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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, a very present Help in trouble, You do not send natural catastrophes but help us to endure them. Our minds and hearts are focused on the tragic deaths and the destruction left in the aftermath of the series of tornadoes that wracked the Oklahoma City area and sections of Kansas, leaving more than 45 people dead and homes and neighborhoods razed. Especially we pray for the families who lost loved ones and had their homes destroyed. Care for them with Your sustaining comfort and strength. Bless the police, emergency workers, doctors, and medical personnel who are seeking to help those who are suffering. Strengthen Senators DON NICKLES and JIM INHOFE of Oklahoma and SAM BROWNBACK and PAT ROBERTS of Kansas as they give leadership in this emergency.

We commit to You the work of the Senate today. Guide the Senators in all that they do and say, discuss, and decide. As crises at home and abroad mount, grant them clear minds, steady hearts and wills to seek and to know You and do Your will. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, this morning the Senate will immediately begin a rollcall vote on the Byrd resolution, S. Res. 94, commending Rev. Jesse Jackson for his role in the return of our POWs. Following the vote, the Senate will be in a period of morning business until 11 a.m., with Senators COVERDELL and DORGAN in control of that time. At 11 a.m. the Senate will resume consideration of the Sarbanes substitute amendment to S. 900, the financial modernization bill, with a vote on the Gramm motion to table occurring at approximately 12 noon. Additional amendments are expected and therefore Senators can expect votes throughout today's session of the Senate.

I thank my colleagues for their attention.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDENT pro tempore. The able Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRAYERS FOR THE PEOPLE OF OKLAHOMA AND KANSAS

Mr. BYRD. Mr. President, I thank the Chaplain for his prayer. This is a nation which, in the words of Benjamin Franklin, believes in the scriptures and particularly that scripture to which Franklin called the attention of the other framers of the Constitution in Philadelphia in 1787:

> Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.

We, the colleagues of the Senators from Oklahoma and Kansas, share their concern about the people who have lost lives, loved ones, and property. Our hearts go out to their constituencies and to them as well as they serve their people every day.

COMMENDING THE REVEREND JESSE JACKSON

Mr. BYRD. Mr. President, let me read the resolving clause of the resolution on which we are about to vote.

> (1) The Senate commends the Reverend Jesse Jackson for his successful efforts in securing the release of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales and for his leadership and actions arising from his deep faith in God; and
>
> (2) The Senate joins the families of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales in expressing relief and joy of their safe release.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, Two days ago, when that military transport plane touched down at Andrews Air Force Base and we saw our three American soldiers safe again at last, I said, instinctively, ''thank you.''

''Thank you, God, and thank you, Jesse Jackson, for bringing Steven Gonzales, Andrew Ramirez and Christopher Stone safely home from their captivity in Serbia.'' Millions of people all across our country, I suspect, said much the same thing. I am pleased today to repeat those words here, in the United States Senate, and to support this resolution honoring Reverend Jackson and the others in his delegation who played such a critical role in securing the release of our service men.

''When I was in prison, you visited me.'' That was one of the ways Jesus said we could recognize those who do his work. In daring to visit our soldiers in prison in Serbia, Reverend Jackson and the delegation of religious leaders who accompanied him surely were following Jesus's teachings as they understood them. Our nation owes them a debt of gratitude.

Some have questioned the wisdom of the delegation's trip. There has been speculation about what effect their going to Serbia could have on political or military tactics. Frankly, I don't want to get into that debate. This was not a political or military mission. It was a humanitarian mission.

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

Much praise rightly goes to Reverend Jackson, who organized the trip. I also want to acknowledge another member of the delegation: Congressman ROD BLAGOJEVICH, a second-term Congressman from Chicago's North Side, and the only Serbian-American in the House of Representatives.

There are moments in history where a person emerges who seems almost to have been born to fulfill a critical role. On this mission, ROD BLAGOJEVICH was that person. Not only is he a man of significant political and moral courage, he is also the son of Yugoslav immigrants. His father spent four years in a Nazi POW camp during World War II. He learned to speak Serbo-Croation as a child, and still speaks it.

I remember when I first was elected to the House. I sought out several of my political heroes to ask them ''How can a young Congressman make a difference—a real difference—in people's lives?'' ROD BLAGOJEVICH has found an answer to that question. Steven Gonzales, Andrew Ramirez and Christopher Stone are united today with their families, in large measure because of the courage he, and Reverend Jackson, and the other religious leaders in their delegation displayed in going to Serbia.

Today's Washington Post contains an interesting account of their mission, from the time it was first conceived by Reverend Jackson through their triumphant return home. I ask unanimous consent that a copy of that article be printed in the RECORD.

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

[From the Washington Post, May 5, 1999]

MISSION ACCOMPLISHED: THE CONGRESSMAN WHO PULLED STRINGS FOR POWS' RELEASE

(By Kevin Merida)

The interview begins with a little shake-rattle-and-roll. Rod Blagojevich doing Elvis Presley.

''I'm all shook up, unh-hunh-hunh.''

Blagojevich is a huge fan of The King (''Do you think he's still alive?''), and he's feeling loose. It's not often—let's say never—that a second-term congressman from the North Side of Chicago can thrust himself onto the international stage, help rescue three Americans held captive and claim a patch of glory. That would be the patch right behind Jesse Jackson's. Meaning he's in all the brought-back-our-boys camera shots, but not prominently placed. But he's okay with that. Blagojevich is the boyish-looking dude with the mop of brown hair combed to the left, a cross between John Travolta and Henry Winkler. He sometimes takes his meals at Ben's Chili Bowl on U Street. No one recognizes him there. Maybe someone will recognize him now.

Without Rod Blagojevich (pronounced bla-GOYA-vich), there might not have been a trip to Belgrade, no meeting with President Slobodan Milosevic, no tearful family reunions this week for U.S. soldiers Christopher Stone, Andrew Ramirez and Steven Gonzales. Blagojevich was the arranger, working his contacts in the Serbian American community when it looked like the trip was dead. Those contacts ultimately cleared a path to Milosevic himself.

Not that the whole country is applauding. Some administration officials carped—anonymous carping is the best fun of all—that the unofficial Jackson peace mission only undercut the NATO bombing campaign and could potentially fracture the allies. Not to mention that it might damage President Clinton's credibility at home on the war. Pundits spouted: PR props for the Serb-led Yugoslav government.

''If Mother Teresa had been one of those prisoners and we had gotten her out, we would have been criticized,'' Blagojevich says. ''I guess if you're not being criticized, you're not important. But it's thrilling to be in the mix. It sure beats digging a ditch for a living.''

Blagojevich, 42, a Democrat, is the only House member of Serbian descent, which is perhaps the key part of this story. He grew up speaking both English and Serbo-Croatian. Still does. His father, Rade, was an immigrant to this country. A Yugoslavian army officer, Rade Blagojevich was captured by the Nazis in World War II and spent four years in a German POW camp. He eventually made his way to the United States and married a Chicago-born woman whose parents had emigrated from Bosnia-Herzegovina.

Together they tried to raise Rod and his brother as Americans, but as Americans with a rich understanding of their ancestry. Often, their mother would pull in one direction and their father would tug in the other.

It was one thing to play the tamburitza, a ukulele-like instrument; it was another thing to sport the white-socks-and-sandals look that his dad thought was authentically Yugoslav.

''I don't want to wear that,'' he told his father. ''I'm going to get laughed out of the neighborhood if I wear that. That's a bad look.''

Blagojevich parents have passed away, but it is with their memory in mind and all that he has learned about Serb culture over the years that he injected himself into this war. He felt he had a unique perspective to offer. Ironically, some in the Serbian community here have been disappointed in him for not being more active in Serbain American affairs.

Shortly after the soldiers were captured on March 31, Blagojevich telephoned national security adviser Samuel ''Sandy'' Berger and White House chief of staff John Podesta to offer his help. Nothing grew out of those calls. He then read in the newspapers that Jackson wanted to take a delegation of American religious leaders over to visit the soldiers and try to win their release. Jackson was having trouble getting guarantees from Milosevic that the delegation could even see the GIs.

Blagojevich approached Rep. Jesse Jackson Jr. (D–Ill.) on the House floor and mentioned that he had some contacts who might be able to help. The younger Jackson put Blagojevich in contact with his father. Blagojevich got to work. Soon, he was talking directly to Yugoslavian deputy premier Vuk Draskovic. Things were working out. Draskovic had assured the group's safety and a visit with the soldiers. The soldiers would be allowed to talk to their families. He'd get it in writing. The trip was back on. Except on the eve of departure, the maverick Draskovic was axed.

Blagojevich recalls the Rev. Jackson's reaction to that development as they were hashing out last-minute details for the trip in Washington. He lapses into his Jackson impersonation. ''Blagojevich, our boy just got fired. You got any others out there?''

Actually, Blagojevich did.

Once in Belgrade, it was Jackson who set the agenda, Jackson who commanded the spotlight. Blagojevich, as he put it, ''worked the corridors'' and took advantage of his ''cultural connection'' and ability to speak the language.

As Blagojevich explained his role in a conversation in his office yesterday, he pulled out two business cards. Nebojsa Vujovic, spokesman for the Federal Ministry of Foreign Affairs, Federal Republic of Yugoslavia. They had a common friend in Chicago. Bogoljub Karic, minister without portfolio, Republic of Serbia. He had met with this guy in his congressional office two days before the bombing campaign. He later saw the same man on TV emerging from a Milosevic cabinet meeting.

While all the attention was focused on Jackson, Blagojevich says, ''it was proper and part of the strategy to be working these other guys. He and I were working different angles.''

Jackson and Blagojevich both were in the three-hour meeting with Milosevic on Saturday morning that produced the release of the American prisoners the next day. Jackson then met with Milosevic privately.

The trip produced some light moments amid all the intensity and emotion—Blogojevich, a member of the House Armed Services Committee, greeted Sgt. Stone by promising him a raise—but there were no light moments with Milosevic.

''I detected absolutely no warmth toward me,'' Blagojevich says. ''In fact, I detected a decided lack of warmth.''

A lack of warmth? Could it be that Milosevic remembered that this Chicago congressman had pronounced him guilty of ''ethnic cleansing'' and compared his tactics to those of Nazi leaders?

Once back home, Jackson, Blagojevich and others met at the White House Monday evening with Clinton. Secretary of State Madeleine Albright was there. Berger was there. Vice President Gore dropped by for a moment.

Jackson gave a detailed explanation and interpretation of what the delegation heard and saw in Belgrade. He said that Milosevic's gesture deserved to be matched. He talked of other leaders who were so far apart, but had talked to each other and had become closer over time. Sadat and Begin.

''Then I was up,'' recalled Blagojevich, who told Clinton that the Serbs weren't backing down. He pitched his proposal for a partition of Kosovo, which would give Serbs control of the northern region where most of the Orthodox cathedrals and historic sites important to them are located. An autonomous homeland would be created in the south for the ethnic Albanians driven out by Milosevic's forces.

''I like Clinton. I'm happy I voted to impeach him. I do think he needs to step up to the plate and take charge of this. With all due respect, I think Madeleine Albright and Sandy Berger are running the show.''

Blagojevich says he is ''extremely skeptical'' that the bombing campaign will be successful. The NATO allies have underestimated the Serbs' resolve, he believes. ''Despite the bombs, daily life goes on.'' The timing for a negotiated solution is right, he thinks.

The administration apparently thinks not.

''They were on a mission of peace and it was successful,'' says National Security Council spokesman David Leavy of the Jackson-led group, ''but the fundamental reality remains the same. There are a million Kosovars who are not going home to their families.''

However the war ends, the Jackson-Blagojevich bond has strengthened.

''I feel like I'm a second cousin now,'' Blagojevich says.

The younger Jackson puts the relationship in context: Blagojevich's father-in-law, Alderman Dick Mell, is a longtime Chicago machine boss. Blagojevich's district, 1 percent black, is a bastion of white ethnic pride. For

many years, it was represented by Dan Rostenkowski. It is not a district in which Jesse Jackson and Jesse Jackson Jr. are exactly popular.

''Us relating to Rod and Rod relating to us is something taboo,'' Rep. Jackson explains, noting that although he and Blagojevich and their wives have grown close personally, he understands that the North Side member takes flak for the association.

''You being part of that Jackson thing is really going to cost you your career,'' says Jackson Jr., imitating his friend's critics. ''But after this trip, he is now officially an honorary South Sider. Apparently, it was a great growing experience for both him and Reverend Jackson.''

After his 15 minutes of fame at Jackson's side, Blagojevich's only question is this: ''When do I take my seat on the back bench again?''

Mr. MCCAIN. Mr. President, I will vote for this resolution because I share in the happiness and relief that the families of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales, and all Americans feel now that these fine young men have been released from captivity. We are all thankful that they are home, safe from harm.

I do not believe, however, that private diplomacy that is at odds with our country's objectives in this war and public relations stunts by Mr. Milosevic deserve our praise. I cannot commend the participation of any American in his propaganda.

RESERVATION OF LEADER TIME

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

COMMENDATION OF THE EFFORTS OF THE REVEREND JESSE JACKSON

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on adoption of S. Res. 94, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 94) commending the efforts of the Reverend Jesse Jackson to secure the release of the soldiers held by the Federal Republic of Yugoslavia.

The PRESIDING OFFICER. 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. HELMS (when his name was called). Present.

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

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

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

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I also announce that the Senator from Louisiana (Ms. LANDRIEU) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Louisiana (Ms. LANDRIEU) would vote ''aye.''

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

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—92

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

ANSWERED ''PRESENT''—5

Fitzgerald	Sessions	Warner
Helms	Thomas	

NOT VOTING—3

Dorgan	Landrieu	Moynihan

The resolution (S. Res. 94) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 94

Whereas on March 31, 1999, Staff Sergeant Andrew A. Ramirez, Staff Sergeant Christopher J. Stone, and Specialist Steven M. Gonzales were taken prisoner by the armed forces of the Federal Republic of Yugoslavia while on patrol along the Macedonia-Yugoslav border;

Whereas Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales conducted themselves throughout their ordeal with dignity, patriotism, and faith;

Whereas the Reverend Jesse Jackson led a delegation of religious leaders to the Federal Republic of Yugoslavia that succeeded in negotiating the release of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales; and

Whereas the Reverend Jesse Jackson has previously succeeded in securing the release of hostages held in Syria, Cuba, and Iraq: Now, therefore, be it

Resolved, That—

(1) the Senate commends the Reverend Jesse Jackson for his successful efforts in securing the release of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales, and for his leadership and actions arising from his deep faith in God; and

(2) the Senate joins the families of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales in expressing relief and joy at their safe release.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business for 10 minutes.

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

MIDWEST TORNADOES

Mr. NICKLES. Mr. President, yesterday, Senator INHOFE and myself, Congressmen J.C. WATTS, FRANK LUCAS and STEVE LARGENT, as well as the Governor of Oklahoma, and James Lee Witt, Director of FEMA, toured the Oklahoma tornado disaster.

I have been in the Senate, I guess, 19 years now, and I have looked at the damage of several tornadoes in the State for the last many years. But I have never seen this type of devastation nor this level and this extent before. This may be the most devastating tornado that we have had in total damages in our State history. It has certainly produced one of the largest tornadoes, probably the largest number of tornadoes. I read one press account that said there were 45 tornadoes in the State of Oklahoma on Monday. One particular tornado was much larger than the others. Many reports said it was a quarter of a mile wide, or maybe half a mile wide, and at some points it was maybe a mile wide and stayed on the ground for a long period of time—some people said maybe as much as 2 hours.

What we did see was a tremendous amount of damage—a devastating amount of damage that destroyed, it was estimated, 1,500 or 2,000 homes. We will find out. Unfortunately, it has taken 40-some lives. I say unfortunately. I think Oklahoma is very fortunate. I think the fatality toll could have been in the hundreds if not thousands, because we looked at homes that were just totally demolished as if a bomb had gone inside each one of those homes and absolutely exploded the homes. There was nothing but just some elements of rubble. To think that people survived in many of these homes is truly a blessing, truly a miracle that I think we will find recounted day after day.

Needless to say, we are moved by the tragedy, and also by the compassion that is being expressed by so many people from across the country.

We were there to say that we wanted to help, that our government would help, that we will do everything that we can. Our government steps in in times of tragedy and national disasters to help lend assistance. And we will do that.

I will also say that won't be enough. It will take a lot of support from individuals, from churches, from communities, from families and friends to try to replace these homes and these families, and to make them whole again. And they will. They will survive. They are very solid.

One of the things I will never forget was seeing this area that is totally demolished and one house which hardly had anything left standing, and there was an American flag flying very high with people very proud.

Mr. President, it makes me proud to be an Oklahoman. It makes me proud to be an American, and proud to represent the great people of Oklahoma.

