act. In it we extended the life of Medicare for several years and passed some important rural health provisions, including Medicare reimbursement for telemedicine and the Medicare Rural Hospital Flexibility Program to establish Critical Access Hospitals (CAHs).

Under the new CAH law, rural hospitals can convert to limited-service hospital status and received flexibility with Medicare regulations designed for full-size, full-service facilities. They are reimbursed by Medicare based on actual costs, not fixed or limited payments; in exchange, CAHs agree to a limit of 15 hospitals beds and patients stays of limited duration. The model for the new program was based largely on Montana's Medical Assistance Facility Program. CAHs show well the progress we can make if rural areas are afforded the flexibility to develop solutions to the problems they know best. They also illustrate a creative means by which we can use the Medicare program to keep rural hospitals open—and rural communities alive.

But not all of the Balanced Budget Act was positive for rural areas. Far from it. Montana health care facilities, including hospitals, home health agencies and nursing homes, are suffering.

In 1997, even before the BBA cuts, small rural hospitals in Montana lost 6.5% treating Medicare patients. And although we do not yet have complete data on the impact of the BBA changes, anecdotal evidence tells me that the situation in rural Montana has gotten even worse. In rural areas where many, usually most, patients are of Medicare age, we cannot expect these facilities to stay open without paying them enough to break even. We must do something to ensure the integrity of our rural health care systems.

This bill is a good first step. Among other things, the bill provides rural communities with assistance in recruiting health care providers; expands the range of services that can be provided with telemedicine; increases payments to hospitals in rural areas; expands access to mental health services in rural areas; changes the formula by which managed care payments are calculated to attract more managed care health plans to rural areas; and increase rural representation on the Medicare Payment Advisory Commission.

As Dennis Farney, a reporter from Kansas once wrote: ''A prairie is not any old piece of flat land in the Midwest. No a prairie is wine-colored grass, dancing in the wind. A prairie is a sun-splashed hillside, bright with wild flowers. A prairie is a fleeting cloud shadow, the song of the meadowlark. It is the wild land that has never felt the slash of the plow.'' For me, this conjures up images of an idyllic rural setting, far removed from the commotion of city life. And certainly that is in the minds of many who live in these sparsely-populated areas—that they are inhabiting a part of the world that is in many ways pristine and untouched.

Of course there is a price to pay for that. Rural folks should not expect to have all the amenities of city life: opera houses and professional sports teams are just a couple of things that rural areas must simply do without. Rural Montanans can't expect to have a subway system—or even a Subway sandwich shop for that matter—because economies of scale dictate as much.

And even in the area of health care, rural Americans realize they give up something. Full-service hospitals and dental clinics are the stuff of populated areas, and will probably remain so. But although you won't find a full-service acute-care hospital in Choteau, Montana, you can find a CAH. And though you don't find a full-service dental clinic in Eureka, you can find a rural health clinic. Rural residents cannot expect to have the most extensive health care facilities or access to the array of specialists typical of urban settings, but they should expect a minimum standard of quality care. This bill is a step in the right direction towards raising that standard.

Whether it's helping rural areas with highway dollars, preventing small post offices from moving to towns' outskirts, or keeping hospitals open, I think most of us agree that saving rural areas is something that ought to be done. Regardless of how hard we try, however, we cannot do so without ensuring the integrity of these communities' health care systems. I urge my colleagues to join the Minority Leader and I in doing just that.

Mr. DASCHLE. Mr. President, today I introduce a bill intended to improve health care for Americans living in rural areas. The Promoting Health in Rural Areas Act of 1999 would improve the viability of rural hospitals and clinics, help rural communities attract and retain health care providers and health plans, and make optimal use of the extraordinary medical and telecommunications technology available today.

One-fifth of Americans live in rural areas. They experience the same health care access problems that Americans in cities and suburbs face—plus some problems that are uniquely rural. Issues of geography and transportation, which rural Americans face all the time, can make it difficult to visit the doctor or get to a hospital. These problems are made worse by the short supply of health care professionals in rural areas.

Rural communities are striving to improve access through telehealth and the recruitment of health care professionals. At the same time, they must also struggle to maintain what they have, to ensure that providers who leave their area are replaced, and to keep their hospitals' doors open. This bill contains several provisions that will help them do this—by improving Medicaid and Medicare reimbursements to rural providers, strengthening recruitment programs, and encouraging the development of telehealth. These are important steps to improve access, increase choice, and improve the quality of care provided in more isolated parts of the country.

One problem rural areas face is reimbursement systems that favor urban areas, or that do not take the special needs of rural providers into account. For example, Medicare payments to hospitals are based on formulas that are biased toward urban areas. The Medicare Payment Advisory Commission, and its predecessor, the Prospective Payment Advisory Commission, have been pointing out these inequities for years. This bill would correct the formulas and pay hospitals more fairly.

Another reimbursement problem in rural states is payment for health plans in Medicare+Choice. The bill includes a provision to guarantee that plans in rural counties get the increased reimbursement promised in the Balanced Budget Act. This provision is important to ensure that beneficiaries in rural areas have some of the health plan choices available to urban seniors.

Rural communities also face difficulty recruiting and retaining health care providers. Despite great increases in the number of providers trained in this country over the past 30 years, rural communities have not shared equitably in the benefits of this expansion. As a result, about 22 million rural Americans live in areas considered Health Professional Shortage Areas because they do not have enough doctors to serve their community.

Our bill addresses obstacles in current law to the recruitment and training of providers in rural areas. One obstacle is the current requirement that communities actually lose a physician before they qualify for recruitment assistance to replace that provider. This bill would let communities get assistance for up to 12 months in advance when they know a retirement or resignation is pending. Another provision in the bill ensures that new Medicare reimbursement rules for medical residents, enacted as part of the Balanced Budget Act, do not discriminate against areas that train residents in rural health clinics or other settings outside a hospital.

Telehealth is another promising tool to bring medical expertise to rural communities. Through telehealth technology, rural patients can significantly shorten their travel time to see specialists, and they can have access to doctors they would otherwise never encounter. The benefits of telehealth extend to rural health professionals as well, providing them with technical expertise and interaction with peers that can make practicing in a rural area more attractive.

Our bill addresses some of the barriers that have limited the development of telehealth. It would expand Medicare reimbursement for telehealth to all rural areas, and to all services Medicare currently covers. The bill also would make telehealth more convenient, by allowing any health care practitioner to present a patient to a specialist on the other side of the video connection. The bill also includes a grant program to help communities establish telehealth programs.

Mr. President, rural America deserves appropriate access to health care—access to hospitals, access to providers, and access to quality services. Providing this care in rural communities raises unique challenges, but we can—and must—overcome those challenges. The bill I introduce today, along with my colleague Senator BAUCUS and other members of the Rural Health Caucus, takes important steps toward that goal.

Mr. CONRAD. Mr. President, today, I am pleased to join Senator BAUCUS, Senator DASCHLE, and other Senators to introduce the Promoting Health in Rural Areas Act of 1999 (PHIRA). This legislation will improve access, increase choice and improve the quality of health care in rural America.

As you know, Mr. President, the Balanced Budget Act (BBA) of 1997 produced real savings for the Medicare program and helped to extend solvency of the program. However, since passing the BBA, we have heard concerns from many rural health care providers that they are facing serious financial pressures due in large part to reductions that were enacted as part of the BBA.

During the BBA debate, I was very concerned that across-the-board cuts in Medicare would have a disproportionate impact on rural health care. Rural hospitals rely heavily on Medicare and in my state of North Dakota, Medicare accounts for 70 percent of hospital revenue. This means that Medicare reimbursement reductions have a bigger direct impact on rural hospitals than on other hospitals. It also means that rural hospitals have fewer other sources of revenues where they can increase margins to make up for losses in Medicare revenue.

To help protect access to health care in rural areas, I and a coalition of other Senators, worked hard to fight for provisions in the BBA to protect our rural areas. We made positive steps toward ensuring that health care in rural areas is affordable and accessible.

Our victories included, for the first time, requiring Medicare reimbursement for telehealth. Also included was the creation of the Critical Access Hospital program. The BBA also helped to reform managed care reimbursement to make it more equitable to rural areas and added Graduate Medical Education language to protect rural residency programs.

Despite our efforts, BBA reductions are having an unfair and disproportionate impact on rural health care systems—these cuts have caused real pain for providers and threaten to reduce access to health care for seniors, particularly in rural areas.

To help address these concerns, we have worked hard to develop legislation that will ensure our rural areas have access to quality care. The Promoting Health in Rural Areas Act of 1999 will improve Medicaid and Medicare reimbursement to rural providers, strengthen health professional recruitment programs, and encourage the development of telehealth.

One problem that rural areas face is reimbursement systems that favor urban areas, or that do not take the special needs of rural providers into account. Medicare payments to hospitals are currently based on formulas that are biased toward urban areas. The first element of PHIRA would correct these formulas and pay hospitals more fairly. In the BBA, Medicaid funding for Community Health Clinics (CHCs) and Rural Health Clinics (RHCs) was changed, leaving no guarantee that states will adequately fund these facilities. This bill would create a new payment system for CHCs and RHCs that will help ensure continued support for these essential facilities. The bill would also guarantee that Medicare+Choice plans in rural counties get the increased reimbursement promised in the BBA. This provision is important to ensure that beneficiaries in rural areas have at least some of the health plan choices that are available to urban seniors.

The second element of our bill includes provisions to attract and bring more health care providers into our communities. Rural communities face difficulties in recruiting and retaining health care providers. In my state, over 85% of counties are designated as either a partial or full health shortage profession area (HPSA). Nationwide, 22 million rural Americans live in HPSAs. We must do more to attract qualified health care providers into our rural areas. Currently, communities must actually lose a physician before they qualify for recruitment assistance to replace that provider. This bill would let communities get assistance for up to 12 months in advance when they know someone is going to retire. In addition, this bill will take positive steps to ensure that our future health care providers choose to serve in HPSAs. Currently, students in our National Health Service Corps program, a program helps students pay for their medical education or re-pay their medical student loans in return for serving in HPSAs, are facing undue hardship due to the fact that they are being taxed on scholarships they receive to participate in the NHSC. This bill will reward students for their commitment to working in HPSAs by exempting them from being taxed on their NHSC scholarships.

The third element of PHIRA will go even further to ensure that the most important medical services are available in our communities by expanding access to telehealth services. The promise of telehealth is becoming increasingly apparent. Throughout the country, providers are experimenting with a variety of telehealth approaches in an effort to improve access to quality medical and other health-related services. Those programs are demonstrating that telecommunications technology can alleviate the constraints of time and distance, as well as the cost and inconvenience of transporting patients to medical providers. Many approaches show promising results in reducing health care costs and bringing adequate care to all Americans. For the first time, technological advances and the development of a national information infrastructure give telehealth the potential to overcome barriers to health care services for rural Americans and afford them the access that most Americans take for granted. But it is clear that our nation must do more to integrate telehealth into our overall health care delivery infrastructure.

This bill would expand Medicare reimbursement for telemedicine to all rural areas, and to all Medicare services. Medicare reimbursement policy is an essential component of helping to integrate telehealth into the health care infrastructure and is particularly important in rural areas, where many hospitals do as much as 80% of their business with Medicare patients. Because the Secretary defined reimbursable services so narrowly in the BBA, this legislation clarifies that all services that are covered under Medicare Part B will be covered if they are instead delivered vial telehealth. In particular, it clarifies that the technology called ''store and forward'', which is a cost-effective method of transferring information, is included in this reimbursement policy.

This bill will also help communities build home-grown telehealth networks. It will help to build telehealth infrastructure and foster rural economic development, and it incorporates many of the most important lessons learned from other grant projects and studies on telehealth from across the Federal government. Because so many rural and underserved communities lack the ability to attract and support a wide variety of health care professionals and services, it is important to find a way to bring the most important medical services into those communities. Telehealth provides an important part of the answer. It helps bring services to remote areas in a quick, cost-effective manner, and can enable patients to avoid traveling long distances in order to receive health care treatment.

Mr. President, I am confident that the Promoting Health in Rural Areas Act will take important steps toward ensuring those in our rural and underserved communities have access to quality, affordable health care. I urge my colleagues to support this legislation.

Mr. THOMAS. Mr. President, I rise today to join several of my colleagues in introducing the ''Promoting Health in Rural Areas Act,'' a bill designed to increase access to quality health care services in rural areas. I am pleased to have worked with my colleagues—Senators BAUCUS, ROBERTS, GRASSLEY, HARKIN, DASCHLE, CONRAD and COLLINS—in crafting this bill for rural America.

Rural health care has been a top priority for me throughout my service in the House and Senate. As co-chairman of the Senate Rural Health Care Caucus, I am pleased that rural health care is an issue that we have always addressed in a bipartisan way in the Senate.

Rural health care is at a crossroads. Many communities are left short-handed through no fault of their own. The lack of physicians, nurses and other health professionals make it difficult for rural individuals to receive the most basic primary care. Further, inadequate and, more importantly, unequal reimbursement by federal agencies multiplies these unique challenges and leaves rural individuals and families without access to vital medical care.

The Promoting Health in Rural Areas Act of 1999 offers clear and sensible solutions to these problems. It increases reimbursement rates for rural hospitals and clinics, it offers communities additional assistance in recruiting physicians, it promotes the use of telemedicine services, it expands coverage of mental health services in rural areas and it ensures adequate representation of rural health care on a national Medicare advisory board. It is a long-term solution tailored to the needs of rural areas.

The bill incorporates many of the best ideas and recommendations that emerged from the Wyoming Health Care Policy Forum I hosted in Casper on August 26–27, 1998. Wyoming's health care providers, health care recipients, elected representatives and concerned citizens assembled to evaluate and assess the direction of Wyoming's health care delivery system and to chart a blueprint for its future.

This bill increases payments to Sole Community Hospitals, Rural Health Clinics and private health plans contracting with Medicare by exempting them from a proposed prospective payment system for outpatient hospital services. Facilities would be reimbursed on actual costs, providing a higher reimbursement rate. It would also update the cost reporting year, or ''rebase,'' the data Medicare uses to calculate costs and reimbursements.

Most hospitals in Wyoming are designated as Sole Community Hospitals because of isolation, weather, travel conditions and the absence of other health care facilities. They are crucial for health care delivery in Wyoming.

Further, the bill would expand the eligibility for hospitals to become Critical Access Hospitals. Critical Access Hospitals are a newly designated class of hospitals in rural areas that have been given greater flexibility and relief from federal regulations so they can organize their staff and facilities to meet the immediate emergency care needs of their small communities. They can tailor or reconfigure their services without losing their Medicare certification.

Rural communities through the United States are federally designated health professional shortage areas (HPSA). Wyoming has 22 of them. This means there is less than one primary care physician for every 3500 persons living in those areas. The Promoting Health in Rural Areas Act helps solve this dilemma by offering effective solutions to recruit and retain health care providers.

It revises Medicare's Graduate Medical Education (GME) programs by raising the cap on the number of residents that will be allowed to participate in family practice residency programs. In addition, it provides added recruiting assistance to communities in HPSAs. Current law places rural communities at risk because it requires that a community first lose a physician before it qualifies for recruitment assistance. This bill recognizes pending physician resignations and retirements so communities have access to assistance before they lose their provider.

Further, it enhances the National Health Service Corps (NHSC) by giving tax relief to those receiving scholarships and loans under the program. The NHSC is an important component in the rural health care delivery system and additional tax relief would encourage recipients to remain in rural areas.

Telehealth technologies play a key role in bridging the barriers of time and distance that prevent access to medical care. We must ensure that the technology is practical, affordable, accessible and maintains privacy. The bill expands the types of telemedicine services that will be reimbursed under Medicare, which will be very useful in establishing a well-coordinated network of physicians, mid-level practitioners, hospitals and clinics. It also encourages solutions to telemedicine questions that have been raised about practicing interstate medicine by authorizing a Joint Working Group on Telehealth that would identify, monitor and coordinate federal telehealth projects and issue an annual report to Congress.

Mental health care is a priority in this bill. Individuals in rural areas often have limited access to mental health services. As a result, rural states license additional categories of mental health professionals than are recognized by Medicare. This bill ensures more of the services will be covered by Medicare.

Two years ago, Congress established the Medicare Payment Advisory Commission to make important policy recommendations on Part A and Part B of the Medicare program. Unfortunately, of the current 15-member board, only one health care professional is from a rural area. Our bill requires that the Commission include at least two representatives from Rural Areas. This will help ensure that the board members fully understand the implications of their policy decisions.

In conclusion, the Promoting Health in Rural Areas Act provides the answers many rural communities are looking for to ensure quality health care for their residents. I look forward to discussing and actively debating rural health this Congress. It is possible that Medicare reform legislation will be debated this year and the Senate Rural Health Care Caucus will work to attach many of these provisions to such legislation. We understand the impact recent Medicare changes are having on our nation's fragile rural health system.

We need to act now. This bill is a great start.

Mr. HARKIN. Mr. President, I am pleased to join my distinguished colleagues, Senators DASCHLE, BAUCUS, THOMAS, CONRAD, ROBERTS, GRASSLEY, COLLINS, and FRIST in introducing a critical piece of legislation for America's rural communities, the ''Promoting Health in Rural Areas Act of 1999''. As co-chairs of the Senate Rural Health Caucus, Senator THOMAS and I convened this bipartisan group last fall to craft a comprehensive rural health bill, building on the hard work of Senators DASCHLE and BAUCUS from the 105th Congress. I am very proud that today we are able to come together across party lines to introduce a bill that will improve the ability of rural Americans to access good quality health care.

Today, the health care system in rural Iowa is on the verge of being admitted to an intensive care unit. Iowans living in small towns and rural areas are facing too many barriers to quality health care. But seniors living in New Hampton, Iowa, pay the same Medicare taxes as those who live in New York City—they should get the same quality health care.

This bill aims to improve access, increase choice, and improve the quality of care provided in rural towns in Iowa and around the nation. Current formulas for Medicaid and Medicare payments to hospitals are biased towards urban areas. This bill raises payments for rural hospitals by making it easier for them to qualify for special designations. The bill also strengthens health professional recruitment programs, helps expand access to mental health services in rural areas, requires that rural areas be represented on the Medicare Payment Advisory Commission and expand the range of Medicare-reimbursed services that can be provided via telemedicine.

Health care providers in rural areas like Iowa practice a conservative, cost-effective approach to health care. They should be rewarded for their resourcefulness, not penalized with unfair reimbursement rates. But Medicare payments to hospitals are currently based on formulas that give urban areas an advantage. This bill corrects these formulas so that hospitals can be paid more fairly. It also includes provisions specifically targeted to small, rural hospitals and the unique problems they face.

In addition, the bill guarantees that Medicare+Choice plans in rural counties get the increased reimbursement promised in the Balanced Budget Act of 1997. This provision will help ensure that seniors in rural areas have some of the same health plan choices available to urban seniors. These changes will help to address some of the inequity that exists for Medicare managed care.

And I will soon introduce legislation that will take the next critical step: fixing the inequity in Medicare fee-for-service. The vast majority of seniors living in rural areas will continue to receive their care through Medicare fee-for-service, yet the reimbursement rate for rural providers is woefully inadequate. My bill will address the imbalance between rural and urban fee-for-service rates, and I hope to introduce it in the next several weeks.

Mr. President, the health care system in this country is undergoing dramatic changes and our rural health care infrastructure is struggling to keep pace with the new landscape. The bill we are introducing today is the product of a bipartisan commitment to make sure that rural Americans have access to the same high quality health care that all Americans have come to expect. I am proud to be a part of this effort.

Mr. ROBERTS. Mr. President, I rise today to join my colleagues in introducing the Promoting Health in Rural Areas Act of 1999.

Health care today is at a crossroads. Rural communities face significant challenges in their efforts to recruit and retain health care providers. Hospitals and other health care facilities are facing increasing pressure from Medicare reductions. In 1997, Congress passed significant changes to the Medicare program in an effort to preserve the program for future generations. A new Congressional Budget Report says we are exceeding our expectations. In fact, since the beginning of the fiscal year in October, Medicare spending was $2.6 billion less than the amount spent in the similar period last year.

While this is good news for the fiscal integrity of the Medicare program, I am concerned about the unintended effects these reductions are having on the beneficiaries who depend on Medicare for health care services. It doesn't do much good to ''save'' the program if providers can no longer afford to deliver the services and beneficiaries are no longer able to access these services.

A new review by Ernst & Young reports that total hospital Medicare margins are expected to decline from 4.3 percent in fiscal year 1997 to only 0.1 percent in this fiscal year and remain below three percent through 2002.

Even more shocking is that total hospital margins for small, rural hospitals are expected to fall from 4.3 percent in fiscal year 1998 to negative 5.6 percent by fiscal year 2002, an amazing decline of 233 percent. Kansas hospitals are expected to lose over $530 million. I simply don't think our rural health system can survive any more reductions.

The Promoting Health in Rural Areas Act of 1999 will help to improve access, increase choice, and improve the quality of care provided in rural America.

Health care providers in rural areas generally serve a large number of Medicare patients. However, Medicare reimbursement to rural providers is not adequate to cover the costs of these services. This measure takes steps to ensure fair Medicare and Medicaid payments to rural providers by targeting those hospitals with special designations in rural areas. Provisions are included to increase payments and improve the Sole Community Hospital, Medicare Dependent Hospital, and Critical Access Hospital programs. In addition, these special facilities are exempt from a new outpatient reimbursement system that is being developed by the Health Care Financing Administration.

The Promoting Health in Rural Areas Act of 1999 also strengthens health professional recruitment programs and gives communities a chance to begin recruitment efforts before a crisis hits. Under current law, a community must effectively lose a physician before they qualify for recruitment assistance as a shortage area.

This measure also takes steps to encourage the use of telehealth, a critical piece of the rural health infrastructure. Under current law, HCFA limits reimbursement to four groups of services. This bill will expand reimbursement to include any services currently covered by Medicare in a rural area. In addition, the bill authorizes a new grant/loan program for telemedicine activities in rural areas.

Compromise is a way of life for rural Americans. Rural residents have fewer choices of physicians or hospitals. Rural providers must settle for fewer medical colleagues to rely on for consultation and support.

However, rural communities can no longer compromise. The regulatory burden is too much. Payments are too low. There simply isn't any more ''fat'' in the system.

Mr. President, I fear this is only the tip of the iceberg. As payment changes continue to be implemented and HCFA continues to issue new regulations and paperwork burdens, rural communities are going to suffer the most. In fact, many may not survive. We are already losing home health agencies at an alarming rate. Are hospitals the next to go?

I am committed to efforts to preserve access to health care services for all Kansans. We can do this if we simply focus on practical reforms that take into account the realities of practicing medicine in rural states like Kansas. We can guarantee access to quality health care services if we make changes now. We can't afford to wait. I urge my colleagues to join me today in supporting this legislation and look forward to working together to enact common sense solutions—before it's too late.

---

By Mr. DODD:

S. 981. A bill to provide training to professionals who work with children affected by violence, to provide for violence prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

VIOLENCE PREVENTION TRAINING FOR EARLY CHILDHOOD EDUCATORS ACT

● Mr. DODD. Mr. President, I am pleased to introduce the ''Violence Prevention Training for Early Childhood Educators Act,'' legislation designed to teach violence prevention to children at the earliest ages.

all of us have been shaken by the tragedy at Littleton, Colorado. Americans are left searching for answers to many questions. How could these teenagers have committed such brutality? What happened to the innocence and joy of youth? How can society help prevent such violent, deadly behavior from happening again?

One of the most effective solutions is to begin violence prevention at an early age. My proposal was not thrown together as a quick-fix to the Littleton tragedy. It is a carefully thought-out program aimed at true prevention. It is designed to help early childhood educators— the people who work directly with young children in preschools, child care centers, and elementary schools—learn the skills necessary to prevent violent behavior in young children. This legislation supports programs that prepare these professionals so that early childhood teachers, child care providers, and counselors are able to teach children how to resolve conflicts without violence. In addition, these professionals are in the perfect position to reach out and extend these lessons to parents and help whole families adopt these powerful skills.

Research has demonstrated that aggressive behavior nearly childhood is the single best predictor of aggression in later years. Children observe and imitate aggressive behavior over the course of many years. They certainly have plenty of exposure to violence, both in the streets and at home. For example, a Boston ho0spital found that 1 out of every 10 children seen in their primary care clinic had witnessed a shooting or stabbing before the age of 6. I am disheartened to report that in my home state of Connecticut, 1 in 10 teens have been physically abused. Alarmingly, more than a third of teenage boys report that they have guns or could get one in less than a day. Aggression may become very well-learned by the time a child reaches adolescence. Therefore, we must provide children with strategies for altering the negative influences of exposure to violence. Early childhood offers a critical period for overcoming the risk of violent behavior and later juvenile delinquency. And the proper training of professional who work with young children offers an effective route to reaching these kids.

This is not to suggest that early childhood professionals would replace parents as a source of teaching prosocial and acceptable behavior. Instead, these teachers should be encouraged to work with the whole family to address conflict without violence and aggression.

In 1992, as part of the Higher Education Act reauthorization, Congress enacted similar legislation to provide grants for programs that train professionals in early childhood education and violence counseling. These grants funded some remarkable programs. In my home state, a program at Eastern Connecticut State University trained students—half of whom were minority, low-income indivdiuals—to be teachers in their own communities, and trained child care providers in violence prevention with young children.

Unfortunately, just as these efforts were getting off the ground and starting to show promising results, the funding for the program was rescinded as part of the major 1994 rescission bill. Looking back, after the horrible events in Littleton, Colorado, Springfield, Oregon, and too many other communities, I think we can clearly see that was a mistake, Hindsight is always clearer—but let's not make the same mistake going forward. As we now work towards the reauthorization of the Elementary and Secondary Education Act, I hope that my proposal for a similar grant program for early violence prevention training is included in these discussions.

Preventing future acts of violence is an issue that rises above partisan politics. I think we can all agree that steps need to be taken to reduce the development of violent behavior in children. Please join me in this effort to begin creating a safer society for everyone, especially our children.●

---

By Mr. WELLSTONE (for himself and Mr. KERRY):

S. 982. A bill entitled ''Clean Money, Clean Elections Act''; to the Committee on Rules and Administration.

CLEAN MONEY, CLEAN ELECTIONS ACT

Mr. WELLSTONE. Mr President, I am here today to introduce the ''Clean Money, Clean Elections'' campaign finance reform legislation. It is in some ways the ''gold standard'' of true campaign finance reform, against which any more modest legislation ought to be assessed. The conceptual approach it embodies—replacing special interest money in our current system with clean money—is being adopted by state legislatures and in referenda across the country.

Some of my colleagues might respond to this announcement by saying that there are other issues that have arisen in this session that are more important than a debate over whether we will comprehensively reform our campaign finance laws. Some might argue that the American people appear to care more about other issues. I would argue, though, that public concern about one issue does not necessarily have to come at the expense of another. And while it is clear that Americans care very deeply about a variety of issues—Kosovo, taxes, education, and Social Security reform first among them—it is also clear that they care very much about the nature of our political system. When asked, 60 percent of Americans say they think that reforming the way campaigns are financed should be a high priority on our National agenda. There is no question in my mind that these people are right—reforming the way campaigns are financed should be, must be, a high priority on our agenda.

Many people believe our political system is corrupted by special interest money. I agree with them. It is not a matter of individual corruption. I think it is probably extremely rare that a particular contribution causes a member to cast a particular vote. But the special interest money is always there, and I believe that we do suffer under what I have repeatedly called a systemic corruption. Unfortunately, this is no longer a shocking announcement, even if it is a shocking fact. Money does shape what is considered do-able and realistic here in Washington. It does buy access. We have both the appearance and the reality of systemic corruption. And we must act.

In the House, a bipartisan effort is currently underway to force consideration of the Shays-Meehan bill, and the number of signers is slowly building. Yesterday, moderate House Republicans met with Speaker HASTERT to ask for an early vote on the bill. Today, Representative TIERNEY is introducing the ''Clean Money'' companion bill with 38 original co-sponsors. The House is acting on campaign finance reform, as should we on the Senate side. Here in the Senate, we must push forward this spring on tough, comprehensive reform.

I wonder if anyone would bother to argue that the way we are moving toward a balanced federal budget is unaffected by the connection of big special-interest money to politics? The cuts we are imposing most deeply affect those who are least well off. That is well-documented. The tax breaks we offer benefit not only the most affluent as a group, but numerous very narrow wealthy special interests. Does anyone wonder why Congress retains massive subsidies and tax expenditures for oil and pharmaceutical companies? What about tobacco? Are they curious why Congress permits a health care system dominated by insurance companies? Or a version of ''free trade'' which disregards the need for fair labor and environmental standards, for democracy and human rights, and for lifting the standard of living of American workers, as well as workers in the countries we trade with? How is it that Congress ever considers major legislation that directly promotes the concentration of ownership and power in the telecommunications industry, in the agriculture and food business, and in banking and securities? For the American people, how this happens, I think, is no mystery.

I think most citizens believe there is a connection between big special interest money and outcomes in American politics. People realize what is ''on the table'' or what is considered realistic here in Washington often has much to do with the flow of money to parties and to candidates. We must act to change this.

We must act to change this because the American people have lost faith in the system. People are turning away from the political process. They are surrendering what belongs most exclusively to them, their right to be heard on the issues that affect them, simply because they don't believe their voices will carry over the sound of all that cash. The degree of distrust, dissatisfaction, and outright hostility expressed by the American people when asked about the political process overwhelms me. According to recent polls, cynicism abounds:

92 percent of all Americans believe special-interest contributions buy votes of members of Congress.

88 percent believe that those who make large campaign contributions get special favors from politicians.

67 percent think that their own representative in Congress would listen to the views of outsiders who made large political contributions before they would listen to their own constituents' views.

And nearly half of all registered voters believe lobbyists and special interests control the government in Washington.

We must act on campaign finance reform. We must act to restore Americans' trust in our political process. We must act to renew their hope in the capacity of our political system to respond to our society's most basic problems and challenges. We must act to provide a channel for the anger that many Americans feel about the current system, and acknowledge the grassroots reform movement that's been building for years. These are our duties, and we must act to move the reform debate forward.

As Members of Congress, most pressing for us should be the question of why so many people no longer trust the political process, especially here in Congress, and what we can do to restore that trust. Polls and studies continue to show a profound distrust of Congress, and of our process. Many Americans see the system as inherently corrupt, and they despair of making any real changes because they figure special interests have the system permanently rigged.

I do not need to rehash the many serious problems with our campaign financing system. The bottom line is indisputable: the system does not have—and has not had for many years—the confidence of the American people. People have lost faith in Congress as an institution, in the laws we pass, and in the democratic process itself, because of the money chase and its accompanying systemic corruption. Too often in our system, money determines political viability, it determines the issue agenda, and it determines to whom legislators are accountable: cash constituencies, not real constituencies. Most troubling, money often determines election outcomes, and the public knows it.

Too many Americans believe that a small but wealthy and powerful elite controls the levers of government through a political process which rewards big donors—a system in which you have to pay to play. Why do you think corporate welfare has barely been nicked, but welfare for the poor and needy in this country has been gutted? The not-so-invisible hand of corporate PACs and well-heeled lobbyists, and huge corporate soft money contributions can be seen most openly here.

Too many Americans see our failures . . .

to alleviate the harsh, grinding poverty that characterizes the lives of too many of our inner-city residents,

to reduce the widening gulf between rich and poor,

to combat homelessness, drug addiction, decaying infrastructure, rising health care costs, and an unequal system of education.

And they want to know why we can't, or won't, act to address these problems head-on. Americans understand that without real reform, attempts to restructure our health care system, create jobs and rebuild our cities, protect our environment, make our tax system fairer and more progressive, fashion an energy policy that relies more on conservation and renewable sources, and solve other pressing problems will remain frustrated by the pressures of special interests and big-money politics.

In thinking about reform legislation, I start with the premise that political democracy has several basic requirements:

First, free and fair elections. It is hard to say with a straight face that we have them now. That's why people stay home on election day, why they don't participate in the process. Incumbents outspend challengers 8 or 10–1, millionaires spend their personal fortunes to buy access to the airwaves, and special interests buy access to Congress itself, all of which warps and distorts the democratic process.

Second, the consent of the people. The people of this country, not special interest big money, should be the source of all political power. Government must remain the domain of the general citizenry, not a narrow elite.

Third, political equality. Everyone must have equal opportunity to participate in the process of government. This means that the values and preferences of all citizens, not just those who can get our attention by waving large campaign contributions in front of us, must be considered in the political debate. One person, one vote—no more and no less—the most fundamental of democratic principles.

Each of these principles is undermined by our current system, funded largely through huge private contributions. Contributions that come with their own price tag attached—greater access and special consideration when push comes to shove. It's time for real reform.

Over the years, I have introduced and re-introduced campaign finance reform legislation, pushed amendments, organized my colleagues, given speeches, observed a self-imposed fundraising code stricter than current law, fought filibusters, and otherwise tried in every way I could to get tough, sweeping reform enacted into law. All to no avail. To my great regret, campaign finance reform so far has been successfully blocked in Congress by those who oppose it, staunch defenders all of the status quo.

Which is why I stand here today, re-introducing the ''Clean Money, Clean Elections'' legislation that we introduced during the last Congress. We have tightened and strengthed some of the nuts and bolts of the legislation, but it is much the same bill that it was when we first introduced it: simple and sweeping, fundamental campaign finance reform.

If the 1994 elections are remembered as the year the Republicans swept into power in Congress, then the 1998 elections should go down as the year that special-interest money smothered Washington. Money has always played a role in American politics and campaign spending is not a new problem, but it has exploded during the 1990s. In the 1993–94 election cycle, the national political parties raised $18.8 million in soft money contributions. By the 1997–98 election cycle that figure was up to $193.2 million in soft money. That's nearly a five-fold increase in just under five years. There can be no doubt that big money has become the primary currency of democracy in Washington.

In the 1995–96 election cycle, corporations, groups, and individuals representing business interests outspent labor by 12–1. Individuals and PACs representing the natural resource industries (such as gas and oil companies) outspent environmental interests by an estimated 27–1 in contributions to congressional candidates. Political contributions representing finance, insurance, and real estate interests were in excess of $130 million for the last election cycle. In the 1996 election cycle, less than one-quarter of one percent of the American people made contributions of more than $200 in a Federal election. Yet an astounding eighty percent of all political money came from this tiny group. Of all the economically-interested money given to Congressional candidates, almost none represented the millions of Americans who are poor, or parents of public school children, or victimized by toxic dumping or agri-chemical contamination, or who are small bank depositors and borrowers, or people dependent on public housing, transportation, libraries, and hospitals. It is clear who is represented under the current system and who is shut out.

The bill I am introducing today strikes directly at the heart of the crisis in the current system of campaign finance: the only way for candidates of ordinary means to run for office and win is to raise vast sums of money from special interests, who in turn expect access and influence on public policy. Real campaign finance reform needs to restore a level playing field, open up federal candidacies to all citizens, end the perpetual money chase for Members of Congress, and limit the influence of special interest groups. This legislation does all of these things by offering:

The strictest curbs on special-interest money and influence. The ''Clean Money, Clean Elections'' legislation bans completely the use of ''soft money'' to influence elections, discourages electioneering efforts masquerading as non-electoral ''issue ads,'' provides additional funding to clean money candidates targeted by independent expenditures, and most importantly, allows candidates to reject private contributions if they agree to participate in the clean money system of financing.

The greatest reduction in the cost of campaigns. Because it eliminates the need for fundraising expenses and provides a substantial amount of free and discounted TV and/or radio time for Federal candidates, this legislation allows candidates to spend far less than ever before on their campaigns.

The most competitive and fair election financing. By providing limited but equal funding for qualified candidates, and additional funding for clean money candidates if they are outspent by non-participating opponents, this legislation allows qualified individuals to run for office on a financially level playing field, regardless of their economic status or access to larger contributors. Right now, the system is wired for incumbents because they are connected to the connected. The big players, the heavy hitters, tend to be attracted to incumbents, because that is where the power lies. This bill would allow all citizens to compete equally in the Federal election process.

And an end to the money chase, shorter elections, and stronger enforcement. ''Clean Money, Clean Elections'' campaign finance reform frees candidates and elected officials from the burden of continuous fundraising and thus allows public officials to spend their time on their real duties. In effect, it also shortens the length of campaigns, when the public is bombarded with broadcast ads and mass mailings, by limiting the period of time during which candidates receive their funding. Moreover it strengthens the enforcement and disclosure requirements in Federal election campaigns.

What I am proposing are fundamental changes, necessary changes if we hope to ever regain the public's confidence in the political process. This legislation is both simple to understand and sweeping in scope. As a voluntary system this bill is constitutional, and it effectively provides a level playing field for all candidates who are able to demonstrate a substantial base of popular support. ''Clean Money, Clean Elections'' strengthens American democracy by returning political power to the ballot box and by blocking special interests' ability to skew the system through large campaign contributions.

Most importantly, this legislation attacks the root cause of a system founded on private special interest money, curing the disease rather than treating the symptoms. The issue is no longer one of tightening already existing campaign financing laws, no longer a question of what's legal and what's illegal. The real problem is that most of what's wrong with the current system is perfectly legal. Big money special interests know how to get around the letter of the law as it is now written. This current system of funding congressional campaigns is inherently anti-democratic and unfair. It creates untenable conflicts of interests and screens out many good candidates. By favoring the deep pockets of special interest groups, it tilts the playing field in a way that sidelines the vast majority of Americans. This legislation takes special interest out of the election process and replaces it with the public interest, returning our political process to the hallowed principle of one person, one vote.

I am not naive about the prospects for campaign finance reform during this Congress, and realize that the sweeping reform bill that I am introducing today is a ''vision bill.'' But that's okay, for as Yogi Berra is reported to have said, ''If you don't know where you're going, you may end up someplace else.'' This is where I want to go, and where I believe the vast majority of Americans would also like to go. In one recent survey, 48% percent of respondents thought they would be more likely to see Elvis than real campaign finance reform. And while this is obviously a somewhat toungue-in-cheek response for many people, I think it also reflects a deeply cynical electorate. For once let's not live down to their worst expectations, and let's pass tough, comprehensive campaign finance reform during this Congress.

I ask consent that a summary of the bill and a section-by-section analysis be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

SHORT SUMMARY OF ''CLEAN MONEY, CLEAN ELECTIONS'' CAMPAIGN FINANCE REFORM ACT OF 1999

''CLEAN MONEY'' FINANCING

Candidates voluntarily forgot private contributions and accept strict spending limits in exchange for publicly financed election funds, as well as other benefits such as free or reduced rate prime access broadcast time.

Amount of ''clean money'' candidates receive in general election based on state's Voting Age Population (VAP).

If the voting age population is less than 4 million: $320,000 + VAP(.24)=clean money funding amount

If the voting age population is greater than 4 million: $320,000 + VAP(.20)=clean money funding amount

Candidates receive 67% of general election funding for contested primary election.

Additional clean money financing provided to match non-participating opponents' expenditures in excess of spending limits, as well as independent expenditures made against clean money candidate or in favor of non-participating opposition candidate.

SOFT MONEY BAN

Prohibits national parties from soliciting or receiving contributions or spending funds not subject to the Federal Election Campaign Act (FECA).

Certain necessary state level activities are excluded from these prohibitions, and the establishment of ''state party grassroots funds'' is allowed for certain generic campaign activity.

INDEPENDENT EXPENDITURES AND EXPRESS ADVOCACY

Creates new, tighter definition of independent expenditures to ensure proper distance from candidates.

Toughens reporting requirements for independent expenditures.

Creates new definition for express advocacy using three independent standards, any one of which meets definition (provides ''fall back'' standard should any part of definition be declared unconstitutional).

Exempts voting records and voting guides from definition of express advocacy.

REPORTING AND DISCLOSURE

Limits a party's coordinated expenditures to 10 percent of the amount of clean money the candidate is eligible to receive for the general election.

Tightens the definition of party coordination, and requires a party to limit its coordinated and independent expenditures.

Doubles the penalties for ''knowing and wilful'' violations of federal election law.

Requires Senate candidates to file disclosure reports and disclosures electronically and directly with the Federal Election Commission (FEC), which must then be made available on the Internet within 24 hours.

Requires that campaign advertisements contain sufficient information to clearly identify the candidate on whose behalf the advertisements are placed.

Establishes new reporting requirements for issue advertisements.

THE CLEAN MONEY, CLEAN ELECTIONS CAMPAIGN FINANCE REFORM ACT—SECTION-BY-SECTION

**Section 1. Short title; table of contents.**

TITLE I—CLEAN MONEY FINANCING OF SENATE ELECTION CAMPAIGNS. pp. 2–32.

**Section 101. Findings and declarations.** Section 101 states the purposes of the legislation.

**Section 102. Eligibility requirements and benefits of "clean money" financing of Senate election campaigns.** Section 102 of the bill would create a new Title V in the 1971 Federal Election Campaign Act (2 U.S.C. 431). It defines "clean money," establishes the requirements for a major party or other candidate to qualify and receive clean money; establishes the dates and methods for receiving clean money; places restrictions, including spending limits, on clean money candidates; establishes the amounts of clean money to be provided to candidates for primary and general elections; and allows for providing additional clean money to match expenditures by and on behalf of an opponent which exceed a trigger-amount above the voluntary spending limit adopted by the clean money candidate.

The section defines clean money as the funds provided to a qualifying clean money candidate. Clean money will be provided from a Senate Election Fund established in the Treasury and composed of unspent seed money contributions, qualifying contributions, penalties, and amounts appropriated for clean money financing of Senate election campaigns.

The clean money candidate qualifying period begins 270 days prior to the date of the primary election. To qualify for clean money financing for a primary or a general election, a candidate must be certified as qualified by 30 days prior to the date of that election. Prior to the candidate receiving clean money from the Senate Election Fund, a candidate wishing to qualify as a clean money candidate may spend only "seed money." Seed money contributions are private contributions of not more than $100 in the aggregate by a person. It is the only private money a clean money candidate may receive as a contribution and spend. A candidate's seed money contributions are limited to a total of $50,000 plus an additional $5,000 for every congressional district in the state over one. Seed money can be spent on campaign related costs such as to open an office, to fund a grassroots campaign or hold community meetings, but cannot be spent for a television or radio broadcast or for personal use. At the time that a clean money candidate receives clean money, all unspent seed money shall be remitted to the Federal Election Commission (FEC) to be deposited in the Senate Election Fund.

To qualify for clean money financing, a major party candidate must gather a number of qualifying contributions equal to one-quarter of 1 percent of the state's voting age population, or 1,000 qualifying contributions, whichever is greater. A qualifying contribution is $5, made by an individual registered to vote in the candidate's state, and is made during the qualifying period. Qualifying contributions are made to the Senate Election Fund by check, money order, or cash. They shall be accompanied by the contributor's name and address and a signed statement that the purpose of the contribution is to allow the named candidate to qualify as a clean money candidate.

A major party candidate is the candidate of a party whose candidate for Senator, President, or Governor in the preceding 5 years received, as a candidate of that party, 25 percent or more of the total popular vote in that state for all candidates for that office.

Clean money candidates qualify for clean money for both the primary and the general election. A qualifying candidate will receive clean money for the primary election upon being certified by the FEC, and once the "primary election period" has begun. A candidate will be certified within 5 days of filing for certification if the candidate has gathered the threshold number of contributions, has not spent private money other than seed money, and is eligible to be on the primary ballot. The primary election period is from 90 days prior to the primary election date until the primary election date. The qualifying period begins 180 days before the beginning of the primary election period. A candidate must be certified as a clean money candidate 30 days prior to the primary election in order to receive clean money financing for the primary election.

A clean money candidate who wins the party primary and is eligible to be placed on the ballot for the general election will receive clean money financing for the general election. A candidate not of a major party who does not qualify as a clean money candidate in time to receive clean money financing for the primary election period may still qualify for clean money financing for the general election by gathering the threshold number of qualifying contributions by 30 days prior to the general election and qualifying to be on the ballot.

The amount of clean money a qualified candidate receives for the primary and general election is also the spending limit for clean money candidates for each respective election. The clean money amount for the general election for a qualified clean money candidate is established according to a formula based on a state's voting age population. The section establishes a clean money ceiling for the general election of $4.4 million, and a floor of $760,000. The clean money amount for a contested major party primary is 67 percent of the clean money amount for the general election. In the case of an uncontested primary or general election, the clean money amount is 25 percent of the amount provided in the case of a contested election.

To qualify for clean money financing, a candidate who is not a major party candidate must collect 150 percent of the number of qualifying contributions that a major party candidate in the same election is required to collect. A candidate who is not a major party candidate must otherwise qualify for clean money financing according to the same requirements, restrictions and deadlines as does a major party candidate. A candidate who is not a major party candidate who qualifies as a clean money candidate in the primary election period will receive 25 percent of the regular clean money amount for a major party candidate in the primary. A candidate who is not a major party candidate who qualifies as a clean money candidate will receive the same clean money amount in the general election as will a major party candidate.

Additional clean money financing, above the regular clean money amount, will be provided to a clean money candidate to match aggregate expenditures by a private money candidate and independent expenditures against the clean money candidate or on behalf of an opponent of the clean money candidate, which are, separately or combined, in excess of 125 percent of the clean money spending limit. The total amount of matching clean money financing received by a candidate shall not exceed 200 percent of the regular clean money spending limit.

The section establishes penalties for the misuse of clean money and for expenditure by a clean money candidate of money other than clean money.

**Section 103. Reporting requirements for expenditures of private money candidates.** Section 103 requires private money candidates facing clean money opponents to report within 48 hours expenditures which in aggregate exceed the amount of clean money provided to a clean money candidate. A report of additional expenditures, in aggregate increments of $1,000, will also be required.

**Section 104. Transition rule for current election cycle.** Section 104 allows a candidate who received private contributions or made private expenditures prior to enactment of the Act not to be disqualified as a clean money candidate.

TITLE II—INDEPENDENT EXPENDITURES; COORDINATED EXPENDITURES, pp. 33–50.

**Section 201. Reporting requirements for independent expenditures.** Section 201 amends Section 304(c) of the 1971 FECA (2 U.S.C. 434(c)) to require reporting of independent expenditures made or obligated to be made by a person in support of, or in opposition to, a candidate for office. Prior to 20 days before the date of the election, each such independent expenditure which exceeds in aggregate $1,000 by a person shall be reported within 48 hours. After 20 days prior to the date of the election, each such independent expenditure made or obligated to be made which exceeds in aggregate $500 shall be reported within 24 hours.

**Section 202. Definition of independent expenditure.** Section 202 amends section 301 of the 1971 FECA (2 U.S.C. 431) to create a new definition of independent expenditure. An independent expenditure would be an expenditure made by a person other than a candidate or candidate's authorized committee that is made for a communication that contains express advocacy; and is made without the participation or cooperation of, and without coordination with, a candidate.

The section defines express advocacy as a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or other general public communication or political advertising and that advocates the election or defeat of a clearly identified candidate, including a communication that contains a phrase such as "vote for", "re-elect", "support", "cast your ballot for", "(name of candidate) for Congress", "(name of candidate) in (year)", "vote against", "defeat", "reject"; or contains campaign slogans or individual words that in context can have no reasonable meaning other than to recommend the election or defeat of a clearly identified candidate;

OR

A communication that refers to a clearly identified candidate in a paid advertisement that is broadcast through radio or television; involves aggregate disbursements of $5,000 or more; and is made within the last 60 days before the date of the general election.

The section provides a fall back definition of express advocacy should a portion of the above definition not be in effect. The fallback definition would be in addition to any portion of the above still in effect. The fallback definition establishes that express advocacy would be a communication that clearly identifies a candidate, and taken as a whole, with limited reference to external events, expresses unmistakable support for or opposition to the candidate; or is made for the clear purpose of advocating the election or defeat of the candidate, as shown by a statement or action by the person making the communication, the targeting or placement of the communication, and the use by the person making the communication of polling, demographic or other similar data relating to the candidate's campaign for election.

Each standard is severable from the others and any one standard is sufficient to meet the definition of express advocacy. Voting records and voting guides are exempted from the definition of express advocacy.

**Section 203. Limits on expenditures by political party committees.** The section amends section 315(d)(3) of the 1971 FECA (2 U.S.C.

441a(d)(3)) to limit a party's coordinated expenditures in a race involving a clean money candidate. In the case of any Senate election in which 1 or more candidates are clean money candidates, the amount that any party may spend in connection with that race or in coordination with a candidate is limited to 10 percent of the amount of clean money a clean money candidate is eligible to receive for the general election.

**Section 204. Party independent expenditures and coordinated expenditures.** The section, modeled after H.R. 417, the Shays-Meehan bill, strictly tightens the definition of party coordination in numerous ways. The section also requires a party which makes a coordinated expenditure in connection with a general election campaign for Federal office in excess of $5,000 to file a certification that the party will not make any independent expenditures in connection with that campaign. The section further tightens the definition of coordinated expenditure by persons other than a party. It establishes that coordinated expenditures shall be considered to be contributions made to a candidate (with an exception that allows the limited party coordinated expenditures on behalf of a clean money candidate as provided in Section 203).

TITLE III—VOTER INFORMATION, pp. 50–60.

**Section 301. Free broadcast time.** The section provides clean money candidates with 30 minutes of free broadcast time during the primary election period and 60 minutes of free broadcast time during the general election period. The broadcasts shall be between 30 seconds and 5 minutes in length, aired during prime time for television or drive time for radio. Any one station shall not be required to provide a clean money candidate with more than 15 minutes of free time during an election period.

**Section 302. Broadcast rates and preemption.** A clean money candidate in a contested election shall be charged 50 percent of the lowest charge described in section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) for purchased broadcast time during the 30 days preceding the primary and 60 days preceding the general election.

**Section 303. Campaign advertisements; issue advertisements.** The section requires that campaign advertisements contain sufficient information clearly identifying the candidate on whose behalf the advertisements are placed. The information shall include an audio statement by the candidate where applicable which states that the candidate approves the communication, and a clearly identifiable photographic or similar image of the candidate where applicable. Private money candidates shall include the following statement: ''This candidate has chosen not to participate in the Clean Money, Clean Elections System and is receiving campaign contributions from private sources.''

The section also establishes new reporting requirements for issue advertisements, including the amount of the disbursement for an issue advertisement, the name and address of the person making the disbursement, donors of $5,000 or more to the person during the calendar year, and the purpose of the advertisement. An issue advertisement is an advertisement which is not an independent expenditure or contribution that contains the name or likeness of a Senate candidate during an election year, and recommends a position on a political issue.

**Section 304. Limit on Congressional use of the franking privilege.** The section prohibits franked mass mailings during an election year by a Senate candidate who holds Congressional office, except for a notice of public meeting which contains only the candidate's name, and the date, time, and place of the public meeting.

TITLE IV—SOFT MONEY, pp. 60–77.

This title prohibits political party soft money and is identical to that found in H.R. 417, the Shays-Meehan bill.

**Section 401. Soft money of political parties.** The section prohibits national parties from soliciting or receiving contributions or spending funds not subject to the Federal election Campaign Act. It prohibits state, district or local committees of a political party from spending money during an election year for activity that might affect the outcome of a Federal election unless the money is subject to the FECA. The section establishes certain activities excluded from the above prohibition, which are legitimate or necessary activities of the committees.

The section prohibits parties or their committees from solicting funds for, or making any donation to, tax-exempt organizations. It also prohibits candidates and Federal office-holders from receiving or spending funds not subject to the FECA.

**Section 402. State party grassroots funds.** The section allows establishment of state party grassroots funds solely for the purpose of generic campaign activity, voter registration, or other activities specified in the FECA, and the development and maintenance of voter files. The fund shall be separate and segregated.

**Section 403. Reporting requirements.** The section establishes new reporting requirements for national parties and congressional campaign committees for all receipts and disbursements.

**Section 404. Soft money of persons other than political parties.** The section requires individuals other than a committee of a political party that make an aggregate disbursement in excess of $50,000 during a calendar year in which there is a Federal election to file a statement with the Federal Election Commission. The section does not apply to a candidate or a candidate's authorized committees, or to an independent expenditure.

TITLE V—RESTRUCTURING AND STRENGTHENING OF THE FEDERAL ELECTION COMMISSION, pp. 78–91.

**Section 501. Appointment and terms of Commissioners.** The President shall appoint 6 members of the Commission with the advice and consent of the Senate and 1 member from among persons recommended by the Commission.

**Section 502. Audits.** The section authorizes random audits and investigations by the Commission to ensure voluntary compliance with the FECA. The subjects of such audits and investigations shall be selected on the basis of impartial criteria established by a vote of at least 4 member of the Commission.

**Section 503. Authority to seek injunction.** The section authorizes and sets out standards for initiation by the Commission of a civil action for a temporary restraining order or preliminary injunction.

**Section 504. Standard for investigation.** The section grants the Commission greater discretion in opening an investigation.

**Section 505. Petition for certiorari.** The section allows petition to the Supreme court on certiorari.

**Section 506. Expedited procedures.** The section allows the Commission to order expedited proceedings based on clear and convincing evidence that a violation of the FECA has occurred, is occurring, or is about to occur, to avoid harm or prejudice to the interests of the parties.

**Section 507. Filing of reports using computers and facsimile machines; filing by Senate candidates with Commission.** The section instructs the Commission to require the filing of reports in electronic form in certain cases, and instructs the Commission to allow the filing of reports by facsimile machines. The Commission is required to make information filed electronically available on the Internet within 24 hours of filing.

The section requires Senate candidates to file designations, statements, and reports directly with the Commission.

**Section 508. Power to issue subpoena without signature of chairperson.** The section allows the Commission to issue a subpoena without the signature of the chairperson or vice chairperson.

**Section 509. Prohibition of contributions by individuals not qualified to vote.** The section prohibits contributions in connection with a Federal election by an individual who is not qualified to register to vote in a Federal election, and prohibits receiving contributions from any such individuals.

**Section 510. Penalties for violations.** The section increases and tightens penalties for knowing and willful violations of Federal election law.

**TITLE VI—EFFECTIVE DATE, p. 91**

**Section 601. Effective date.** The Act and the amendments made by the Act would take effect on January 1, 2000.

Mr. FEINGOLD. Mr. President, I thank my friends, Senator KERRY of Massachusetts and Senator WELLSTONE of Minnesota, and commend them on the introduction of their campaign finance reform proposal, the Clean Money bill. I am very pleased that they are once again introducing this far reaching and visionary piece of legislation. I think it is important as we deal in this Senate with the more limited bill that I have proposed with the Senator from Arizona, Senator MCCAIN, that the American people understand that we do not believe that the job will be completed if that bill becomes law.

Of course, I also want to thank Senators KERRY and WELLSTONE for their strong support of the McCain-Feingold bill. I also want to make it very clear that these two pieces of legislation are completely consistent and complimentary. The Clean Money bill introduced today contains the central components of the McCain-Feingold and Shays-Meehan bills—a soft money ban, provisions to deal with phony issue ads, and improved enforcement and disclosure. But it adds a comprehensive system of financing Senate campaigns, based on initiatives that have been endorsed by the voters in Maine, Massachusetts, and Arizona for their state elections, to provide public funding to qualified candidates for state officeholders.

Mr. President, when I first ran for the Wisconsin State Senate many years ago, my race would literally not have been possible were it not for Wisconsin's system of partial public financing. Under the state system in effect at that time, I had to raise approximately $17,500 from friends and family, and the state election fund provided a grant of the same amount. So once I raised my share, my fundraising work was done, and I could spend my time going door to door campaigning. I won that first race by only a few votes, and I'm convinced that my retail campaigning was the difference. So I believe it is fair to say that I wouldn't be in the United States Senate today if Wisconsin didn't have that system of public financing, that allowed a person of limited means to run for office, and win.

Today, all over the country, citizens are coming to realize that the money chase that is required to run for office is depriving them of good candidates and representatives. Not everyone who would be a hardworking and effective public servant comes from a wealthy background or from a community of friends or business associates who can finance a campaign. And so the Clean Money movement is taking hold in state after state. Overwhelming majorities in polls taken on this issue support a Clean Money system, where candidates raise a large number of very small contributions to qualify for a limited public grant to run an adequate, but not an extravagant, campaign. These polls, and the successful ballot initiatives in Maine, Massachusetts, and Arizona show that the public is not only ready, but eager, for a new way of financing our elections.

Obviously, Mr. President, a majority in the United States Senate is not yet ready for such a clean break with the current system. But I believe that over time we in the Senate will catch up with public sentiment, and this is the way we will have to go. I am convinced that Clean Money is the future of campaign financing in this country, at both the state and federal level. And so I am very pleased that Senators KERRY and WELLSTONE have decided to reintroduce their bill and I thank them for their leadership.

---

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 983. A bill to require the Secretary of Transportation to issue regulations to provide for improvements in the conspicuity of rail cars of rail carriers; to the Committee on Commerce, Science, and Transportation.

RAILROAD CAR VISIBILITY ACT

Mr. JOHNSON. Mr. President, I rise today to introduce the Railroad Car Visibility Act, which would require all railroad cars—including those on passenger an commuter trains—to have some form of reflective marker.

This legislation provides a simply way to improve rail car visibility at rail crossings and sidings, sites where many accidents have occurred in recent years. When crossings and sidings are in rural areas or near small towns—as is often the case in South Dakota—they usually are unlit or very poorly lit, increasing the potential for disaster. While locomotives are required to use lighting such as ditch lights to increase visibility, rail cars are often unmarked, which means they are difficult for automobile drivers to see. This legislation attempts to remedy this problem by requiring that all rail cars display some form of visible marker, such as reflectors of reflective tape.

Last year, the Department of Transportation (DOT) issued a memorandum on reflective markings and their effectiveness for increasing visibility. DOT tested several different types of reflectors, including different colors and patterns, The memorandum concludes that ''bright color patterns distributed to give an indication of the size or shape of the rail car make the most effective marking systems.'' Fitting rail cars with reflective materials would be relatively inexpensive but, by increasing visibility, would reduce the number of accidents, unnecessary injuries and deaths at rail crossings and sidings. As one railroad executive has said, ''It's sort of a tragedy that something that makes so much common sense has to be legislated. Everyone should do it. The railroad industry is its own worst enemy sometimes.