With that, Mr. President, I yield the remainder of my time to my colleague from Oklahoma, Senator INHOFE.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Thank you, Mr. President. I thank my colleague, the senior Senator from Oklahoma.

Mr. President, in Oklahoma we have gone through tragedies that are indescribable. The Murrah Federal Office Building was the most significant terrorist attack on domestic soil in the history of America. It is one that you can't describe standing here on the Senate floor. I have been there. And I remember so well the thundering march, the cadence of the fire trucks as they were going to try to extract so many people out of the building, and all types of volunteers.

We saw the same thing yesterday. It was indescribable. I note the story of a horse that was picked up and taken a quarter of a mile in the air, and dropped on top of a car, then a car on top of a house, and the twisted ''I'' beams. The power, the indescribable power that was there.

James Lee Witt—I am very complimentary of James Lee Witt, a man I have known long before he was Director of FEMA. As chairman of the committee that has jurisdiction over FEMA, I work very closely with him. And I tell you right now, he had his hands on there. He was personally involved in it. He explained to us that this is the most significant tornado that he had seen in terms of the devastating damage and power that was there.

You always remember one or two things. I recall in the helicopter ride going across a little town called Moore, OK. Everything was devastated in that town, except right across the street from the most devastating part of this tornado stood the First Baptist Church of Moore, OK. It had been untouched.

As my senior Senator from Oklahoma said, we are so appreciative of everyone coming together, for all of the comments of our colleagues since we have been back, the prayers that we had this morning from the Senate Chaplain and others, and people like the Governor of Oklahoma, the mayor of Oklahoma City throughout yesterday, the police departments and the fire departments, all of the volunteers, and certainly FEMA bringing this all together.

We are very thankful, and we in Oklahoma will be bound to that. We ask for your continued prayers for the families, for those who lost their lives, and for the families of those who lost their lives.

I thank very much all of the government coming together to help us rebuild the damage that has been done.

Mr. President, I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak as if in morning business for a period of up to 5 minutes.

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

KANSAS TORNADOES

Mr. BROWNBACK. Mr. President, the State of Kansas was also hit by the same system that hit Oklahoma which caused so much tragedy and damage. I would like to speak for a few minutes on that.

We had a number of families that had homes destroyed. We had five people killed in Kansas, hundreds were injured, and thousands of people lost their homes and businesses. I know they are in the hearts and minds of all Americans today, and we will stand ready to assist in that in any way we can.

The devastation that these tornadoes left in their paths is just shocking.

I want to show you a picture of the aftermath. This was actually taken of the damage that took place in Moore, OK. You can just see the devastating power that is in one of these systems that can rise up so fast and cause so much destruction. In Wichita, the trail of destruction was 15 miles long and 5 miles wide.

As I mentioned previously, five Kansans lost their lives, and more than 70 people were injured from the fatal twisters.

More than 500 homes have been damaged or destroyed, leaving many people homeless.

I have the second picture that I wanted to show people, a view of what has taken place. This is an aerial view of the Lake Shore Trailer Park in South Wichita. You can see where the path of the tornado was, where it was the most intense going through with just absolute destruction in the wake of that path of where it went through.

More than 50,000 people have been left without power.

Sedgwick County, KS, where Wichita is located, has reported that over 1,100 structures were destroyed, and more than 7,100 structures were damaged.

In the town of Haysville, right next to Wichita, 27 businesses have been wiped out, and virtually eliminating the business district of this Wichita suburb.

The father of one of my staffers—the person who is actually my scheduler—is the principal of Chisolm Life Skills Center in Wichita. His entire school was demolished by this tornado.

We are very proud of the rapid response of people who have reached out to help us through this terrible tragedy—the State and local authorities in Kansas, the rescue personnel, the Kansas National Guard, FEMA, and citizens of the Wichita area. They have really reached out in that typical Midwestern tradition of helping others when they are having difficulty.

I am also pleased to report that the President has responded quickly to the situation in both Kansas and Oklahoma by ordering Federal relief to those counties hit by these devastating tornadoes. The American Red Cross and the Salvation Army have provided 800 numbers for those wishing to help victims of these disasters.

I have pictures of a couple of victims. This apartment complex was destroyed in the wake of the path of the tornado. This is a picture of Suzie Dooley and her daughter, Sarah, who is 13, and their family dog, Wilma, trying to gather themselves after losing their mobile home near 55th Street, South, in Wichita. Their faces show the destruction they have been through, but also the hope and thanks they are alive and were not injured in the process.

The Red Cross and Salvation Army are offering shelter for people in Wichita who need help. The Red Cross has an 800 number, 800–HELP–NOW, to contact to provide help. We can provide a local phone number. They are on the Internet at www.DisasterRelief.org. Funds can be sent to the American Red Cross in Wichita. The Salvation Army has an 800 number as well.

I know the nature of Kansans and Americans is to help one another in a time of need. I will work with Federal and State authorities to provide fast and effective relief to families and communities harmed by this natural disaster.

I know I speak for my Senate colleague, my fellow Senator from Kansas, Senator PAT ROBERTS, in saying we will continue to keep the victims and their families in our actions, thoughts, and prayers as we hope much of the rest of the country will in this very difficult time.

I yield the floor.

Mr. COVERDELL. Mr. President, I am sure all of our colleagues express our deep sympathy to the Senators from Oklahoma and Kansas and the communities that were so devastated by these storms.

We have all seen these disasters happen, and then the inspiration that Senator NICKLES alluded to, with everyone coming together. Clearly, this takes a lot of effort and a long time to dig out.

Our prayers will be with these Senators and these citizens of the fine States of Oklahoma and Kansas.

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

Mr. CONRAD. Mr. President, I add my words to those who talked about the tragedy in Oklahoma this morning. I remember watching television last night and seeing the power and the destructive might of those storms that swept across Oklahoma and parts of Kansas as well.

I have a feeling for what the people are going through, as a result of the disasters that hit North Dakota in 1997. We had the worst flood in 500 years in Grand Forks, ND, and we had 95 percent of the town evacuated, the largest mass evacuation of a city in the United States since the Civil War. I know the trauma those people are facing, and I know the difficulty of recovery.

Our hearts go out to the people in Oklahoma and Kansas who have been so affected. I hope they know that we are prepared to respond and to help. We in North Dakota remember very well how people reached out a helping hand to our State, so many people from around the country who actually came to North Dakota to help us rebuild—the Red Cross, the other organizations, the Salvation Army. We had a woman from California who came to town and gave $2,000 to every family that had been affected, a gift of tens of millions of dollars.

We remember very well the Federal Government's rapid response, the agencies of the Federal Government that moved to assist the people who were affected. FEMA did an absolutely superb job under the leadership of James Lee Witt. We will never forget it. The Department of Housing and Urban Development, under the leadership of Secretary Cuomo, did a superb job, and we will never forget their help. The SBA was quick to move in to help businesses. We know all of those agencies will be ready to respond in Oklahoma and Kansas as well.

I hope that we see the Congress respond. I believe the people in Oklahoma and Kansas deserve the same kind of rapid and full response that we received in North Dakota. Frankly, I hope they don't face some of the delays we faced in trying to get a congressional response, because when people are devastated, they should not have to wait for help. This Government is big enough and strong enough and this country is generous enough to move to help immediately.

Mr. President, again, our hearts go out to the people in Oklahoma and Kansas who have lived through this trauma; and to those who have lost relatives and loved ones, we share their deep sorrow.

TEACHER APPRECIATION WEEK

Mr. COVERDELL. Mr. President, this week is Teacher Appreciation Week. Yesterday was National Teacher Day.

For a number of our colleagues, education is such a core subject—both of the 105th Congress and now in the 106th Congress—Members want to express themselves on this subject.

I am joined today by the distinguished Senator from Mississippi with some opening remarks about Teacher Appreciation Week.

I yield up to 4 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me congratulate my friend, the distinguished Senator from Georgia, for organizing this special order and allowing this opportunity to speak on the subject of Teacher Appreciation Week.

TRIBUTE TO TINA SCHOLTES, MISSISSIPPI'S TEACHER OF THE YEAR

Mr. COCHRAN. Mr. President, I am proud to cosponsor the Senate Resolution proclaiming this week Teacher Appreciation Week.

This week, in every state, students and parents are taking time to thank the school teachers, and we should too. They are the true heroes in our nation's effort to enrich the lives of all our citizens through education.

I want to pay tribute today to a special Mississippi teacher. She is Mississippi Teacher of the Year, Mrs. Tina Fisher Scholtes, of Sudduth Elementary School in Starkville, Mississippi. Tina has been an elementary school teacher for sixteen years. She has spent the past fourteen years teaching first grade in Starkville.

First grade lays the foundation for formal education. Every parent hopes their child will begin school with an excellent teacher. Tina Scholtes is without a doubt an excellent teacher. Being an excellent teacher requires hard work, along with respect for children and an understanding of the learning process. Tina has those attributes and more. She also cares about outcomes. She wants all her students to succeed.

Beyond the Masters Degree she earned at Mississippi State University, Tina has completed professional development for teaching reading and mathematics; the special needs of teaching deaf students; National Board Certification; and training other teachers. Her resume is evidence of her capacity for gaining knowledge and sharing it with others. While continuing her first grade teaching, she has returned to Mississippi State University where as a clinical instructor she directs the activities of student teachers.

Tina has brought new teaching techniques into the schools where she has taught. She serves as a mentor to new teachers and has developed school wide curriculum reforms. She also has used local television programs to provide early childhood education lessons to parents.

Another indication that she is a dedicated teacher is her participation in the Parent Teacher Association where she served as President while teaching at Emerson Elementary School. Tina recognizes the importance of teachers participating in the community and is active in her church, and in other community activities.

I was very pleased that Tina Scholtes took time to visit my office when she was in Washington recently for the National Teacher of the Year recognition events.

I congratulate her on all her successes. The first graders in Starkville, Mississippi are lucky, indeed, to begin their lives as students with Tina Scholtes, and we are all grateful to her for being such a good example for other teachers to follow.

Mr. COVERDELL. Mr. President, I yield up to 4 minutes to the distinguished chairman of the Labor-Education Committee, Senator JEFFORDS.

The PRESIDING OFFICER. Senator JEFFORDS is recognized.

Mr. JEFFORDS. Mr. President, it is a pleasure to participate in honoring our teachers in National Teacher Appreciation Week.

I think we all remember those early years of our lives when we started school. I still remember the first day of first grade. I remember going to school in my father's hand and fearing what was going to happen to me. I remember Mrs. Anderson who greeted us all individually at the door and how immediately I warmed up to her. It was then I realized this really wasn't going to be as bad as I thought. I can even remember where my seat was that year.

Ms. Maughn, in second grade, was another wonderful person. The teacher I remember more was Viola Burns, my third grade teacher. That was the beginning of World War II. She realized I needed a little further work so she had me read Time magazine and come back to her to talk about it. I also had her in the sixth grade. She was an incredible individual who helped shape my life.

Then fourth grade was ''teacher unappreciation year''—I don't want to remember that. We rebelled. We ran through five teachers before we settled down. I wiped that from my memory. I feel sorry for those five teachers.

I think everyone has memories and understands what an incredible help a teacher can be in our lives.

My mother was a music and art teacher; my sister, a third grade teacher; my niece is a teacher; the man across the street was the principal of our high school.

Those schools are gone. My former elementary school is now a private school, a Christian church school; middle school is the fire station; my high school is now the middle school.

I still remember the teachers. It is not brick and mortar but the teachers that make a difference. Dindo Rivera goes around the country talking about the changes in education and how important it is. If an office worker had fallen asleep 20 years ago, woke up and walked through a modern office, they would be in incredible despair. They wouldn't know what to do. They wouldn't know how to answer the phone.

But he goes on to say that if a teacher had the same experience of falling asleep and waking up now, that teacher would walk into the classroom and find that not much had changed. But the world has changed and our teachers cannot be made the scapegoats. We should not indicate that it is their problem. We, as a nation, have to recognize the teachers need help and we have to give it to them. That means we have to develop professional training. We have to be sure our colleges are producing teachers who are well qualified. At the same time, we have to recognize that our Nation will not prosper if we do not realize it is the teachers who make the difference. We are increasing standards and doing all these things to envelop them with modern technology

which is difficult to understand, especially if you don't have more than 10 minutes in a day to even think about those things.

I think it is incredibly important we all remember the teachers, especially this year, since the Elementary and Secondary Education Act is up for reauthorization. This is our moment, at a critical time in our history, when we must take a look at the problems and the demands and the difficulties that are presented to our teachers and devise the means to help them help us become the Nation we all want to be.

Let's think about our teachers today, remember what they did for us, and think about what we can do for them.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Idaho.

Mr. CRAPO. Mr. President, I want to personally thank you for arranging for us to take this time out of our busy schedules to recognize teachers during Teacher Appreciation Week.

Providing the brightest future for our nation's children is one of the most important things we will do here on the floor of the Senate. After parents and families, America's teachers play the leading role in helping our children reach their potential. Therefore, it gives me great pleasure to join in tribute to our nation's outstanding educators and recognize a few of the top teachers in my home state of Idaho.

We all know the impact of teachers. Five days a week, for 9 months of every year, nearly 3 million teachers in this country help mold our children's future. I believe in the quality education our teachers, administrators, and others provide in Idaho. That is why my children continue to reside in the great State of Idaho. My wife Susan and I made the decision nearly 7 years ago when I was first elected to Congress that she and our children would remain in Idaho. We wanted our children to continue to receive the quality education they now experience in Idaho's public school system.

That quality education takes many faces. I want to show you one of them this morning. Judy Bieze lives in Coeur d'Alene, Idaho and teaches first grade at Hayden Meadows Elementary in nearby Hayden Lake.

Mrs. Bieze was honored this year by the State of Idaho as Teacher of the Year. But she is more than that; she is also a local softball coach and a Sunday school teacher, so I guess that makes her a teacher 7 days a week.

During each school year Mrs. Bieze gives individual attention to her students by profiling each one as the ''Special and Unique'' person of the week. She also encourages parents to volunteer in the classroom and to take an active role in their child's learning.

It is the ability to give of herself that makes Mrs. Bieze special. Her superintendent says she ''exemplifies the initiative and dedication we seek in our educators.'' Mrs. Bieze characteristically deflects that praise and credits her students. She says she—in her words—is ''truly blessed'' as ''the recipient of their unrestrained love, curiosity and enthusiasm for six hours each day.'' If only we could be holding more speeches on the floor of this Senate that deal with issues like love, curiosity and enthusiasm. Mrs. Bieze, we salute you.

I would be remiss in not mentioning some of Idaho's other outstanding teachers. Just last week, Idaho's PTA honored Jeff Durner, a fifth-grade teacher at Jefferson Elementary in Boise. The PTA credits Mr. Durner for helping children ''become the best they can be.''

The Idaho Education Association credits a sixth-grade teacher from my hometown of Idaho Falls as being worthy of special recognition. Zoe Ann Jorgenson has helped develop a special program in her district that groups children based on their needs, not on their age. She says many parents have chosen to keep their children in public schools, rather than move them to private classrooms, based on this innovative and unique program.

Mrs. Jorgenson believes the system should be made to fit the children, not that children be forced to fit the system. She says that parents are looking for choices within the structure of the public school system, and she wants to offer them those choices.

Finally, Idaho Parents Unlimited says a special education teacher formerly from Blackfoot, and now from Meridian, ID deserves credit for trailblazing programs for students that are sometimes forgotten in our school systems.

Barbara Jones earned the title of Special Education Consulting Teacher. One parent in Blackfoot described her as ''a true gift to my son as well as myself.'' Ms. Jones is now helping both fellow teachers and students learn how special needs can offer special rewards.

We all have a stake in this process, because our children's success in education depends on the support they receive at home, and the future of our nation depends on the leaders we are raising today.

Some define leadership as what we do with our opportunities. I am proud to praise these fine Idaho educators who have moved the bar higher—for our children.

Mr. CRAIG. Mr. President, I rise today to recognize teachers across America for the vital work they do. I come from a family of educators, so I have seen firsthand the grueling work teachers go through every day—not for their own gain, but because they care about each and every one of our children. Teachers are not the highest paid people, they are not in the most glamorous profession—but they are, and should be, among the most respected people in our country. That is why it was so important that we declared this week as the 14th Annual Teacher Appreciation Week and that we recognized May 4, 1999, as National Teacher Day.

Mr. President, the resolution that we passed yesterday states that education is key to the very foundation of American freedom and democracy we all enjoy, that teachers have a profound impact on the development of our children, and that much of the success we enjoy here in the United States can be attributed to our teachers. The resolution also states that while ''many people spend their lives building careers, teachers spend their careers building lives.''