This legislation has the support of both South Dakota's legislature and Governor Janklow. I urge my colleagues to support this legislation and work with me to secure its passage.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

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

S. 983

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. IMPROVED CONSPICUITY OF RAIL CARS.**

(a) IN GENERAL.—Section 20132 of title 49, United States Code, is amended—

(1) by striking the heading and inserting the following:

**''§ 20132. Visible markers for train cars''**;

and

(2) by adding at the end the following:

''(c) IMPROVED CONSPICUITY.—Not later than 180 days after the date of enactment of this subsection, the Secretary of Transportation shall—

''(1) develop and implement a plan to ensure that the requirements of this section are met; and

''(2) issue regulations that require that, not later than 2 years after the date of issuance of the regulations, all cars of freight, passenger, or commuter trains be equipped, and, if necessary, retrofitted, with at least 1 highly visible marker (including reflective tape or appropriate lighting).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 201 of title 49, United States Code, is amended by striking the item relating to section 20132 and inserting the following:

''20132. Visible markers for train cars.''.

---

By Mr. CAMPBELL:

S. 985. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

---

THE INTERGOVERNMENTAL GAMING AGREEMENT ACT OF 1999

Mr. CAMPBELL. Mr. President, today I introduce The Intergovernmental Gaming Agreement Act of 1999 to address an area of contention between tribes and states that centers on the ability of tribes to operate gaming activities on their lands.

In 1988, virtually no one contemplated that Indian gaming would become the billion dollar industry that exists today, providing some tribes with much needed capital for development and employment opportunities where none previously existed.

Because of gaming, some tribes have been very successful, fortunate mostly because of their geographical location. These tribes employ thousands of people, both Indian and non-Indian, and have greatly reduced the welfare rolls in their local area.

It is extremely important for us to keep these facts, and the goals of the gaming statute in mind and to remember that where gaming exists, it provides a great opportunity for tribes to develop other business and development projects. However, it must also be recognized that not all tribes will find the keys to a brighter economic future in gaming.

In the 1987 Cabazon case, the U.S. Supreme Court decided that tribes could operate casino style gaming without the consent or regulation of the state, in cases where the state otherwise allowed such gambling.

In 1988, Congress passed the Indian Gaming Regulatory Act, otherwise known as ''IGRA'', as a compromise between states and tribes. IGRA was an attempt to allow tribes to continue to develop the gaming operations allowed under federal case law, but gave states for the first time the right to have some say in how those operations would be regulated.

It was not Congress' intention in enacting IGRA to provide States with veto authority over a tribe's plans to develop gaming operations.

Unfortunately, a few States have attempted to do just this, and at least two states have effectively prevented tribes from opening gaming operations by simply refusing to negotiate with them.

A group of tribes and states has been attempting to negotiate their differences and have been doing so for some 18 months, to no avail. As the Committee on Indian Affairs knows well after numerous hearings, each side has presented demands in such a way that the other is simply unwilling to consider.

I firmly believe The Intergovernmental Gaming Agreement Act of 1999 will go a long way in solving this problem by encouraging full and fair negotiations and by allowing each side recourse to federal court at the critical stage in the mediation stage of the proposed process.

The Intergovernmental Gaming Agreement Act of 1999 requires tribes to negotiate with states for purposes of concluding a class III gaming agreement. Only when states refuse to negotiate outright or reach an impasse during negotiations by failing to come to agreement within six months of the tribe's request for negotiation, can a tribe access the alternative procedures outlined in this bill.

Once the tribe applies for procedures with the Secretary of the Interior, the Secretary first must attempt to reconcile state-tribal differences by referring the parties to mediation. Even when a tribe has applied to begin the procedure for developing a class III compact, the state has full and unfettered access to the procedure at every stage.

This legislation allows the state to intervene in the process at the point of their choosing and, when all is said and done, the states have the right to challenge the outcome in federal district court.

I ask unanimous consent that a copy of the bill be printed in the RECORD and urge my colleagues to support these reasonable and necessary amendments.

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

S. 985

*Be it enacted in 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 ''The Intergovernmental Gaming Agreement Act of 1999''.

**SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGULATORY ACT.**

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended—

(1) by striking section 11, subsection (d) and inserting the following:

''(d)(1) Class III gaming activities shall be lawful on Indian lands only if those activities are—

''(A) authorized by an ordinance or resolution that—

''(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

''(ii) meets the requirements of subsection (b), and

''(iii) is approved by the Chairman,

''(B) located in a State that permits such gaming for any purpose by any person, organization, or entity; and

''(C) authorized by a Compact that is approved pursuant to tribal law by the governing body of the Indian tribe having jurisdiction over those lands;

''(D) conducted in conformance with a compact that—

''(i) is in effect; and

''(ii) is—

''(I) entered into by an Indian tribe and a State and approved by the Secretary under paragraph (3); or

''(II) issued by the Secretary under paragraph (3).

''(2)(A) If any Indian tribe proposes to engage in, or to authorize any person or entity to engage in, a class III gaming activity on Indians lands of the Indian tribe, the governing body shall adopt and submit to the chairman an ordinance or resolution that meets the requirements of subsection (b).

''(B) The Chairman shall approve any ordinance or resolution described in subparagraph (A), unless the Chairman specifically determines that—

''(i) the ordinance or resolution was not adopted in compliance with the governing documents of the Indian tribe, or

''(ii) the tribal governing body was significantly and unduly influenced in the adoption of such ordinance or resolution by any person identified in section 12(e)(1)(D).

''(C) Upon approval of such an ordinance or resolution, the Chairman shall publish in the Federal Register such ordinance or resolution and the order of approval.

''(3) COMPACT NEGOTIATIONS; APPROVAL.—

''(A) IN GENERAL.—

''(i) COMPACT NEGOTIATIONS.—Any tribe having jurisdiction over lands upon which a class III gaming activity is to be conducted may request the State in which those lands are located to enter into negotiations for the purpose of entering into a compact with that State governing conduct of Class III gaming activities.

''(ii) REQUIREMENTS FOR REQUEST FOR NEGOTIATIONS.—A request for negotiations under clause (i) shall be in writing and shall specify each gaming activity the Indian tribe proposes for inclusion in the compact. Not later than 30 days after receipt of the written request, the State shall respond to the Indian tribe.

''(iii) COMMENCEMENT OF COMPACT NEGOTIATIONS.—Compact negotiations conducted under this paragraph shall commence not later than 30 days after the date on which a response by a State is due to the Indian tribe, and shall be completed not later 120 days after the initiation of compact negotiations, unless the State and the Indian tribe agree in writing to a different period of time for the completion of compact negotiations.

''(B) NEGOTIATIONS.—

''(i) IN GENERAL.—The Secretary shall, upon request of an Indian tribe described in subparagraph (A)(i) that has not reached an agreement with a State concerning a compact referred to in that subparagraph (or with respect to an Indian tribe described in clause (ii)(I)(bb) a compact) during the applicable period under clause (ii) of this subparagraph, initiate a mediation process to—

''(I) conclude a compact referred to in subparagraph (A)(i); or

''(II) if necessary, provide for the issuance of procedures by the Secretary to govern the conduct of the gaming referred to in that subparagraph.

''(ii) APPLICABLE PERIOD.-

''(I) IN GENERAL.—Subject to subclause (II) the applicable period described in this paragraph is—

''(aa) in the case of an Indian tribe that makes a request for compact negotiations under subparagraph (A), the 180-day period beginning on the date on which that Indian tribe makes the request; and

''(bb) in the case of an Indian tribe that makes a request to renew a compact to govern class III gaming activity on Indian lands of that Indian tribe within the State that the Indian tribe entered into prior to the date of enactment of the Indian Gaming Regulatory Act of 1988, during the 60-day period beginning on the date of that request.

''(II) EXTENSION.—An Indian tribe and a State may agree to extend an applicable period under this paragraph beyond the applicable termination date specified in item (aa) or (bb) of subclause (I).

''(iii) MEDIATION.—

''(I) IN GENERAL.—The Secretary shall initiate mediation to conclude a compact governing the conduct of class III gaming activities on Indian lands upon a clear showing by an Indian tribe that, within the applicable period specified in clause (ii), a state has failed—

''(aa) to respond to a request by an Indian tribe for negotiations under this subparagraph; or

''(bb) to negotiate in good faith.

''(II) EFFECT OF DECLINING NEGOTIATIONS.—The Secretary shall initiate mediation within 10 days after a State declines to enter into negotiations under this subparagraph, without regard to whether the otherwise applicable period specified in clause (ii) has expired.

''(III) COPY OF REQUEST.—An Indian tribe that requests mediation under this clause shall provide the State that is the subject of the mediation request a copy of the mediation request submitted to the Secretary within 5 days of receipt of the request.

''(IV) PANEL.—The Secretary, in consultation with the Indian tribes and States, shall establish a list of independent mediators, that the Secretary, in consultation with the Indian tribes and the States, shall periodically update. All mediators placed upon the list shall be certified by the American Arbitration Association as qualified to conduct arbitration in accordance with the American Arbitration Association rules and procedures.

''(V) NOTIFICATION BY STATE.—Not later than 10 days after an Indian tribe makes a request to the Secretary for mediation under subclause (I), the State that is the subject of the mediation request shall notify the Secretary whether the State elects to participate in the mediation process within 5 days of receipt of the request. If the State elects to participate in the mediation, the mediation shall be conducted in accordance with subclause (IV). If the State declines to participate in the mediation process, the Secretary shall issue procedures pursuant to clause (iv).

''(VI) ''MEDIATION PROCESS.—

''(aa) IN GENERAL.—Not later than 20 days after a State elects under subclause (V) to participate in a mediation, the Secretary shall submit to the Indian tribe and the State the names of 3 mediators randomly selected by the Secretary from the list of mediators established under subclause (IV).

''(bb) SELECTION OF MEDIATOR.—Not later than 10 days after the Secretary submits the mediators referred to in item (aa), the Indian tribe and the State may each peremptorily remove one mediator from the mediators submitted. If either the Indian tribe or the State declines to remove a mediator, the Secretary shall randomly remove names until only one mediator remains. The remaining mediator shall conduct the mediation.

''(cc) INITIAL PERIOD OF MEDIATION.—The mediator shall, during the 60-day period beginning on the date on which the mediator is selected under item (bb) (or a longer period upon the written agreement of the parties to the mediation for an extension of the period) attempt to achieve a compact.

''(dd) LAST BEST OFFER.—If by the termination of the period specified in item (cc), no agreement for concluding a compact is achieved by the parties to the mediation, each such party may, not later than 10 days after that date, submit to the mediator an offer that represents the best offer that the party intends to make for achieving an agreement for concluding a compact (referred to hereinafter as a 'last-best-offer'). The mediator shall review a last-best-offer received pursuant to this item not later than 30 days after the date of submission of the offer.

''(ee) REPORT BY MEDIATOR.—Not later than the date specified for the completion of a review of a last-best-offer under item (dd), or in any case in which either party in a mediation fails to make such an offer, the date that is 10 days after the termination of the initial period of mediation under item (cc), the mediator shall prepare and submit to the Secretary a report that includes the contentions of the parties, the conclusions of the mediator concerning the permissible scope of gaming on the Indian lands involved, and recommendations for the operation and regulation of gaming on the Indian lands in accordance with this Act.

''(ff) FINAL DETERMINATIONS.—Not later than 60 days after receiving a report from a mediator under item (ee), the Secretary shall make a final determination concerning the operation and regulation of class III gaming that is the subject of the mediation.

''(VII) PROCEDURES.—Subject to clause (iii)(V), on the basis of a final determination described in clause (iii)(VI)(ff), the Secretary shall issue procedures for the operation and regulation of the class III gaming described in that item by the date that is 180 days after the date specified in clause (iii)(V) or upon the determination described in clause (iii)(VI)(ff).

''(VIII) JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.—

''(aa) The United States District Court for the District of Columbia shall have jurisdiction over any action initiated by the Secretary, the Commission, a State, or an Indian tribe to challenge the Secretary's decision to complete a compact or initiate mediation or to challenge specific provisions of procedures issued by the Secretary or the operation of class III gaming under clause (iii)(V) or (iii)(VII).

''(bb) The Secretary's decision to complete a compact or to initiate mediation pursuant to clause (iii)(V) or (iii)(VII) shall be immediately reviewable in the United States District Court.

''(cc) Upon receipt of a petition to review a decision of the Secretary to complete a compact or initiate mediation pursuant to class (iii)(V) or (iii)(VII), the United States District Court shall appoint a three judge panel to hear the proceedings and render a decision regarding whether the determination of the Secretary was valid as a matter of law.

''(IX) Prohibition.—No compact negotiated, or procedures issued, under this subparagraph shall require that a State undertake any regulation of gaming on Indian lands unless—

''(I) the State affirmatively consents to regulate that gaming; and

''(II) applicable State laws permit that regulatory function.

''(C) MANDATORY DISAPPROVAL.—Notwithstanding any other provision of this Act, the Secretary may not approve a compact if the compact requires State regulation of gaming absent the consent of the State or the Indian tribe.

''(D) EFFECTIVE DATE OF COMPACT OR PROCEDURES.—Any compact negotiated, or procedures issued, under this subsection shall become effective upon the publication of the compact or procedures in the Federal Register by the Secretary.

''(E) EFFECT OF PUBLICATION OF COMPACT.—Except for an appeal conducted under subchapter II of chapter 5 of title 5, United States Code, by an Indian tribe or a State associated with the compact, the publication of a compact pursuant to subparagraph (B) shall, for the purposes of this Act, be conclusive evidence that the class III gaminng subject to the compact is a activity subject to negotiations under the laws of the State where the gaming is to be conducted, in any matter under consideration by the Commission or a Federal Court.

''(F) DUTIES OF COMMISSION.—Consistent with minimum standards and as otherwise authorized by this Act, the Commission shall monitor and, if authorized by those standards and this Act, regulate and license class III gaming with respect to and in a manner consistent with any compact that is approved by the Secretary under this subsection and published in the Federal Register.

''(3) PROVISIONS OF COMPACTS.—

''(A) IN GENERAL.—A compact negotiated under this subsection may only include provisions relating to—

''(i) the application of the criminal and civil laws (including regulations) of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of that gaming activity in a manner consistent with the requirements of the standards promulgated by the Commission.

''(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of those laws (including regulations);

''(iii) the assessment by the State of the costs associated with those activities in such amounts as are necessary to defray the costs of regulating that activity;

''(iv) taxation by the Indian tribe of that activity in amounts comparable to amounts assessed by the State for comparable activities;

''(v) remedies for breach of compact provisions;

''(vi) standards for the operation of that activity and maintenance of the gaming facility, including licensing, in a manner consistent with the requirements of the standards promulgated by the Commission.

''(vii) any other subject that is directly related to the operation of gaming activities.

''(B) STATUTORY CONSTRUCTION WITH RESPECT TO ASSESSMENTS; PROHIBITION.—

(i) STATUTORY CONSTRUCTION.—Except for any assessments for services agreed to by an Indian tribe in compact negotiations, nothing in this section may be construed as conferring upon a State, or any political subdivision thereof, the authority to impose any tax, fee, charge, or other assessment upon an Indian tribe, an Indian gaming operation or the value generated by the gaming operation, or any person or entity authorized by an Indian tribe to engage in class III gaming activity in conformance with this Act.

''(ii) ASSESSMENT BY STATES.—A State may assess the assessments agreed to by an Indian tribe referred to in clause (i) in a manner consistent with that clause.

''(4) STATUTORY CONSTRUCTION WITH RESPECT TO CERTAIN RIGHTS OF INDIAN TRIBES.—Nothing in this subsection impairs the right of an Indian tribe to regulate class III gaming on the Indian lands of the Indian tribe concurrently with a State and the Commission, except to the extent that such regulation is inconsistent with, or less stringent than, this Act or any laws (including regulations) made applicable by any compact entered into by the Indian tribe under this subsection that is in effect.

''(5) EXEMPTION.—The provisions of section 2 of the Act of January 2, 1951 (commonly referred to as the 'Gambling Devices Transportation Act') (64 Stat. 1134, chapter 1194; 15 U.S.C. 1175) shall not apply to any class II gaming activity or any gaming activity conducted pursuant to a compact entered into after the date of enactment of this Act, but in no event shall this paragraph be construed as invalidating any exemption from the provisions of section 2 of the Act of January 2, 1951 for any compact entered into prior to the date of enactment of this Act''.

(b) JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.—The United States District Court for the District of Columbia shall have jurisdiction over any action initiated by the Secretary, the Commission, a State, or an Indian tribe to enforce any provision of a compact entered into under subsection (a) or to enjoin a class III gaming activity located on Indian lands and conducted in violation of any compact that is in effect and that was entered into under subsection (a)

(c) APPROVAL OF COMPACTS.—

(1) IN GENERAL.—The Secretary may approve any compact between an Indian tribe and a State governing the conduct of class III gaming on Indian lands of that Indian tribe entered into under subsection (a).

(2) REASONS FOR DISAPPROVAL BY SECRETARY.—The Secretary may disapprove a compact entered into under subsection (a) only if the compact violates any—

(A) provision of this Act or any regulation promulgated by the Commission pursuant to this Act;

(B) other provision of Federal law; or

(C) trust obligation of the United States to Indians.

(3) EFFECT OF FAILURE TO ACT ON COMPACT.—If the Secretary fails to approve or disapprove a compact entered into under subsection (a) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act and the regulations promulgated by the Commission pursuant to this Act.

(4) NOTIFICATION.—The Secretary shall publish in the Federal Register notice of any compact that is approved, or considered to have been approved, under this subsection.

(d) REVOCATION OF ORDINANCE.—

(1) IN GENERAL.—The governing body of an Indian tribe, in its sole discretion, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. That revocation shall render class III gaming illegal on the Indian lands of that Indian tribe.

(2) PUBLICATION OF REVOCATION.—An Indian tribe shall submit any revocation ordinance or resolution described in paragraph (1) to the Commission. The Commission shall publish that ordinance or resolution in the Federal Register. The revocation provided by that ordinance or resolution shall take effect on the date of that publication.

(3) CONDITIONAL OPERATION.—Notwithstanding any other provision of this subsection—

(A) any person or entity operating a class III gaming activity pursuant to this Act on the date on which an ordinance or resolution described in paragraph (1) that revokes authorization for that class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which that revocation, ordinance, or resolution is published under paragraph (2), continue to operate that activity in conformance with an applicable compact entered into under subsection (a) that is in effect; and

(B) any civil action that arises before, and any crime that is committed before, the termination of that 1-year period shall not be affected by that revocation, ordinance, or resolution.

(e) CERTAIN CLASS III GAMING ACTIVITIES.—

(1) COMPACTS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE INTERGOVERNMENTAL GAMING AGREEMENT ACT OF 1999.—Class III gaming activities that are authorized under a compact approved or issued by the Secretary under the authority of this Act prior to the date of enactment of the intergovernmental gaming agreement act of 1999 shall, during such period as the compact is in effect, remain lawful for the purposes of this Act, notwithstanding the Intergovernmental Gaming Agreement Act of 1999 and the amendments made by that Act or any change in State law.

(2) COMPACT ENTERED INTO AFTER THE DATE OF ENACTMENT OF THE INTERGOVERNMENTAL GAMING AGREEMENT ACT OF 1999.—Any compact entered into under subsection (a) after the date specified in paragraph (1) shall remain lawful for the purposes of the Intergovernmental Gaming Agreement Act of 1999, notwithstanding any change in state law, other than a change in State law that constitutes a change in the public policy of the

State with respect to permitting or prohibiting class III gaming in the State.

---

By Mr. REID (for himself and Mr. BRYAN):

S. 986. A bill to direct the Secretary of the Interior to convey the Griffith Project to the Southern Nevada Water Authority; to the Committee on Energy and Natural Resources.

GRIFFITH PROJECT PREPAYMENT AND CONVEYANCE ACT

Mr. REID. Mr. President, I rise today to introduce the Griffith Project Prepayment and Conveyance Act. This act directs the Secretary of Interior to convey the Robert B. Griffith Water Project, located in Clark County, Nevada, to the Southern Nevada Water Authority. To understand the intent of this bill, it is necessary to briefly discuss the history of the water delivery system which supports the Las Vegas Valley.

The Robert B. Griffith Water Project, also known as the Southern Nevada Water Project, was conceived as a federal reclamation project in Clark County, Nevada, in the 1960's.

Authorized by Congress in 1965, the enabling legislation directed the Secretary of Interior to construct, operate, and maintain the project for the purpose of delivering water to Clark County for both municipal and industrial use. The Congressional authorization also allowed the Secretary of enter into a contract with the State of Nevada, through duly authorized agencies, for the delivery of water and the repayment of reimbursable construction costs.

The federal portion of the Southern Nevada Water Project was completed in two stages over a period of 15 years at a cost of just under $200 million dollars, including capitalized interest. In 1982, with federal construction substantially completed, Congress officially changed the name of the project from the Southern Nevada Water Project to the Robert B. Griffith Water Project.

Coincidental with the federal construction of the water project, the State of Nevada, acting through the Colorado River Commission, constructed the Alfred Merritt Smith Water Treatment Plant. This facility is integrated into the Griffith Project, and together the facilities are referred to as the Southern Nevada Water System. Principal users of the water supplied by the system include the Las Vegas Valley Water District, the cities of Boulder, Henderson, and North Las Vegas, and Nellis Air Force Base.

In 1991, in the fact of dramatic growth in Clark County and the Las Vegas Valley, the State of Nevada, in cooperation with seven other public agencies, created the Southern Nevada Water Authority. The purpose of the Authority included acquisition of additional water supplies and the operation, maintenance, and expansion of the Southern Nevada Water System.

Beginning in 1995, the Colorado River Commission and the Southern Nevada Water Authority each began constructing additional facilities to expand the operational capacity of the Southern Nevada Water Authority each began constructing additional facilities to expand the operational capacity of the Southern Nevada Water System. By agreement in 1996, the State of Nevada and the Colorado River Commission assigned all of their interests, responsibilities, and liabilities in the System to the Southern Nevada Water Authority.

The Authority has now embarked on a multi-phrase expansion of the Southern Nevada Water System. When completed, this expansion is expected to have a capital cost exceeding $2 billion. The entire cost of the expansion is being financed through the Authority and its members.

One can see that the scope of the System is now much greater than that originally foreseen by Congress in 1965. When the first phrase of the original Southern Nevada Water Project was completed in 1971, fully 85% of the costs had been incurred by the federal government. At the end of 1998, the percentage of outstanding indebtedness financed by the federal government had fallen to 14% as compared to 86% for the Southern Nevada Water Authority. When the project expansion now being undertaken by the Authority is ultimately completed sometime around 2017, only 6% of the overall costs will have been financed by the federal government.

Because certain portions of the overall system are still in the name of the United States, it is becoming increasingly burdensome for the Southern Nevada Water Authority to manage the operation and management of the system. If for example, a pump station in the Griffith Project portion of the system requires repair or maintenance, Authority employees must notify the Bureau of Reclamation that a repair is needed, describe the exact nature of the work to be performed, obtain permission for a crew to perform the work and schedule the work to be done at such a time as when a Bureau of Reclamation employee can be present to "oversee" the repair or maintenance. When the work is completed, the Bureau of Reclamation sends the Authority an invoice for the time spent by its personnel.

The time has come for the title to the Griffith Project components of the Southern Nevada Water System to be transferred to local ownership. As proposed, this conveyance will occur under financial terms and conditions that are similar to other title transfer laws which have been enacted for other projects and which are governed by guidance from the Department of the Interior and the Office of Management and Budget. In particular, the conveyance will require a payment to the United States by the Authority equal to the net present value of the remaining repayment obligation.

I thank my fellow Senator from Nevada, Mr. BRYAN, for his support on this issue and look forward to working with the Senate Energy and Natural Resources Committee to ensure timely consideration of this important legislation.

Mr. President. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objecion, the bill was ordered to be printed in the RECORD, as follows:

S. 986

*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 "Griffith Project Prepayment and Conveyance Act."

**SEC. 2. DEFINITIONS.**

In this Act:

(1) AUTHORITY.—The term "Authority" means the Southern Nevada Water Authority, organized under the laws of the State of Nevada.

(2) GRIFFITH PROJECT.—The term "Griffith Project" means the Robert B. Griffith Water Project, authorized by Public Law 89–292 (commonly known as the "Southern Nevada Water Project Act") (79 Stat. 1068), including all pipelines, conduits, pumping plants, intake facilities, aqueducts, laterals, water storage and regulatory facilities, electric substations, and related works constructed and all interests in land acquired under Public Law 89–292.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 3. CONVEYANCE OF GRIFFITH PROJECT.**

(a) IN GENERAL.—In consideration of the assumption by the Authority from the United States of all liability for administration, operation, and maintenance of the Griffith Project and subject to the payment by the Authority of the net present value of the remaining repayment obligation (as determined in accordance with Office of Management and Budget Circular A–129, as in effect on the date of payment and conveyance), the Secretary shall convey and assign to the Authority all right, title, and interest of the United States in and to the Griffith Project.

(b) RIGHT TO USE AND OCCUPY PUBLIC LAND.—On and after the date of the conveyance under subsection (a), the Authority shall have the right to use and occupy without charge all public land, including withdrawn public land—

(1) on which the Griffith Project is situated; or

(2) that is used for the purposes of the Griffith Project as of that date.

(c) REPORT.—If the conveyance under subsection (a) has not occurred by July 1, 2000, the Secretary shall submit to Congress a report on the status of the conveyance.

(d) ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—If the Secretary completes the conveyance under subsection (a) before the deadline under subsction (c), 50 percent of the cost of administrative action and environmental compliance for the conveyance shall be paid by the Secretary, and 50 percent shall be paid by the Authority.

(2) FAILURE TO MEET DEADLINE.—If the Secretary fails to complete the conveyance under this Act before the deadline under subsection (c), 100 percent of the cost described in paragraph (1) shall be paid by the Secretary.

**SEC. 4. RELATIONSHIP TO EXISTING OPERATIONS**

(a) IN GENERAL.—Nothing in this Act expands or changes the use or operation of the Griffith Project from its use and operation as of the day before the date of enactment of this Act.

(b) FUTURE ALTERATIONS.—If the Authority changes the use or operation of the Griffith Project, the Authority shall comply with all applicable laws (including regulations) governing the changes at that time.

**SEC. 5. RELATIONSHIP TO EXISTING CONTRACTS.**

The Secretary and the Authority may modify Contract No. 7–07–30–W004 as necessary to conform the contract to this Act.

**SEC. 6. RELATIONSHIP TO OTHER LAWS.**

On conveyance of the Griffith Project under section 3, the Act of June 17, 1902 (43 U.S.C. 391 et seq.), and all Acts amendatory of that Act or supplemental to that Act shall not apply to the Griffith Project.

---

By Mr. DEWINE:

S. 987. A bill to expand the activities of the Eisenhower National Clearinghouse to include collecting and reviewing instructional and professional development materials and programs for language arts and social studies, and to require the Eisenhower National Clearinghouse to collect and analyze the materials and programs; to the Committee on Health, Education, Labor, and Pensions.

EISENHOWER NATIONAL CLEARINGHOUSE ACT

S. 988. A bill to provide mentoring programs for beginning teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

TEACHER MENTORING ACT OF 1999

S. 989. A bill to improve the quality of individual becoming teachers in elementary and secondary schools, to make the teaching profession more accessible to individuals who wish to start a second career, to encourage adults to share their knowledge and experience with children in the classroom, to give school officials the flexibility the officials need to hire whom the officials think can do the job best, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ALTERNATIVE CERTIFICATION AND LICENSURE OF TEACHERS ACT OF 1999

S. 990. A bill to provide for teacher training facilities; to the Committee on Health, Education, Labor, and Pensions.

TEACHER QUALITY ACT OF 1999

Mr. DEWINE. Mr. President, I rise today to talk about probably the most important thing we do as a society—educating our children. This week is National Teacher Appreciation Week, and it gives us a good opportunity to recognize the crucial role teachers play in our children's lives. After parents and families, America's teachers play the most important role in helping our children realize their potential. No teacher can replace the role of loving and attentive families, but once our children leave their homes and enter America's schools, it is the responsibility of federal, state and local elected officials to provide every possible opportunity for a child to realize his or her full potential.

The way to do that, Mr. President, is to see that every child learns from a qualified educator in a safe school environment.

As the Senate begins to consider education legislation, we should take time to listen to the lessons learned by America's best classroom teachers—teachers like Ohio's Teacher of the Year, Ellen Binkley Hill. Ohio is fortunate to have teachers like Ellen, and the thirty two other finalists for Ohio's Teacher of the Year.

Ellen teaches second grade at New Vienna Elementary School in Clinton County, Ohio. Over the past year I have had the pleasure of talking with Ellen on two occasions—and I want to take a moment to read how Ellen describes the role of a teacher, because I think her words capture what it means to be a great educator.

I quote: "Teachers must be living examples of the transforming power of education. We must lead extraordinary lives filled with insight, rich with experiences, and tempered with compassion. It is every teacher's responsibility to serve each child, empowering all children to reach their potential, and then to reach higher." End of quote.

Mr. President, as a father, I want my children to learn from teachers like Ellen Binkley Hill. As a Senator, I would like to see all of the nation's children being taught by teachers like Ellen Binkley Hill.

A qualified, highly trained teacher is the most important education resource in any classroom. Across America today, in classrooms around the country, tomorrow's business leaders, tomorrow's inventors, tomorrow's doctors, tomorrow's Presidents, and even tomorrow's teachers are building their foundation of learning, their foundation of experiences that will shape their lives forever. They are being led through this process by our neighbors, friends and family members who make up America's 2.7 million-member teaching force.

Mr. President, in the spirit of this important week, I am introducing four bills that I believe will help our teachers realize their highest potential in our classrooms, and ensure that our children have the best possible educator at the front of their classroom.

The first bill is the Teacher Mentoring Act. America's teaching force is aging, a situation that offers both benefits and challenges. The average school teacher is 43 years old, an increase of 3 years over the average age in 1987. Nearly a quarter of our teachers are over 50 years old and nearing retirement.

These seasoned veterans are the backbone of many schools across the country. Many are also leaders in their schools and their communities, taking on the added challenges of educating the most difficult students and mentoring their younger peers. As these experienced educators near the end of their careers, we must ensure that the practical hands-on knowledge they have accumulated is passed on to those teachers following in their footsteps.

Mr. President, new teachers entering today's challenging classrooms need the close support of these veteran teachers, particularly during their first few years on the job. Unfortunately, more than 25 percent of new teachers leave the job in their first three years and I believe mentoring programs are one way we can help stabilize the ranks of our new teachers.

The Teacher Mentoring Act, which is the companion to a bill written by my friend Congressman RICK LAZIO [LA (as LAdder)-ZEE-OH] of New York, would establish a $10 million competitive grant program. This program would encourage states to implement training programs, or support existing programs that utilize our experienced classroom veterans as mentors to new teachers. Ohio is currently operating a mentoring program that assigns each new teacher to a mentor. These mentors provide classroom teaching advice, as well as an experienced shoulder to lean on when they first enter their new school.

The second bill I am introducing today is the Alternative Certification and Licensure of Teachers Act. This bill would improve the supply of well-qualified elementary and secondary school teachers by encouraging and assisting States to develop and implement programs for alternative routes to teacher certification or licensure requirements. After all, the most important and effective education resource in any classroom is a highly trained and dedicated teacher.

There are many talented professionals who have demonstrated a high level of subject area competence outside the education profession who wish to pursue careers in eduction, but have not fulfilled the requirements to be certified or licensed as teachers. Alternative certification can provide an opportunity for these people to become teachers—so they can share their knowledge and experiences with children in the classroom.

The legislation would provide $15 million to the States for either new or pre-existing alternative certification programs or fund pre-existing programs. Last year's Higher Education Act endorsed alternative certification as a means to enlarge the pool of quality teachers—but I believe we need to go further. We need to continue to open alternative certification routes to attract teachers who would otherwise not enter the classroom.

The third bill I am introducing today is the Teacher Quality Act.

We have learned from various studies that the most effective teacher training programs have some things in common. Both teachers and teaching program evaluators agree that the most effective teacher training programs are intensive; are of reasonable length, and provide an avenue for teachers to update their skills. The Teacher Quality Act would help improve the quality of teachers in elementary and secondary schools—and provide teachers the opportunity to learn new technologies and increase subject matter knowledge.

My bill would establish a competitive grant program that will give school districts the opportunity to establish teacher training facilities.

The idea for this legislation is based on the model established by the Mayerson Academy in Cincinnati, Ohio. This Academy was established in 1992 as a partnership between the Cincinnati business community and its schools. Their mission: to provide the highest quality training and professional development opportunities to the men and women responsible for educating the children of Cincinnati.

The program is a great success. This school year the Academy will provide 160,000 hours of training to teachers. The Mayerson Academy is separate from the school system in order to ensure independent evaluation of its results and a consistent base of support. This status also allows it to benefit from the perspectives and experience of the business leadership.

Finally, I am introducing the Eisenhower National Clearinghouse Improvement Act.

Collecting and effective disseminating the best teacher training practices is an important responsibility of the federal government. The Eisenhower National Clearinghouse, or ENC, is the nation's repository of K–12 instructional materials specifically related to math and science education. This information is made available in a user-friendly format for educators. The Ohio State University is currently home to the Clearinghouse.

Since 1992, ENC has distributed over 3.67 million CD–ROM's and print publications. Products are distributed to schools, colleges of education, and various education groups and professional organizations across the country. ENC has received over 40 million hits on their web site since its creation in 1994. In addition, ENC has established over 100 Access Centers across the country to expand direct service to more teachers.

While this program has proven its value, there is room for improvement. The bill I am introducing today would expand ENC's jurisdiction to include Language Arts and Social Studies, with a particular emphasis in all curriculum areas on effective use of educational technology.

With thousands of teacher training programs available, it is becoming increasingly difficult for educators to find out which programs have been proven effective and which have not. My legislation would require ENC to gather a sampling of the best evaluations on the materials they collect and provide easy access to these evaluations. ENC will not be permitted to conduct evaluations directly, but would be required to create a ranking for materials and programs based on the reviews they collect and make these reviews easily accessible to teachers who utilize their service.

All four of these bills would help improve the quality of education. I look forward to working with my colleagues on these and other important education measures. Before I close, let me mention one other key issue affecting the education of our kids—school violence.

The threat of violence—and the reality of drug abuse—in our schools are all too real. We must ensure that America's families and teachers are empowered with the information, training and resources to help our children overcome these obstacles. This year, as a member of the Health, Education, Labor and Pensions Committee I will be working with the other members of the committee to reauthorize the Elementary and Secondary Education Act, which includes the Safe and Drug Free Schools Act. The recent tragic events in Colorado are a painful reminder that we need to do everything we can to improve our violence and drug abuse prevention efforts and these reauthorizations, as well as the upcoming debate on the juvenile justice reform legislation, provide us with excellent opportunities for this Congress to make a positive difference in the name of school safety.

Mr. President, I ask unanimous consent that the names of the finalists for Ohio's Teacher of the Year be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

OHIO TEACHER OF THE YEAR—FINALISTS

| Teacher | School | School district |
|---|---|---|
| Brenda Baker Gehm | Monroe Elementary | Middletown/Monroe |
| Jennifer L. VanMatre | Bridgeview Middle School | Sidney City |
| M. Diana Bellamy | White Oak Middle School | Northwest Local |
| Stephanie L. Tillman | Crosby Elementary | Southwest Local |
| Maureen V. Judy | Fort Miami Elementary | Maumee City |
| Kenneth Wayne Fellows | Anthony Wayne High | Anthony Wayne Local |
| Pamela S. Hesselbart | Sylvan Elementary | Sylvania City |
| Elaine M. Broering | St. Henry Elementary | St. Henry Consolidated Local |
| William E. Denlinger | Piqua High School | Piqua City |
| Sandra S. Lageman | Saville Elementary | Mad River Local |
| Janice D. Plank | Whitehall-Yearling High School | Whitehall City |
| Karen Moss | Amanda Elementary | Amanda-Clearcreek Local |
| Larry Dale Hardman | O.R. Edgington Elementary | Northmount City |
| Margaret M. Scott | Princeton Junior High School | Princeton City |
| Colette Bernadette Peters | Butternut Elementary | North Olmsted City |
| Linda Joyce Borton | Penta County JVS | Penta County Vocational |
| Beverly Sheridan | Hadley Watts Middle School | Centerville City |
| Cynthia M. Walker | Fairfield Central Elementary | Fairfield City |
| Anne Kaczmarek | Brecksville-Broadview Heights | Brecksville-Broadview Heights |
| Terese Ann D'Amico | Thomas Jefferson Magnet | Euclid City |
| Steven Moorhead | Elmwood Middle School | Elmwood Local |
| Leslie Louise Kastner | Royal Manor Elementary | Gahannna-Jefferson City |
| Mary Ann Whiteleather | Kirkmere Elementary | Youngstown City |
| Nicki T. Embly | Rimer Elementary | Akron City |
| Sharon Joanne Smith | Zane Trace Elementary | Zane Trace Local |
| Diane Squire Radley | Memorial Elementary | Brunswick City |
| Catherine S. Platano | Sterling Morton Elementary | Mentor Exempted Village |
| Mark G. Silvers | Wayne High School | Huber Heights City |
| Nanci Sullivan | Harding Middle School | Stuebenville City |
| Sandy A. Murray | Jones Middle School | Upper Arlington City |
| Kay Wallace | Pickerington High School | Pickerington Local |
| Barbara Hampton | Hilltop Community Elementary | Reading Community City |

By Mr. McCAIN:

S. 991. A bill to prevent the receipt, transfer, transportation, or possession of a firearm or ammunition by certain violent juvenile offenders, and for other purposes; to the Committee on the Judiciary.

YOUTH VIOLENCE PREVENTION ACT OF 1999

Mr. McCAIN. Mr. President, today I am introducing the ''Youth Violence Prevention Act of 1999.'' This legislation will prevent juveniles from illegally accessing weapons and punish those who would assist them in doing so, prohibit juveniles who commit acts of gun violence from purchasing guns in the future, and punish juveniles who illegally carry or use handguns in schools.

Before I get into the particulars of the legislation, I would like to take a moment to discuss the broader issues surrounding the question of youth violence.

Recent events have shaken the collective conscience of our nation. The recent killings at Columbine High School in Colorado have brought home to every American the degree to which we are failing are children.

The most basic and profound responsibility that our culture—any culture—

has is raising its children. We are failing in that responsibility, and the extent of our failure is being measured in deaths and injuries of kids in schoolyards and on the streets of our neighborhoods and communities.

Over the past few years, we have been jolted time and again by the horrifying images of school shootings. Every day, in towns and cities across this country, kids are killing kids, and kids are killing adults, in a spiraling pattern of youth violence driven by the drug trade, gang activity, and other factors.

Primary responsibility lies with families. As a country, we are not parenting our children. We are not adequately involving ourselves in our children's lives, the friends they hang out with, what they do with their time, the problems they are struggling with. This is our job, our paramount responsibility, and we are failing. We must get our priorities straight, and that means putting our kids first.

Parents need help. They need help because our homes and our families, and our children's minds, are being flooded with a tide of violence that pervades our society. Movies depict graphic violence, and children are taught to kill and maim by interactive video games. The Internet, which holds such tremendous potential in so many ways, is tragically used by some to communicate unimaginable hatred, images and descriptions of violence, and ''how-to'' manuals on everything from bomb construction to drugs. Our culture is dominated by media, and our children, more so than any generation before them, are vulnerable to the images of violence and hate that, unfortunately, are dominant themes in so much of what they see and hear.

I have recently joined with some of my colleagues to call upon the President to convene an emergency summit of the leaders of the entertainment and interactive media industry to develop an action plan for controlling children's access to media violence. I am pleased that the President has heeded this call and will convene such a summit next week.

I have also joined others in introducing legislation calling upon the Surgeon General to conduct a comprehensive study of media violence, in all its forms, and to issue a report on its effects, with recommendations on how we can turn around this tragic tide of youth violence.

These are important steps targeting various aspects of the complex problem of youth violence. However, we must press the fight on every front. One reality of the horrific gun violence that is so prevalent among our youth is the illegal use of guns. The legislation I am introducing today is specifically targeted at the illegal means by which kids are acquiring guns and is designed to ensure that violence youth offenders are punished, and that they will not acquire guns in the future.

First, the bill extends the provisions of the Gun Control Act that prohibit certain purchases to include juveniles. Currently, under federal law, a juvenile may commit multiple violent felonies, using a gun, and when he or she turns 18 years old, that same individual may walk into a gun store and legally purchase a weapon. This is absurd. This legislation would prevent them from doing so. Where a juvenile has committed an offense that would constitute a violent felony if he or she were an adult, that juvenile will be sentenced as an adult and will be ineligible to be paroled simply because they turn 18.

Second, this legislation provides that whoever illegally purchases a weapon for another individual, knowing that the recipient intends to commit a violent felony, may be imprisoned up to 15 years. Further, whoever illegally purchases or transfers a weapon to a juvenile, knowing that the recipient intends to commit a violent felony, may be imprisoned up to 20 years.

Under this legislation, if a juvenile illegally possesses a handgun and violates the Gun Free School Zone law with the intent to carry, possess, discharge, or otherwise use the handgun or ammunition in the commission of a violent felony, they may be imprisoned for up to 20 years.

Mr. President, let me make very clear that this legislation in no way infringes on the Second Amendment rights to bear arms. I do not believe we should further restrict the rights of law-abiding Americans to own a gun. Rather, we should focus on halting the spread of violent crime and punishing violent criminals who abuse their Second Amendment rights. I believe it is imperative to better safeguard children from the dangerous effects of violent crime in America, as well as educate them on the potential danger of weapons.

Mr. President, this legislation is not a panacea. As I have stated, the malady of youth violence that is eating at the soul of this nation is a complex disease. It will require a multi-faceted cure. As I have outlined, I am pushing for a comprehensive approach. What we must have, if there is any hope, is the unqualified commitment of all Americans to raise our children, to put them first. I urge all Americans to get involved in their kids' lives. Ask questions, listen to their fears and concerns, their hopes and their dreams.

Childhood is a time of innocence, a time to teach discipline and values. Our children are our most precious gifts, they are full of innocence and hope. We must work together to preserve the sanctity of childhood.

Mr. President, I ask unanimous consent that the text of the Youth Violence Prevention Act of 1999 be printed in the RECORD.

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

S. 991

*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 ''Youth Violence Prevention Act of 1999.''

**SEC. 2. PROHIBITION ON FIREARMS OR AMMUNITION POSSESSION BY VIOLENT JUVENILE OFFENDERS.**

(a) DEFINITION.—Section 921(a)(20) of title 18, United States Code, is amended by—

(1) inserting ''(A)'' after ''(20)'';

(2) redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) inserting after clause (ii) the following:

''(B) For purposes of section 922(d) and (g) of this title, the term 'act of violent juvenile delinquency' means an adjudication of delinquency in Federal or State court, based on a finding of the commission of an act by a person prior to his or her eighteenth birthday that, if committed by an adult, would be a serious violent felony, as defined in section 3559(c)(2)(F)(i) of this title, had Federal jurisdiction been exercised (except that section 3559(c)(3) shall not apply to this subparagraph):''; and

(4) striking ''What constitutes'' through ''this chapter,'' and inserting:

''(C) What constitutes a conviction of such a crime or an adjudication of an act of violent juvenile delinquency shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any State conviction or adjudication of an act of violent juvenile delinquency that has been expunged or set aside, or for which a person has been pardoned or has had civil rights restored, by the jurisdiction in which the conviction or adjudication of an act of violent juvenile delinquency occurred shall not be considered a conviction or adjudication of an act of violent juvenile delinquency for purposes of this chapter,''.

(b) PROHIBITION.—Section 922 of title 18, United States Code is amended—

(1) in subsection (d)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; or'' ; and

(C) by inserting after paragraph (9) the following:

''(10) has committed an act of violent juvenile delinquency.''; and

(2) in subsection (g)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; or'' ; and

(C) by inserting after paragraph (9) the following:

''(10) has committed an act of violent juvenile delinquency.''.

(c) EFFECTIVE DATE OF ADJUDICATION PROVISIONS.—The amendments made by this section shall apply only to an adjudication of an act of violent juvenile delinquency that occurs after the date that is 30 days after the date on which the Attorney General notifies Federal firearms licensees, through publication in the Federal Register by the Secretary of the Treasury, that the records of such adjudications are routinely available in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act.

**SEC. 3. STRAW PURCHASE PENALTIES.**

(a) STRAW PURCHASE PENALTIES.—Section 924(a)(2) of title 18, United States Code, is amended to read as follows:

''(2) Whoever knowingly violates—

''(A) subsection (d), (g), (h), (i), (j) or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both; and

''(B) section 922(a)(6) shall be fined as provided in this title, imprisoned not more than 10 years, or both, except—

''(i) whoever knowingly violates subsection (a)(6) for the purpose of selling, delivering, or otherwise transferring a firearm knowing or having reasonable cause to know that another will carry or otherwise possess or discharge or otherwise use the firearm in the commission of a violent felony, shall be—

''(I) fined under this title, imprisoned not more than 15 years, or both; or

''(II) fined under this title, imprisoned not more than 20 years, or both where the procurement is for a juvenile; and

''In this paragraph, the term 'violent felony' means conduct described in section 924(e)(2)(B) of this title and the term 'juvenile' has the same meaning as in section 922(x).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

**SEC. 4. JUVENILE WEAPONS PENALTIES.**

(a) JUVENILE WEAPONS PENALTIES.—Section 924(a) of title 18 United States Code, is amended—

(1) in paragraph (4), by striking ''Whoever'' and inserting ''Except as provided in paragraph (6), whoever''; and

(2) by striking paragraph (6) and inserting the following:

''(6)(A) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except—

''(i) a juvenile shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation, if—

''(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

''(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense; or

''(ii) a juvenile shall be fined under this title, imprisoned not more than 20 years, or both, if—

''(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

''(II) during the same course of conduct in violating section 992(x)(2), the juvenile violated section 922(q), with the intent to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a violent felony.

''(B) A person other than a juvenile who knowingly violates section 922(x)—

''(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

''(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a violent felony, shall be fined under this title, imprisoned not more than 20 years, or both.

''(C) In this paragraph, the term 'violent felony' means conduct as described in section 924(e)(2)(B) of this title.

''(D) Except as otherwise provided in this chapter, in any case in which a juvenile is prosecuted in a district court of the United States, and the juvenile is subject to the penalties under paragraph (A)(ii), the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing (including the availability of probation, restitution, fines, forfeiture, imprisonment, and supervised release) that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years.''.

(b) UNLAWFUL WEAPONS TRANSFERS TO JUVENILES.—Section 922(x) of title 18, United States Code, is amended to read as follows:

''(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

''(A) a handgun; or

''(B) ammunition that is suitable for use only in a handgun.

''(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

''(A) a handgun; or

''(B) ammunition that is suitable for use only in a handgun.

''(3) This subsection does not apply to the following:

''(A)(i) A temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun or ammunition are possessed and used by the juvenile—

''(I) in the course of employment;

''(II) in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch);

''(III) for target practice;

''(IV) for hunting; or

''(V) for a course of instruction in the safe and lawful use of a handgun.

''(ii) Clause (i) shall apply only if the juvenile's possession and use of a handgun or ammunition under this subparagraph are in accordance with State and local law and the following conditions are met:

''(I)(aa) Except when a parent or guardian of the juvenile is in the immediate and supervisory presence of the juvenile, the juvenile shall have in the juvenile's possession at all times when a handgun or ammunition is in the possession of the juvenile, the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm or ammunition; and

''(bb) during transportation by the juvenile directly from the place of transfer to a place at which an activity described in division (aa) is to take place the handgun shall be unloaded and in a locked container or case, and during the transportation by the juvenile of that firearm, directly from the place at which such an activity took place to the transferor, the handgun shall also be unloaded and in a locked container or case; or

''(II) With respect to ranching or farming activities as described in subparagraph (A), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian, if such approval is on file with the adult who is not prohibited by Federal, State, or local law from possessing a firearm or ammunition and that person is directing the ranching or farming activities of the juvenile.

''(B) A juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun or ammunition in the line of duty.

''(C) A transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile.

''(D) The possession of a handgun or ammunition taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

''(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection, shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

''(5) In this subsection, the term 'juvenile' means a person who is less than 18 years of age.

''(6) In a prosecution of a violation of this subsection, the court—

''(A) shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings;

''(B) may use the contempt power to enforce subparagraph (A); and

''(C) may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

## ADDITIONAL COSPONSORS

S. 135

At the request of Mr. DURBIN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 135, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes.

S. 172

At the request of Mr. MOYNIHAN, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 172, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 331

At the request of Mr. JEFFORDS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 429

At the request of Mr. DURBIN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 429, a bill to designate the legal public holiday of ''Washington's Birthday'' as ''Presidents' Day'' in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy.

S. 459

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Colorado

[Mr. ALLARD] was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 496

At the request of Mr. REED, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 496, a bill to provide for the establishment of an assistance program for health insurance consumers.

S. 537

At the request of Mr. LUGAR, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 537, a bill to amend the Internal Revenue Code of 1986 to adjust the exemption amounts used to calculate the individual alternative minimum tax for inflation since 1993.

S. 660

At the request of Mr. CRAIG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 660, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 676

At the request of Mr. CAMPBELL, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 676, a bill to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

S. 680

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 680, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 712

At the request of Mr. LOTT, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 712, a bill to amend title 39, United States Code, to allow postal patrons to contribute to funding for highway-rail grade crossing safety through the voluntary purchase of certain specially issued United States postage stamps.

S. 717

At the request of Ms. MIKULSKI, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 717, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 763

At the request of Mr. THURMOND, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Montana [Mr. BURNS], and the Senator from Georgia [Mr. CLELAND] were added as cosponsors of S. 763, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, and for other purposes.

S. 781

At the request of Mrs. FEINSTEIN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 781, 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 that is applicable to telephone communications.

S. 783

At the request of Mrs. FEINSTEIN, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 783, a bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

S. 792

At the request of Mr. MOYNIHAN, the names of the Senator from Washington [Mrs. MURRAY], the Senator from Hawaii [Mr. AKAKA], and the Senator from New York [Mr. SCHUMER] were added as cosponsors of S. 792, a bill to amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women, children, and blind or disabled medically needy individuals to be eligible for medical assistance under the medicaid program, and for other purposes.

S. 850

At the request of Mrs. BOXER, the name of the Senator from Arkansas [Mrs. LINCOLN] was added as a cosponsor of S. 850, a bill to make schools safer by waiving the local matching requirement under the Community Policing program for the placement of law enforcement officers in local schools.

S. 868

At the request of Mr. GRAHAM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 868, a bill to make forestry insurance plans available to owners and operators of private forest land, to encourage the use of prescribed burning and fuel treatment methods on private forest land, and for other purposes.

S. 892

At the request of Mr. HATCH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 892, a bill to amend the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing income.

S. 918

At the request of Mr. KERRY, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 918, a bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small business, and for other purposes.

S. 965

At the request of Mr. JEFFORDS, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 965, a bill to restore a United States voluntary contribution to the United Nations Population Fund.

SENATE CONCURRENT RESOLUTION 22

At the request of Mr. DODD, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of Senate Concurrent Resolution 22, a concurrent resolution expressing the sense of the Congress with respect to promoting coverage of individuals under long-term care insurance.

## SENATE RESOLUTION 98—DESIGNATING THE WEEK BEGINNING OCTOBER 17, 1999, AND THE WEEK BEGINNING OCTOBER 15, 2000, AS ''NATIONAL CHARACTER COUNTS WEEK''

Mr. DOMENICI (for himself, Mr. DODD, Mr. COCHRAN, Mr. LIEBERMAN, Mr. FRIST, Mr. DORGAN, Ms. MIKULSKI, Mr. COVERDELL, Mr. CLELAND, Mr. BENNETT, Mr. ROCKEFELLER, Mr. BROWNBACK, Mr. ENZI, Mrs. MURRAY, Mr. SARBANES, Mr. BURNS, Mr. KOHL, Mr. BINGAMAN, Mr. DEWINE, Ms. COLLINS, Mrs. FEINSTEIN, Mr. BOND, Mr. INHOFE, Mr. SMITH of Oregon, Mr. REID, Mr. WELLSTONE, Mr. CHAFEE, Mr. GREGG, Mr. AKAKA, Mr. BAUCUS, Mr. KENNEDY, Mrs. HUTCHISON, Mr. THURMOND, Mr. HUTCHINSON, Mr. BREAUX, Mr. CONRAD, Mr. JOHNSON, Mr. BYRD, Mr. WARNER, Mr. MURKOWSKI, Mr. BUNNING, Mr. HAGEL, Mr. ALLARD, Mr. VOINOVICH, Mr. GORTON, Mr. STEVENS, Mr. NICKLES, Mr. LOTT, Mr. SPECTER, Mr. ROBERTS, Mr. MACK, Mr. CRAIG, Mr. BIDEN, Ms. SNOWE, Mr. GRAMS, Mr. FITZGERALD, and Mr. MOYNIHAN) submitted the following resolution; which was referred to the Committee on the Judiciary

S. RES. 98

Whereas young people will be the stewards of our communities, the United States, and the world in critical times, and the present and future well-being of our society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of people of the United States;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions, and civic groups;

Whereas the character of a nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character, and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore, conscientious efforts must be made by institutions and individuals that influence youth to help young people develop the essential traits and characteristics that comprise good character;

Whereas although character development is, first and foremost, an obligation of families, the efforts of faith communities, schools, and youth, civic, and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas the Senate encourages students, teachers, parents, youth, and community leaders to recognize the valuable role our youth play in the present and future of the United States and to recognize that character is an important part of that future;

Whereas in July 1992, the Aspen Declaration was written by an eminent group of educators, youth leaders, and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states, ''Effective character education is based on core ethical values which form the foundation of democratic society.'';

Whereas the core ethical values identified by the Aspen Declaration constitute the 6 core elements of character;

Whereas the 6 core elements of character are trustworthiness, respect, responsibility, fairness, caring, and citizenship;

Whereas the 6 core elements of character transcend cultural, religious, and socioeconomic differences;

Whereas the Aspen Declaration states, ''The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.'';

Whereas the Senate encourages individuals and organizations, especially those who have an interest in the education and training of our youth, to adopt the 6 core elements of character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas the Senate encourages communities, especially schools and youth organizations, to integrate the 6 core elements of character into programs serving students and children: Now, therefore, be it

*Resolved*, That the Senate—

(1) proclaims the week beginning October 17, 1999, and the week beginning October 15, 2000, as ''National Character Counts Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to—

(A) embrace the 6 core elements of character identified by the Aspen Declaration, which are trustworthiness, respect, responsibility, fairness, caring, and citizenship; and

(B) observe the week with appropriate ceremonies and activities.

Mr. DOMENICI. Mr. President, I am pleased today to submit for the sixth consecutive year a resolution on behalf of myself and 53 other Senators. My principal cosponsor is Senator DODD. In years past, when Senator Nunn was here, this resolution, which I am introducing, was known as the Domenici-Nunn resolution regarding National Character Counts Week. Senator DODD is taking the place of Senator Nunn; and 52 other Senators besides the two of us have joined in this. If any others wish to join, we will be pleased to have you. This resolution says the week of October 17 through 24 of this year, and October 15 through 22 of next year, will be known across the country as National Character Counts Week.

In 1992, a distinguished group of American educators, youth leaders, ethicists, religious people of all faiths, labor union leaders, and business executives met in Aspen, CO. They developed a way to instill character values in our schoolchildren. The conference marked the birth of what is beginning to be known across America as ''The Six Pillars of Character'' concept. The values comprising the Six Pillars are everyday concepts that Americans across this land wish their children would have and hope America will keep. They are simply: trustworthiness, respect, responsibility, fairness, caring, and citizenship. They transcend political and social barriers and are central to the ideals on which this Nation was built. As a matter of fact, I think they are central and basic to any nation that survives for any long period of history. As Plato once said, ''A country without character is a country that's doomed. And the only way a country can have character,'' he said, ''is if the individual citizens in the country have character.''

I could speak for all of my allotted time on the 200,000 New Mexico schoolchildren in public, private and parochial schools learning about good character. About 90 percent of the grade school children, and a significant portion of the others, are now participating in character education programs that simply and profoundly bring them into contact with each of these Pillars of Character one month at a time.

So if you walk the halls of some grade school in Albuquerque, you might see a sign outside that says, ''This Is Responsibility Month.'' And all the young people will be discussing the concept of responsibility in their classrooms, and they will put up posters saying, ''Responsibility Counts.'' At the end of that month they may have an assembly at which responsibility will be discussed by all the kids, and awards will be given to those who have been most responsible.

The next month it might be ''respect.'' The month after that it might be ''caring.''

This is working wherever it is being tried. A good example can be seen in the changes that occurred at Garfield Middle School in Albuquerque. The 570 students at Garfield first received their first lessons on the Six Pillars in October 1994. During the first 20 days of that school year, there were 91 recorded incidents of physical violence. One year later, during the same period, there were 26 such incidents. This remarkable difference is evidence that students do respond to Character Counts.

In New Mexico, the Character Counts movement has spread from the classroom to the boardroom. Recently, a group of business professionals resolved to explore ways to implement the Six Pillars in all their business relationships in an effort to spread these values throughout the community. Through this effort, parents have an opportunity to participate in Character Counts along side their kids, thereby reinforcing lessons learned in school. Promoting the Six Pillars at work also improves productivity and morale on the job, and it pays incalculable dividends in job and customer satisfaction.