Mr. President, I want to take a couple of minutes to recognize a teacher from my home state of Idaho who has truly spent her career building lives. Judy Bieze teaches first grade in Coeur d'Alene, Idaho. Judy got her start with a bachelor's degree in elementary education from Illinois State University, began teaching elementary students in 1971, and hasn't stopped since. For the past 14 years, she has blessed the children of Idaho.

She is an active member of the National Council of Teachers of Mathematics, the International Reading Association, the Panhandle Reading Council, and the Association for Supervision and Curriculum Development. She is a lead teacher in her school and has received numerous grants to do everything from providing books for parents and children to check out and read to underwriting a district-wide inservice training in spelling.

Somewhere amongst all of this, Judy finds time to teach some of Idaho's children. In fact, Judy humbly reflects that her greatest accomplishments come in 6- and 7-year-old bodies.

It is no wonder. Judy practices some techniques in her classes which some may call innovative, while others call them back to the basics. For instance, during the course of the year she takes time to recognize each child in her class as the ''Special and Unique'' person and works each day to recognize each child's accomplishments. Furthermore, she believes that parents must be actively involved in their child's education. From encouraging parents to be involved in classroom activities to weekly letters home to detail what their child has been doing in school, Judy recognizes that parents are first and foremost in a child's education.

Judy has stated that each day she is ''rewarded by the large and small accomplishments of the children entrusted to my care.'' Last year, Judy's peers recognized these accomplishments and her commitment to the education of our children by choosing Judy Bieze as the Idaho State Teacher of the year for 1998–1999.

Judy believes that each child is a unique, unrepeatable miracle. On behalf of the great state of Idaho, I am glad that Judy chose to come to Idaho and work her miracles with our children. I am proud of the work she does, and am pleased that I have the opportunity to recognize her accomplishments today. It is my hope that other

teachers will see what she has done, see how she cares for our children, and strive to follow her lead. With teachers like Judy leading the pack, I have great confidence in the future of our country.

The PRESIDING OFFICER (Mr. CRAPO). The Chair recognizes the Senator from Tennessee.

Mr. FRIST. Mr. President, I ask unanimous consent to speak as in morning business for 6 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object, and I will not object.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent we get 4 additional minutes on this side as well.

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

Mr. FRIST. Mr. President, it is expected the Senate will soon consider a resolution that highlights the week of May 2 to 8 as National Teacher Appreciation Week. We have had a wonderful 2 weeks in this Nation's Capital. Last week the President signed the Ed-Flex bill which returned much of the control—local accountability, local flexibility—to local schools and school districts. This week we honor our teachers.

I rise today to honor the many outstanding teachers across the Nation and especially in my home State of Tennessee. In particular, I would like to highlight the achievements of Ms. Delise Teague, the 1999 Tennessee Teacher of the Year, whom I had the honor to meet, as you can see in this photo, just several weeks ago. This is Delise in the picture.

First, I would like to cite some of the research which paints a clear picture about the quality of a teacher being so critical to the future of our children and their education. Tennessee is one of the few States with data systems in place which make it possible to link teacher performance to student achievement. Researchers have the capability of examining the impact teachers have in terms of their effectiveness, how well they are teaching, and what students actually learn. Data from these studies show the least effective teachers produce gains of approximately 14 percentile points for low-achieving students. However, the most effective teachers produce gains that average 53 percentile points.

The data also reveal that these effects are cumulative over time. In fact, students with three quality teachers in a row, scored over twice as high on math tests as those students with teachers who are less qualified. Thus, we have anecdotal evidence and scientific evidence that a quality teacher has a tremendous impact on students.

One such outstanding teacher is Delise Teague, shown here in this portrait, who teaches English at McNairy Central High School in Selmer, TN. She knows firsthand the impact a quality teacher can have on a student. Using her words, she notes, ''I cannot take personal credit for my success as a classroom teacher. Great teachers shared the light with me. I am simply passing it on.''

She adds it was her first Sunday School teacher whose influence ''served to fan the flame of learning that had been sparked at home by loving parents and an abundance of books.'' She will further tell you that she had several teachers in the public school system who played a key role in her own education and in her decision to pursue a career in teaching. The teachers who motivated Delise in her education were the ones who saw her untapped potential and challenged her. This is a lesson that Delise applies in her own classroom. She challenges her students and believes in their potential to succeed.

In fact, Courtney Carroll, a student at McNairy Central High School, wrote, ''Miss Teague is loved and respected by her students because she truly wants each person who enters her classroom to be successful.''

Delise coaches the varsity softball team and freshman basketball team. She has served on the Technology Literacy Grant Committee, the National Honor Society Selection Committee, and as a student teacher supervisor/mentor. She is active in her community and takes on projects such as distributing fruit baskets for the elderly and providing gifts through the project Angel Tree for underprivileged children and contributing to Saint Jude's Children's Hospital through fundraising efforts.

She is just one wonderful example of the many dedicated teachers in our Nation's schools. In my own past I think of June Bowen, who taught me seventh grade English, and Mary Helen Lowry, who passed away this year, who taught me English through high school. I am so pleased to be able to participate in this effort to honor our Nation's teachers by promoting National Teacher Appreciation Week.

As parents and community members, we should all take a few minutes to celebrate this great cause for our children's future. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank all my colleagues honoring National Teacher Day and Teacher Appreciation Week. I appreciate very much the work Senator FRIST has done on behalf of reform in education.

Mr. President, I am pleased to join my colleagues today to recognize May 2–8, 1999, as the 14th Annual Teacher Appreciation Week, and to commend thousands of dedicated teachers across the nation for their determined efforts to shape the intellect of our children.

The foundation of American freedom and democracy is a strong, effective system of education where every child has the opportunity to learn in a safe and nurturing environment.

America's first rate education system depends on a partnership between parents, principals, teachers and children. The success of our nation for much of the 20th century—is the result of the hard work and dedication of teachers across the land.

While many people spend their lives building careers, teachers spend their careers building lives. Our nation's teachers serve our children beyond the call of duty as coaches, mentors, and advisors without regard to fame or fortune. Across the land nearly 3 million men and women experience the joys of teaching young minds the virtues of reading, writing and arithmetic.

As part of the 14th Annual Teacher Appreciation Week, I'd like to pay special tribute to Andrew Baumgartner of Augusta, Georgia—who was recently named the 1999 National Teacher of the Year.

Mr. Baumgartner, who teaches kindergarten at A. Brian Merry Elementary School in Augusta, has been a teacher for 23 years. His motivation and source of inspiration comes in part from the belief that it was his duty to give something back to society, and he has done so through his teaching.

To achieve his goal of getting kids to learn, Mr. Baumgartner creates a sense of adventure in his classroom. He has used his creativity and imagination to bring the magic of reading and learning to the minds of his kids.

The award, sponsored by the Council of Chief State School Officers and Scholastic, Inc., will send Mr. Baumgartner on a promotional tour as 1999 National Teacher of the Year, where he will share his innovative ideas with other teachers around the nation. I wish Mr. Baumgartner the best of luck during this tour and am confident that he will inspire other teachers with his creativity and willingness to do whatever it takes to get kids to learn.

In closing Mr. President, I call on all my colleagues—on both sides of the aisle—to take a moment this week to give a special thanks to the nearly 3 million important American men and women—like Andy—who have contributed to the emotional and intellectual development of children across the land.

Mr. ABRAHAM. Mr. President, I rise in recognition of Teacher Appreciation Week. During this week we have a special opportunity to thank the dedicated professionals who open our children's eyes to the world of discovery and learning, the world that will open the door to a brighter future for them and for all of Michigan.

Five days a week, for nine months out of every year, America's 2.7 million teachers help to mold our children's future, the future of Michigan, and the future of America. Across Michigan and across the United States, tomorrow's business leaders, inventors, doctors, and even teachers are building the

foundation of learning and experience that will shape their lives and careers.

This week, Mr. President, Michiganites like all Americans are taking time to pay tribute to our teachers, some of the most important people in our children's lives. After parents and families, teachers pay the most important role in helping our children reach their potential. No teacher can take the place of loving and attentive families, but the school experience plays a crucial role in shaping our children's character.

After the tragic events in Colorado, I hope all of us will take the time to think about the difficult job our teachers have, in these troubled times, giving children the structure and habits as well as the knowledge they need to become good citizens and productive adults.

I have always supported calls for better computer technology in our classrooms. And it is true that our children need to learn to use tools that will expand their access to information. But a qualified, highly trained teacher remains the most important education tool in any classroom. Today's technological innovations can help teachers capture our children's attention and bring the world to their eyes and fingertips. But no machine can take the place of a dedicated teacher who genuinely cares about a child's future. With the rapid advance of education technology, we must ensure that our teachers are trained in the most effective educational use of this technology, and that none of us are distracted from the basics of a good education by glittering machines.

Unfortunately, Mr. President, there are disturbing statistics about how well our teachers are prepared to enter the classroom. More than 25 percent of new teachers nationwide enter school without adequate teaching skills or without training in their subject according to the National Commission on Teaching and America's Future. One in seven teachers has not fully met State standards.

We must do more to ensure that our teachers are fully prepared to meet the increasing challenges of their profession. We must take advantage of every opportunity to provide today's teachers with access to proven training programs while simultaneously recruiting and training qualified and dedicated young people to become tomorrow's great educators.

Most importantly, Mr. President, we must applaud and show our appreciation to the teachers who go that extra mile for our kids, capturing their attention, helping them gain the knowledge and skills they need, and providing examples of dedication and skill that should inspire us all.

Mr. DOMENICI. Mr. President, I rise today to salute one of our nation's most precious resources, our teachers and in particular New Mexico's teacher of the year, Stan Johnston of Los Alamos High School.

I would submit, teachers are the key to America's future. Christa McAuliffe, the teacher and astronaut put it in perfect perspective. She said, ''I touch the future, I teach.''

Building upon her statement I would say: it is a simple fact that the future is prejudiced in favor of those who can read, write, and do math. A good education is a ticket to the secure economic future of the middle class. As the earning gap between brains and brawn grows ever larger almost no one doubts the link between education and an individual's prospects.

And today the Senate is acknowledging those on the front lines with our students, the unsung heroes, their teachers. Somewhere in this great country of ours a teacher has a future leader of the United States in his classroom. Who knows; it could be one of the students in Stan Johnston's English and Study Skills class at Los Alamos High School in New Mexico.

My point is simple, after parents and families, teachers play an important role in helping our children reach their potential. After our children leave home each morning, it becomes the responsibility of America's almost 3 million teachers to ensure our children are prepared for the future because in our nation's classrooms resides the future.

Hopefully, the future doctors who will find the cure for cancer, mental illness, and heart disease are right now in our classrooms. But, most importantly we have the next generation of our country now attending classes throughout our schools.

In conclusion, I would like to thank you and a job well done to all of our teachers and in particular, Stan Johnston of Los Alamos High School. Again, thank you and please continue the superb work you are doing on behalf of our country.

Mr. HATCH. Mr. President, of all the occupations in America, teachers may deserve their own ''appreciation day'' the most. And, perhaps no occupation influences the future of our country more. I am delighted to join my colleagues today in paying tribute to those teachers all over America who have made a real difference.

One special teacher who made a real difference in my life was Mr. McElroy.

When I was a young boy, I played my violin in the school orchestra. On the day of one of our most important performances, the student who was supposed to play a solo on the bass got sick and was unable to perform. My music director, Mr. McElroy came to me and convinced me that, even though I had never played the bass, I could perform the solo.

I had terrible doubts about my ability to step in and do the job. But Mr. McElroy had confidence in me, even if I didn't. And he worked with me and encouraged me and coached me for most of that afternoon. That night I was able to play the solo without making a mistake.

As I think back on it, this was one experience that taught me that if I applied myself I could meet a challenge. When, in 1976, everyone believed I was a long-shot to win the nomination and, indeed, the election to become Utah's senator, I should have told them about Mr. McElroy.

I know that right now, in a classroom in Utah—maybe in the room of Diane Crim, who teaches math at Salt Lake's Clayton Intermediate School and is Utah's 1998 Teacher of the Year—another young student is learning these important lessons thanks to a dedicated and caring teacher.

Teaching is not just a job, it's a calling. It is a calling to impart knowledge, to mete out discipline, to inspire, to motivate.

Last week, our entire nation mourned the loss of a devoted teacher, Dave Sanders. The testimony of his students to his caring, whether in the classroom or on the basketball court, is a tribute better than any we here in the Senate could pay. I hope that the students he taught at Columbine High School will go on to practice the lessons he taught and be the kind of citizens in the community that he hoped they would be.

Mr. President, Mr. McElroy, Diane Crim, and Dave Sanders all represent the best of the teaching profession. There are thousands of others we could mention here today who have helped our children learn the keys for living such as reading, math, science, and history. But, more than that, they have helped reinforce essential values like hard work, perseverance, team work, and integrity. I am pleased to join in honoring these teachers today.

I yield the floor.

Mr. CONRAD. Mr. President, I also want to comment on the National Teacher Appreciation Week, because I think all of us can look back in our own backgrounds and remember what a difference teachers made in our lives.

I can remember very well the teachers who made a contribution to my life, to my growing up: Mrs. Goplin, who taught American history and who really shared a great love for understanding the Constitution of the United States, always told us that this is one of the greatest documents in human history. I will never forget those words of Mrs. Goplin.

She was exactly right. Our Constitution is one of the greatest documents in human history, and how lucky we are to live in a country that has constitutional guarantees of freedom for the American people and says to each and every American, you have certain rights, rights that protect you from the overreach of government, because our forefathers had known in Europe that government can become oppressive and that government can make demands on its citizenry that are not fair, that are not reasonable. We are so lucky to have these protections.

I remember other teachers: My third grade teacher, Mrs. Offerdahl, who is still alive in a nursing home in North Dakota, what a great woman. She

came every morning to that class with a sparkle in her eye and a love for learning and a love for teaching. She made a difference not only in my life but in the lives of hundreds and hundreds of students whom she taught over a very long career in the Bismarck, ND, school system—Mrs. Offerdahl.

And Mrs. Senzek, who was my fifth grade teacher, a highly intelligent woman, somebody who was absolutely committed to improving the educational standards of the kids in Bismarck, ND. My sixth grade teacher, Miss Barbie, who was a very sophisticated woman, somebody who loved reading and imparted that love to students.

I think back to how fortunate we were to have people of that quality and that caring who provided education to us and at great sacrifice to themselves. I can say every one of these women whom I have mentioned could have made much more money doing something else, but they were dedicated to teaching young people, and they made enormous financial sacrifices to do it.

There are so many other teachers along the way whom I remember. Mrs. Hook was my second grade teacher. She was a woman of real majesty, really almost a regal person, very tall, very erect, very dignified, somebody who commanded respect.

These are people who made an impression that has lasted a lifetime, lasted a lifetime for me, but I know lasted a lifetime for other students in the Bismarck public school system as well.

Mr. President, I add our words of praise to all the teachers across this country who make a difference in the lives of kids. Other than family members, other than parents, perhaps there is no more important relationship than what teachers do in terms of training our kids. So, today, we say thank you, thank you for everything you have done. You have made a difference.

CRISIS IN AMERICAN AGRICULTURE

Mr. CONRAD. Mr. President, I want to talk about another crisis that is occurring in this country. It is not receiving the attention as are the storms in Oklahoma, the tornadoes, and the tremendous damage that has been wreaked in those States by this set of storms, but it is a crisis nonetheless. It is almost a stealth crisis. It is a crisis in American agriculture, and I can tell you, it is causing trauma, too.

In my State, we have just seen a series of headlines in the major newspapers that tell the story. I thought I would bring them to the attention of my colleagues today so hopefully we can reflect not only on the tragedy in Oklahoma and Kansas, but we can reflect on the tragedy that is happening in central America, and I mean the central America of North Dakota and South Dakota, Montana, Nebraska, and Kansas—States that have been hard hit by a virtual depression in agriculture.

It is causing real trauma, Mr. President. These headlines tell the story. This headline sums it up: ''The rural depression.'' There is a real depression in the heartland of America. Prices, the lowest we have seen in 50 years, are causing literally thousands of farmers to exit agriculture.

Here is another headline which recently ran in papers back home: ''Farm prices, farm numbers both fall.''

And this headline that says: ''Another farm dies; does Washington really care?'' That is the question we are going to be asking today and we are going to continue to ask as we see this crisis grow and develop affecting more and more farm families and starting to affect the small towns of our State as well. In fact, this headline says it well: ''AG Crisis Is Bigger Than N.D.'' This is an editorial from the largest paper in our State pointing out that not only is North Dakota affected but other farm States as well.

This is a headline which ran recently: ''State Loses Farmers.'' And one headline which ran, again, in the biggest paper in our State: ''Crop Prices Are the Problem.'' And indeed they are. ''Crop Prices Are the Problem.'' This article says, ''Crop prices, that's the big thing wrong with the region's farm picture this year.'' And they are exactly right.