Every year I like to highlight a particularly exceptional example of character displayed in my State of New Mexico. For over a dozen years, Bob Martin, an Albuquerque helicopter pilot, dreamed of being the first person to circumnavigate the globe in a balloon. He made many personal, professional, and financial sacrifices to plan the endeavor. Bob worked tirelessly to involve as many New Mexicans he could in his adventure, and from scientists to schoolchildren, the entire State shared his enthusiasm for the project. Finally, after years of preparation, Bob and his fellow crew members of Team RE/MAX were scheduled for lift-off this past January. However, it soon became apparent that weather conditions and equipment problems would force one of the three-member flight crew to stay behind. As founder of the mission, Bob felt it was his duty to stay behind despite his years of preparation and commitment to the project. His heartbreaking decision was an unparalleled exemplification of each of the Six Pillars: Trustworthiness, Respect, Responsibility, Fairness, Citizenship, and Caring.

Eventually, the launch was canceled because of worsening weather conditions, and two other balloon pilots, Bertrand Piccard of France and Brian Jones, of England, became the first team to successfully complete the trip. Although many of the hundreds of schoolchildren across New Mexico following Bob Martin's quest were disappointed he didn't have the chance to lift-off, they were given a outstanding demonstration of character in action through the deeds of Bob Martin.

The lead institution in America that sponsors it is a nonprofit institution called the Josephson Institute. It is a small foundation that promotes ethics. In that regard, they are the promoters of the Six Pillars of Character. Wherever I go, whenever I go to New Mexico, I pick a school and we talk about their Character Counts program.

It is phenomenal, the way teachers love to be part of this. Some of them said to me, 3 and 4 years ago: Why did it take so long to empower me to talk about responsibility to the children I teach in the fourth or third or fifth grade? I was absolutely astounded to find the hunger among good teachers to share with their children what it meant to be fair, to be respectful, to have citizenship.

I will ask consent that an editorial in the Albuquerque Journal, our largest newspaper, entitled, ''Students Learn Real Lesson in Citizenship'' be printed in the RECORD. It says that as part of the Six Pillars in this school, one of the good teachers took the entire classroom to a swearing-in ceremony where 71 New Mexicans became American citizens, and the little children got to watch them swear their oath, and meet them, and then they went back to their class and discussed it. They were thrilled to talk about people from other countries who love America and want to become citizens. If the program did not promote that, it would never have happened. And it is happening in all different ways across our land.

Senator DODD is working hard at this, as well as his fellow Senator from Connecticut, Senator LIEBERMAN. The State of Tennessee, under the leadership of Senator FRIST, is moving ahead dramatically. I ask all Senators to read what I have placed in the RECORD and to consider joining.

I am going to bring together with my friend, Senator DODD, and others, a number of Governors from both parties—perhaps as many as 15—with a number of Senators from both parties. We are going to quickly decide how we can promote the six pillars of character across their States and across our land.

Much is said about the children and the problem that happened in the shooting in my neighboring State of Colorado. We all know some things have to change. None of us have an absolute solution to this problem. But essentially, I submit, if we could have character education built on these six pillars in all of our grade schools and junior high schools, month by month, year by year, as they mature—and nobody objects. Those who are practicing the Jewish religion think these pillars are great. If as a Christian—a Baptist or Protestant or Roman Catholic—you hear about these six pillars, you say, ''Amen.'' We cannot teach religion. But what is wrong with responsibility and respect and caring and trustworthiness? Trustworthiness just means we do not lie. Isn't that nice to tell young people that our character is defined by whether we tell the truth? Our country ultimately suffers when we do not tell the truth. That is the kind of thing that is being promoted.

I note the presence of Senator DODD. Senator, I have already mentioned that not only are you my principal cosponsor, but we are going to call this national conference soon. You and I will ask Governors and Senators to attend. I ask now the Journal editorial, which I alluded to, be printed in the RECORD.

There being not objection, the article was ordered to be printed in the RECORD, as follows:

[From the Albuquerque Journal, April 28, 1999]

STUDENTS LEARN REAL LESSON IN CITIZENSHIP

*Citizenship.*—As one of six desired ''Character Counts'' attributes, it's a word posted in the hallways of virtually every Albuquerque public school, sometimes featured as ''word of the month'' on reader board signs outside.

Students at Cleveland Middle School, however, have come to know the full meaning of that word. Offered a valuable opportunity, they learned about the naturalization process in history classes, took the American citizenship test and, to top it off, witnessed the naturalization of 71 of America's newest citizens in a ceremony Cleveland students helped organize as hosts.

''We decided that if we're going to teach children about citizenship, we should make it as real as possible,'' humanities teacher Susan Leonard said. Cleveland no doubt succeeded, because this is as real as it gets. Students watched 71 people from 22 countries take the oath of American citizenship—by choice.

Most Americans take their citizenship for granted, just as many take for granted the rights Americans enjoy—the right to a fair trial, to practice one's own religion, to speak one's mind. By taking these rights for granted, too often Americans also opt out of the responsibilities that are the flip side of those rights—one's duty to vote, to serve on a jury, to defend our nation and Constitution; in short, to be a good citizen.

Learning about the naturalization process provided a valuable lesson in America's continuing history as a nation of immigrants.

Eighth-grader Tom Adams said his favorite part of the Cleveland project was meeting the citizens-to-be. ''They're from all different countries,'' he said, ''and I get to meet them. And I think that's kind of cool.''

Seventy-one believers in the American system are now Adams' fellow Americans. Kind of cool, indeed.

Mr. DODD. Mr. President, let me commend my colleague from New Mexico. I have enjoyed a lot of relationships in this Chamber over the years on numerous issues, but none as much as I have with my colleague from New Mexico on Character Counts. I am pleased to be joining my colleague in submitting this Senate Resolution designating the weeks of October 17, 1999 and October 15, 2000 as National Character Counts Week.

Character Counts is a program that I encourage for every one of our colleagues. There are programs now in all 50 States. Some States have more than others. There are 10,000 children in my home State of Connecticut who have been the beneficiary of our Character Counts effort, the six pillars of good character.

We have had a lot of attention paid over the last couple of weeks to the tragedy in Littleton, CO. Americans are left searching for answers to many questions. How could these teenagers have committed such brutality? How can society help prevent such violent, deadly behavior from happening again? There are a variety of suggestions people are making—the tendency is to revert to form. You have one group that says the answer is gun control, another group says it is the video games and the Internet, and another group says it is the schools or the parents. You could probably find some merit in all of those areas.

I believe that one answer is to encourage schools to build character in their students. I am not going to stand here and claim that this is the solution. But it is certainly part of the solution.

This is an issue that goes beyond the prevention of violence. Theodore Roosevelt once said, ''To educate a person's mind and not his character is to educate a menace.'' In some ways, there is a lot of validity in that statement. Possessing a good mind without good character can create more problems than one can imagine.

Education is a central part of children's lives, and schools are the key to reaching the majority of America's children. Today's children have so many obstacles to overcome, including violence and drug use. As a society, we must find ways to help these children become responsible citizens, to distinguish between right and wrong. To do this, we must build on traditional education by nurturing student character.

Schools can teach and reinforce the importance of qualities like trustworthiness, responsibility, caring for others, and citizenship. By combining character education with solid instruction in reading, math, and science, our schools can produce young people who are not only strong in intellect, but also strong in character.

This is not to suggest that parents do not play a key role as well. Parents should be deeply involved in their children's character development. They should help plan school character development programs, and reinforce the programs' lessons in the home.

What we have done in our schools, and in the schools of New Mexico and other states, is take one of these six pillars a month, and weave it into the seamless fabric of the day, from the math class to the history class to the band and athletic field to the extracurricular activity. They will take the character of respect: What is respect? What is lack of respect among teachers, students, and administrators? It is incredible to see the difference this has made in these young people, the administrators, and the faculty of these schools. It has been a tremendous success.

This is a remarkable program. It goes back a number of years, when we put a small amount of money into the program to be used by the States and localities to promote the idea of character education.

I have never known a dollar that has been better spent or has done more good. Talk about seed money and making a difference. We all know that these children should be getting this kind of education at home. That is where it should happen. But, tragically, today for a variety of reasons, children are entering school without these basic lessons that a generation ago were learned at the knees of their parents.

Many of my colleagues in the Senate come to the floor each year and join me in supporting character education in our schools. For the past six years, I have been working to support character education. In 1994, the amendment Senator DOMENICI and I offered to the Elementary and Secondary Education bill was adopted by the full Senate. The amendment provided funding for schools to start character education curriculums.

Since then, I have had the opportunity to visit schools in my home state of Connecticut and I have seen these funds at work. Teachers, parents and the students themselves are enthusiastic about these programs and have reported better attendance, higher academic performance, and improved behavior among students. My colleagues can confirm that these positive results are evident throughout the Nation.

Again, I compliment my colleague and friend from New Mexico for his leadership on character education. I invite my colleagues from both sides of the aisle to join us in supporting National Character Counts Week and recognizing character education as a critical part of creating more responsible children and a safer society in which to live.

Mr. FRIST. Mr. President, it gives me great pleasure to rise, as I have in years past, in support of what has become an annual resolution to designate the third week of October—this year—the week of October 17th—as National Character Counts Week.

The importance of character to the future of our nation cannot be overemphasized. As the noted educator, George S. Benson, once observed, ''Great ideals and principles do not live from generation to generation because they are right, nor even because they have been carefully legislated. Ideals and principles continue from generation to generation only when they are built into the hearts of children as they grow up.''

There was a time when great ideals and principles were ''built into the hearts of children'' as a matter of course—in every school house, and classroom, all across our great land; a time when we believed that to educate a man in mind and not in morals, as Teddy Roosevelt put it, was to educate a menace of society.

Sadly, this is no longer the case.

Not only do many schools no longer teach children the difference between good and evil, right and wrong, they convey the philosophy that there is no difference; that it is all a matter of choice, and that choice—not truth—or justice—or responsibility, is the ultimate object of democracy.

That is the greatest threat to democracy any nation can face—but especially ours. For America is a nation founded on principle, forged by courage, and strengthened by every succeeding generation that has been unwilling to let those principles or that courage be diminished.

Yet, in many ways, moral leadership is more important now than it has ever been before. The 21st century will hold many challenges that will require the most of us. And the greatest of those challenges will be moral not economic: cloning, genetics, bioengineering; human rights vs. economic prosperity? right to life or right to die?

They are challenges that will require principle, demand character.

Who will be the leaders of tomorrow, and will they be up to the task? In many ways, the answer is up to us.

Which is why I have worked to promote character development in elementary and secondary education, and urged our Nation's colleges and universities to affirm character development as a primary goal of higher education.

It is also why I am also proud to support the Character Counts movement, and why I have done so every year since I've been in the United States Senate.

In 1995, in the very first quarter of my first term, I became a member of the bipartisan Character Counts Working Group—a coalition of Senators organized to affirm and support the millions of Americans who still believe that character counts, that it should be not just touted but taught, in homes and churches, certainly, but also in schools across America.

It is why I have annually co-sponsored this Senate resolution to designate the third week of October as National Character Counts Week. And it is why I am proud to say that, in Tennessee, Character Counts! is flourishing.

Mr. President, Character Counts! teaches children respect, responsibility, trust, caring and citizenship. It teaches them the value of virtue, the importance of character. It renews not only the promises of our past, but our faith in the future.

In Knoxville, Tennessee alone, 38 schools so far have received Character Counts! training. One of them, Norwood Elementary, asked students to write essays about the importance of character.

Another, Farragut Primary School, held an assembly for parents and kids that highlighted ways to be good citizens.

In Johnson City, a little boy and his friends at Cherokee Elementary School built a ramp at the home of a boy with a disability so he could get in and out safely in his wheelchair.

In Hamblin County, I met a fourth grader—a little girl named Heidi Shackleford—who was the first student to make her school's Character Counts! ''Wall of Fame.''

What did she do to earn such an honor? She found a $100 bill in her school, but rather than stick it in her pocket, she turned it in to her teacher because she learned—through Character Counts education—why it is important to do the right thing.

In Sullivan County—where the Character Counts! program began in Tennessee—students at the Indian Springs Elementary School make monthly visits to a grandmother they adopted at a Kingsport nursing home.

They have also experienced 25 percent reduction in juvenile crime since the Character Counts! program began—an improvement they attribute directly to the impact the program has had on the region.

These are just a few examples of how Tennessee children are learning the value of virtue, the importance of character, and how their communities have benefitted as a result.

It has been my honor to support all of these efforts—to help Tennessee communities kick-off new programs, and to encourage and support those already in place.

But it is not enough to promote this program in Tennessee, or New Mexico, or in any one of the other states that have taken up the challenge.

We must promote the development of character in every state, in every school, in every city in America. For if education is the most important gift we can give to the future, then character education is doubly so.

The job of instilling character in the hearts of America's children has always been an important one. But as the tragic violence in Littleton and other cities recently have shown us, it has never been more important than it is today.

We are justifiably proud of the liberty we enjoy as Americans. But as the wise British statesman, Edmund Burke, once observed, What is liberty without virtue? It is the greatest of all possible evils, for it is folly, vice and madness without tuition or restraint.

We must take every opportunity to teach our children the difference between right and wrong, to sort out with them, what to value, and what to reject from among the vast array of choices made possible by our freedom.

We must all, young and old, rich and poor, Democrat and Republican, work together to sow the seeds of character into the hearts of every young American so that together we can give our children and our country one of the greatest gifts any democratic nation can bestow—the assurance that character does count.

## AMENDMENTS SUBMITTED

## FINANCIAL SERVICES MODERNIZATION ACT OF 1999

### SANTORUM (AND BUNNING) AMENDMENT NO. 307

Mr. SANTORUM (for himself and Mr. BUNNING) proposed an amendment to the bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes; as follows:

At the appropriate place, insert the following:

(e) USE OF FUND RESERVES TO PAY FICO OBLIGATIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended by inserting after subparagraph (C) the following:

''(D) USE OF DEPOSIT INSURANCE FUNDS TO PAY CERTAIN FINANCING CORPORATION OBLIGATIONS.—

''(i) IN GENERAL.—Beginning on January 1, 2000, the Board of Directors shall use the funds of the Bank Insurance Fund and the Savings Association Insurance Fund in excess of 1.35 percent of estimated insured deposits or such level established by the Board of Directors pursuant to Section 7(b)(2)(A)(iv)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iv)(II) to pay the bond interest obligations of the Financing Corporation.

''(ii) LIMITATION.—If the funds available under clause (i) are insufficient to meet the Financing Corporation's annual interest obligations, the Board of Directors shall use such amounts available under clause (i) and shall impose a special assessment, consistent with 12 U.S.C. 1441(f)(2) and Section 2703(c)(2)(A) of the Deposit Insurance Funds Act of 1996, on insured depository institutions in such amount and for such period as is necessary to generate funds sufficient to permit the Financing Corporation to meet all interest obligations due.

---

## GRAMM AMENDMENT NO. 308

Mr. GRAMM proposed an amendment to the bill, S. 900, supra; as follows:

On page 98, strike lines 5 through 9, and insert the following:

**SEC. 304. FINANCIAL INFORMATION PRIVACY PROTECTION.**

(a) FINANCIAL INFORMATION ANTI-FRAUD.—The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

**''TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION**

**''SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.**

''(a) SHORT TITLE.—This title may be cited as the 'Financial Information Anti-Fraud Act of 1999'.

''(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

''TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION



**''SEC. 1002. DEFINITIONS.**

''For purposes of this title, the following definitions shall apply:

''(1) CUSTOMER.—The term 'customer' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

''(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term 'customer information of a financial institution' means any information maintained by a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

''(3) DOCUMENT.—The term 'document' means any information in any form.

''(4) FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'financial institution' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

''(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term 'financial institution' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

''(C) FURTHER DEFINITION BY REGULATION.—The Board of Governors of the Federal Reserve System may prescribe regulations further defining the term 'financial institution', in accordance with subparagraph (A), for purposes of this title.

**''SEC. 1003. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.**

''(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this title for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

''(1) by knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the customer information;

''(2) by knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution with the intent to deceive the customer into relying on that statement or representation for purposes of releasing the customer information or authorizing the release of such information; or

''(3) by knowingly providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent into relying on that document for purposes of releasing the customer information.

''(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this title to request a person to obtain customer information of a financial institution, knowing or consciously avoiding knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

''(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

''(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

''(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

''(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

''(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

''(e) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

**''SEC. 1004. ADMINISTRATIVE ENFORCEMENT.**

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Except as provided in subsection (b), compliance with this title shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the Fair Debt Collection Practices Act to enforce compliance with that title.

''(b) ENFORCEMENT BY OTHER AGENCIES IN CERTAIN CASES.—

''(1) IN GENERAL.—Compliance with this title shall be enforced under—

''(A) section 8 of the Federal Deposit Insurance Act, in the case of—

''(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

''(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;

''(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and national nonmember banks) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

''(iv) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

''(B) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

''(2) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF OTHER LAWS.—For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with this title, any other authority conferred on such agency by law.

''(c) STATE ACTION FOR VIOLATIONS.—

''(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

''(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

''(B) may bring an action on behalf of the residents of the State to recover damages of not more than $1,000 for each violation; and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(2) RIGHTS OF FEDERAL REGULATORS.—

''(A) PRIOR NOTICE.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission and, in the case of an action which involves a financial institution described in section 1004(b)(1), the agency referred to in such section with respect to such institution and provide the Federal Trade Commission and any such agency with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

''(B) RIGHT TO INTERVENE.—The Federal Trade Commission or an agency described in subsection (b) shall have the right—

''(i) to intervene in an action under paragraph (1);

''(ii) upon so intervening, to be heard on all matters arising therein;

''(iii) to remove the action to the appropriate United States district court; and

''(iv) to file petitions for appeal.

''(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, no provision of this subsection shall be construed as preventing the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission or any agency described in subsection (b) has instituted a civil action for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Federal Trade Commission or such agency for any violation of this title that is alleged in that complaint.

**''SEC. 1005. CIVIL LIABILITY.**

''Any person, other than a financial institution, who fails to comply with any provision of this title with respect to any financial institution or any customer information of a financial institution shall be liable to such financial institution or the customer to whom such information relates in an amount equal to the sum of the amounts determined under each of the following paragraphs:

''(1) ACTUAL DAMAGES.—The greater of—

''(A) the amount of any actual damage sustained by the financial institution or customer as a result of such failure; or

''(B) any amount received by the person who failed to comply with this title, including an amount equal to the value of any nonmonetary consideration, as a result of the action which constitutes such failure.

''(2) ADDITIONAL DAMAGES.—Such additional amount as the court may allow.

''(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

**''SEC. 1006. CRIMINAL PENALTY.**

''(a) IN GENERAL.—Whoever violates, or attempts to violate, section 1003 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 1003 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

**''SEC. 1007. RELATION TO STATE LAWS.**

''(a) IN GENERAL.—This title shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

''(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this title.

**''SEC. 1008. AGENCY GUIDANCE.**

''In furtherance of the objectives of this title, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) shall issue advisories to depository institutions under the jurisdiction of the agency, in order to assist such depository institutions in deterring and detecting activities proscribed under section 1003.''.

(b) REPORT TO CONGRESS ON FINANCIAL PRIVACY.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Federal Trade Commission, the Federal banking agencies, and other appropriate Federal law enforcement agencies, shall submit to the Congress a report on—

(1) the efficacy and adequacy of the remedies provided in the amendments made by subsection (a) in addressing attempts to obtain financial information by fraudulent means or by false pretenses; and

(2) any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(c) 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.

(d) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under section 45 of the Federal Deposit Insurance Act (as added by section 202 of this Act), which mechanism shall—

(1) establish a group within each Federal banking agency to receive such complaints; and

(2) develop procedures for—

(A) investigating such complaints;

(B) informing consumers of rights they may have in connection with such complaints; and

(C) addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses, to the extent appropriate.

## JOHNSON (AND OTHERS) AMENDMENT NO. 309

Mr. JOHNSON (for himself, Mr. THOMAS, Mr. KERREY, Mr. DASCHLE, Mr. DORGAN, Mr. KOHL, and Mrs. LINCOLN) proposed an amendment to the bill, S. 900, supra; as follows:

On page 149, strike line 12 and all that follows through page 150, line 21 and insert the following:

**SEC. 601. PREVENTION OF CREATION OF NEW S&L HOLDING COMPANIES WITH COMMERCIAL AFFILIATES.**

(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) PREVENTION OF NEW AFFILIATIONS BETWEEN S&L HOLDING COMPANIES AND COMMERCIAL FIRMS.—

''(A) IN GENERAL.—Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after May 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

''(i) under paragraph (1)(C) or (2) of this subsection; or

''(ii) for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956.

''(B) PREVENTION OF NEW COMMERCIAL AFFILIATIONS.—Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

''(C) PRESERVATION OF AUTHORITY OF EXISTING UNITARY S&L HOLDING COMPANIES.—Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on March 4, 1999, or that becomes a savings and loan holding company pursuant to an application pending before the Office on or before that date, and that—

''(i) meets and continues to meet the requirements of paragraph (3); and

''(ii) continues to control not fewer than 1 savings association that it controlled on March 4, 1999, or that it acquired pursuant to an application pending before the Office on or before that date, or the successor to such savings association.

''(D) CORPORATE REORGANIZATIONS PERMITTED.—This paragraph does not prevent a transaction that—

''(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

''(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company.

''(E) AUTHORITY TO PREVENT EVASIONS.—The Director may issue interpretations, regulations, or orders that the Director determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination that, notwithstanding the form of a transaction, the transaction would in substance result in a company acquiring control of a savings association.

''(F) PRESERVATION OF AUTHORITY FOR FAMILY TRUSTS.—Subparagraphs (A) and (B) do not apply with respect to any trust that becomes a savings and loan holding company with respect to a savings association, if—

''(i) not less than 85 percent of the beneficial ownership interests in the trust are continuously owned, directly or indirectly, by or for the benefit of members of the same family, or their spouses, who are lineal descendants of common ancestors who controlled, directly or indirectly, such savings association on March 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before March 4, 1999; and

''(ii) at the time at which such trust becomes a savings and loan holding company, such ancestors or lineal descendants, or spouses of such descendants, have directly or indirectly controlled the savings association continuously since March 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before March 4, 1999.''.

(b) CONFORMING AMENDMENT.—Section 10(o)(5)(E) of the Home Owners' Loan Act (15 U.S.C. 1467a(o)(5)(E)) is amended by striking '', except subparagraph (B)'' and inserting ''or (c)(9)(A)(ii)''.

---

## BENNETT AMENDMENT NO. 310

Mr. GRAMM (for Mr. BENNETT) proposed an amendment to the bill, S. 900, supra; as follows:

At the appropriate place in the bill, insert the following:

Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c–1) is amended to read as follows:

''Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank based on a determination that the purchase is a sound investment for the bank irrespective of the fact that an affiliate of the bank is a principal underwriter of the securities.''

---

## BENNETT AMENDMENT NO. 311

(Ordered to lie on the table.)

Mr. BENNETT submitted an amendment intended to be proposed by him to the bill, S. 900, supra; as follows:

On page 11, line 11, after ''represent'' insert '', as determined by the insurance authority of the State of domicile of the insurance company,''.

EXPLANATION

S. 900 requires that for an investment by an insurance company to be treated as ''financial in nature'' it must be ''made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments.'' This amendment makes clear that the determination whether an investment is ''made in the ordinary course of business of such insurance company in accordance with State law governing such investments'' will be made by the insurance authority of the state of domicile of the insurance company.

State insurance authorities are most experienced and best qualified to determine whether insurance company investments are made in the ordinary course of business in accordance with relevant state law governing such investments. This amendment also will implement the principle of functional regulation established generally in S. 900 with respect to the conduct of business by insurance companies.

---

## DORGAN AMENDMENTS NOS. 312–313

Mr. DORGAN proposed two amendments to the bill, S. 900, supra; as follows:

AMENDMENT NO. 312

At the appropriate place, insert the following:

**SEC. ___. LIMITATION ON DERIVATIVES ACTIVITIES.**

(a) INSURED DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

**''SEC. 45. DERIVATIVE INSTRUMENTS.**

''(a) DERIVATIVES ACTIVITIES.—

''(1) GENERAL PROHIBITION.—Except as provided in paragraph (2), neither an insured depository institution, nor any affiliate thereof, may purchase, sell, or engage in any transaction involving a derivative financial instrument for the account of that institution or affiliate.

''(2) EXCEPTIONS.—

''(A) HEDGING TRANSACTIONS.—An insured depository institution may purchase, sell, or engage in hedging transactions to the extent that such activities are approved by rule, regulation, or order of the appropriate Federal banking agency issued in accordance with paragraph (3).

''(B) SEPARATELY CAPITALIZED AFFILIATE.—A separately capitalized affiliate of an insured depository institution that is not itself an insured depository institution may purchase, sell, or engage in a transaction involving a derivative financial instrument if such affiliate complies with all rules, regulations, or orders of the appropriate Federal banking agency issued in accordance with paragraph (3).

''(C) DE MINIMIS INTERESTS.—An insured depository institution may purchase, sell, or engage in transactions involving de minimis interests in derivative financial instruments for the account of that institution to the extent that such activity is defined and approved by rule, regulation, or order of the appropriate Federal banking agency issued in accordance with paragraph (3).

''(D) EXISTING INTERESTS.—During the 3-month period beginning on the date of enactment of this section, nothing in this section shall be construed—

''(i) as affecting an interest of an insured depository institution in any derivative financial instrument that existed on the date of enactment of this section; or

''(ii) as restricting the ability of the institution to acquire reasonably related interests in other derivative financial instruments for the purpose of resolving or terminating an interest of the institution in any derivative financial instrument that existed on the date of enactment of this section.

''(3) ISSUANCE OF RULES, REGULATIONS, AND ORDERS.—The appropriate Federal banking agency shall issue appropriate rules, regulations, and orders governing the exceptions provided for in paragraph (2), including—

''(A) appropriate public notice requirements;

''(B) a requirement that any affiliate described in paragraph (2)(B) shall clearly and conspicuously notify the public that none of the assets of the affiliate, nor the risk of loss associated with the transaction involving a derivative financial instrument, are insured under Federal law or otherwise guaranteed by the Federal Government or the parent company of the affiliate; and

''(C) any other requirements that the appropriate Federal banking agency considers to be appropriate.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'derivative financial instrument' means—

''(A) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as defined in section 11(e)(8)); and

''(B) any other instrument that an appropriate Federal banking agency determines, by regulation or order, to be a derivative financial instrument for purposes of this section; and

''(2) the term 'hedging transaction' means any transaction involving a derivative financial instrument if—

''(A) such transaction is entered into in the normal course of the institution's business primarily—

''(i) to reduce risk of price change or currency fluctuations with respect to property that is held or to be held by the institution; or

''(ii) to reduce risk of interest rate or price changes or currency fluctuations with respect to loans or other investments made or to be made, or obligations incurred or to be incurred, by the institution; and

''(B) before the close of the day on which such transaction was entered into (or such earlier time as the appropriate Federal banking agency may prescribe by regulation), the institution clearly identifies such transaction as a hedging transaction.''.

(b) INSURED CREDIT UNIONS.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

**''SEC. 215. DERIVATIVE INSTRUMENTS.**

''(a) DERIVATIVE ACTIVITIES.—Except as provided in subsection (b), neither an insured credit union, nor any affiliate thereof, may purchase, sell, or engage in any transaction involving a derivative financial instrument.

''(b) APPLICABILITY OF SECTION 45 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 45 of the Federal Deposit Insurance Act shall apply with respect to insured credit unions and affiliates thereof and to the Board in the same manner that such section applies to insured depository institutions and affiliates thereof (as those terms are defined in section 3 of that Act) and shall be enforceable by the Board with respect to insured credit unions and affiliates under this Act.

''(c) DERIVATIVE FINANCIAL INSTRUMENT.—For purposes of this section, the term 'derivative financial instrument' means—

''(1) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as such term is defined in section 207(c)(8)(D)); and

''(2) any other instrument that the Board determines, by regulation or order, to be a derivative financial instrument for purposes of this section.''.

(c) BANK HOLDING COMPANIES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

''(h) DERIVATIVES ACTIVITIES.—

''(1) IN GENERAL.—A subsidiary of a bank holding company may purchase, sell, or engage in any transaction involving a derivative financial instrument for the account of that subsidiary if that subsidiary—

''(A) is not an insured depository institution or a subsidiary of an insured depository institution; and

''(B) is separately capitalized from any affiliated insured depository institution.

''(2) APPLICABILITY OF SECTION 45 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 45 of the Federal Deposit Insurance Act shall apply with respect to bank holding companies and the Board in the same manner that section applies to an insured depository institution (as such term is defined in section 3 of that Act) and shall be enforceable by the Board with respect to bank holding companies under this Act.

''(3) DERIVATIVE FINANCIAL INSTRUMENT.—For purposes of this subsection, the term 'derivative financial instrument' means—

''(A) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as such term is defined in section 207(c)(8)(D)); and

''(B) any other instrument that the Board determines, by regulation or order, to be a derivative financial instrument for purposes of this subsection.''.

AMENDMENT NO. 313

At the end of title III, insert the following:

**SEC. 312. TREATMENT OF LARGE HEDGE FUNDS UNDER INVESTMENT COMPANY ACT OF 1940.**

Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)) is amended—

(1) in paragraph (1), in the first sentence, by inserting '', which has total assets of less than $1,000,000,000, and'' after ''hundred persons''; and

(2) in paragraph (7), in the first sentence, by inserting ''which has total assets of less than $1,000,000,000,'' after ''qualified purchasers,''.

## SCHUMER AMENDMENT NO. 314

Mr. SCHUMER proposed an amendment to the bill, S. 900, supra; as follows:

At the appropriate place, insert the following:

**TITLE VII—ATM FEE REFORM**

**SEC. 701. SHORT TITLE.**

This title may be cited as the ''ATM Fee Reform Act of 1999''.

**SEC. 702. ELECTRONIC FUND TRANSFER FEE DISCLOSURES AT ANY HOST ATM.**

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended by adding at the end the following:

''(3) FEE DISCLOSURES AT AUTOMATED TELLER, MACHINES.—

''(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall require any automated teller machine operator who imposes a fee on any consumer for providing host transfer services to such consumer to provide notice in accordance with subparagraph (B) to the consumer (at the time the service is provided) of—

''(i) the fact that a fee is imposed by such operator for providing the service; and

''(ii) the amount of any such fee.

''(B) NOTICE REQUIREMENTS.—

''(i) ON THE MACHINE.—The notice required under clause (i) of subparagraph (A) with respect to any fee described in such subparagraph shall be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer; and

''(ii) ON THE SCREEN.—The notice required under clauses (i) and (ii) of subparagraph (A) with respect to any fee described in such subparagraph shall appear on the screen of the automated teller machine, or on a paper notice issued from such machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

''(C) PROHIBITION ON FEES NOT PROPERLY DISCLOSED AND EXPLICITLY ASSUMED BY CONSUMER.—No fee may be imposed by any automated teller machine operator in connection with any electronic fund transfer initiated by a consumer for which a notice is required under subparagraph (A), unless—

''(i) the consumer receives such notice in accordance with subparagraph (B); and

''(ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

''(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

''(i) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' includes a transaction which involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

''(ii) AUTOMATED TELLER MACHINE OPERATOR.—The term 'automated teller machine operator' means any person who—

''(I) operates an automated teller machine at which consumers initiate electronic fund transfers; and

''(II) is not the financial institution which holds the account of such consumer from which the transfer is made.

''(iii) HOST TRANSFER SERVICES.—The term 'host transfer services' means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.''.

**SEC. 703. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS WHEN ATM CARD IS ISSUED.**

Section 905(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)) is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(3) by inserting after paragraph (9) the following:

''(10) a notice to the consumer that a fee may be imposed by—

''(A) an automated teller machine operator (as defined in section 904(d)(3)(D)(ii)) if the consumer initiates a transfer from an automated teller machine which is not operated by the person issuing the card or other means of access; and

''(B) any national, regional, or local network utilized to effect the transaction.''.

**SEC. 704. FEASIBILITY STUDY.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of requiring, in connection with any electronic and transfer initiated by a consumer through the use of an automated teller machine—

(1) a notice to be provided to the consumer before the consumer is irrevocably committed to completing the transaction, which clearly states the amount of any fee which will be imposed upon the consummation of the transaction by—

(A) any automated teller machine operator (as defined in section 904(d)(2)(D)(ii) of the Electronic Fund Transfer Act) involved in the transaction;

(B) the financial institution holding the account of the consumer;

(C) any national, regional, or local network utilized to effect the transaction; and

(D) any other party involved in the transfer; and

(2) the consumer to elect to consummate the transaction after receiving the notice described in paragraph (1).

(b) FACTORS TO BE CONSIDERED.—In conducting the study required under subsection (a) with regard to the notice requirement described in such subsection, the Comptroller General shall consider the following factors:

(1) The availability of appropriate technology.

(2) Implementation and operating costs.

(3) The competitive impact any such notice requirement would have on various sizes and types of institutions, if implemented.

(4) The period of time which would be reasonable for implementing any such notice requirement.

(5) The extent to which consumers would benefit from any such notice requirement.

(6) Any other factor the Comptroller General determines to be appropriate in analyzing the feasibility of imposing any such notice requirement.

(c) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study required under subsection (a); and

(2) the recommendation of the Comptroller General with regard to the question of whether a notice requirement described in subsection (a) should be implemented and, if so, how such requirement should be implemented.

**SEC. 705. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.**

Section 910 of the Electronic Fund Transfer Act (15 U.S.C. 1693h) is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR DAMAGED NOTICES.—If the notice required to be posted pursuant to section 904(d)(3)(B)(i) by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for failure to comply with section 904(d)(3)(B)(i).''.

## SHELBY (AND OTHERS) AMENDMENT NO. 315

Mr. SHELBY (for himself, Mr. DASCHLE, Mr. GRAMS, Mr. REED, Mr. BENNETT, Mr. HAGEL, and Ms. LANDRIEU) proposed an amendment to the bill, S. 900, supra; as follows:

Redesignate sections 123, 124, and 125 as sections 125, 126, and 127 respectively, strike section 122, and insert the following:

**SEC. 122. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.**

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 (12 U.S.C. 25a) as section 5136B; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

**''SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.**

''(a) ACTIVITIES PERMISSIBLE.—

''(1) IN GENERAL.—A subsidiary of a national bank may—

''(A) engage in any activity that is permissible for the parent national bank;

''(B) engage in any activity authorized under section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Federal statute that expressly by its terms authorizes national banks to own or control subsidiaries (other than this section); and

''(C) engage in any activity permissible for a bank holding company under any provision of section 4(k) of the Bank Holding Company Act of 1956 other than—

''(i) paragraph (4)(B) of such section (relating to insurance activities) insofar as such paragraph permits a bank holding company to engage as principal in insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or to engage as principal in providing or issuing annuities; and

''(ii) paragraph (4)(I) of such section (relating to insurance company investments).

''(2) LIMITATIONS.—A subsidiary of a national bank—

''(A) may not, pursuant to subparagraph (C) of paragraph (1)—

''(i) underwrite insurance other than credit-related insurance;

''(ii) engage in real estate investment or development activities (except to the extent that a Federal statute expressly authorizes a national bank to engage directly in such an activity); and

''(B) may not engage in any activity not permissible under paragraph (1).

''(b) REQUIREMENTS APPLICABLE TO NATIONAL BANKS WITH FINANCIAL SUBSIDIARIES.—

''(1) IN GENERAL.—A financial subsidiary of a national bank may engage in activities pursuant to subsection (a)(1)(C) only if—

''(A) the national bank meets the requirements, as determined by the Comptroller of the Currency, of Section (4)(l)(1) of the Bank Holding Company Act of 1956 (other than subparagraph (C));

''(B) each insured depository institution affiliate of the national bank meet the requirements, as determined by the Comptroller of the Currency, of Section (4)(l)(1) of the Bank Holding Company Act of 1956 (other than subparagraph (C)); and

''(C) the national bank has received the approval of the Comptroller of the Currency by regulation or order.

''(2) CORRECTIVE PROCEDURES.—

''(A) IN GENERAL.—The Comptroller of the Currency shall, by regulations prescribe procedures to enforce paragraph (1).

''(B) STRINGENCY.—The regulation prescribed under subparagraph (A) shall be no less stringent than the corresponding restrictions and requirements of section 4(m) of the Bank Holding Company Act of 1956.

''(c) DEFINITIONS.—For purpose of this section, the following definitions shall apply;

''(1) AFFILIATE.—The term 'affiliate' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

''(2) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company that—

''(A) is a subsidiary of an insured bank; and

''(B) is engaged as principal in any financial activity that is not permissible under subparagraph (A) or (B) of subsection (a)(1) of this section.

''(3) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

''(4) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.

''(5) WELL MANAGED.—The term 'well managed' means—

''(A) in the case of an insured depository institution that has been examined, the achievement of—

''(i) a composite rating of 1 or 2 under the Uniform Financial Instutitions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the insured depository institution; and

''(ii) at least a rating of 2 for management, if that rating is given; or

''(B) in the case of an insured depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.''.

**SEC. 123. SAFETY AND SOUNDNESS FIREWALLS BETWEEN BANKS AND THEIR FINANCIAL SUBSIDIARIES.**

(a) PURPOSES.—The purposes of this section are—

(1) to protect the safety and soundness of any insured bank that has a financial subsidiary;

(2) to apply to any transaction between the bank and the financial subsidiary (including a loan, extension of credit, guarantee, or purchase of assets), other than an equity investment, the same restrictions and requirements as would apply if the financial subsidiary were a subsidiary of a bank holding company having control of the bank; and

(3) to apply to any equity investment of the bank in the financial subsidiary restrictions and requirements equivalent to those that would apply if—

(A) the bank paid a dividend in the same dollar amount to a bank holding company having control of the bank; and

(B) the bank holding company used the proceeds of the dividend to make an equity investment in a subsidiary that was engaged in the same activities a the financial subsidiary of the bank.

(b) SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

**''SEC. 45. SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.**

''(a) LIMITING THE EQUITY INVESTMENT OF A BANK IN A SUBSIDIARY.—

''(1) CAPITAL DEDUCTION.—In determining whether an insured bank complies with applicable regulatory capital standards—

''(A) the appropriate Federal banking agency shall deduct from the assets and tangible equity of the bank the aggregate amount of the outstanding equity investments of the bank in financial subsidiaries of the bank; and

''(B) the assets and liabilities of such financial subsidiaries shall not be consolidated with those of the bank.

''(2) INVESTMENT LIMITATION.—An insured bank shall not, without the prior approval of the appropriate Federal banking agency, make any equity investment in a financial subsidiary of the bank if that investment would, when made, exceed the amount that the bank could pay as a dividend without obtaining prior regulatory approval.

''(b) OPERATIONAL AND FINANCIAL SAFEGUARDS FOR THE BANK.—An insured bank that has a financial subsidiary shall maintain procedures for identifying and managing any financial and operational risks posed by the financial subsidiary.

''(c) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS.—

''(1) IN GENERAL.—Each insured bank shall ensure that the bank maintains and complies with reasonable policies and procedures to preserve the separate corporate identity and legal status of the bank and any financial subsidiary or affiliate of the bank.

''(2) EXAMINATIONS.—The appropriate Federal banking agency, as part of each examination, shall review whether an insured bank is observing the separate corporate identity and separate legal status of any subsidiaries and affiliates of the bank.

''(d) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section, the term 'financial subsidiary' has the same meaning as section 5136A(c)(2) of the Revised Statutes of the United States.

''(e) REGULATIONS.—The appropriate Federal banking agencies shall jointly prescribe regulations implementing this section.''.

(c) LIMITING A BANK'S CREDIT EXPOSURE TO A FINANCIAL SUBSIDIARY TO THE AMOUNT OF PERMISSIBLE CREDIT EXPOSURE TO AN AFFILIATE.—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' has the same meaning as section 5136A(c)(2) of the revised statutes of the United States.

''(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank that is not a financial subsidiary), and notwithstanding subsection (b)(2) and section 23B(d)(1)—

''(A) the financial subsidiary of the bank—

''(i) shall be deemed to be an affiliate of the bank and of any other subsidiary of the bank that is not a financial subsidiary; and

''(ii) shall not be deemed a subsidiary of the bank; and

''(B) a purchase of or investment in equity securities issued by the financial subsidiary shall not be deemed to be a covered transaction,

''(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 (that is not a subsidiary of a bank) shall not be deemed to be a transaction between a subsidiary of a bank and an affiliate of the bank for purposes of section 23A or section 23B of this Act.

''(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of this paragraph, the term 'affiliate' shall not include a bank, or a subsidiary of a bank that is engaged exclusively in activities permissible for a national bank to engage in directly or authorized for a subsidiary of a national bank under any federal statute other than section 5136A of the Revised Statutes of the United States.''.

**SEC. 124. FUNCTIONAL REGULATION.**

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) securities activities conducted in a subsidiary of a bank are functionally regulated by the Securities and Exchange Commission to the same extent as if they were conducted in a nondepository subsidiary of a bank holding company; and

(2) insurance agency and brokerage activities conducted in a subsidiary of a bank are functionally regulated by a State insurance authority to the same extent as if they were conducted in a nondepository subsidiary of a bank holding company.

(b) FUNCTIONAL REGULATION OF FINANCIAL SUBSIDIARIES.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), is amended by inserting after section 45 (as added by section 123 of this subtitle) the following new section:

**''SEC. 46. FUNCTIONAL REGULATION OF SECURITIES SUBSIDIARIES AND INSURANCE AGENCY SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS.**

''(a) BROKER OR DEALER SUBSIDIARY.—A broker or dealer that is a subsidiary of an insured depository institution shall be subject to regulation under the Securities Exchange Act of 1934 in the same manner and to the same extent as a broker or dealer that—

''(1) is controlled by the same bank holding company as controls the insured depository institution; and

''(2) is not an insured depository institution or a subsidiary of an insured depository institution.

''(b) INSURANCE AGENCY SUBSIDIARY.—Subject to Section 104 of the Act, an insurance agency or brokerage that is a subsidiary of an insured depository institution shall be subject to regulation by a State insurance authority in the same manner and to the same extent as an insurance agency or brokerage that—

''(1) is controlled by the same bank holding company as controls the insured depository institution; and

''(2) is not an insured depository institution or a subsidiary of an insured depository institution.

''(c) DEFINITIONS.—For purposes of this section, the terms 'broker' and 'dealer' have the same meanings as in section 3 of the Securities Exchange Act of 1934.''.

## BRYAN AMENDMENT NO. 316

Mr. BRYAN proposed an amendment to the bill, S. 900, supra; as follows:

On page 150, after line 21, add the following:

**TITLE VII—FINANCIAL INFORMATION PRIVACY**

**SEC. 701. SHORT TITLE.**

This title may be cited as the ''Financial Information Privacy Act of 1999''.

**SEC. 702. DEFINITIONS.**

In this title—

(1) the term ''covered person'' means a person that is subject to the jurisdiction of any of the Federal financial regulatory authorities; and

(2) the term ''Federal financial regulatory authorities'' means—

(A) each of the Federal banking agencies, as that term is defined in section 3(z) of the Federal Deposit Insurance Act; and

(B) the Securities and Exchange Commission.

**SEC. 703. PRIVACY OF CONFIDENTIAL CUSTOMER INFORMATION.**

(a) RULEMAKING.—The Federal financial regulatory authorities shall jointly issue final rules to protect the privacy of confidential customer information relating to the customers of covered persons, not later than 270 days after the date of enactment of this Act (and shall issue a notice of proposed rulemaking not later than 150 days after the date of enactment of this Act), which rules shall—

(1) define the term ''confidential customer information'' to be personally identifiable data that includes transactions, balances, maturity dates, payouts, and payout dates, of—

(A) deposit and trust accounts;

(B) certificates of deposit;

(C) securities holdings; and

(D) insurance policies;

(2) require that a covered person may not disclose or share any confidential customer information to or with any affiliate or agent of that covered person if the customer to whom the information relates has provided written notice, as described in paragraphs (4) and (5), to the covered person prohibiting such disclosure or sharing—

(A) with respect to an individual that became a customer on or after the effective date of such rules, at the time at which the business relationship between the customer and the covered person is initiated and at least annually thereafter; and

(B) with respect to an individual that was a customer before the effective date of such rules, at such time thereafter that provides a reasonable and informed opportunity to the customer to prohibit such disclosure or sharing and at least annually thereafter;

(3) require that a covered person may not disclose or share any confidential customer information to or with any person that is not an affiliate or agent of that covered person unless the covered person has first—

(A) given written notice to the customer to whom the information relates, as described in paragraphs (4) and (5); and

(B) obtained the informed written or electronic consent of that customer for such disclosures or sharing;

(4) require that the covered person provide notices and consent acknowledgments to customers, as required by this section, in separate and easily identifiable and distinguishable form;

(5) require that the covered person provide notice as required by this section to the customer to whom the information relates that describes what specific types of information would be disclosed or shared, and under what general circumstances, to what specific types of businesses or persons, and for what specific types of purposes such information could be disclosed or shared;

(6) require that the customer to whom the information relates be provided with access to the confidential customer information that could be disclosed or shared so that the information may be reviewed for accuracy and corrected or supplemented;

(7) require that, before a covered person may use any confidential customer information provided by a third party that engages, directly or indirectly, in activities that are financial in nature, as determined by the Federal financial regulatory authorities, the covered person shall take reasonable steps to assure that procedures that are substantially similar to those described in paragraphs (2) through (6) have been followed by the provider of the information (or an affiliate or agent of that provider); and

(8) establish a means of examination for compliance and enforcement of such rules and resolving consumer complaints.

(b) LIMITATION.—The rules prescribed pursuant to subsection (a) may not prohibit the release of confidential customer information—

(1) that is essential to processing a specific financial transaction that the customer to whom the information relates has authorized;

(2) to a governmental, regulatory, or self-regulatory authority having jurisdiction over the covered financial entity for examination, compliance, or other authorized purposes;

(3) to a court of competent jurisdiction;

(4) to a consumer reporting agency, as defined in section 603 of the Fair Credit Reporting Act for inclusion in a consumer report that may be released to a third party only for a purpose permissible under section 604 of that Act; or

(5) that is not personally identifiable.

(c) CONSTRUCTION.—Nothing in this section or the rules prescribed under this section shall be construed to amend or alter any provision of the Fair Credit Reporting Act.

## LEVIN (AND SCHUMER) AMENDMENT NO. 317

Mr. LEVIN (for himself and Mr. SCHUMER) proposed an amendment to the bill, S. 900, supra; as follows:

On page 124, line 25, before ''Section'' insert the following:

''(1) It is the intention of this Act subject to carefully defined exceptions which do not undermine the dominant principle of functional regulation to ensure that securities transactions effected by a bank are regulated by securities regulators, notwithstanding any other provision of this Act.

(2)''.

## GRAMM (AND SARBANES) AMENDMENT NO. 318

Mr. GRAMM (for himself and Mr. SARBANES) proposed an amendment to the bill, S. 900, supra; as follows:

On page 18, strike line 22 and all that follows through page 19, line 2 and insert the following:

''(2) the attributed aggregate consolidated assets of the company held by the bank holding company pursuant to this subsection, and not otherwise permitted to be held by a bank holding company, are equal to not more than 5 percent of the total consolidated assets of the bank holding company, except that the Board may increase that percentage by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act; and

''(3) the bank holding company does not permit—

''(A) any company, the shares of which it owns or controls pursuant to this subsection, to offer or market any product or service of an affiliated insured depository institution; or

''(B) any affiliated insured depository institution to offer or market any product or service of any company, the shares of which are owned or controlled by such bank holding company pursuant to this subsection.''.

On page 11, line 11, after ''represent'' insert '', as determined by the insurance authority of the State of domicile of the insurance company,''.

At the appropriate place insert:

**SEC. —. INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.**

Section 5 of the International Banking Act of 1978, as amended (12 U.S.C. §3103), is mended by striking subsection (a)(7) and substituting the following:

''(7) Additional authority for interstate branches and agencies of foreign banks; upgrades of certain foreign bank agencies and branches.

''Notwithstanding paragraphs (1) and (2), a foreign bank may,

''(A) with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if

(i) the establishment and operation of such branch or agency is permitted by the State in which the branch or agency is to be established; and

(ii) in the case of a Federal or State branch, the branch receives only such deposits as would be permitted for a corporation organized under Section 25A of the Federal Reserve Act (12 U.S.C. §611 et seq.); or

''(B) with the approval of the Board and the relevant licensing authority (the Comptroller in the case of a Federal branch or the appropriate State supervisor in the case of a State branch), upgrade an agency, or a brnch of the type referred to in subsection (a)(7)(A)(ii), located in a State outside the foreign bank's home state, into a Federal or State branch if the establishment and operation of such branch is permitted by such State; and

''(i) such agency or branch was in operation in such State on the day before September 29, 1994, or

''(ii) such agency or branch has been in operation in such State for a period of time that meets the State's minimum age requirement permitted under 12 U.S.C. §1831u(a)(5).''

At the appropriate place, insert the following:

**SEC. ___. PROVISION OF TECHNICAL ASSISTANCE TO MICROENTERPRISES.**

(a) IN GENERAL.—Title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following:

**"Subtitle C—Microenterprise Technical Assistance and Capacity Building Program**

**"SEC. 171. SHORT TITLE.**

"This subtitle may be cited as the 'Program for Investment in Microentrepreneurs Act of 1999', also referred to as the 'PRIME Act'.

**"SEC. 172. DEFINITIONS.**

"For purposes of this subtitle—

"(1) the term 'Administrator' has the same meaning as in section 103;

"(2) the term 'capacity building services' means services provided to an organization that is, or is in the process of becoming a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs;

"(3) the term 'collaborative' means 2 or more nonprofit entities that agree to act jointly as a qualified organization under this subtitle;

"(4) the term 'disadvantaged entrepreneur' means a microentrepreneur that is—

"(A) a low-income person;

"(B) a very low-income person; or

"(C) an entrepreneur that lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as determined by the Administrator;

"(5) the term 'Fund' has the same meaning as in section 103;

"(6) the term 'Indian tribe' has the same meaning as in section 103;

"(7) the term 'intermediary' means a private, nonprofit entity that seeks to serve microenterprise development organizations and programs as authorized under section 175;

"(8) the term 'low-income person' has the same meaning as in section 103;

"(9) the term 'microentrepreneur' means the owner or developer of a microenterprise;

"(10) the term 'microenterprise' means a sole proprietorship, partnership, or corporation that—

"(A) has fewer than 5 employees; and

"(B) generally lacks access to conventional loans, equity, or other banking services;

"(11) the term 'microenterprise development organization or program' means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs or prospective entrepreneurs;

"(12) the term 'training and technical assistance' means services and support provided to disadvantaged entrepreneurs or prospective entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services; and

"(13) the term 'very low-income person' means having an income, adjusted for family size, of not more than 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section).

**"SEC. 173. ESTABLISHMENT OF PROGRAM.**

"The Administrator shall establish a microenterprise technical assistance and capacity building grant program to provide assistance from the Fund in the form of grants to qualified organizations in accordance with this subtitle.

**"SEC. 174. USES OF ASSISTANCE.**

"A qualified organization shall use grants made under this subtitle—

"(1) to provide training and technical assistance to disadvantaged entrepreneurs;

"(2) to provide training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist such organizations and programs in developing microenterprise training and services;

"(3) to aid in researching and developing the best practices in the field of microenterprise and technical assistance programs for disadvantaged entrepreneurs; and

"(4) for such other activities as the Administrator determines are consistent with the purposes of this subtitle.

**"SEC. 175. QUALIFIED ORGANIZATIONS.**

"For purposes of eligibility for assistance under this subtitle, a qualified organization shall be—

"(1) a nonprofit microenterprise development organization or program (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs;

"(2) an intermediary;

"(3) a microenterprise development organization or program that is accountable to a local community, working in conjunction with a State or local government or Indian tribe; or

"(4) an Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

**"SEC. 176. ALLOCATION OF ASSISTANCE; SUBGRANTS.**

"(a) ALLOCATION OF ASSISTANCE.—

"(1) IN GENERAL.—The Administrator shall allocate assistance from the Fund under this subtitle to ensure that—

"(A) activities described in section 174(1) are funded using not less than 75 percent of amounts made available for such assistance; and

"(B) activities described in section 174(2) are funded using not less than 15 percent of amounts made available for such assistance.

"(2) LIMIT ON INDIVIDUAL ASSISTANCE.—No single organization or entity may receive more than 10 percent of the total funds appropriated under this subtitle in a single fiscal year.

"(b) TARGETED ASSISTANCE.—The Administrator shall ensure that not less than 50 percent of the grants made under this subtitle are used to benefit very low-income persons, including those residing on Indian reservations.

"(c) SUBGRANTS AUTHORIZED.—

"(1) IN GENERAL.—A qualified organization receiving assistance under this subtitle may provide grants using that assistance to qualified small and emerging microenterprise organizations and programs, subject to such rules and regulations as the Administrator determines to be appropriate.

"(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of assistance received by a qualified organization under this subtitle may be used for administrative expenses in connection with the making of subgrants under paragraph (1).

"(d) DIVERSITY.—In making grants under this subtitle, the Administrator shall ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural, and Indian tribal communities and racially and ethnically diverse populations.

**"SEC. 177. MATCHING REQUIREMENTS.**

"(a) IN GENERAL.—Financial assistance under this subtitle shall be matched with funds from sources other than the Federal Government on the basis of not less than 50 percent of each dollar provided by the Fund.

"(b) SOURCES OF MATCHING FUNDS.—Fees, grants, gifts, funds from loan sources, and in-kind resources of a grant recipient from public or private sources may be used to comply with the matching requirement in subsection (a).

"(c) EXCEPTION.—

"(1) IN GENERAL.—In the case of an applicant for assistance under this subtitle with severe constraints on available sources of matching funds, the Administrator may reduce or eliminate the matching requirements of subsection (a).

"(2) LIMITATION.—Not more than 10 percent of the total funds made available from the Fund in any fiscal year to carry out this subtitle may be excepted from the matching requirements of subsection (a), as authorized by paragraph (1) of this subsection.

**"SEC. 178. APPLICATIONS FOR ASSISTANCE.**

"An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

**"SEC. 179. RECORDKEEPING.**

"The requirements of section 115 shall apply to a qualified organization receiving assistance from the Fund under this subtitle as if it were a community development financial institution receiving assistance from the Fund under subtitle A.

**"SEC. 180. AUTHORIZATION.**

"In addition to funds otherwise authorized to be appropriated to the Fund to carry out this title, there are authorized to be appropriated to the Fund to carry out this subtitle—

"(1) $15,000,000 for fiscal year 2000;

"(2) $15,000,000 for fiscal year 2001;

"(3) $15,000,000 for fiscal year 2002; and

"(4) $15,000,000 for fiscal year 2003.

**"SEC. 181. IMPLEMENTATION.**

"The Administrator shall, by regulation, establish such requirements as may be necessary to carry out this subtitle.".

(b) ADMINISTRATIVE EXPENSES.—Section 121(a)(2)(A) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4718(a)(2)(A)) is amended—

(1) by striking "$5,550,000" and inserting "$6,100,000"; and

(2) in the first sentence, by inserting before the period ", including costs and expenses associated with carrying out subtitle C".

(c) CONFORMING AMENDMENTS.—Section 104(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703(d)) is amended—

(1) in paragraph (2)—

(A) by striking "15" and inserting "17";

(B) in subparagraph (G)—

(i) by striking "9" and inserting "11";

(ii) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(iii) by inserting after clause (iii) the following:

"(iv) 2 individuals who have expertise in microenterprises and microenterprise development;"; and

(2) in paragraph (4), in the first sentence, by inserting before the period "and subtitle C".

At the appropriate place, insert the following:

**SEC. ___. DISCLOSURES TO CONSUMERS UNDER THE TRUTH IN LENDING ACT.**

(a) DISCLOSURE OF LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(12) If a charge is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the date that payment is due or, if different, the date on which a late payment fee will be charged, shall be stated prominently in a conspicuous location on the billing statement, together with the amount of the charge to be imposed if payment is made after such date.''.

(b) DISCLOSURES RELATED TO ''TEASER RATES''.—Section 127(c) (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5) (as so redesignated by section 4 of this Act) the following:

''(6) ADDITIONAL NOTICE CONCERNING 'TEASER RATES'.—

''(A) IN GENERAL.—An application or solicitation for a credit card for which a disclosure is required under this subsection shall contain the disclosure contained in subparagraph (B) or (C), as appropriate, if the application or solicitation offers, for an introductory period of less than 1 year, an annual percentage rate of interest that—

''(i) is less than the annual percentage rate of interest that will apply after the end of the introductory period; or

''(ii) in the case of an annual percentage rate that varies in accordance with an index, is less than the current annual percentage rate under the index that will apply after the end of such period.

''(B) FIXED ANNUAL PERCENTAGE RATE.—If the annual percentage rate that will apply after the end of the introductory period will be a fixed rate, the application or solicitation shall include the following disclosure: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate that will apply after the end of the introductory period. The permanent annual percentage rate will apply after [*insert applicable date*] and will be [*insert applicable percentage rate*].'.

''(C) VARIABLE ANNUAL PERCENTAGE RATE.—If the annual percentage rate that will apply after the end of the introductory period will vary in accordance with an index, the application or solicitation shall include the following disclosure: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate that will apply after the end of the introductory period. The permanent annual percentage rate will be determined by an index, and will apply after [*insert applicable date*]. If the index that will apply after such date were applied to your account today, the annual percentage rate would be [*insert applicable percentage rate*].'.

''(D) CONDITIONS FOR INTRODUCTORY RATES.—If the annual percentage rate of interest that will apply during the introductory period described in subparagraph (A) is revocable or otherwise conditioned upon any action by the obligor, including any failure by the obligor to pay the minimum payment amount or finance charge or to make any payment by the stated monthly payment due date, the application or solicitation shall include disclosure of—

''(i) the conditions that the obligor must meet to retain the annual percentage rate of interest during the introductory period; and

''(ii) the annual percentage rate of interest that will apply as a result of the failure of the obligor to meet such conditions.