When I mentioned the crisis has moved from the farmstead to the streets of North Dakota, this headline tells that story: ''Farm Downturn Leaves Main Street Reeling. Three family-run businesses in Michigan, North Dakota closed, with little hope of reopening.''

There is the crisis that is receiving enormous attention in Oklahoma and Kansas—and it should have enormous attention. Those people deserve for others to understand what is happening and the suffering they are experiencing.

There is another crisis as well, and that is the crisis in farm country. Those people are suffering. And they deserve attention as well.

Let me just show another chart which goes right to the heart of the problem we are facing. This shows what has happened to farm prices from 1946 to 1998 for wheat and barley. You can see from the prices—this is 1998—it has even gotten worse. We go out to 1999, and these prices continue to decline in real terms. We have the lowest prices now for these commodities in 52 years. This is a crisis by any definition.

I just want to conclude by going back to what one of the articles said in the papers back home. This says: ''Banks' Survey Shows Farm Income Dwindling.'' In this article they say, ''The vice is tightening on farm borrowers in the Upper Great Plains. The outlook for farm income is grim unless commodity prices increase.''

Mr. President, that is exactly the case. We face a tightening noose around the necks of literally thousands of farm families, and it is time for a response from the Federal Government. We need to pass the disaster supplemental. We need to make the last disaster program we passed whole, because we now know it will cost $1.5 billion more to keep the promise which was made in that disaster program. We need to once again shore up the transition payments that are promised farmers under the new farm bill at this time of price collapse.

Those are steps we can take, we need to take, we must take. In addition, we should reform crop insurance, because we know that program does not work when you have multiple years of disaster.

I just close by saying once again, I hope America is listening and understands that there are tragedies occurring across the United States. We have a tragedy in Oklahoma, a tragedy in Kansas, and we ought to respond.

There are also tragedies that are occurring below the radar screen. They are not getting the attention of the national press. They are a crisis nonetheless, and we ought to respond to them as well.

I thank the Chair and yield the floor.

Mr. President, I know my colleague from Montana is waiting to speak.

I inquire of the Parliamentarian, how much time do we have remaining on our side?

The PRESIDING OFFICER. Five minutes 15 seconds are remaining.

Mr. CONRAD. I just ask my colleague from the State of Montana if he would like that additional 5 minutes. I would be happy to yield to him at this point.

The PRESIDING OFFICER. Would the Senator from Montana——

Mr. GRAMM. Reserving the right to object, may I hear the request again?

The PRESIDING OFFICER. The inquiry was whether the Senator from Montana desires time.

Mr. BAUCUS. Mr. President, I appreciate the inquiry of the Senator from North Dakota. I would, but I want to accommodate the manager of the bill, too. I would like, at some time in the next hour or two, to speak for 15 minutes.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. To accommodate the Senator, why don't we just take 5 minutes off each side. We are going to have the vote at noon, so we will have less time. Senator SARBANES and I had an opportunity to plow this ground in some depth, so why don't we yield to the distinguished Senator 10 minutes now, and then we will begin the debate on the financial services modernization bill.

Mr. BAUCUS. If I might try once more for 15.

Mr. SARBANES. I yield the Senator another 5 minutes.

Mr. BAUCUS. Thank you very much.

The PRESIDING OFFICER. So the RECORD is clear, the Senator from Montana will have 15 minutes—10 minutes

from the Democratic side, 5 minutes from the majority side.

The Senator from Montana is recognized for 15 minutes.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak in morning business.

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

Mr. BAUCUS. Mr. President, I thank very much not only my good friend from North Dakota but my good friend from Texas, Senator GRAMM, and my good friend from Maryland, Senator SARBANES.

CHINA'S WTO ACCESSION

Mr. BAUCUS. Mr. President, I rise this morning to offer some thoughts on the negotiations towards China's WTO accession, in the aftermath of Premier Zhu Rongji's visit to the United States.

This, I submit, is a question of fundamental importance to America's trade interests. China is now our fourth largest trading partner—after Canada, Japan, and Mexico—a major market, and the source of our most unbalanced trade relationship in the world. And it is perhaps still more important to America's strategic interests in Asia. Today, I would like to review the progress thus far and its implications for these interests.

Let me begin, however, with some context about WTO accessions and the commitments they require.

The WTO really began with the creation of the General Agreement on Tariffs and Trade, otherwise known as the GATT, in 1948. At that time, 23 nations were members. Each of them agreed to a set of tariff cuts and agreed to apply the new tariffs to all other GATT members. This is the famous, or infamous, principle of ''MFN,'' or ''Most Favored Nation.''

Since then, since 1948, 111 other economies—membership is no longer restricted to countries, as Hong Kong and the European Union are now members—have joined to make up today's 134-member WTO.

The original tariff agreements are also joined by agreements on sanitary and phytosanitary standards—that is, health standards—intellectual property, technical barriers to trade, and other issues. And 30 more economies have applied to join, the largest being China.

As these economies join, they must also lower their trade barriers, live up to WTO's intellectual property and agricultural inspection commitments, and so forth. For existing members, however, the only requirement is the one they adopted back in 1948: that we apply MFN—or today normal trade relations—tariffs to the new members. That is the only commitment that current members have to make.

So as we consider the commitments China has and will make to be a WTO member, we must also remember that these are fundamentally one-way concessions. Let me repeat, to enter the WTO, China has committed to a set of one-way concessions.

Nothing in any WTO accession will mean American concessions on market access; the use of our trade laws to address dumping, subsidies, or import surges; or controls on American technology exports. Likewise, if we should choose to tighten export controls at some point in the future, nothing in the WTO accession would prevent us from doing so.

Let me now turn to the commitments China has made and to the issues which remain.

To enter the WTO, China and the existing members must do two things: draft a ''Protocol'' covering a set of fair trade policies, and agree on a set of market access concessions.

These are the issues which the American negotiating team addressed in the months and weeks before Premier Zhu's visit. And the results are striking. China has made a significant set of concessions in both areas. The work is not done, but let me review for the Senate some of the major elements.

Under the protocol, China has made the following commitments: It will end the practice of requiring technology transfer as a condition for investment. That is very big. This includes refusing to enforce tech transfer provisions of existing contracts. The United States is guaranteed the right to continue using nonmarket economy methods for fighting dumping and unfair subsidies.

China will end investment practices intended to take jobs from other countries, for example, local content requirements which stop auto plants from importing U.S. parts; export performance clauses requiring production to be exported rather than sold on the Chinese market, and so on. And China has agreed to a product-specific safeguard which will strengthen our ability to fight sudden import surges.

It is important in the weeks and months ahead to ensure that these provisions have acceptable duration. But it is also clear both that we will be able to use the WTO to strengthen our guarantees of fair trade, and also that we will be able to use our own domestic trade laws for the same purpose. These are fundamental parts of any successful WTO accession.

The American negotiators have also won an impressive set of commitments in market access. Let me offer a few examples: In agriculture, China has already begun by lifting its infamous ban on Pacific Northwest wheat, American beef, and also on citrus products. And when it enters the WTO, it will accompany this by major tariff cuts. For example, beef tariffs will fall from 45 percent to 12 percent, and adoption of tariff-rate quotas in bulk commodities; that is, minimum guarantees of imports into China.

The wheat tariff-rate quota, for example, has the potential to lift China's imports from 2.4 million metric tons a day to 7.3 tons for the first year China is in the WTO and more afterwards. China will also give up any rights to export subsidies, a far cry from, say, Europe which has massive export subsidies; China going much, much further than Europe is today.

In industrial goods, China will grant full distribution rights, retailing, repair, warehousing, trucking and more in almost all products over 3 years. And it will allow American companies to import and export freely. These are concessions that will fundamentally transform an economy which now operates by requiring both Americans and Chinese to use Chinese Government middlemen in these areas. It will make large tariff cuts to an average of 7.1 percent, and it will give up the quota policies at the heart of several industrial policy ventures.

Another concession of special interest to my State of Montana is deep cuts in wood products, from levels reaching 18 percent today down to 5 and 7 percent after WTO membership. And in services, China has made commitments in every sector. They are especially strong, as I noted, in distribution, but also extend to telecommunications, to finance, to audiovisual, environmental services, law, franchising, direct sales and more. These are very significant concessions which go most of the way to creating a commercially meaningful agreement.

The U.S. negotiators deserve immense credit for their tremendous achievements of the past months, absolutely amazing, perhaps even more for their willingness to refuse bad offers in the past years and remain firm in the commitment to strong accession in all areas.

Several issues, however, remain unresolved. I am especially and very strongly concerned that we are not accepting any rapid phaseout of nonmarket economy dumping rules or import surge provisions. We can also improve on the market access commitments in several of the service sectors. However, we should also understand that there is a point at which we should say yes. We should not set a goal of transforming China's trade regime into Hong Kong's by next New Year's Day. Rather, we should expect a good, commercially meaningful accession, and we are almost there now.

Finally, let me say a few words about the broader interests involved. A WTO accession is a set of unilateral trade concessions; in this case, made by China. As such, it is in our economic and our commercial interest. It will create opportunities while making trade fairer for our working people and farmers. But it is also a piece of a larger strategy designed to create a more stable, a more prosperous and more peaceful Asia-Pacific region.

China's economic integration into the Pacific region since the opening under President Nixon in 1972 has been immensely important to our long-term national interests. We can see that very clearly in the Asian financial crisis, for example.

When I came to Congress, China was a revolutionary power, which would have used this recent currency crisis to spread disorder, spread revolution throughout Southeast Asia and the Korean peninsula. But today it is a beneficiary of Thai, Singapore, Korean and Malay investment, and these countries are also China's markets. China has responded to the crisis by contributing to their recovery through currency stability and several billion dollars in contributions to IMF recovery packages.

The WTO accession will deepen and strengthen this process. At the same time, it will move China toward the rule of law, give Chinese working people, students and families more frequent, more open contact with foreigners and, thus, contribute to our work toward a China which has more respect of the law and more respect for human rights.

Mr. President, the U.S. negotiators thus far have done an excellent job. They have already offered American farmers a ray of hope during a very difficult year. We are very close to accessions that will make trade with China fundamentally more fair for our country. It will then be up to the Senate, to our colleagues, to take the final step by making the normal trade relations we now offer to China permanent.

I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. HUTCHINSON). If the Senator will withhold, morning business is closed.

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 legislative assistant 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.

Pending:

Sarbanes (for DASCHLE/SARBANES) amendment No. 302, in the nature of a substitute.

The PRESIDING OFFICER. The time until 12 noon shall be divided between the Senator from Texas and the Senator from Maryland, with 23 minutes for Senator GRAMM and 17 minutes for Senator SARBANES.

The Senator from Texas.

Mr. GRAMM. Mr. President, I yield 3 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. I thank the Chair.

Mr. President, I thank Senator GRAMM for yielding me the time. I have a comment or two with respect to the process that we have gone through in putting this legislation together.

I commend Senator GRAMM. I can't think of a time in my now 17 years in the Congress where I have had a chairman of a committee that has spent as much time with the other members of the committee, walking through a particular piece of legislation, each aspect of it, making sure that each of us was prepared and educated on the various issues. There are some difficult issues that face us—the whole issue of CRA, unitary thrifts, the mixing of banking and commerce, the issue of operating subsidiaries versus affiliates, all of them complicated.

I can remember not too many years ago when there was this sense in America that the model which should be followed was the Japanese banking system that people looked at and said, we ought to look at Japan, the dynamic economy they were producing in the late 1980s. I think about how much things have changed in those 10 years.

Mr. SARBANES. Will the Senator yield on that point very briefly?

Mr. MACK. I will be glad to yield for a moment.

Mr. SARBANES. I remember people would say that the Japanese had all the largest banks in the world and they were saying, look. And now look at the situation.

Mr. MACK. It is a dramatic change, and here we are. We have been talking about this legislation for all those years and we haven't made the modifications we needed to make. I hope we will be successful this time.

I rise in support of the underlying bill and in opposition to the Sarbanes substitute. We all know that legislation to overhaul the bank regulatory structure is long overdue, and I join many of my colleagues in thanking the chairman for his hard work in writing this bill and bringing it to the floor.

I will begin by quoting the words of the Senate Banking Committee report, which I believe presents a strong case for financial modernization. It states:

The argument for legislation to rationalize our financial structure is strong. Regulatory and court decisions have eliminated many of the barriers between commercial and investment banking. The barriers separating commercial banks from investment banks have been perforated in both directions. Finally, changes in the technology and practice of financial intermediation have rendered the restrictions of Glass-Steagall increasingly ineffective and obsolete.

There is nothing particularly remarkable about that language, Mr. President. In fact, those same arguments will be made by many of my colleagues here today. But what is remarkable about the statement I just read is that it comes from a committee report on banking legislation in 1991. Just as I believed those words to be significant 8 years ago, I believe them to be even more so today. Unfortunately, there was no overhaul of our banking system in 1991. And despite much hard work and a clear need for action, there has been none since. We are long overdue for this debate and I am pleased the Senate is addressing this important issue.

Freedom and free enterprise have allowed our corporate and financial institutions to respond to changing times and to adapt to a changing financial environment. But this ability has reached its limits within the confines of present law. For our financial institutions to continue to grow, to compete, and to evolve, we must give them a new legislative climate in which to operate. That is the purpose of the bill before us today.

Mr. President, our banking system is truly a model for the world. Emerging economies from Asia to Africa to Central Europe look to the United States for the blueprint and technical expertise to build an effective financial infrastructure. This is happening because we have found a remarkable balance between community banks and global institutions, between the regulators and the regulated, between the States and the Federal Government, and between ordinary people and the money they need to finance their hopes and dreams. In recent years, we have witnessed a wave of high-profile mergers, as institutions across the sectors hope to create ''synergy'' from offering a broad range of financial products to an expanding global customer base. For their part, many smaller, community-based institutions are using the new regulatory authorities to offer their customers one-stop shopping for individual financial needs—from ordinary retail banking to insurance products and securities instruments.

All of this is very important to the continued financial well-being of our Nation and to the global competitiveness of our financial services industry. However, the expansions I speak of are not taking place with the approval of the Congress and are not occurring through any action on our part to change the law. Rather, these things are happening because—as the 1991 report mentioned—court decisions and the broadened interpretations of present law by the banking regulators have allowed them to take place in an ad hoc manner. In order to access the right to affiliate with other sectors, financial companies have to jump over increasingly complicated regulatory hurdles in order to adapt and survive. It is high time Congress weighed in on this important trend. It is high time we cleared the way for these affiliations and repealed the underlying web of Depression-era restrictions on our banking industry.

That is what we accomplish in the bill before us today, Mr. President. This legislation allows companies to diversify holdings by lifting the prohibitions on affiliations among banks, insurance companies, and securities firms, thus allowing them to compete fully in a free-market environment. If Congress fails to act, we will once

again limit the potential of our financial sector and we will continue to impose needless and unnecessary regulatory burdens on individual financial institutions. The other body is moving with its own legislation. The Senate needs to act now to ensure that our financial sector is on solid footing for the new century.

The bill before us repeals the Depression-era Glass-Steagall law prohibiting affiliations between commercial and investment banks. It allows banks and insurance companies to affiliate under the same corporate umbrella. It contains provisions outlining the appropriate regulation of bank sales of insurance, and it allows banks with assets of less than $1 billion to engage in a broader range of financial services through operating subsidiaries. Of course, Mr. President, the relationships between these entities are carefully constructed to ensure institutional safety and soundness and that the taxpayer-insured deposits of retail banking institutions are protected.

The structure provided for in this legislation will end the ad hoc expansion and administration of our banking sector and provide the industry with a clear roadmap for the 21st century. In my view, it will lead to greater stability, enhanced safety and soundness, and improved choices for customers and consumers.

So I urge my colleagues to support passage of this important bill and defeat the Sarbanes substitute.

With that, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. What is the parliamentary situation?

The PRESIDING OFFICER. The time is under the control of the Senator from Texas and the Senator from Maryland.

Mr. LOTT. I yield myself time out of my leader time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I will be brief because we have to get back to this Financial Services Modernization Act. I know the two managers managing this are working on it studiously, and we will be having votes later today. It looks to me as if we can make good progress.

MARY BETH BOYER BLACK, MISSISSIPPI'S 1999 TEACHER OF THE YEAR

Mr. LOTT. Mr. President, I join my other colleagues here today in recognizing National Teacher Appreciation Week. I am the son of a schoolteacher. My mother taught school for 19 years, between first and the sixth grade. She finally had to leave teaching because in those days teachers basically could not make enough money to live on. She wound up in bookkeeping and broadcasting. I also worked for a university for 3 years, and I have a very serious appreciation for our teachers and the jobs they do.

I have stayed in touch, over the years, with my second-, third-, and fourth-grade teachers at Duck Hill, MS. I don't know why, but I particularly remember those three and have always appreciated them. I guess we remember the ones who teach us to write and do the basic reading. They were wonderful women and wonderful people, and they inspired me in many ways.

So in appreciation of this National Teacher Appreciation Week, I will quote from the Bible. It says:

> Train up the child in the way he should go, and when he's old, he will not depart from it.

Those were the words of Solomon. That is good advice from Solomon.

So today I want to pay particular attention to our Mississippi Teacher of the Year, Mary Beth Black. She teaches chemistry, physics, and advanced placement physics. I remember those courses. They are the reason I didn't go into pharmacy or med school. Biology, chemistry, physics—I took all the college preparatory courses, and I look back now and I know that I was wasting space. I was really never destined to major in the sciences. But it is so important that we have teachers who inspire students in that area. If we are going to be competitive in the future, in the next millennium, and participate in the world economy, we are going to have to have students who are good in science, physics, computer sciences, and the sciences in general.

In order for them to learn what they need to know and to be inspired in that field, you need great teachers like this teacher, the ''Teacher of the Year'' in Mississippi, who teaches at Emory, MS, a wonderful lady with a wonderful record.

She points, interestingly enough, to her second-grade teacher who, she noted, inspired her when she was 7 years old—that she knew when she was 7 she could be anything she chose to be: She could be a brain surgeon, she could drive a fire truck, or go to the Moon. But this second-grade teacher inspired her to want to be a teacher. She always wanted to be a teacher—and to be more than just a teacher, to be an inspiration to young people.

She said:

> Second grade can be challenging. My problem was cursive writing or ''real writing'' as we second graders called it. No matter how hard I tried, my loops and swoops and tilts were never as good as my peers.

''Until now,'' she said, ''school had been great.'' But in this instance it got to be a problem and a challenge. But her second-grade teacher, Mrs. Hurt, worked with her and taught her and then became an inspiration to her.

So today I give thanks and appreciation to all of our teachers across our great country, and in my State of Mississippi to the ''Mrs. Hurts'' who taught in those small, sometimes one- and two-classroom buildings as my mother did, who not only taught the course but inspired a generation of more teachers such as Mary Beth Black, Mississippi's Teacher of the Year.

An 18th-century American historian, Henry Brooks Adams, said: ''A teacher affects eternity; (she) can never tell where (her) influence stops.''

So our teachers influence our young people, and they affect the future of our country and the world. Thanks to all of them.

I yield the floor.

FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. DASCHLE addressed the Chair.

Mr. SARBANES. Mr. President, I yield such time as the minority leader may consume.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the distinguished ranking member, the Senator from Maryland. I thank him and the Democratic members of the Banking Committee for the tremendous leadership and patience that, in particular, Senator SARBANES has demonstrated in getting us to this point.

I also want to acknowledge the efforts of all my colleagues on the Senate Banking Committee, and especially the fellow Democrats of the Banking Committee, who have put so much effort and energy and diligence into bringing us to this very important debate, and ultimately this vote which we will shortly have.

I might add, as I know the distinguished Senator from Maryland has already noted, that every Democratic member of the Senate Banking Committee is a cosponsor of the substitute we will be voting on shortly. Together, my colleagues on the committee have produced a proposal to give financial service companies new freedoms and new flexibility—without risking the financial well-being of our economy or of individuals. It is a balanced, responsible proposal—one the President can sign—and, on behalf of the entire Democratic caucus, I thank them for producing it.

Let me be very clear, Mr. President. Senate Democrats support financial services modernization. We want to see a bill passed. There is no good reason that can't happen this year—in fact, this week.

This should not be a partisan issue. Historically, it has not been one.

Our substitute is based on last year's H.R. 10. The Senate Banking Committee passed H.R. 10 on a vote of 16 to 2—16 to 2. Republicans on the Senate Banking Committee supported H.R. 10 last year. So did virtually every major financial services industry group.

In the House, the House Banking Committee passed a very similar bill this year. Again, the vote was overwhelmingly bipartisan—51 to 8.

Until recently, Democrats and Republicans have agreed overwhelmingly that the path laid out in our substitute was the right path. That has all changed. Reform has suffered a major setback this year. In the Senate Banking Committee, the majority forced through a new, harshly partisan bill on a party line vote of 11 to 9. This new bill shattered the consensus that so many people worked so long and so hard to create.

In place of the broad support enjoyed by H.R. 10, the committee bill is opposed now by every Democrat on the Banking Committee. It is also opposed by every civil rights group. It is opposed by community groups, community organizations, and local governmental officials.

Instead of a clear path to enactment—which is what we would have had had we stayed with the bipartisan approach to H.R. 10—financial services reform is now on two tracks. There is the veto track. And make no mistake, S. 900 is on this track. It will be vetoed if the President receives it in its current form. Then there is the enactment track. That is the track our substitute and the bipartisan House Banking bill are on.

We are not saying, ''It is our way, or no way.'' Neither side should ever issue such an ultimatum. That is not the way of the Senate. We have discussed with the majority leader our desire to find a bipartisan way to get the financial services modernization bill back on the enactment track. We have agreed to a floor procedure which will enable us to finish this bill in an expeditious manner.

We do not want to delay this bill any longer. That has already happened. It has already been delayed. As I said, we want to pass financial services modernization this year, and perhaps even this week. So the choice for the Senate is clear. It is partisan brinkmanship, or bipartisan accomplishment.

We stand ready on this side of the aisle to deliver a bill that the President can sign. He has cited four serious flaws in S. 900 which he has said will force him to veto the bill. Our substitute corrects all four flaws.

First and foremost, our substitute does not gut CRA—the Community Reinvestment Act—as S. 900 does. The CRA has proven a huge success in expanding access to credit and investment in low- and moderate-income communities. Investment capital is the lifeblood of these communities. That capital must continue to be available to qualified borrowers in all communities. We cannot draw red lines around the American dream. Democrats will not support a bill that undermines the effectiveness of the CRA.

The second major difference between our substitute and the underlying bill is the way the two proposals deal with the separation of banking and commerce.

For nearly 70 years, since the collapse of the banking industry during the Great Depression, U.S. law has separated banking from other commercial activities. An army of experts—from Chairman Greenspan to Secretary Rubin to former Federal Reserve Chairman Paul Volcker—believe that separation must be maintained.

But you don't have to look in the history books to understand why mixing banking and other commercial activities is risky business. Look at the recent currency crisis that started in Asia and spread to some of our Latin American neighbors. If anything, the globalization of our economy makes a reasonable separation between banking and other commercial activities even more important now than it was when those laws were first enacted.

Unfortunately, as the distinguished Senator from Maryland has observed, the underlying bill weakens the separation of banking and commerce in a number of ways. Our alternative does not. It reflects the careful compromises developed last year. It preserves the separation between banks and other commercial activities without in any way limiting the flexibility financial service companies need in today's economy. It strikes the right balance between opportunity and responsibility.

Let me interject here that, should our substitute fail, my colleague from South Dakota, Senator JOHNSON, intends to offer a related amendment. It would close a loophole which commercial companies currently use to mix banking and commerce by acquiring existing unitary thrift holding companies. I will strongly support his effort.

A third difference between our substitute and S. 900 has to do with consumer protection. H.R. 10—the bill the Banking Committee passed out last year with overwhelming support—included a number of consumer protections having to do with such things as risk disclosure and licensing of personnel. Those protections were essential for its passage last year. They remain essential to the American people. They have all been stripped out of the underlying bill—every one of them. They are all included in the Democratic alternative. They must be included in any financial services bill this Congress passes, or the President will veto it.

There is a fourth way in which our bill differs from both the committee bill and from last year's bill. It involves what financial activities can take place in subsidiaries of banks, and under what conditions.

As the legislative process has progressed, the Treasury Department has agreed to significant additional safeguards regarding the financial activities of banks' operating subsidiaries. Our alternative incorporates these safeguards. At the same time, it would permit banks to structure certain new activities in these so-called ''op-subs'' as they see fit. Again, it balances opportunity and responsibility.

Mr. President, that is where we stand—the juncture of two tracks: The veto track, and the enactment track.

S. 900—as it is currently written—will put us on the veto track. We know that:

It undermines the Community Reinvestment Act.

It breaches the separation of banking and commerce.

It ignores consumer protection.

And, it fails to strike a responsible balance on the question of bank operating subsidiaries.

The failure to proceed on a bipartisan track has placed this bill at risk. Unless we negotiate with each other once again in good faith, I must say this bill will be vetoed.

If that happens, it would represent a serious failure on the part of this Senate.

More important, it would deprive American businesses, and the American people, of important tools and safeguards they need in this new global economy.

We appeal to our colleagues: Let's get this bill back on track. Let's adopt this alternative. Let's pass financial services modernization. This year. This week. We can do it. I hope we will.

Mr. GRAMM. Mr. President, I thank the distinguished Democrat leader for the effort he has made to get the Senate to this point. Obviously, when we have votes on contentious issues, ultimately Members come to the floor and vote. Somebody wins and somebody loses. I think on many of the votes we are going to have, neither of us knows what the outcome will be.

We are beginning a process that will go through conference. We have a bill in the House that is very different. I think we all want to write a bill that the White House can sign.

Yesterday, the President came out with six conditions for signing the bill, two of which your substitute does not comply with. Obviously, we are going to have to work with the White House on a continuing basis.

I want to assure you, Mr. Leader, I will also sit down, roll up my sleeves, and try to work. Maybe we can't solve these problems, but if it is possible to solve them, I want to do it.

I thank the Senator for his help.

Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Texas has 11 minutes, and the Senator from Maryland has 7 minutes 24 seconds.

Mr. GRAMM. I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the chairman of the Banking Committee. I thank him for the time. I also thank him for the leadership and direction and focus he has had on this issue and his willingness to talk to others about the issues.

I rise to oppose the substitute amendment offered by the ranking member of the Banking Committee. Most of the reasons for my opposition

lie within the great expansion of the Community Reinvestment Act, or CRA.

For example, the amendment would allow the Federal banking agencies to take actions, including divestiture, forcing people to sell off parts of their business if an institution fails to maintain a satisfactory or better CRA rating. Currently, the enforcement action authorized for the banking agencies is the ability to deny the noncompliant banks' application to acquire another facility.

The substitute would expand the reach of CRA to noninsured institutions or wholesale financial institutions, and they don't even deal with consumers. Previously it had been argued that banks and thrifts convey an economic benefit as a result of deposit insurance, and thus the CRA is justifiably imposed on those institutions. But now, for the first time, this amendment would expand CRA to the non-FDIC-insured institutions.

It would allow a Federal banking agency to take enforcement action, such as the cease and desist order, civil monetary penalties, or even criminal sanctions, all for not complying with the CRA. That is an expansion. These penalties could even be extended to an officer or director of the holding company or bank.

In addition to extraordinary CRA expansion, I found several other problems with the substitute amendment. First, it reduces the authority of State insurance commissioners and creates the National Association of Registered Agents and Brokers, NARAB. The insurance agents in Wyoming oppose the NARAB provision because they believe it is the precursor to Federal regulation of insurance and Federal bureaucracy.

The substitute amendment also reduces the ability of the bank to engage in trust and fiduciary activities. On the other hand, S. 900 allows a bank to engage in traditional trust and fiduciary activities, just as they have done for so many years.

Additionally, it is apparent that there is not consensus in the substitute bill, and it differs from the product of last year. I voted for H.R. 10 last year. I will not vote for this substitute. It is not the same bill. The most significant difference lies in the operating subsidiary provisions. Last year, H.R. 10 only passed the House by one vote. Just last week the House Commerce Committee held a hearing on H.R. 10, which is nearly identical to the substitute amendment, and the Members on both sides of the aisle were very critical of the bill.

I strongly encourage my colleagues to oppose the substitute amendment. It does not represent a consensus, and it is certainly more burdensome and expansive on the affected industries. It is not the product of compromise.

I yield back the remainder of my time.

Mr. SARBANES. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Texas controls 7 minutes 37 seconds, and the Senator from Maryland has 7 minutes 24 seconds.

Mr. SARBANES. I thank the Chair.

Mr. President, I rise in very strong support of the substitute amendment, which is the provisions contained in S. 753, introduced by Senator DASCHLE and all of the Democratic members of the Senate Banking, Housing, and Urban Affairs Committee.

We have been at this for a long time—those on the committee and other Members who have been interested in the issue of financial services modernization. We have been seeking to find a way to pass a bill to protect safety and soundness, to protect consumers, to ensure that CRA not be undercut or eroded; and that permits financial service institutions within the realm of financial services, in effect, to enter into new arrangements in terms of affiliations and the activities they can conduct.

This is something that has been urged on us. Those in the industry think it would be helpful to them. Some of this has been taking place without statute, but it is uncertain, unsure. It happens through regulation; it happens through court decision. I think most people think if we could arrive at a statutory framework in which to place these developments that that would be a desirable objective.

That is why we introduced S. 753. That is why we are offering it as a substitute amendment to the committee bill. It essentially tracks the language of the bill that was reported last year on a vote of 16–2 from the committee with one exception with respect to operating subsidiaries. This substitute permits banks to conduct some activities in an operating subsidiary—not all of the activities they can now engage in—and that reflects, in part, an effort by Secretary Rubin to try to reach an accommodation to ensure that some of the concerns that were raised are addressed.

There is a conflict, a difference of view here, a very strong difference of view here between Secretary Rubin and Chairman Greenspan, both of whom are saying to have a bill we have to have a good bill, and their definition of a good bill, each of them, is one that corresponds to their views, particularly on this important issue of the op-sub versus the affiliate, as far as carrying on activities.

In this regard, I point out as we listen to Secretary Rubin that we are also listening, of course, to the possibilities of a Presidential veto. We can't get a bill into law without the President's signature—that is obvious and clear—and the President has taken a very strong position on this legislation. In fact, he has sent a letter to the committee stating in the clearest possible terms that he would veto the committee bill if it was presented to him in its current form. That is when we began the markup in the committee. The committee has issued a statement of administration policy in which they say:

> Nevertheless, because of crucial flaws in the bill, the President has stated that if the bill were presented to him in its current form, he would veto it.

We have had extended debate on the differences between the committee bill and the substitute amendment. Senator GRAMM and I and others are participating in that. I am frank to say I thought the minority leader, Senator DASCHLE, just laid out a very clear, concise, extremely well-stated position with respect to the differences between these approaches.

We differ in banking and commerce. The substitute seeks to, in effect, reaffirm, make clearer, the division between banking and commerce. We differ, as I indicated, with respect to the operating subsidiary issue, which of course involves the sharp difference between the Secretary of the Treasury and the Chairman of the Federal Reserve. We differ very strongly on CRA. It is asserted that the substitute expands CRA. In fact, what the substitute seeks to do is to ensure that if banks move into securities and insurance, that those banks should have a satisfactory CRA rating before they can undertake such a merger or affiliation.

It requires the banks to be in compliance with CRA. It in effect says that a bank with an unsatisfactory CRA rating is not going to be able to use this additional power now being given to them to move into securities and to move into insurance. At the moment, they do a limited amount of that activity. But if they are going to actually go into it in a full-scale way, which is what this legislation offers—which both pieces of legislation offer to the banks, we do not differ on that proposition; both as a part of the financial services modernization approach are prepared to permit that—but we feel very strongly that they should be in compliance, the banks should be in compliance with CRA, if they intend to do that.

A number of very important groups in the community support the substitute. I will have printed in the RECORD letters from civil rights organizations—from Hispanic organizations, which have been very strong in perceiving that CRA has made a big, big difference in their community in terms of home ownership and in terms of investment, and that there has been very significant benefit for Native American organizations that report on what has happened on the Indian reservations, from farm and rural groups, and from over 200 mayors, all of whom prefer the substitute amendment.

I ask unanimous consent those letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS
Washington, DC, March 18, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: We are writing to express our deep concern over your public mischaracterizations of the Community Reinvestment Act (CRA), and over the treatment of CRA in the Financial Services Modernization Act of 1999 as reported out of the Senate Banking Committee on March 4.

The Leadership Conference on Civil Rights is the nation's oldest, largest, and most diverse coalition of organizations committed to the protection of civil rights in the United States. As leaders of the civil rights community, we take strong issue with your description of CRA as a vehicle for ''fraud and extortion''[1] and to your characterization of CRA as ''perhaps the greatest national scandal in America.''[2] To the contrary, we agree with President Clinton that the Community Reinvestment Act is ''a law that has helped to build homes, create jobs, and restore hope in communities across America.''[3]

CRA has proven to be an effective means of encouraging federally insured financial institutions to extend prudent and profitable loans in underserved urban and rural communities. CRA has been credited with the dramatic increase in homeownership rates among minority, and low- and moderate-income individuals. Since 1993, the number of home mortgage loans extended to African-Americans has increased by 58%, to Hispanics by 62%, and to low- and moderate-income borrowers by 38%.[4] CRA has similarly served as the impetus for revitalizing distressed rural and urban communities through small business and small farm lending and community development investments.