''(E) FORM OF DISCLOSURE.—The disclosures required under this paragraph shall be made in a clear and conspicuous manner, in a prominent fashion.''.

On page 10, at line 4, following ''by'', insert ''(I)'';

On page 10, at line 5, following ''thereof'', insert the following: ''or (II) an affiliate of an insurance company described in paragraph (I)(ii) below that provides investment advice to an insurance company and is registered pursuant to the Investment Advisers Act of 1940, or an affiliate of such investment adviser,''

At the appropriate place in the bill, insert a new section as follows:

**''SEC. . CRA SUNSHINE REQUIREMENTS.**

''(a) DISCLOSURE AND REPORTING.—The Federal Deposit Insurance Act (12 U.S.C. §1811 et seq.) is amended by adding at the end thereof the following new section:

**'''SEC. . CRA SUNSHINE REQUIREMENTS.**

'''(a) PUBLIC DISCLOSURE OF AGREEMENTS.—Any agreement entered into by an insured depository institution or affiliate with a nongovernmental entity or person made pursuant to or in connection with the Community Reinvestment Act involving funds or other resources of such insured depository institution or affiliate shall be in its entirety fully disclosed, and the full text thereof made available to the appropriate federal banking agency with supervisory responsibility over the insured depository institution and to the public and shall obligate each party to comply with the provisions of this section.

'''(b) ANNUAL REPORT OF ACTIVITY.—Each party to the agreement shall report, as applicable, to the appropriate federal banking agency with supervisory responsibility over the insured depository institution, no less frequently than once each year, such information as the federal banking agency may be rule require relating to the following action taken by the party pursuant to an agreement described in subsection (a) during the previous 12-month period—

'''(1) payments, fees or loans made to any party to the agreement or received from any party to the agreement and the terms and conditions of the same; and

'''(2) aggregate data on loans, investments and services provided by each party in its community or communities pursuant to the agreement; and

'''(3) such other pertinent matters as determined by rule by the appropriate federal banking agency with supervisory responsibility over the insured depository institution.

'''(4) The Federal banking agency shall ensure that the regulations implementing this section do not impose an undue burden on the parties and that proprietary and confidential information is protected.

'''(c) EXISTING AGREEMENTS.—The requirements of subsection (b)(1), (2), and (3) shall be deemed to be fulfilled with respect to any agreement made prior to May 5, 1999.

'''(d) SECONDARY AGREEMENTS.—Any agreement made on or after May 5, 1999 pursuant to an agreement described in subsection (a) also is subject to the requirements of subsections (a) and (b).

'''(e) DEFINITIONS.—

'''(1) AGREEMENT.—As used in this section, the term ''agreement'' refers to any written contract, written agreement, or other written understanding with a value in excess of $10,000 annually, or a group of substantively related contracts with an aggregate value of $10,000 annually, made pursuant to or in connection with the Community Reinvestment Act of 1977, at least one party to which is an insured depository institution or affiliate thereof, or entity owned or controlled by an insured depository institution or affiliate, whether organized on a profit or not-for-profit basis. The term 1''agreement'' shall not include any specific contract or commitment for a loan or extension of credit to individuals, businesses, farms, or other entities, where the purpose of the loan or extension of credit does not include any re-lending or the borrowed funds to the other parties.

'''(2) APPROPRIATE FEDERAL BANKING AGENCY AND INSURED DEPOSITORY INSTITUTION.—As used in this section, the terms ''appropriate federal banking agency'' and ''insured depository institution'' have the same meanings as defined in section 3 of this Act.

'''(d) VIOLATIONS.—Any violation of the provisions of this section shall be considered a violation of this Act. If the party to the agreement that is not an insured depository institution or affiliate fails to comply with this section, the agreement shall not be enforceable after being given notice and a reasonable period of time to perform or comply.

'''(e) LIMITATION.—Nothing in this section is intended to provide any authority upon any appropriate federal banking agency to enforce the provisions of the agreements that are subject to the requirements of subsection (a).

'''(f) REGULATIONS.—Each appropriate federal banking agency shall prescribe regulations requiring procedures reasonably designed to assure and monitor compliance with the requirements of this section.'.''

At the appropriate place, insert the following:

**SEC. ___. FEDERAL RESERVE AUDITS.**

(a) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 11A the following:

**''SEC. 11B. ANNUAL INDEPENDENT AUDITS OF FEDERAL RESERVE BANKS.**

''(a) AUDIT REQUIRED.—Each Federal reserve bank shall annually obtain an audit of the financial statements of each Federal reserve bank (which shall have been prepared in accordance with generally accepted accounting principles) using generally accepted auditing standards from an independent auditor that meets the requirements of subsection (b).

''(b) AUDITOR'S QUALIFICATIONS.—The independent auditor referred to in subsection (a) shall—

''(1) be a certified public accountant who is independent of the Federal Reserve System; and

''(2) meet any other qualifications that the Board may establish.

''(c) CERTIFICATION REQUIRED.—In each audit required under subsection (a), the auditor shall certify to the Federal reserve bank and to the Board that the auditor—

''(1) is a certified public accountant and is independent of the Federal Reserve System; and

''(2) conducted the audit using generally accepted auditing standards.

''(d) CERTIFICATION BY FEDERAL RESERVE BANK.—Not later than 30 days after the completion of each audit required under subsection (a), the Federal reserve bank shall provide to the Comptroller General of the United States—

''(1) a certification that—

''(A) the Federal reserve bank has obtained the audit required under subsection (a);

''(B) the Federal reserve bank has received the certifications of the auditor required under subsection (c); and

''(C) the audit fully complies with subsection (a).

''(e) DETECTION OF ILLEGAL ACTS.—

''(1) AUDIT PROCEDURES.—Each audit required by this section shall include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.

''(2) REPORTING POSSIBLE ILLEGALITIES.—If, in the course of conducting an audit required by this section, the independent auditor detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have an effect on the financial statements of the Federal reserve bank) has or may have occurred, the auditor—

''(A) shall determine whether it is likely that the illegal act has occurred; and

''(B) shall, if the auditor determines that the illegal act is likely to have occurred—

''(i) determine and consider the possible effect of the illegal act on the financial statements of the Federal reserve bank; and ''(ii) as soon as practicable, inform the Board that the illegal act is likely to have occurred.

''(3) REPORT TO CONGRESS.—The independent auditor under this section shall, as soon as practicable, directly report its conclusions to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives with regard to any possible illegal act that has been detected or has otherwise come to the attention of the auditor during the course of the audit required by this section, if, after determining that the Board is adequately informed with respect to such possible illegal act, the auditor concludes that—

''(A) the possible illegal act has a direct and material effect on the financial statements of the Federal reserve bank;

''(B) the Board has not taken timely and appropriate remedial actions with respect to the possible illegal act; and

''(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor when made, or warrant resignation from the audit engagement.

''(4) RESIGNATION OF AUDITOR.—If an independent auditor resigns from its engagement to audit a Federal reserve bank under paragraph (3), the auditor shall furnish to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, not later than 1 business day after such resignation, a copy of the report of the auditor (or documentation of any oral report given).

''(f) RECORDKEEPING.—To facilitate compliance with this section, each Federal reserve bank shall—

''(1) ensure that the books, records, and accounts of the Federal reserve bank are maintained and kept in sufficient detail to accurately and fairly reflect the transactions and dispositions of the assets of the bank;

''(2) devise and maintain a system of internal controls sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets;

''(3) ensure that access to assets of the Federal reserve bank is permitted only in accordance with the general or specific authorization of the Board; and

''(4) ensure that—

''(A) the recorded accountability for assets is compared with the existing assets at reasonable intervals; and

''(B) appropriate action is taken with respect to any differences.

''(g) REPORTS TO BOARD, CONGRESS.—Not later than April 30 of each year, each Federal reserve bank shall submit a copy of each audit conducted under this section to the Board, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

**''SEC. 11C. INDEPENDENT AUDITS OF FEDERAL RESERVE SYSTEM AND FEDERAL RESERVE BOARD.**

''(a) AUDIT OF RESERVE SYSTEM.—The Board shall annually obtain an audit of the consolidated financial statements of the Federal Reserve System (which shall have been prepared in accordance with generally accepted accounting principles) from an independent auditor, using generally accepted auditing standards, based on reports of audits of Federal reserve banks submitted to the Board under section 11B(g) and the audit of the Board under subsection (b) of this section.

''(b) AUDIT OF BOARD.—

''(1) IN GENERAL.—The Board shall annually obtain an audit of the financial statements of the Board (which shall have been prepared in accordance with generally accepted accounting principles) from an independent auditor, using generally accepted auditing standards.

''(2) PRICED SERVICES AUDIT.—

''(A) IN GENERAL.—As part of each audit of the Board required by this subsection, the auditor shall—

''(i) audit the calculation of the private sector adjustment factor established by the Board pursuant to section 11A(c)(3) for the year that is the subject of the audit; and

''(ii) audit the pro forma balance sheet and income statement for the services described in section 11A(b), including the determination of revenue, expenses, and income before income taxes for each service listed in that section (in accordance with the criteria specified in section 11A(c)(3)).

''(B) REPORT TO THE BOARD.—The auditor shall report the results of the audit under subparagraph (A)(ii) to the Board in written form.

''(3) LIMITATION.—The evaluations and audits required by this subsection shall not include deliberations, decisions, or actions on monetary policy matters, including discount authority under section 13, reserves of national banks, securities credit, interest on deposits, and open market operations.

''(c) AUDITOR'S QUALIFICATIONS.—An independent auditor referred to in this section shall—

''(1) be a certified public accountant and be independent of the Federal Reserve System; and

''(2) meet any other qualifications that the Board may establish.

''(d) CERTIFICATION REQUIRED.—In each audit required under this section, the auditor shall certify to the Board that the auditor—

''(1) is a certified public accountant and is independent of the Federal Reserve System; and

''(2) conducted the audit using generally accepted auditing standards.

''(e) DETECTION OF ILLEGAL ACTS.—

''(1) AUDIT PROCEDURES.—Each audit required by this section shall include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material affect on the determination of financial statement amounts.

''(2) REPORTING POSSIBLE ILLEGALITIES.—If, in the course of conducting an audit of the Federal Reserve System or the Board as required by this section, the independent auditor detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have an effect on the financial statements of the Federal reserve bank) has or may have occurred, the auditor—

''(A) shall determine whether it is likely that the illegal act has occurred; and

''(B) shall, if the auditor determines that the illegal act is likely to have occurred—

''(i) determine and consider the possible effect of the illegal act on the financial statements of the Federal Reserve System or the Board, as applicable; and

''(ii) as soon as practicable, inform the Board that the illegal act is likely to have occurred.

''(3) REPORT TO CONGRESS.—An independent auditor under this section shall directly report, as soon as practicable, its conclusions to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, with regard to any possible illegal act that has been detected or has otherwise come to the attention of the auditor during the course of an audit of the Federal Reserve System or the Board required by this section, if, after determining that the Board is adequately informed with respect to such possible illegal act, the auditor concludes that—

''(A) the possible illegal act has a direct and material effect on the financial statements of the Federal Reserve System or the Board, as applicable;

''(B) the Board has not taken timely and appropriate remedial actions with respect to the possible illegal act; and

''(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor when made, or warrant resignation from the audits engagement.

''(4) RESIGNATION OF AUDITOR.—If an independent auditor resigns from its engagement to audit the Federal Reserve System or the Board under paragraph (3), the auditor shall furnish to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, not later than 1 business day after such resignation, a copy of the report of the auditor (or documentation of any oral report given).

''(f) RECORDKEEPING.—To facilitate compliance with this section, the Board shall—

''(1) ensure that the books, records, and accounts of the Board are maintained and kept in sufficient detail to accurately and fairly reflect the transactions and dispositions of assets;

''(2) devise and maintain a system of internal controls sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets;

''(3) ensure that access to assets of the Board is permitted only in accordance with general or specific authorization of the Board; and

''(4) ensure that—

''(A) the recorded accountability for assets is compared with the existing assets at reasonable intervals; and

''(B) appropriate action is taken with respect to any differences.

''(g) REPORTS TO CONGRESS.—Not later than May 31 of each year, the Board shall make available all audits and reports required by this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.''.

(b) FEDERAL RESERVE REQUIREMENTS.—

(1) CLARIFICATION OF FEE SCHEDULE REQUIREMENTS.—

(A) IN GENERAL.—Section 11A(b) of the Federal Reserve Act (12 U.S.C. 248a(b)) is amended—

(i) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(ii) by inserting after paragraph (6) the following:

''(7) transportation of paper checks in the clearing process;''.

(B) PUBLICATION OF REVISED SCHEDULE.—Not later than 60 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish a revision of the schedule of fees required under section 11A of the Federal Reserve Act that reflects the changes made in the schedule in accordance with the amendments made by subparagraph (A) of this paragraph.

(2) CLARIFICATION OF APPLICABLE PRICING CRITERIA.—Section 11A(c) of the Federal Reserve Act (12 U.S.C. 248a(c)) is amended by striking paragraph (3) and inserting the following:

''(3)(A) In each fiscal year, fees shall be established for each service provided by the Federal reserve banks on the basis of all direct and indirect costs actually incurred (excluding the effect of any pension cost credit) in providing each of the services, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs, which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been provided by a private business firm.

''(B) The pricing principles referred to in subparagraph (A) shall be carried out with due regard to competitive factors and the provision of an adequate level of such services nationwide.

''(C)(i) Not later than 1 year after the date of enactment of the Financial Services Modernization Act of 1999, and not less frequently than once every 3 years thereafter, the Board shall conduct a comprehensive review of the methodology used to calculate the private sector adjustment factor pursuant to section 11A(c)(3), including a public notice and comment period.

''(ii) In conducting the review under clause (i), the Board shall publish in the Federal Register all elements of the methodology in use by the Board in the calculation of the private sector adjustment factor pursuant to section 11A(c)(3) provide notice and solicit public comment on the methodology, requesting commentators to identify areas of the methodology that are outdated, inappropriate, unnecessary, or that contribute to an inaccurate result in the calculation of the private sector adjustment factor.

''(iii) The Board shall—

''(I) publish in the Federal Register a summary of the comments received under this subparagraph, identifying significant issues raised; and

''(II) provide comment on such issues and make changes to the methodology to the extent that the Board considers to be appropriate.

''(iv) Not later than 30 days after the completion of each review under clause (i), the Board shall submit to Congress a report which shall include—

''(I) a summary of any significant issues raised by public comments received by the Board under this subparagraph and the relative merits of such issues; and

''(II) an analysis of whether the Board is able to address the concerns raised, or whether such concerns should be addressed by legislation.''.

On page 150, after line 21, add the following:

''(5) CONVERSION TO NATIONAL BANK.—Notwithstanding any other provision of law, any Federal savings assiciation chartered and in operation prior to the date of enactment of the Financial Services Modernization Act of 1999, with branches in one or more States, may convert, at its option, with the approval of the Comptroller of the Currency, into one or more National banks, each of whom may ecompass one or more of the branches of the Federal savings association in one or more States; but only if the resulting national bank or banks will meet any and all financial, management, and capital requirements applicable to national banks.''.

At the appropriate place, insert the following:

**SEC. 2. COMMUNITY DEVELOPMENT INSTITUTIONS TO BE ELIGIBLE TO BORROW AS A NONMEMBER FROM THE FEDERAL HOME LOAN BANK SYSTEM.**

SECTION 10b.—Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in subsection (a) by striking the second sentence and inserting the following two sentences: ''Such mortgagees must be (i) chartered institutions having succession and (ii) subject to the inspection and supervision of some governmental agency or a community development financial institution (other than an insured depository institution or a subsidiary thereof) that, at the time of the advance is made, is certified under the Community Development Banking and Financial Institutions Act of 1994. The principal activity of such mortgagees in the mortgage field must consist of lending their own funds and any advances may be subject to the same collateralization requirements as applied to other nonmember borrowers.

(2) in the last sentence of subsection (a) by replacing the word ''such'' with ''the same'' and by replacing the phrase ''shall be determined by the board'' with the phrade ''are comparable extensions of credit to members''; and

(3) in subsection (b) by inserting in the first sentence between the words ''agency'' and ''for'' the following phrase: ''or a certified development financial institution''.

At the appropriate place, insert the following:

**SEC. ___. STUDY AND REPORT ON ADVERTISING PRACTICES OF ONLINE BROKERAGE SERVICES.**

(a) STUDY.—The Securities and Exchange Commission (hereafter in this section referred to as the ''Commission''), in consultation with the National Association of Securities Dealers and other interested parties, shall conduct a study of—

(1) the nature and content of advertising by online brokerage services in all media, including television, on the Internet, radio, and in print;

(2) if such advertising influences investors and potential investors to make investment decisions, and if such advertising improperly influences those investors and potential investors to make inappropriate investment decisions;

(3) whether such advertising properly discloses the risks associated with trading and investing in the capital markets; and

(4) whether—

(A) there are appropriate regulatory mechanisms in place to prevent any improper or deceptive advertising; and

(B) the Commission has or needs additional resources or authority to actively participate in such regulation.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for changes that it considers necessary to protect investors and potential investors from improper or deceptive advertising.

## NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that on Wednesday, May 12, 1999, the Committee on Energy and Natural Resources will hold an oversight hearing on Damage to the National Security from Chinese Espionage at DOE Nuclear Weapons Laboratories. The hearing will be held at 9:30 a.m. in room 216 of the Hart Senate Office Building in Washington, D.C. A portion of the hearing may be closed for national security reasons.

Those who wish further information may write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on S. 140, a bill to establish the Thomas Cole National Historic Site in the State of New York as an affiliated area of the National Park System, and for other purposes; S. 734, the National Discovery Trails Act of 1999; S. 762, a bill to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park; S. 938, a bill to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park, and for other purposes; S. 939, a bill to correct spelling errors in the statutory designations of Hawaiian National Parks; S. 946, a bill to authorize the Secretary of the Interior to transfer administrative jurisdiction over land within the boundaries of the Home of Franklin D. Roosevelt National Historic Site to the Archivist of the United States for the construction of a visitor center; and S. 955, a bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield in Virginia, as previously authorized by law, by purchase.

The hearing will take place on Tuesday, May 25, 1999 at 2:15 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole or Shawn Taylor of the committee staff at (202) 224–6969.

## AUTHORITY OF COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GRAMM. 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 Thursday, May 6, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to consider the results of the December 1998 plebiscite on Puerto Rico.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 6, 1999 at 2:00 pm to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Government Affairs Committee be permitted to meet on Thursday, May 6, 1999 at 9:30 a.m. for a hearing on Federalism and Crime Control.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''ESEA: Safe Schools'' during the session of the Senate on Thursday, May 6, 1999, at 10:00 a.m.

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

COMMITTEE ON OCEANS AND FISHERIES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Oceans and Fisheries Subcommittee, of the Senate Committee on Commerce, Science, and Transportation be allowed to meet on Thursday, May 6, 1999, at 2:30 p.m. on the Coastal Zone Management Act.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS AND COMPETITION

Mr. GRAMM. Mr. President, I ask unanimous consent that the subcommittee on Antitrust, Business Rights and Competition of the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, May 6, 1999, at 2:00 p.m., in room 226 of the Senate Dirksen Office Building.

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

## ADDITIONAL STATEMENTS

### CAROL STRICKLAND: 1999 KANSAS TEACHER OF THE YEAR

• Mr. BROWNBACK. Mr. President, I rise today to recognize an outstanding educator from Kansas. Carol Strickland was selected as the Kansas Teacher of the Year for 1999. It is hard to overestimate the importance of caring and dedicated teachers such as Carol. Teachers invest their time, talent and knowledge into our nation's students, thereby shaping the minds of our future leaders.

It gives me great pleasure to acknowledge Carol's extraordinary work in education. I congratulate Carol and wish her continued success.•

### IN RECOGNITION OF LITTLE CAESARS ENTERPRISES

• Mr. LEVIN. Mr. President, I rise today to recognize the 40th birthday of Little Caesars Enterprises, an extraordinary company headquartered in my home state of Michigan and my hometown of Detroit.

It is not possible to talk about Little Caesars without recognizing the efforts of the founders of the company, Mike and Marian Ilitch. Mike and Marian are not only fine examples of entrepreneurship. They exemplify the American Dream itself. These two first-generation Americans, both of Macedonian descent, opened their first Little Caesars restaurant in Garden City, Michigan on May 8, 1959. After only three years, they sold their first Little Caesars franchise. The company became an international enterprise in 1969, with the opening of its first restaurant in Canada. By 1987, Little Caesars restaurants could be found in all 50 states. Today, Little Caesars' markets include the U.S., Canada, the Czech Republic, Slovakia, South Korea, Honduras, Dominican Republic, Turkey, the Philippines, Ecuador, Aruba and Egypt.

The Ilitch family and the employees of Little Caesars have demonstrated a deep commitment to the City of Detroit. Several years ago, many people characterized the decision to move Little Caesars' headquarters to downtown Detroit was ''an act of faith.'' Today, other companies are following in Little Caesars footsteps and the City of Detroit's business climate is truly on the rebound. Throughout the years, Little Caesars has sponsored youth sports, especially hockey, and given generously to charitable causes. One of the most notable charitable endeavors supported by Little Caesars is the Little Caesars Love Kitchen Foundation, a mobile pizza restaurant which has fed more than 1.2 million people since it was created in 1985. The Love Kitchen Foundation has been recognized by Presidents Clinton, Bush and Reagan for its service to those in need.

Many people credit the success of Little Caesars to its ''buy one, get one free'' concept. Others say its the creative, witty advertising. But anyone who knows Mike and Marian Ilitch knows that Little Caesars is truly a labor of love, and that they are at the heart of their company's success. And if the Ilitches are the heart and soul of Little Caesars, the hundreds of thousands of men and women who have worked for the company or who have owned a Little Caesars franchise have been its backbone. Those employees have helped to make Little Caesars the dynamic, successful enterprise it is today.

Mr. President, I know my colleagues join me in offering congratulations and best wishes for continuing success to Mike and Marian Ilitch, their family, and the entire Little Caesars organization as they celebrate the company's 40th birthday.•

### IN RECOGNITION OF PENNSYLVANIA'S TOP TWO YOUTH VOLUNTEERS

• Mr. SANTORUM. Mr. President, I rise today to recognize Pennsylvania's top two youth volunteers for the 1999 Prudential Spirit of Community Awards program, a nationwide program that honors young people for outstanding acts of volunteerism. Jessica Miley, a junior at McDowell High School in Erie and Dustin Good, a seventh-grade student at Pottstown Intermediate School were named State Honorees, an honor conferred on only one high school student and one middle-level student in each state, the District of Columbia and Puerto Rico.

Jessica is being honored for her extraordinary efforts to save the lives of at-risk youth. Certified by the Erie County Department of Health as a Prevention Educator to teach students in local high schools and middle schools about preventing HIV and AIDS, she designs her own programs around topics such as abstinence, sexual risks, peer pressure, self-esteem and the dangers of drugs and alcohol. Jessica spends 12 to 15 hours a week on her efforts during the school year and 40 hours a week during the summer.

Dustin is being recognized for his role in ''Project Reach-Out,'' a group comprised of students who want to make a difference in their community. As part of this effort, Dustin spent many hours promoting the group's activities to his student body, recruiting volunteers, attending planning meetings and working on special events. Among these events was a prom for residents of a local nursing home, as well as an ''adoption'' of a needy family in the community. Through fundraising efforts, the group provided the family with food, clothes and toys.

It is vital that we, as individual communities, encourage and support the kind of selfless contributions that these young people have demonstrated. People of all ages need to think more about how, as individual citizens, we can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Young volunteers like Jessica and Dustin are inspiring examples to all of us and are among our brightest hopes for a better tomorrow.

The Prudential Spirit of Community Awards program was created in 1995 by The Prudential Insurance Company of America, in partnership with the National Association of Secondary School Principals, to impress upon all youth volunteers that their contributions are critical and to inspire other young people to follow their example. In only four years, the program has become the nation's largest youth recognition effort based solely on community service, with more than 50,000 youth participating.

I commend Jessica Miley and Dustin Good for the leadership they have demonstrated in seeking to make their communities better places to live. I would also like to salute the following eight young people in Pennsylvania who were named Distinguished Finalists in the program; Eric Ford, Havertown; Drew Harris, Dresher;

Tiffanie Hawkins, Newtown; Anne Heller, New Holland; Kari Knight, Sugarloaf; Tabitha Kulish, Lancaster; Jennifer Michelstein, Kingston; and Lisa Podgurski, Washington.

These youth have exhibited a level of commitment and accomplishment that is truly extraordinary, and they deserve our sincere admiration and respect. Mr. President, I ask my colleagues to join me in commending these fine young people who have demonstrated that young Americans can, and do, play important roles in their communities and that America's community spirit continues to hold tremendous promise for the future.●

## BOB WOOD—THINKER AND DOER FOR URBAN AMERICA

● Mr. KENNEDY. Mr. President, one of America's greatest leaders for our cities and metropolitan areas over the past half century has been Robert C. Wood.

All of us who know Bob Wood have enormous respect for his ability, his leadership, and his brilliant service to the country. He was an outstanding Under Secretary and Secretary of Housing and Urban Development for President Lyndon Johnson in the 1960's, and he pioneered the development of many of the nation's most important programs to enhance the vitality of our cities and improve the quality of life in metropolitan areas across the country.

In Massachusetts, we have special respect and affection for Bob Wood because of all that he has done for our state, especially for his service as a past chairman of the Massachusetts Bay Transportation Authority and as a past Superintendent of the Boston Public Schools, and also for his brilliant academic leadership both at M.I.T. and the University of Massachusetts.

In an excellent column by Martin F. Nolan in yesterday's Boston Globe, Bob Wood reflected on his remarkable career of service to Massachusetts and the nation. I believe the column will be of interest to all of us in Congress who know and admire Bob, and I ask that it be printed in the RECORD.

The article follows.

[From the Boston Globe, May 5, 1999]

A THINKER AND A DOER ON AMERICA'S CITIES

(By Martin F. Nolan)

When he first put his ideas into practice, America was asking, "Can cities be saved?" That question today would sound preposterous during reflections on a 50-year career in public service from an eyrie high above Boston Harbor, where piers once rotted and urban dreams died.

"Cities were written off too soon," says Bob Wood. "Their commonality with suburbs is increasing, and people are realizing that a strategy against sprawl is not a direct assault on local governments."

Battling sprawl is nothing new for Wood. When President Lyndon Johnson created task forces on housing and urban policy in 1964, "Charlie Haar and I flew down every Saturday morning at 7:30. He headed the president's task force on environment, and I was chairman of the task force on urban problems, so we became very good friends during those weekends. He became assistant secretary of metropolitan development and I became the first undersecretary of housing and urban development." Wood later became HUD secretary.

In the Great Society's efforts to save American cities, Cambridge played a major role. Haar taught at Harvard Law School, and Wood was the first chairman of the political science department at MIT.

"Sprawl was recognized in the '60s legislation," he recalls. "The idea of metropolitan development was to go hand in hand with urban renewal and what we were doing with the Model Cities program. It was explicit, but given Vietnam and the budget, we couldn't fund it and do well. We only did pieces of it."

"Vietnam took so much energy, time, money, and political capital," Wood remembers. Next week, when Lady Bird Johnson will be hostess at a Texas reunion of LBJ's Cabinet, Wood will not be eager to greet former Defense Secretary Robert S. McNamara "and the rest of 'the best and the brightest.'" Wood sees similarities between Vietnam then and Yugoslavia today: "It's underclared, slowly escalating, with an assumption of falling dominoes."

Wood does not praise President Clinton or Vice President Gore for tackling sprawl, crediting economic forces with highlighting the problem: "The Clinton administration had no real interest in tough decisions on urban issues or any other. Clinton took his polls from Dick Morris. But the country grew faster than predicted, and the cost of suburban development in housing, schools, and land became increasingly high. In the '80s, the recession had killed building development. In the '90s, with prosperity, people are building mansions in the suburbs. Overwhelmingly, political power is in the suburbs."

In 1958, long before he moved from Lincoln to the Boston waterfront, Wood popularized "Suburbia" with a book by that title in which he wrote that "transportation is the central reality of the metropolitan community." After his tensure at HUD he got a chance to put his ideas into action locally.

"When I can back from working for LBJ and got declared a war criminal by students at MIT, Governor Frank Sargent thought it would be a good idea for me to be chairman of the MBTA. It seemed a natural," he says.

One of his proudest achievements is "the basic transformation of Somerville. Because of the Red Line extension, we got Davis Square as we know it. That's why Tufts is blossoming and why Somerville is where grad students from Harvard and elsewhere settle. That's what transit can do. It happened in Quincy, too."

Wood has also been Boston school superintendent and president of the University of Massachusetts. A graduate of Princeton with degrees from Harvard, he was also director of Joint Center for Urban Studies at Harvard and MIT.