Data from federal bank regulators reveal that the CRA has not been used arbitrarily to block or delay bank applications to the regulators. Community groups and others rarely file adverse comments to bank applications based on CRA. Less than 1% of bank applications have received adverse comments.[5] Moreover, assertions that banks provide commitments to community groups and others because they are afraid that regulators will deny or substantially delay the processing of their application is not supported by the record. Bank applications that receive adverse comments are denied only 1% of the time.[6] In addition, few applications are substantially delayed due to an adverse CRA comment.

Despite the strong record of CRA success and the lack of evidence of abuse, the bill that was reported out of the Senate Banking Committee seriously weakens CRA in three ways. First, it does not require that all banks in a bank holding company have a ''satisfactory'' CRA rating to exercise the new powers provided by the legislation. This would substantially roll back CRA by permitting banks that are not meeting the credit needs of their communities to benefit from the expanded powers to affiliate with securities and insurance firms.

Second, the bill would provide a ''safe harbor'' from public comment on CRA performance for banks with a ''satisfactory'' CRA rating. Under the bill, an institution receiving at least a satisfactory CRA rating during the previous 36-month period would be deemed in compliance with CRA and immune from public comment unless individuals present ''substantial verifiable information'' to the contrary arising since the last examination. Since over 95% of banks receive a satisfactory rating, the provision would fundamentally undercut the right of community groups and others to comment on a bank's CRA performance.[7] Community group participation in the CRA process has been critical to the success of CRA. Public comment on other aspects of a bank's performance, such as management or financial resources, would not face similar limitations on the scope of information that may be introduced nor be subject to the same burden of proof.

Third, the bill exempts banks with less than $100 million in assets from CRA. This represents 63% of all banks.[8] If enacted the provision will have devastating consequences for rural communities because small banks are often the only source of credit in rural areas. Despite claims that small banks by their nature serve the credit needs of local communities, data from regulators reveal that these institutions have disproportionately poor CRA records.

We would note that the financial services bill reported out of the House Banking Committee last week on a bipartisan vote of 51–8 did not contain any of these shortcomings in regard to CRA. This is in sharp contrast to the 11–9 party line vote by which the Senate Banking Committee reported out its bill, in significant measure because of the controversial CRA provisions.

Fair access to credit, which is the purpose of CRA, is a critical civil rights issue. As the President has said, ''CRA is working, and we must preserve its vitality as we write the financial constitution for the 21st century.''[9] As reported out of the Senate Banking Committee, the Financial Services Act of 1999 would drastically weaken CRA. Unless this shortcoming is addressed, we would urge strong opposition to this legislation.

Sincerely,

Dr. Dorothy I. Height, Chairperson, Leadership Conference on Civil Rights; Barbara Arnwine, Executive Director, Lawyers' Committee for Civil Rights Under Law; Andrew H. Mott, Executive Director, Center for Community Change; Wade Henderson, Executive Director, Leadership Conference on Civil Rights; Karen Narasaki, Executive Director, National Asian Pacific American Legal Consortium; JoAnn K. Chase, Executive Director, National Congress of American Indians.

Shanna L. Smith, Executive Director, National Fair Housing Alliance; Hugh B. Price, President and Chief Executive Officer, National Urban league; Hilary Shelton, Washington Bureau Director, National Association for the Advancement of Colored People; Raul Yzaguirre, President, National Council of La Raza; Manuel Mirabal, President and Chief Executive Officer, National Puerto Rican Coalition, Inc.

FOOTNOTES

[1] Congressional Record, September 30, 1998.
[2] Congressional Record, October 5, 1998.
[3] Letter from President Clinton to Senator Phil Gramm, March 2, 1999.
[4] Home Mortgage Disclosure Act data cited in Secretary Robert Rubin's letter to Senator Phil Gramm, February 23, 1999.
[5] Comptroller of the Currency, Office of Thrift Supervision, Federal Deposit Insurance Corporation, and Federal Reserve Board.
[6] Id.
[7] Federal Financial Institutions Examination Council.
[8] Federal Deposit Insurance Corporation.
[9] See supra note 3.

APRIL 8, 1999.

Hon. PAUL S. SARBANES,
Senate Hart Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The undersigned organizations write to express strong opposition to the Financial Services Modernization Act of 1999 as reported out of the Senate Banking Committee on March 4th. The Act would restructure the financial services industry in the United States by allowing broad affiliations among banks, insurance companies, and security firms. Currently, the law strictly limits ownership among different financial entities and between financial companies and commercial corporations. The Act seeks to ease these restrictions, without commensurate expansion of the Community Reinvestment Act (CRA) to cover insurance companies, securities firms, mortgage companies, and other financial entities allowed to affiliate with banks. The Act would undermine one of the most effective revitalization vehicles for underserved low-income and minority communities, including Hispanic American communities across the country.

We have found, and research confirms, that all too often the credit and financial needs of these communities are severely underserved. Historically, many financial institutions have avoided investing in these communities due to their perceived higher level of risk. Unfortunately, ''perceived higher level of risk'' is often code for ''low-income'' or ''minority.'' But the facts show that low-income and minority communities are not inherently riskier than other communities. In fact, most financial institutions find them to be quite profitable, once they begin investing in them. Unfortunately, without the CRA, many financial institutions have not and would not be encouraged to do so.

As the data show, Hispanics are the fastest-growing population in the United States. We are a growing force in the expansion of homeownership and small business development, two leading indicators of the economic well-being of this country. For example, between 1987 and 1992, Hispanic-owned business grew by 76%, compared to 26% for U.S. businesses overall. According to a 1997 Harvard study, ''the number of Hispanic homeowners has shown the most spectacular rise'' in recent years compared to that of Whites and of other minority groups. Population projections forecast Hispanics to be the largest minority group in the U.S. by the year 2005, causing the U.S. economy to be increasingly dependent on the continued prosperity of the Hispanic American community. Without the CRA, this growth may be impeded.

As reported out of the Senate Banking Committee, the Financial Services Modernization Act of 1999 would hinder that growth by weakening the CRA in the following three ways. First, a ''satisfactory'' CRA rating is not required in order for financial institutions to enjoy the new powers afforded to them by the legislation, thereby allowing banks to exercise their privilege, even if they are not meeting the credit needs of the communities where they do business.

Second, banks receiving a ''satisfactory'' CRA rating would be given a ''safe harbor'' from public comment on CRA performance. Since over 95% of banks receive a ''satisfactory'' rating, this would undermine the effectiveness of the law by restricting a community's right to voice its experience with banks. While a ''satisfactory'' rating provides a helpful guide to a bank's overall performance, it may not provide an accurate picture at the neighborhood level.

Third, the Act proposes to exempt all small rural banks (those with less than $100 million in assets) from CRA, thereby releasing 76% of all rural banks from their CRA obligations. As with the safe harbor provision, this undermines the spirit and the effectiveness of the law by exempting most rural banks. This would have particularly adverse consequences in low-income rural communities where often the only source of

Footnotes at end of letter.

credit is a small bank. Moreover, researchers have found that small banks have disproportionately poor CRA records compared to larger banks, thereby highlighting the need for CRA in rural communities and small towns.

CRA is one of the strongest incentives to encourage investment in low-income and minority communities. Over the last twenty-two years, neighborhoods across the country have benefited from CRA-encouraged investments. This has resulted in increases in homeownership and business development, leading to the rebirth of many American neighborhoods. However, many communities remain underserved by capital and investment vehicles. For this reason, reinforcement, not weakening, of CRA is critically needed. We urge you to support the continued strengthening of America's communities by vigorously opposing the Financial Services Modernization Act of 1999 as reported out of Committee, and supporting amendments that would strengthen the Bill's CRA protections. Thank you.

Sincerely,

Rick Dovalina, National President, League of United Latin American Citizens; Arturo Vargas, Executive Director, NALEO Educational Fund; Ruth Pagani, Executive Director, National Hispanic Housing Council (NHHC); Juan Figueroa, President and General Counsel, Puerto Rican Legal Defense and Education Fund (PRLDEF); Antonia Hernandez, President and General Counsel; MALDEF; Raul Uzaguirre, President and Chief Executive Officer, National Council of La Raza (NCLR); Manual Mirabal, President and Chief Executive Officer, National Puerto Rican Coalition (NPRC).

NATIONAL CONGRESS OF AMERICAN INDIANS,
Washington, DC, April 14, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: On behalf of the National Congress of American Indians (''NCAI''), we are writing to express our serious concern over the treatment of the Community Reinvestment Act (''CRA'') in the Financial Services Modernization Act of 1999. NCAI is the oldest, largest and most representative national Indian organization devoted to promoting and protecting the rights of tribal governments and their citizens.

The CFA has proven to be an effective means of encouraging federally insured financial institutions to extend prudent and profitable loans in traditionally underserved areas including Indian Country. Specifically, the CRA has helped focus attention to the challenges of extending credit to reservations under current law and has acted as a catalyst to reservation based economic development. Since the implementation of the CRA, Native American groups and banks have negotiated agreements for lending more than $155 million within Indian Country.

In its current form, we believe the Financial Services Modernization Act of 1999 would seriously erode the effectiveness of the CRA, a law that has certainly helped to build homes, create jobs and restore hope in many of our communities. We are particularly concerned that the bill reported by your committee would exempt small rural banks from coverage by the CRA and would create a ''safe harbor'' under CRA for banks with satisfactory or better ratings thus making it much more difficult for the public to comment on problems with a bank's CRA performance in conjunction with an expansion application filed by a bank. We are also concerned that your bill does not require that all banks in a bank holding company have a ''satisfactory'' CRA rating to exercise the new powers provided by the legislation. This would substantially roll back the CRA by permitting banks that are not meeting the credit needs of communities to benefit from the expanded powers to affiliate with securities and insurance firms.

We strongly urge you to reconsider these provisions of the bill. As reported out of the Senate Banking Committee, the Financial Services Act of 1999 drastically weakens the CRA and unless this shortcoming is addressed, we would urge strong opposition to the legislation.

Sincerely,

W. RON ALLEN,
President.

(Also signed by 17 representatives of tribes and tribal organizations.)

THE UNITED STATES CONFERENCE OF MAYORS
Washington, DC, April 29, 1999.

DEAR SENATOR: The Community Reinvestment Act (CRA) has played a critical role in encouraging federally insured financial institutions to invest in the cities of our country. Legislation reported out of the Senate Banking Committee on March 4, the Financial Modernization Act of 1999, would dramatically weaken CRA. We strongly urge you to oppose this legislation unless CRA is preserved and strengthened.

The United States Conference of Mayors is the nation's largest nonpartisan organization dedicated to ensuring the economic stability of the nation's largest cities. As mayors, we recognize that CRA has been an essential tool in revitalizing cities around this nation. In fact, there is now increasing recognition that the strength and economic health of whole regions require strong and vibrant cities. Creating new economic activity—new businesses, new jobs, new homeowners—is key to the revival of urban areas and their surrounding regions, CRA has been a key component to creating this new economic activity.

Private sector investment encouraged under CRA has helped to stabilize communities suffering from economic decline. CRA has similarly helped to spur bank and thrift investment in multi-family rental housing development and rehabilitation, small business expansion, and community economic development. CRA is a crucial complement to FHA Insurance, The HOME program, Community Development Block Grants, and the low-income housing tax credit. These programs, which have built or financed the purchase of millions of units of affordable rental and ownership homes, work so effectively because they leverage tens of millions of private dollars.

In light of the success of CRA and our experiences with community revitalization efforts, we are very troubled by allegations that have been made that CRA has ''since been corrupted into a system of legalized extortion.'' In contrast to the description of community based organizations as ''racketeers'' and ''thugs'' many of us have participated in successful partnerships with private institutions and members of the community. These relationships have resulted in a tremendous infusion of capital into underserved communities as well as increased banking services.

The bill that was reported out of the Senate Banking Committee would have dire consequences for the nation's cities if it were enacted. First, the failure to require that banks seeking to affiliate with securities and insurance firms have a ''satisfactory'' CRA rating would permit banks to ignore the credit needs of their communities and benefit from the powers provided in the legislation. This is a substantial rollback of CRA and would most certainly reduce the flow of capital in these areas—returning us to a time when banks and thrifts redlined communities with credit worthy borrowers.

In addition, the bill provides a ''safe harbor'' from public comment on CRA performance to banks with a ''satisfactory'' or better CRA rating. This provision effectively eliminates public comment on a bank's CRA performance. As you are undoubtedly aware, the opportunity to comment on a bank's performance is a right given to every member of the public. Public comment participation in the CRA process is considered a critical component of the law's success. The public often raises community investment issues which have been overlooked by regulators. This provision singles out CRA comments for unfair treatment. Unlike CRA comments, individuals seeking to comment on other aspects of a bank's performance would not face limitations on the scope of information that they may introduce or be required to carry a burden of proof. Moreover, data from regulators indicated that the comment process has not been abused.

Finally, the bill exempts small banks in rural areas (assets less than $100 million in assets) from CRA obligations. These institutions represent 76% of banks and thrifts in rural communities. This provision would seriously compromise the capital needs of rural residents who depend almost exclusively on small banks and thrifts to meet their credit needs. Residents in these communities rely on CRA to encourage banks to make mortgage, small farm, and small business loans.

Prior to the enactment of CRA, banks, and thrifts routinely redlined low- and moderate-income neighborhoods in our nation's cities. The modest requirement in CRA that financial institutions meet the credit needs of their communities has lead to the successful channeling of billions of dollars into localities.

As reported out of the Senate Banking Committee, the Financial Services Act of 1999 would severely weaken CRA and our nation's cities. Unless the onerous CRA provisions are addressed and CRA is preserved and strengthened, we would urge strong opposition to the Senate bill.

Sincerely,

Richard Arrington, Jr., Birmingham, AL
Patrick Henry Hays, North Little Rock, AR
Robert Mitchell, Casa Grande, AZ
Alex J. Harper, San Luis, AZ
Neil Giuliano, Tempe, AZ
George Miller, Tucson, AZ
Richard F. Archer, Sierra Vista, AZ
Marilyn R. Young, Yuma, AZ
Ralph Appezzato, Alameda, CA
Garry Fazzino, Palo Alto, CA
Mary Rocha, Antioch, CA
Shirley Dean, Berkeley, CA
Eunice M. Ulloa, Chino, CA
Judy Nadler, Santa Clara, CA
Chris Christiansen, Covina, CA
George Pettygrove, Fairfield, CA
Larry R. Green, Glendora, CA
Chris B. Silva, Indio, CA
Roosevelt F. Dorn, Inglewood, CA
Cathie Brown, Livermore, CA
Donald E. Lahr, Santa Maria, CA
David Smith, Newark, CA
William E. Cunningham, Redlands, CA
Willie L. Brown, Jr., San Francisco, CA
Harriett Miller, Santa Barbara, CA
Gary Podesto, Stockton, CA
Robert R. Nolan, Upland, CA
Wally Gregory, Visalia, CA
Robert Frie, Arvada, CO
Wellington E. Webb, Denver, CO
John DeStefano, Jr., New Haven, CT

Dannel P. Malloy, Stamford, CT
Anthony A. Williams, Washington, DC
Gerald Broening, Boynton Beach, FL
Alex Penelas, Miami-Dade County, FL
Mara Giulianti, Hollywood, FL
Ralph L. Fletcher, Lakeland, FL
Richard J. Kaplan, Lauderhill, FL
James F. Fielding, Port St. Lucie, FL
Alex G. Fekete, Pembroke Pines, FL
Joe Schreiber, Tamarac, FL
Bill Campbell, Atlanta, GA
Bob Young, Augusta, GA
Patsy Jo Hilliard, East Point, GA
Felix F. Ungacta, Hagatna, Guam
Stephen K. Yamashiro, Hawaii, HI
Lee R. Clancey, Cedar Rapids, IA
H. Brent Coles, Boise, ID
Gregory R. Anderson, Pocatello, ID
Neil Dillard, Carbondale, IL
Richard Daley, Chicago, IL
Jerry P. Genova, Calumet City, IL
Angelo A. Ciambrone, Chicago Heights, IL
Lydia Reid, Mansfield, IL
Stanley F. Leach, Moline, IL
Barbara Furlong, Oak Park, IL
R. David Tebben, Pekin, IL
Ross Ferraro, Carol Stream, IL
Stephen J. Luecke, South Bend, IN
Joseph R. Zickgraf, Columbia City, IN
James P. Perron, Elkhart, IN
Duane W. Dedelow, Jr., Hammond, IN
Paul W. Helmke, Fort Wayne, IN
Carol Marinovich, Kansas City, KS
David L. Armstrong, Louisville, KY
Waymond Morris, Owensboro, KY
Edward G. ''Ned'' Randolph, Jr., Alexandria, LA
Ruth Fontenot, New Iberia, LA
Walter Comeaux, Lafayette, LA
Marc Morial, New Orleans, LA
John Barrett, III, North Adams, MA
Nicholas J. Costello, Amesbury, MA
Thomas M. Menino, Boston, MA
David Ragucci, Everett, MA
Patrick J. McManus, Lynn, MA
Richard C. Howard, Malden, MA
Thomas V. Kane, Portland, ME
James L. Barker, Garden City, MI
Dennis Archer, Detroit, MI
Woodrow Stanley, Flint, MI
Aldo Vagnozzi, Farmington Hills, MI
Robert B. Jones, Kalamazoo, MI
David C. Hollister, Lansing, MI
Jack E. Kirksey, Livonia, MI
Linsey Porter, Highland Park, MI
Walter Moore, Pontiac, MI
Donald F. Fracassi, Southfield, MI
Sharon Sayles Belton, Minneapolis, MN
Chuck Canfield, Rochester, MN
Joseph L. Adams, University City, MO
Larry R. Stobbs, St. Joseph, MO
Harvey Johnson, Jr., Jackson, MS
Jack Lynch, Butte, MT
Patrick McCrory, Charlotte, NC
George W. Liles, Concord, NC
Jerry Ryan, Bellevue, NE
Ken Gnadt, Grand Island, NE
James Anzaldi, Clifton, NJ
Anthony, Russo, Hoboken, NJ
Sara B. Bost, Irvington, NJ
Margie Semler, Passaic, NJ
Albert McWilliams, Plainfield, NJ
Thalia C. Kay, Pemberton Township, NJ
Douglas Palmer, Trenton, NJ
Lavonne Bekler Johnson, Willingboro Township, NJ
Jan Laverty Jones, Las Vegas, NV
Sandra L. Frankel, Brighton, NY
Anthony M. Masiello, Buffalo, NY
James C. Galie, Niagara Falls, NY
William F. Glacken, Freeport, NY
James A. Garner, Hempstead, NY
Roy A. Bernardi, Syracuse, NY
Edward A. Hanna, Utica, NY
Ernest D. Davis, Mount Vernon, NY
Donald L. Plusquellic, Akron, OH
Richard D. Watkins, Canton, OH
Michael B. Keys, Elyria, OH
Paul Oyaski, Euclid, OH
Beryl E. Rothschild, University Heights, OH
William L. Pegues, Warrensville Heights, OH
Thomas J. Longo, Garfield Heights, OH
Debora A. Mallin, Bedford Heights, OH
Marilou W. Smith, Kettering, OH
David Berger, Lima, OH
Joseph F. Koziura, Lorain, OH
Cicil E. Powell, Lawton, OK
M. Susan Savage, Tulsa, OK
Bill Klammer, Lake Oswego, OR
Vera Katz, Portland, OR
Donald T. Cunnigham, Jr., Bethlehem, PA
Timothy M. Fulkerson, New Castle, PA
Joyce A. Savocchio, Erie, PA
Stephen R. Reed, Harrisburg, PA
Ted LeBlanc, Norristown, PA
Edward Rendell, Philadelphia, PA
Charles H. Robertson, York, PA
William Miranda Marin, Caguas, PR
James E. Doyle, Pawtucket, RI
Vincent A. Cianci, Jr., Providence, RI
James E. Talley, Spartanburg, SC
Jon Kinsey, Chattanooga, TN
Kirk Watson, Austin, TX
David W. Moore, Beaumont, TX
Ronald Kirk, Dallas, TX
Jack Miller, Denton, TX
Mary Lib Saleh, Euless, TX
Charles Scoma, North Richland Hills, TX
Lee P. Brown, Houston, TX
Michael D. Morrison, Waco, TX
Kenneth Barr, Fort Worth, TX
Deedee Corradini, Salt Lake City, UT
William E. Ward, Chesapeake, VA
Paul D. Fraim, Norfolk, VA
Peter Clavelle, Burlington, VT
Mark Asmundson, Bellingham, WA
Lynn Horton, Bremerton, WA
Paul Schell, Seattle, WA
Paul F. Jadin, Green Bay, WI
John D. Medinger, La Crosse, WI
Susan J. Bauman, Madison, WI
Maricolette Walsh, Wauwatosa, WI
John Lipphardt, Wheeling, WV

APRIL 29, 1999.

FAMILY FARM AND RURAL ORGANIZATIONS SUPPORT COMMUNITY REINVESTMENT ACT: OPPOSE THE FINANCIAL SERVICES MODERNIZATION ACT OF 1999

DEAR SENATOR: As organizations working with and representing rural residents, we write to register our strong opposition to the Financial Services Modernization Act of 1999 as reported out of the Senate Banking Committee in late March. We are very concerned that the bill substantially undercuts the existing Community Reinvestment Act (CRA) and totally ignores the need to modernize CRA to meet the dramatic changes in financial services across the country.

Rural America remains in desperate need of affordable credit. CRA has been a law that has significantly expanded access to credit in rural areas of our country. Despite this increased access, there remain widening gaps and unmet needs in ensuring credit access to all rural residents. A recent Small Business Administration (SBA) report analyzing the June 1998 Federal Reserve Data shows a 4.6% decline in the number of small farm loans. The value of total farm loans was $74.5 billion. Of great concern is the statistic that reveals a troubling trend; the value of very large farm loans (over $1 million) increased by 25% while ''small'' farm loans (under $250,000) increased a mere 3.9%. Larger loans are going to fewer operations.

Rural areas continue to suffer from a serious shortage of affordable housing. Farmers are facing the worst financial conditions in more than a decade due to declining commodity prices. Rural Americans continue to need the tools of the CRA to ensure accountability of their local lending institutions. CRA helps to meet the credit demand of millions of family farmers, rural residents, and local businesses.

We strongly oppose three provisions in the Senate Banking Committee reported bill which would have particularly negative consequences for our communities.

First, the bill contains a ''safe harbor'' for banks that have achieved a ''satisfactory'' CRA rating in each of its examinations in the prior 36-month period. This provision would make banks and thrifts immune to public comment during pending expansion applications unless individuals or groups are able to provide ''substantial verifiable information'' that the bank is not in compliance with CRA. This provision would essentially eliminate the public's opportunity to comment on a bank's performance in meeting the credit needs of its communities. More than 95% of banks consistently receive 'satisfactory' or higher ratings. Rural residents play an important role in bringing CRA performance issues to the attention of regulators and making banks responsive to community needs. This provision would deny citizens and community based organizations the opportunity to comment on the credit needs of their community.

Two, the bill exempts from CRA banks and thrifts with less than $100 million in assets located in non-metropolitan areas. These institutions represent 76% of banks and thrifts in rural communities. This provision would seriously compromise the capital needs of rural residents who depend almost exclusively on small banks and thrifts to meet their credit needs. Banks and thrifts in rural areas face little competition from other financial services institutions.

In addition, despite assertions from the industry, many small banks do not by their nature serve the credit needs of their communities. In fact, data from the regulators show that small banks do not invest more in their communities, on average than larger banks. In addition, small banks have a disproportionately high share of less than satisfactory CRA ratings. A Congressional Research Service study of data from 1997 to mid-1998, found that banks with less than $100 million in assets received 70% of the below ''satisfactory'' CRA ratings.

In addition, arguments that CRA subjects small banks to intrusive and time consuming compliance requirements are unfounded. The CRA regulations were revised in 1995 in part to reduce compliance burdens on small banks. The new rules provide for a streamlined examination for banks with less than $250 million in assets including an exemption from data collection and reporting requirements. Small bank ratings now focus exclusively on lending and lending related activities. The need to reduce an already minimal regulatory burden on small banks should not outweigh the credit needs of residents of rural communities.

Third, unlike last year's H.R. 10 voted out of the Senate Banking Committee and this year's House Banking Committee version of financial modernization, the Senate Banking Committee reported bill fails to require that banks have a ''satisfactory'' CRA rating in order to affiliate with securities and insurance firms. In the absence of this requirement, a bank could ignore the credit needs of its communities and still benefit from the new affiliations and powers provided under this legislation.

The Small Business Administration (SBA) report on bank holding company lending in rural communities reaffirms this concern. While the 57 largest bank holding companies held 68.6 percent of all domestic bank assets in June 1998, they made just 10.7% or 160,000 of all the outstanding farm loans. These loans totaled just .18 percent of total assets in these bank holding companies. This increasing concentration and consolidation in

financial services comes at a time when the community role in determining whether this expansion is appropriate is being reduced.

In closing, CRA has been a valuable tool for over twenty years to encourage financial institutions to help meet the credit needs of rural communities across this nation. Access to affordable capital is important to restoring economic prosperity in our nation's rural areas. In its current form, the Financial Services Modernization Act of 1999 permits banks to ignore the needs of our communities and remove one of the few tools that has resulted in a level of accountability. We urge you to vote against the Financial Services Modernization Act of 1999 unless these objections are addressed. Please contact (202) 543–5675 with any questions.

Sincerely,

American Corn Growers Association
Center for Rural Affairs
Federation of Southern Cooperatives
Intertribal Agriculture Council
Iowa Citizens for Community Improvement
Land Loss Prevention Project (NC)
Missouri Rural Crisis Center
National Black Caucus of State Legislators
National Catholic Rural Life Conference
National Family Farm Coalition
National Farmers Union
National Neighborhood Housing Network
National Rural Housing Coalition
North American Farm Alliance
Presbyterian Church (USA), Washington office
Rural Coalition
Sin Fronteras Organizing Project
United Methodist Church, General Board of Church and Society
Wisconsin Rural Development Center

Mr. SARBANES. Finally, let me simply say, as the Democratic leader indicated, unless we can get the substitute in place, we are on a veto track with S. 900. The substitute will eliminate the veto problem. So, for those who want legislation, who want to see financial services modernization enacted into law, I urge them to vote for the substitute.

I assume the chairman will probably make a motion to table.

Mr. GRAMM. I will.

Mr. SARBANES. Therefore, I urge Members to vote against the motion to table the substitute, thereby giving us the opportunity to then go forward and adopt the substitute.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by noting that not one single organization which represents anyone who makes a living in any industry directly affected by this bill supports the Sarbanes substitute. The Sarbanes substitute is opposed by insurance companies, by those who represent the companies; it is opposed by the American Bankers Association, by the Bankers Roundtable, and by the Independent Bankers of America. It is opposed by every organization that represents any facet of the securities industry. This substitute is literally a substitute which has no support by anyone who is going to be directly affected by these laws.

What are the major problems with it? There are more problems than I can possibly outline in 6 minutes, so let me just take a couple of them. We all know Alan Greenspan. We know he is the most respected person in America on economic matters. We all know if there is anybody on this planet who can lay any legitimate claim to the current level of prosperity in America, it is Alan Greenspan, because of his banking and monetary policies.

We also know that Alan Greenspan is not someone who goes out looking for a fight. If he has to say something that anybody does not want to hear, he tends to go all around the barn before he says it. You need to know those things to understand how strongly Chairman Greenspan feels in his opposition to the Sarbanes substitute. In fact, he has said, ''I and my colleagues''—and by ''colleagues'' he means every member of the Board of Governors of the Federal Reserve, most of whom were appointed by Bill Clinton—''are firmly of the view that the long-term stability of the 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. . ..''

Alan Greenspan says in the strongest way possible, in the most passionate terms that he has ever spoken on any issue in his public life: You would be better not to pass a bill than to pass the Sarbanes substitute.

Why? Because the Sarbanes substitute lets banks engage in these expanded financial services within the bank, thereby putting at risk the taxpayer through FDIC insurance. By performing these services in banks, they get an implicit subsidy from FDIC insurance, from the discount window, from the Federal wire, that will make banks able—not because they are more efficient, but because of this subsidy—ultimately able to dominate the securities industry and all other industries which would be affected. We would end up with a banking system that looks very much like the Japanese banking system, totally dominating our financial markets. Alan Greenspan is opposed to that. It is very dangerous for the American economy. It is dangerous for the taxpayer. I urge my colleagues to reject this substitute.

A second issue I want to talk about is CRA. The current bill preserves CRA. The current bill makes two modest changes. One, it says that if a bank has a long-term history of compliance —has been in compliance three years in a row and is currently in compliance—that if a protest group or individual wants to inject themselves into the process, they can do it. They can say whatever they want to say. But the regulator can't hold up the bank's action in the name of CRA, given their long history of compliance and given that they are currently in compliance, unless the protester has more than a scintilla of evidence; unless the protester can present such relevant evidence as a reasonable mind might accept as adequate to support the claim; unless the protester has real, material—not seeming or imaginary—evidence. In other words, if you are going to stop a bank from doing something that it has been found qualified to do, you have to present some evidence—hardly, a demanding constraint.

Second, we exempt very small rural banks from CRA. Why? We exempt very small rural banks from CRA for a very simple reason:

Ms. MIKULSKI. Mr. President, I rise in support of the Sarbanes substitute amendment to the Financial Services Modernization Act. I salute him for his leadership in seeking financial services reform that prepares us for the new century.

I agree that we should reform our financial services. There is no doubt that changes in law have lagged behind changes in our banking and financial services industries.

This amendment is a great improvement over the underlying bill. It would provide greater protections for consumers. It would also maintain the Community Reinvestment Act—which is so important in enabling low income communities to help themselves.

However, I would like to raise a number of what I call ''flashing yellow lights'' or warning signals that we should be aware of before enacting financial services modernization. We should proceed with caution to avoid irrevocable changes when the savings of hard working families and the viability of our communities could be put in jeopardy.

For example, financial services reform would make it easier for banks, securities firms and insurance companies to merge into oligopolies. The savings of many would be controlled by a few. Americans will know less about where their deposits are kept and how they are used.

What would be the effect of these mergers on consumers? I am concerned that these mega institutions could lead to higher fees and fewer choices for consumers.

Marylanders used to have savings accounts with local banks where the teller knew their name and their family. We have already seen the trend toward mega-mergers, accompanied by higher fees, a decline in service, and the loss of neighborhood financial institutions. This legislation accelerates that trend.

In addition, what would be the affect of this legislation on the alarming increase in foreign takeovers of US banks? I support increased globalization, but what will happen when home town banks are taken over by companies that have no roots or commitments to the community?

With a globalization of financial resources, the local bank could be bought by a holding company based outside the United States. Instead of the friendly neighborhood teller, consumers would be contacting a computer operator in a country half-way around the globe through an 800 number. Their account could be subject to

risks that have nothing to do with their job, their community or even the economy of the United States. I know that impersonalized globalization is not what banking customers want when they talk about modernization of financial services.

So I will support the Sarbanes amendment. It goes further in answering my concerns. But I hope we will be able to address these concerns more fully as we move forward with this legislation. they generally do not have a city to serve, much less an inner city.

Third, in the last 9 years, Federal regulators have performed 16,380 CRA evaluations of these banks—evaluating them annually. These banks report that it costs them between $60,000 and $80,000 a year to comply with CRA. Yet, at the end of 9 years and 16,380 evaluations, just three small rural banks have been found to be substantially out of compliance. One million—excuse me, one trillion. Excuse me, let me be sure I have my figure here. At the end of this process, with small banks having spent perhaps $1,310,400,000,000 complying with paperwork in the name of evaluating community lending, we have found just three banks out of compliance. Not only does the substitute eliminate this provision that ends this senseless wasting of small bank resources that cost local communities and deny them access to credit, but it imposes confiscatory penalties that would make a bank, if it fell out of compliance with CRA, potentially subject to a $1 million fine, not just on the bank but on the bank officer or on the bank director.

We have two letters here, one from the Independent Bankers and one from the ABA, raising the point that one of the toughest things to do now in this period of massive lawsuit liability is to get good people to serve on a bank board. Both the Independent Bankers of America and the ABA have written urging us not to adopt a provision that would make it virtually impossible for small banks, especially, to get qualified officers and board members because of the liability costs. I urge my colleagues to reject this substitute.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senator from Texas is recognized to make a motion to table.

Mr. SARBANES. Mr. President, I ask for 1 minute so I can pose a question to the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, I want 1 minute to respond.

Mr. SARBANES. How does the Senator get this $1 trillion figure?

Mr. GRAMM. We have had 16,380 examinations of small, rural institutions since 1990. Those small, rural institutions report to us that it costs them about $80,000 a year to keep the records to comply with these examinations, and that is where the number came from.

Mr. SARBANES. My arithmetic—first of all, I do not concede the figures. In any event, even if I accept them, it is 1 billion, not 1 trillion.

Mr. GRAMM. If it is a billion or a trillion, it is a lot of money.

Mr. SARBANES. A lot of money, but there is a big difference between a billion and a trillion. That is one of the problems with this debate, I underscore.