In 1949, this veteran of the 76th Army Infantry Division in World War II became associate director of Florida's Legislative Reference Bureau. He got to know and like politicians, which is why Robert Coldwell Wood, at 75, is unsurpassed as a thinker and a doer.●

## THE LITTLETON TRAGEDY

● Mr. DEWINE. Mr. President, all Americans are struggling with the meaning of the brutal murders in Littleton, CO, and the question of what we should do about school violence generally. As we tackle these issues, we need to take advantage of the best thinking and writing about them.

The Columbus Dispatch had a very good editorial on April 22, which points out in a very clear way what the specific challenges are—and most especially the need for adults to provide understanding and discipline to young people. The best way to stop violence is to promote the alternative—an effective culture of life and respect.

I ask that this editorial be printed in the RECORD.

The editorial follows:

[From the Columbus Dispatch, Apr. 22, 1999]

SCHOOL KILLINGS ADULTS MUST SEE THEMSELVES AS SOLUTION

A gunman looked under a desk in the library and said "Peek-a-boo," then fired.— . . . Anyone who cried or moaned was shot again. One girl begged for her life, but a gunshot ended her cries. . . . The shooter turned his attention to a black student, saying, "I hate niggers."—AP report out of Littleton, Colo.

Black trench coats. Hitler's birthday. Gothic Web sites. Guns and homemade bombs. Hatred.

Can any sense be made of the pieces emerging from the bloody halls of Columbine High School? Can the overwhelming why be answered?

The issues seem so broad and numerous that a bewildered nation expresses its inability to comprehend it, one of the deadliest school massacres in U.S. history.

Counselors propound; experts proclaim. The news media shifts focus from gun control to dress codes, violent movies to police in schools, materialism to racism.

Before a coherent thought forms, the lens shifts again.

Police who searched Harris' home said they found bomb-making material. Students said the group was fascinated with World War II and the Nazis and noted that Tuesday was Adolf Hitler's birthday.

But the real question is not why. Deep down, though we may not articulate it very well, we really do know why.

We may not know the exact circumstances that led juniors Eric Harris and Dylan Klebold to gun down their classmates, but we do know that the past three years have produced a series of school killings: Two dead in Pearl, Miss., three in West Paducah, Ky., five in Jonesboro, Ark., two in Springfield, Ore. And from this, we know that it will happen again. We know why.

We have produced a generation of children given too much freedom, too little direction; too much money, too little love.

The segment of society least capable of handling empowerment has been empowered within the rule of law but beyond common sense.

A litigious population demands that schools maintain discipline and instill values but sues teachers and administrators who dare tread upon a student's rights, be it searching a locker or insisting on proper attire.

Teenagers demand and are granted their own "space," Bedrooms become inviolable domains where the wild frontier of the Net can be browsed at will and every type of perversion checked out. If the child's character is far enough cracked, bombs can be made or guns can be stashed.

The so-called Trench Coat Mafia had boasted of its gun collection. Its members wore black everyday. They even wore black trench coats in class. When did parents and school officials descend to such levels of indifference? And "nobody thought" these kids were capable of killing in cold blood.

"They were laughing after they shot. It was like they were having the time of their life."

The question is not why but, "What do we do?"

Like recovering alcoholics, we first have to admit that we—all of us—have a problem. Not just our neighbors, not just Paducah and now Littleton, not just big cities or rural towns.

The good folks who have to live in crime-ridden neighborhoods used to rally around the cry, "Take back our streets!" Now, it's time to take back our children. Even the most dysfunctional families have aunts, uncles and cousins who can help.

Churches, mosques, synagogues, libraries and numerous civic- and social-service networks offer havens that too few people see as important enough to spend their time and money on. Much easier to give the kids some money and drop them and their cell phones off at the mall.

"Finally I started figuring out these guys shot to kill for no reason. . . . When he looked at me, the guy's eyes were just dead."

We are killing our children by insisting that they don't have to be children if they don't want to. We talk values to them but fail, on the whole, to live those values. We lead by example, often unaware that our example is pathetically shallow and certainly poor competition for the pervasive voice of the youth culture where simply buying khakis holds the promise of sex.

Littleton is an affluent suburb. This is an affluent nation. We have time and money to spend on our children. Individually, we must ask how our money and time is being spent. Collectively, we must decide to spend it more wisely and to share it with the larger neighborhood, the grand nation of the United States of America and its most valuable asset, the youngsters who will someday be the neighborhood.

Most of all, we must teach our children that freedom and independence are earned and that the rites of passage amount to more than clipping on a pager.

Neglect and indifference are forms of child abuse. Before we are shocked again by the next school shooting, we should devote more than a moment of thought to how much we overlook deviance and alienation; how so many of us are so little involved in providing direction.

Parents and all adults must provide understanding and compassion, discipline and clarity in a world of neglect, obfuscation and self-absorption.●

## TRIBUTE TO FATHER HENNESSEY

● Mr. HARKIN. Mr. President, I would like to pay tribute and say goodbye to a long time friend, Father Ron Hennessey, whose recent passing is a great loss not only to his colleagues, his family, and his friends but to everyone who knew him. I'm saying goodbye to Father Ron, but we will never say goodbye to his heart, his spirit, or his soul.

Father Ron was a native of Iowa and graduated from St. Patrick's High School in Ryan, Iowa. After graduating, he was drafted into the U.S. Army and served as a mechanic and later a Motor Sergeant in Korea. While in Korea, he was awarded three Bronze Stars for valor during his military service. Under the Eisenhower Christmas Program, he returned to the United States and was released from active service on December 9, 1953. He entered Maryknoll Junior Seminary in Pennsylvania and five years later graduated from Maryknoll College in Illinois in June of 1958. Father Hennessey was ordained at Maryknoll Seminary in New York on June 13, 1964.

Father Ron devoted his life to international peace and justice, Mr. President, dedicating almost 35 years of his life as a Maryknoll priest in Central America. Much of this time was spent in Guatemala and El Salvador. Soon after being ordained, he was assigned to the Diocese of Quetzaltenango, Guatemala. Several years later, he became the Pastor in San Mateo Ixtatan, Guatemala. It is during this time that Father Hennessey became very involved in the human rights struggle of the local Mayan Indians. He placed himself in great danger by smuggling letters out of Guatemala detailing the atrocities committed against the Mayan Indians in his rural parish. Those atrocities, Father Ron wrote, were being committed by the Guatemalan military under the orders of President Rios Montt. I remember one letter in particular in which Father Ron listed 20 instances in his parish alone in which military forces committed gross acts of violence.

Sadly, the United States Government at the time, supported this oppressive regime. In fact, our own State Department downplayed the human rights violations being committed in Guatemala, and in my view making us complicit in those heinous crimes.

By shining the spotlight on these atrocities, Father Ron's life was in constant danger. But that did not stop him. He stayed in Guatemala until 1986 despite having three opportunities to leave.

From Guatemala he went to El Salvador to re-establish a Maryknoll presence there after a five year absence. There he served in a parish on the outskirts of San Salvador that had had no priest since the Church was bombed in 1980.

In 1989, when the Salvadoran military murdered six Jesuit priests, their housekeeper and her daughter, Father Hennessey and his fellow Maryknollers chose to remain in the country even as scores of North American missionaries and aid workers decided to leave because the situation had become too dangerous for those who stood up for human rights and the rule of law. But Father Hennessey continued his work, standing side by side with his parishioners.

Father Hennessey once again took up residence again in Guatemala in 1992 until earlier this year when he was assigned to the Maryknoll mission in Los Angeles.

And so, Mr. President, Father Hennessey will be greatly missed by all of us. And while he may have physically departed, his spirit will never desert us.

Which is the second reason I rise today, Mr. President—to affirm an ancient native American saying: To live in the hearts of those you love, is not to die.

Father Ron, your spirit does live on through who knew you, whose lives you touched, and through them the countless thousands whose lives were enriched because of you. You will be remembered by us, each in a different way.

Finally, Mr. President, I can think of no better way to remember my friend Father Ron than with the words of Archbishop Oscar Romero: I have no ambition of power, and so with complete freedom I tell the powerful what is good and what is bad, and I tell any political group what is good and what is bad. That is my duty.●

## ARSON AWARENESS WEEK

● Mr. ROTH. Mr. President, this is Arson Awareness Week in our nation. As Chairman of the Congressional Fire Service Caucus. I want to remind all Americans of the blight of arson that kills over 700 innocent victims each year and destroys millions of dollars of property. Additionally, firefighters who have been summoned to extinguish the blaze die needlessly.

Arson has many faces. The misguided youth that sets fires for excitement; criminals that use fire in an attempt to cover another crime; persons using fire as a weapon to intimidate; the property owner attempting to solve financial problems by defrauding an insurance company; or the terrorist who uses fire to attack our democracy.

No matter what the motive, arson in our society cannot be tolerated. Every level of our law enforcement community fights the war against arson. Local and state fire marshals are often assisted by the Bureau of Alcohol, Tobacco and Firearms in conducting investigations to bring the arsonist to justice.

The United States Fire Administration in FEMA and the Center for Fire Research at the National Institute of Standards and Technology in the Commerce Department are important federal partners in furthering research to learn how arson fires are started and how set fires can be detected. Our National Fire Academy provides training in arson investigation for many state and local law enforcement personnel.

But we should not assume that government alone can solve the arson problem. Private enterprise, especially the insurance industry has taken a much higher profile in attacking the arson problem by investigating claims and cooperating with law enforcement personnel. This trend must continue to take the profit out of arson. The insurance industry has also contributed to teaching the public about arson by sponsoring education programs such as Arson Awareness Week. The Fire Administration helps supports Arson Awareness Week by working with the International Association of Arson Investigators. This is the 50th Anniversary of the IAAI. Over seven thousand members worldwide working together to control arson are making a difference.

I send my congratulations to the IAAI during Arson Awareness Week. I am particularly proud of the Delaware Chapter of the IAAI. Some of best that Delaware has to offer from the fire service, law enforcement, the insurance industry and the private sector work hard to protect and educate us about arson. As we go about our busy week, let us not forget that we must all work to snuff out the arsonist match.●

## TRIBUTE TO A LEGENDARY PUBLIC OFFICIAL

● Mr. TORRICELLI. Mr. President, I rise today to recognize Mayor Gerald A. Calabrese of Cliffside Park, New Jersey as he is honored for a lifetime of distinguished service to the citizens of his community, county, and state by the Temple Israel Community Center, celebrating its 75th anniversary.

Gerry began his career in public service by enlisting in the Navy and serving his country during World War II. After returning to the United States, Gerry turned his focus to education and entered St. John's University where he was chosen as an All-American for basketball. Upon graduation, he continued playing basketball in the National Basketball Association for the Syracuse Nationals.

Gerry retired from his sports career and was quick to enter into public service as he was elected to the Cliffside Park Borough Council in 1955. In 1959, Gerry was elected to his first term as the mayor of Cliffside Park, a post he has retained for the past forty years. During his tenure, Gerry has been always ready and willing to meet with his constituents and listen to their concerns. He has raised the bar in constituent services, as he has always been ready and willing to help those in need. Continuing in this vein, Gerry served on the Bergen County Board of Freeholders from 1975 to 1985, as Bergen County Democratic Chairman from 1991 to 1998, the New Jersey Delegation to the National Democratic Convention in 1988 and 1992, on the New Jersey Board of Public Utilities from 1960 to 1987, and on the 1992 New Jersey Congressional Re-Districting Committee.

Gerry Calabrese is respected by all in and around his community and his activities extend beyond his public service career. He is a life member of the PBA Local 96, N.J. State Association of Chiefs of Police, Cliffside Park Little League, Polish American Democratic Club. Hackensack Unico and Cliffside Park B'nai B'rith named him ''Man of the Year.''

Mayor Calabrese is a legendary public servant in New Jersey and is most deserving of this distinguished honor. I am proud to recognize Gerry and his many years of distinguished service.●

## CHRIST THE KING CATHOLIC SCHOOL

● Mr. BROWNBACK. Mr. President, I rise today to commend the fifth grade class at Christ the King Catholic School in Wichita, Kansas. On May 6, 1999, these students will attend the Drug Resistance Education (D.A.R.E.) Program's graduation ceremony.

These students, under the guidance of Officer John Crane and their teacher Ms. Sylvia Eckberg, completed the D.A.R.E. program's 17 week course. At a time when our students are bombarded daily with temptations and harmful messages, it is refreshing to know that there are many students willing to serve as role models for others by leading drug free lives.

Unfortunately, there are many young people in our country addicted to illegal drugs. Programs such as the Safe and Drug Free School program and D.A.R.E. help to encourage students to stay off drugs. However, this is not enough. In order to win the battle over illegal drug use, it will take courageous students, such as this fifth grade class, to make the commitment to live drug free lives despite pressure from other individuals.

Therefore, I am proud to recognize the students of Ms. Eckberg's class at Christ the King Catholic School for their commitment to living drug free and serving as role models for young people in Kansas and throughout the nation.●

## TRIBUTE TO PLAINFIELD, CT ON ITS 300TH ANNIVERSARY

● Mr. DODD. Mr. President, nestled in what is known as the ''Quiet Corner'' of northeastern Connecticut along the banks of the Quinebaug River lies the town of Plainfield. This year marks Plainfield's 300th anniversary and as its residents celebrate their history, it is important to reflect upon the invaluable contributions of those, past and present, who have made Plainfield a unique Connecticut town.

The first citizens of Plainfield were, much like the original colonists of New England, ingenious and resourceful. Settling in a land that was full of unknowns, these men and women were intent on providing a better life for themselves and future generations. The Plainfield of today is a testament to their strength and perseverence.

In May of 1699, some thirty families petitioned Governor Jonathan Winthrop to incorporate the disputed Quinebaug Plantation, which included land on both sides of the Quinebaug River, into the town of Plainfield. Eventually, in 1703, colonists living on the western banks of the river separated to settle what is now the town of Canterbury.

The construction of roads during the 1700's from Providence to Norwich which ran through Plainfield made the town an important trading post of surplus crops. Antiquated by today's standards, the simple roads that connected Plainfield with other New England towns earned it the reputation as a vital crossroads throughout the region.

With Plainfield Junction serving as a stop on the Norwich to Worcester railroad, Plainfield's residents were exposed to travelers from abroad and bore witness to the impending technological boom of the next century. By the end of the 18th century, the town could credit its first village center and meetinghouse, shops, and taverns to the increased number of families choosing to make Plainfield their home.

The advent of the textile industry during the 19th century brought about significant changes for this town, forever changing the face of Plainfield and redefining the lives of its residents. With activity centered on the Moosup River, the cotton and woolen mills transformed Plainfield from a predominantly farming society to an industrial hub.

The introduction of industry into the community altered and enhanced the ethnic character of Plainfield. French-Canadians seeking temporary refuge and employment in Plainfield's mills ultimately made the bustling town their home, successfully contributing to the town's growth as shopkeepers and professionals. French-Canadians helped to define Plainfield's identity and their heritage is still very much alive in its townspeople today.

Despite its many transformations over the last 300 years, Plainfield has always remained a town that is distinctly New England in its character. Many of the mills are now gone, yet, much of Plainfield's historical landscape still survives. In 1994, Plainfield, together with 24 other northeastern Connecticut towns, was designated as the Quinebaug and Shetucket Rivers Valley National Heritage Corridor. This is an exceptional achievement that recognizes Plainfield's success in encouraging new economic development while preserving its rich history.

As we move toward the new millennium, the residents of Plainfield return to their past not only for the lessons that it holds but also to celebrate the people and events that have made them who they are today. Much is made of our history as a country, yet many of us overlook the important examples set by those in our own backyards. We all should seek within our own communities to embrace the past and recognize the significance of local heritage in shaping the modern character of our own families and towns. On behalf of myself, and the entire State of Connecticut, I offer Plainfield a very hearty happy birthday and my best wishes for another successful 100 years.●

## HONORING FORMER SENATOR R. VANCE HARTKE

● Mr. TORRICELLI. Mr. President, I am pleased to submit for the Record a statement in honor of one of our former colleagues, Senator R. Vance Hartke, (D-Indiana), who served in this body from 1959 to 1976. The statement is written by a good friend of mine, former Congressman Bob Mrazek, who worked for Senator Hartke from 1969 to 1971. Congressman Mrazek was thoughtful enough to submit this in honor of the Senator's 80th birthday, which takes place later this month. We wish him the best.

I ask that the statement be printed in the RECORD.

The statement follows.

TRIBUTE TO FORMER SENATOR R. VANCE HARTKE

(By Hon. Bob Mrazek)

It was my privilege to serve on the staff of former U.S. Senator R. Vance Hartke (D-Indiana), from 1969 to 1971. These were tumultuous times for the United States in the bitter aftermath of the assassinations of Senator Robert F. Kennedy and Dr. Martin Luther King, Jr. As the Vietnam War continued to cause deep divisions in the nation's social and political fabric, I was proud to witness Senator Hartke's courageous opposition to that war, which he began at great personal cost in 1965.

Throughout his 18 years of service as a U.S. Senator, Vance Hartke demonstrated absolute fearlessness and political courage in taking principled stands on the most important issues facing the nation, often at the risk of prematurely ending his career. His prodigious legislative achievements undoubtedly distinguish Vance Hartke as one of the greatest Senators of the 20th century.

From his contributions to creating the Head Start program and Medicare to the Guaranteed Student Loan Program and the International Executive Service Corps, Senator Hartke was a leader who made America and the world a better, more humane place.

I am honored to call this legendary legislator my friend. In what I believe is a long overdue tribute, I would like to present the highlights of a career that continues to have a positive impact on our country and the entire world.

Senator Hartke is credited by the definitive book on the Great Society, Guns or Butter, with being one of six Senators who passed Medicare, the crown jewel of the Great Society. He is often called the "Father of Medicare." The Jeffersonville Evening News wrote that he was, "instrumental in gaining passage of more legislation to benefit the elderly than any other senator."

Vance Hartke created his own Peace Corps, the International Executive Service Corps still going strong after 30 years, with activities all over the world. The U.S. "business peace corps" has been emulated in 23 developed countries in the world, with 35,000 business leaders participating, with each replicated version also having outreach to every developing country in the world.

His successful passage of the Kidney Dialysis Amendment saved 500,000 lives and continues to save lives today, earning him the following observation by Richard Margolis: "We can measure our greatness in compassion, too." Perhaps this quote best represents Hartke's legacy.

During his 18 years in the U.S. Senate, Hartke spearheaded the passage of every major educational bill, among them, the Guaranteed Student Loan Act and the Adult Education Act, which are still going strong today. He has a perfect voting record as rated by the National Education Association.

As a matter of personal conscience, he broke with President Lyndon Johnson in 1965 to oppose the war in Vietnam at a time when fewer than 300 Americans had been killed.

Senator Hartke was a Civil Rights champion—even in the face of death threats to his family in Indiana from the Ku Klux Klan.

Ralph Nader said of Hartke, "He was the most consistently effective advocate of the consumer in the Senate."

Ed Lewis, the well-known Indiana lawyer who died in 1996, called him "a visionary, an environmentalist before people knew how to spell the word." The national environmental community honored him with a "Special Tribute" at the 1997 Clinton-Gore Environmental Inaugural Ball.

Senator Hartke was a candidate for President of the United States in 1972.

In summation, this prodigious record of achievement represents not only a tremendous contribution to the people he represented for 18 years in Indiana, but to every citizen of this nation who has benefitted from the legacy he created for us.●

S. RES. 68

Whereas millions of women and girls living under Taliban rule in Afghanistan are denied their basic human rights;

Whereas according to the Department of State and international human rights organizations, the Taliban continues to commit widespread and well-documented human rights abuses, in gross violation of internationally accepted norms;

Whereas, according to the United States Department of State Country Report on Human Rights Practices (hereafter "1998 State Department Human Rights Report"), violence against women in Afghanistan occurs frequently, including beatings, rapes, forced marriages, disappearances, kidnapings, and killings;

Whereas women and girls under Taliban rule are generally barred from working, going to school, leaving their homes without an immediate male family member as chaperone, and visiting doctors, hospitals or clinics;

Whereas according to the 1998 State Department Human Rights Report, gender restrictions by the Taliban continue to interfere with the delivery of humanitarian assistance to women and girls in Afghanistan;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women are forced to don a head-to-toe garment known as a burqa, which has only a mesh screen for vision, and many women found in public not wearing a burqa, or wearing a burqa that does not properly cover the ankles, are beaten by Taliban militiamen;

Whereas according to the 1998 State Department Human Rights Report, some poor women under Taliban rule cannot afford the cost of a burqa and thus are forced to remain at home or risk beatings if they go outside the home without one;

Whereas according to the 1998 State Department Human Rights Report, the lack of a burqa has resulted in the inability of some women under Taliban rule to get necessary medical care because they cannot leave home;

Whereas according to the 1998 State Department Human Rights Report, women under Taliban rule reportedly have been beaten if their shoe heels click when they walk;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women in homes must not be visible from the street, and houses with female occupants must have their windows painted over;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women are not allowed to drive, and taxi drivers reportedly have been beaten if they take unescorted women as passengers;

Whereas according to the 1998 State Department Human Rights Report, women under Taliban rule are forbidden to enter mosques or other places of worship; and

Whereas women and girls of all ages under Taliban rule have suffered needlessly and even died from curable illness because they have been turned away from health care facilities because of their gender: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the President should instruct the United States Representative to the United Nations to use all appropriate means to prevent any Taliban-led government in Afghanistan from obtaining the seat in the United Nations General Assembly reserved for Afghanistan so long as gross violations of internationally recognized human rights against women and girls persist; and

(2) the United States should refuse to recognize any government in Afghanistan which is not taking actions to achieve the following goals in Afghanistan:

(A) The effective participation of women in all civil, economic, and social life.

(B) The right of women to work.

(C) The right of women and girls to an education without discrimination and the reopening of schools to women and girls at all levels of education.

(D) The freedom of movement of women and girls.

(E) Equal access of women and girls to health facilities.

(F) Equal access of women and girls to humanitarian aid.

## ORDER FOR STAR PRINT

Mr. ENZI. Mr. President, I ask unanimous consent there be a star print of S. 74, with the changes that are at the desk.

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

## ACKNOWLEDGMENT OF ARLENE SIDELL

Mr. McCAIN. Before we begin to consider items on today's agenda for our Executive Session, I would like to take a moment to acknowledge and extend my heartfelt thanks to Arlene Sidell. Arlene, sitting before us, is the Director of the Commerce Committee Public Information Office, and our official clerk for committee executive sessions. This will be the last time we will see Arlene at one of our mark-ups, as she will soon be retiring from an exemplary career in public service.

Arlene began her tenure with the Commerce Committee 36 years ago, in March of 1963. She has served the Senate and our Committee with distinction ever since, and will certainly be missed. Again, Arlene, please know how grateful I am for your dedication, commitment and tireless efforts on behalf of the Members, both past and present, of this Committee.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. ENZI. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider en bloc all nominations reported by the Armed Services Committee today and the following nominations on the Executive Calendar: No. 60, 61, 62, 63, 65, 66, 67, and the Coast Guard nominations on the Secretary's desk.

I further ask unanimous consent the nominations be confirmed, the motion to consider be laid upon the table, 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.

The nominations considered and confirmed en bloc are as follows:

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brig. Gen. Harry D. Gatanas, 0000

IN THE MARINE CORPS

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

William D. Catto, 0000
Tony L. Corwin, 0000
Robert C. Dickerson, Jr, 0000
Jon A. Gallinetti, 0000
Timothy F. Ghormley, 0000
Samuel T. Helland, 0000
Leif H. Henderickson, 0000
Richard A. Huck, 0000
Richard S. Kramlich, 0000
Timothy R. Larsen, 0000
Bradley M. Lott, 0000
Jerry C. McAbee, 0000
Thomas L. Moore, Jr. 0000
Richard F. Natonski, 0000
Johnny R. Thomas, 0000

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Arthur J. Naparstek, of Ohio, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2003.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Ruth Y. Tamura, of Hawaii, to be a Member of the National Museum Services Board for a term expiring December 6, 2001.

NATIONAL SCIENCE FOUNDATION

Chang-Lin Tien, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2004.

Joseph Bordogna, of Pennsylvania, to be Deputy Director of the National Science Foundation.

IN THE COAST GUARD

The following named officer for appointment as Commander, Atlantic Area, United States Coast Guard, and to the grade indicated under title 14, U.S.C., section 50:

*To be vice admiral*

Rear Adm. John E. Shkor, 0000

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Captain Evelyn J. Fields, NOAA for appointment to the grade of Rear Admiral (0–8), while serving in a position of importance and responsibility as Director, Office of NOAA Corp Operations, National Oceanic and Atmospheric Administration, under the provisions of Title 33, United States Code, Section 853u.

Captain Nicholas A. Prahl, NOAA for appointment to the grade of Rear Admiral (0–7), while serving in a position of importance and responsibility as Director, Atlantic and Pacific Marine Centers, National Oceanic and Atmospheric Administration, under the provisions of Title 33, United States Code, Section 853u.

IN THE COAST GUARD

Coast Guard nomination of James W. Bartlett, which was received by the Senate and appeared in the Congressional Record of March 8, 1999

Coast Guard nominations beginning William L. Chaney, and ending William E. Shea, which nominations were received by the Senate and appeared in the Congressional Record of March 8, 1999

Coast Guard nominations beginning Ashley B. Aclin, and ending Michael J. Zeruto, which nominations were received by the Senate and appeared in the Congressional Record of April 15, 1999.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

Mr. ENZI. Mr. President, I thank everyone for their indulgence. I note it is now after 9 o'clock, so the pages will not have to have class tomorrow.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, upon the recommendation of the majority leader, pursuant to Public Law 105–292, appoints Michael K. Young, of Washington, DC, to the United States Commission on International Religious Freedom, vice William Armstrong.

## ORDER FOR TUESDAY, MAY 11, 1999

Mr. ENZI. I ask unanimous consent that the Senate begin consideration of S. 254, the juvenile justice bill, at 9:30 a.m. on Tuesday, May 11, 1999.

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

## ORDERS FOR MONDAY, MAY 10, 1999

Mr. ENZI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Monday, May 10. I further ask consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business until 2 p.m., with the time equally divided between the majority leader or his designee and the minority leader or his designee, with Senator COLLINS allotted 15 minutes of the majority leader's time.

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

## PROGRAM

Mr. ENZI. For the information of all Senators, the Senate will convene on Monday, May 10, at 12 noon with a period of morning business until 2 p.m. Therefore, there will be no rollcall votes during Monday's session of the Senate.

## ADJOURNMENT UNTIL MONDAY, MAY 10, 1999

Mr. ENZI. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:12 p.m., adjourned until Monday, May 10, 1999, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate May 6, 1999:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

*To be Rear Admiral*

REAR ADM. (LH)DAVID S. BELZ, 0000.
REAR ADM. (LH)JAMES S. CARMICHAEL, 0000.
REAR ADM. (LH)ROY J. CASTO, 0000.
REAR ADM. (LH)JAMES A. KINGHORN, JR., 0000.
REAR ADM. (LH)ERROLL M. BROWN, 0000.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. ROGER A. BRADY, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. GARY H. MURRAY, 0000.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE VICE CHIEF OF STAFF, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3034:

*To be General*

LT. GEN. JOHN M. KEANE, 0000.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be Lieutenant General*

MAJ. GEN. RAYMOND P. AYRES, JR., 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be Lieutenant General*

MAJ. GEN. EARL B. HAILSTON, 0000.

## CONFIRMATIONS

Executive nominations confirmed by the Senate May 6, 1999:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

ARTHUR J. NAPARSTEK, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2003.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

RUTH Y. TAMURA, OF HAWAII, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2001.

NATIONAL SCIENCE FOUNDATION

CHANG-LIN TIEN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004.

JOSEPH BORDOGNA, OF PENNSYLVANIA, TO BE DEPUTY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA, UNITED STATES COAST GUARD, AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50:

*To be vice admiral*

REAR ADM. JOHN E. SHKOR, 0000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CAPTAIN EVELYN J. FIELDS, NOAA FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (0-8), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, OFFICE OF NOAA CORP OPERATIONS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

CAPTAIN NICHOLAS A. PRAHL, NOAA FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (0-7), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, ATLANTIC AND PACIFIC MARINE CENTERS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. HARRY D. GATANAS, 0000.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

WILLIAM D. CATTO, 0000
TONY L. CORWIN, 0000
ROBERT C. DICKERSON, JR., 0000
JON A. GALLINETTI, 0000
Timothy F. Ghormley, 0000
Samuel T. Helland, 0000
Leif H. Hendrickson, 0000
Richard A. Huck, 0000
Richard S. Kramlich, 0000
Timothy R. Larsen, 0000
Bradley M. Lott, 0000
Jerry C. McAbee, 0000
Thomas L. Moore, Jr., 0000
Richard F. Natonski, 0000
JOHNNY R. THOMAS, 0000

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S. CODE, SECTION 211:

*To be lieutenant*

JAMES W. BARTLETT, 0000

COAST GUARD NOMINATIONS BEGINNING WILLIAM L. CHANEY, AND ENDING WILLIAM E. SHEA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 8, 1999.

COAST GUARD NOMINATIONS BEGINNING ASHLEY B. ACLIN, AND ENDING MICHAEL J.ZERUTO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 15, 1999.