Mr. GRAMM. I have my trusty calculator, and I will make the calculation again. But lest my colleague be correct, let me just restate it in his terms. The term is, does it make sense to make little banks spend $1.3 billion to comply with keeping paperwork when in 9 years, only three banks out of 16,000 audits have been substantially out of compliance? Is that not overkill? Is that not bankrupting every small bank in America? The answer is yes.

Mr. GRAMM. I move to table the pending substitute, and 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 the amendment. 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. REID. I announce that the Senator from North Dakota (Mr. DORGAN), is necessarily absent.

I also announce that the Senator from Louisiana (Ms. LANDRIEU), is absent attending a funeral.

I further announce that, if present and voting, the Senator from Louisiana (Ms. LANDRIEU), would vote ''no.''

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

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 100 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	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Voinovich
Enzi	McCain	Warner

NAYS—43

Akaka	Byrd	Feinstein
Baucus	Cleland	Graham
Bayh	Conrad	Harkin
Biden	Daschle	Hollings
Bingaman	Dodd	Inouye
Boxer	Durbin	Johnson
Breaux	Edwards	Kennedy
Bryan	Feingold	Kerrey
Kerry	Mikulski	Sarbanes
Kohl	Moynihan	Schumer
Lautenberg	Murray	Torricelli
Leahy	Reed	Wellstone
Levin	Reid	Wyden
Lieberman	Robb	
Lincoln	Rockefeller	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Dorgan Landrieu

The motion was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that notwithstanding the agreement of May 4, Senator SARBANES now be recognized to offer a CRA amendment with all other provisions of the previous consent agreement still intact.

I further ask that a vote occur in relation to the CRA amendment at 7 p.m. tonight, and if debate has been completed prior to that time, the amendment may be laid aside in order for Senator GRAMM, or his designee, to offer an additional amendment.

Mr. SARBANES. Mr. President, reserving the right to object, I think the agreement should be ''or a designee,'' and Senator BRYAN is going to offer the amendment.

Mr. LOTT. I modify it to say Senator SARBANES or his designee.

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

Mr. LOTT. Mr. President, for the information of all Senators, Members should be aware that votes will occur today on the CRA issue and possibly other banking issues. If debate is completed before the 7 o'clock hour, there are other amendments that could be considered. There will certainly be one at 7 o'clock on this CRA issue.

If the Senate is able to complete this banking bill by the close of business on Thursday, then I would be prepared to announce at that time that there would be no votes on Friday. So if we can get this work completed—and it looks as if we may be able to; the managers are working together. And we have a couple of issues that will have to be debated and considered carefully, plus there are other amendments that won't take as long to be debated. This could be completed by Thursday night. If that is the case, we will not have any votes on Friday. If we are not able to finish it Thursday night, we may have to go over until Friday and complete it. I wanted Members to be aware of that possibility.

I yield the floor.

Mr. SARBANES. Mr. President, I yield to the distinguished Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 303

(Purpose: To make amendments relating to the Community Reinvestment Act of 1977, and for other purposes)

Mr. BRYAN. 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 Nevada [Mr. BRYAN], for himself, Mr. DODD, and Mr. KERRY, proposes an amendment numbered 303.

Mr. BRYAN. 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 14, strike lines 8 and 9 and insert the following: ''are well managed;

''(C) all of the insured depository institution subsidiaries of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977; and

''(D) the bank holding company has filed''.

On page 14, line 20, strike ''and (B)'' and insert '', (B), and (C)''.

On page 18, between lines 4 and 5, insert the following:

''(5) LIMITATION.—A bank holding company shall not be required to divest any company held, or terminate any activity conducted pursuant to, subsection (k) solely because of a failure to comply with subsection (*l*)(1)(C).

On page 66, strike lines 7 and 8 and insert the following: ''bank is well capitalized and well managed;

''(E) each insured depository institution affiliate of the national bank has achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977; and

''(F) the national bank has received the''.

On page 66, line 12, strike ''subparagraph (D)'' and insert ''subparagraphs (D) and (E)''.

On page 66, line 16, insert before the period '', except that the Comptroller may not require a national bank to divest control of or otherwise terminate affiliation with a financial subsidiary based on noncompliance with paragraph (1)(E)''.

On page 96, strike line 23 and all that follows through page 98, line 4.

On page 104, strike line 20 and all that follows through page 105, line 14.

Redesignate sections 304 through 307 and sections 309 through 311 as sections 303 through 309, respectively.

Amend the table of contents accordingly.

Mr. BRYAN. Mr. President, we are about ready to debate an important issue dealing with the Community Reinvestment Act. Let me say that I think there has been considerably more heat than light generated in the debate surrounding this issue. I thought it might be helpful to my colleagues to explain how the provisions of this act work, what is involved, what is not involved, the provisions that currently exist in the bill we are debating, and the contents of the amendment.

The Community Reinvestment Act has been in operation now for 21 years. The act itself is triggered in either of two circumstances—one, as part of a periodic review, and that depends upon the size of the institution. It applies only to insured depository institutions, so we are talking about banks and thrifts. It also is triggered when a depository institution files an application for a charter conversion, for merger, acquisition, or requesting authority for additional branches.

Those applications, then, are reviewed by the appropriate bank regulator, or the thrift regulator, whether that be the OCC, the Federal Reserve, or the OTC. Notice is then given, and the community groups have an opportunity to comment on the application. So you have a periodic review, which may be annually or a longer period of time, or you have the circumstances in which an insured depository institution seeks either a charter conversion, a merger, an acquisition, or additional branches.

Notice is given. Now, 97 percent of all depository institutions—banks or thrifts—get a satisfactory CRA rating. The penalties that can be provided are that, No. 1, an application could be denied, an application could be accepted subject to certain conditions, or the application can be approved without conditions. I think it is important to understand who is making the decision here. It is not the community groups that have a veto power. These are decisions that are essentially made by bank regulators—regulators that have traditionally evinced no hostility to the banking industry. And even an institution which gets the lowest rating—substantial noncompliance is the lowest rating you can get—may still have its application approved. So nothing in the language of CRA compels a regulator to disapprove an application, even if the financial institution that is applying for the relief sought gets the lowest evaluation possible.

What is the history in the last 21 years of the act? There have been some 86,000 applications filed over the last 21 years and, of those, only 660 have received adverse comments. So less than 1 percent of all of the applications relating to CRA that have been received have been subject to objections or adverse comments by any of the regulating groups over a period of 21 years.

What has CRA accomplished? Well, it has accomplished a great deal. In point of fact, the CRA, over the years, has resulted in a substantial increase in lending and other financial activity within the inner-city and minority groups in America. CRA encourages banks to meet the credit needs of the entire community, including low- and moderate-income areas.

Over the last 21 years, the CRA has been one of the strongest incentives to encourage investment in low-income and minority communities.

Under the law, federally insured financial institutions have made billions of dollars in profitable market rate loans and investments in underserved urban and rural areas. And it has done so without creating a large Federal bureaucracy, or jeopardizing the safety and soundness of any financial institution.

CRA has been an important tool in improving access to credit for minority and low- to moderate-income Americans.

The dramatic increase in home ownership rates for minorities is attributable in large part to increased focus on banks' CRA performance. Between 1993 and 1997, the number of conventional home mortgage loans extended increased for African Americans by 72 percent; for Hispanics, 45 percent; for Asian Americans, 31 percent; for Native Americans, 30 percent; for low- and moderate-income census tracks by 45 percent.

Small business owners in low- and moderate-income communities have seen a substantial increase in their access to credit under the law.

Under the emphasis of CRA, banks have made loans to African Americans, Native Americans, Hispanic and Asian Americans, and, according to the Small Business Administration, loans to African-American-owned firms increased by 145 percent between 1992 and 1997. In 1997 alone, banks made more than $34 billion in loans to entrepreneurs located in low- and moderate-income areas.

These loans have financed businesses which have been critical to revitalizing the distressed communities.

Mr. President, it seems to me that has a desirable result for every mayor of every major community in America struggling to revitalize the inner core of his or her State. That is the experience in my own State. That is the experience, I suggest, of every State.

As a result of CRA, we are seeing more money being invested and loaned in inner cities with minority businesses.

That, it seems to me, makes sense, and good public policy.

Who, then, objects to CRA?

We are dealing with a piece of legislation that will substantially transform the way in which modern financial institutions will be regulated—banking, securities and insurance.

Mr. President, those groups are in support of CRA, and they are in support of the amendment which I have offered.

Indeed, in the last session of the Congress, H.R. 10, which contains CRA provisions virtually identical to the ones that are contained in the Bryan amendment, were passed by the House of Representatives, and emerged from a Senate Banking Committee by a vote of 16 to 2—broad bipartisan support.

In this Congress, the financial institution restructuring bill that is making its way through the other body was approved by a vote of 51 to 8—51 to 8—and the CRA provisions contained in that piece of legislation are essentially identical to the provisions that the Bryan amendment addresses.

Banks are supportive, the insurance industry is supportive, and the securities industry—the major players are supportive. Moreover, banks have found not only that it is good public policy, but it makes sense financially.

The National Association of Home Builders, which has participated in an enormous growth in the rate of new housing starts, and has seen a remarkable increase in the percentage of home

ownership in America, has this to say about CRA.

The National Association of Home Builders:

Therefore, the NAHB, the National Association of Home Builders, supports any amendments offered to remove or replace the provisions in S. 900—

That is the bill that we are debating—

that deals with a much more restrictive and a roll-back provision of CRA.

The Home Builders go on to say:

While the CRA may not be the perfect solution to ensuring housing credit is available to all communities, financial institutions of all sizes, through their compliance with CRA, have provided crucial community development loans and affordable housing production loans that have benefited millions of people across the United States. We see no public good served by a weakening or a reduction in the CRA requirements.

I will explain shortly how S. 900, the bill before us, would substantially weaken the CRA provisions, and the position taken by the Home Builders, and others, is to support the amendment which is presently before the body.

Mr. President, the distinguished chairman of the committee and I have a difference of opinion. And he will have an opportunity, I am sure, to articulate his point of view. The chairman—it is entirely appropriate for him to do so—sent out letters to various groups to get their comments.

A letter from a small banker dated March 26 of this year responds to that—a copy of which was made available to those of us who serve on the committee—a letter addressed to:

Dear Senator Gramm: I received a copy of your letter to Scott Jones—

Mr. Jones is the President of the American Banking Association—

regarding the proposed exemption from CRA requirements for small banks. While I appreciate your efforts on our behalf, I have to say that this exemption ''Don't mean jack to me.''

That is a quote. That is his language.

We have two bank charters, and have always received an outstanding rating. The burden is not onerous, especially under the revised requirements now in effect for the past two or three years. The information I gather to determine in-area versus out-of-area loans is useful to me outside of the CRA requirements. I probably spend less than 5 hours a year on the issue. I don't think it is worth squandering any political capital you have to eliminate the CRA.

That is the essential text of the letter that our distinguished chairman received. That small banker made reference to some provisions in CRA that were changed in 1996.

Mr. President, recognizing that a small bank has a much smaller staff to deal with compliance issues, substantial changes were made in the CRA requirements for small banks. Essentially, we are talking about institutions under $250 million.

No. 1, with respect to CRA, those small banks have no CRA reporting requirements.

Let me reemphasize that. They have no CRA reporting requirements.

And the standards which are applied to larger banks that are involved in a lending, a service, and an investment criteria are not applicable to small banks. Indeed, small banks do not have to compile any data. They don't have to submit any reports.

They have to have records available so that when the bank examiner comes in pursuant to this periodic request, or if a small bank requests some activity which triggers the application of CRA, they simply say to the bank examiner, ''Our records are contained in the file cabinet over there.'' There is no reporting requirement and no affirmative burden on their part other than to have the records which, as the small banker who wrote the letter to our distinguished chairman pointed out, a bank would want to have for itself independent and separate and apart from the CRA requirements.

So, indeed, there has been an acknowledgment and an attempt to streamline the requirements that small bankers are subject to. And that has been acknowledged by the correspondent who wrote to our distinguished chairman.

What do we have in the current bill? The current bill does a couple of things which, in my view, roll back the provisions of CRA.

It says, in effect, that if a financial institution has a CRA rating of satisfactory or above for a period of 36 months, 3 years, it would be deemed in compliance for purposes of CRA, and for any one of the applications for either a merger, an acquisition, or grant of extension, there would be no opportunity for community groups to comment.

That would roll back the provisions.

Mr. GRAMM. Will the Senator yield?

Mr. BRYAN. I am happy to yield to the Senator.

Mr. GRAMM. I know the Senator, and I know he would not want to state something that is incorrect. I will be brief.

The amendment says if a bank has a long history of compliance, they have been in compliance for 3 years in a row, they are currently in compliance, in order for the regulator to prevent them from taking the action that they are allowed to take by being in compliance, that a person who protests has to present some substantial evidence.

''Substantial evidence'' is defined in the law as more than a scintilla. It does not in any way say they are deemed to be in compliance, other than that they are innocent until proven guilty if they have a good record. Anybody can protest, anybody can file a complaint, but the regulator can't stop the process or delay it unless the challenging party presents some ''substantial evidence.''

This isn't for everybody. It is only for the banks that have a long history of compliance.

I didn't want to have any confusion. That is exactly what it says.

I thank the Senator.

Mr. BRYAN. I thank the chairman.

The chairman states correctly the contents of the bill. However, let me say in response to the Senator's position, we have in effect a 97-percent compliance rate. Mr. President, 97 percent of the financial institutions in the country receive satisfactory or better. In the entire history of the Community Reinvestment Act, with some 86,000 applications, we have had fewer than 1 percent of those protested in any way.

In terms of balance, to give community groups an opportunity not only to comment but to register concerns, it strikes me that the Senator's provisions impose limitations that do not currently exist in the law. I know the able chairman well understands, even if there were a finding under current law that the particular financial institution has the lowest possible rating—substantial noncompliance—that does not preclude the bank regulator from approving the application.

CRA is not an onerous burden. Under the current law, which would remain in place with the Bryan amendment, a bank that seeks a merger approval or charter provision change or a new branch, even if that bank had a substantial noncompliance, the lowest rating possible in the CRA, under the law, nothing precludes the bank regulator from approving that application.

I understand the concern of the Senator from Texas in terms of balancing the equities here. It strikes me that we ought not to put that additional burden of proof on community groups who may want to file some legitimate concerns they have about a proposed merger, acquisition, or a branch extension.

I think the record reflects, of 86,000 applications, we have had fewer than 1 percent, 660, that have availed themselves of this. I respectfully submit, in response to the comments of my friend from Texas, that is not, in my judgment, unduly burdensome.

The Senator also provides in his version of S. 900 a small bank exemption. The effect of that would be to eliminate about 37 percent of all of the banks in the country from the current provisions of CRA. Again, I think it is a balance. It is not the purpose of the Senator from Nevada nor of those who support the Bryan amendment to want to impose an onerous, unreasonable, unfair burden upon a financial institution. However, I must say, I think the track record would indicate that is not the case.

Responding to a legitimate concern of small banks, as I pointed out, in 1996 the rules were changed so that small banks do not have a reporting requirement. All they must do is maintain records so that the bank examiner who comes in periodically to review, or whenever the application is filed that triggers the CRA review to look at the records, can make sure in effect that the bank is lending in the community. It strikes me that is good public policy. Indeed, banks have profited from that activity.

Those are the two provisions that the Senator's version of S. 900 would contain. Also, it would eliminate CRA from the new activities which would be permitted under the provisions of this law.

The thrust of this legislation is to provide a regulatory framework that deals with the reality of the marketplace. Many of those who do not serve on the Banking Committee have heard Glass-Steagall mentioned frequently in the course of financial modernization discussions. This is a Depression-era piece of legislation. I like it. It neatly compartmentalizes banking regulation, insurance regulation, and security regulation. It makes a lot of sense. In the aftermath of the financial collapse of the 1920s and the Great Depression that followed, a number of abuses were pointed out. This legislation was in response to those abuses. It served the Nation effectively for many decades.

As a result of court decisions and actions taken by bank regulators, today much of Glass-Steagall has been effectively emasculated and the marketplace is dictating new products that involve combinations of insurance, securities, and banking functions. I agree with the distinguished chairman that we need a piece of legislation which effectively deals with that. In effect, what we are doing is establishing that modern framework. We have established essentially a system of functional regulation.

It appears from the testimony we have received from the Banking Committee and others who have offered comment that the new financial world will deal not so much in terms of mergers and acquisitions but will seek to avail itself of the new financial services that banks will be able to participate in under the provisions of S. 900, the financial restructuring bill we are debating. Those services involve, essentially, securities and insurance functions.

This is testimony offered before the House Banking Committee by Treasury Secretary Rubin. I think he makes a point far more effectively than I.

Banking industry experts agree that most of the consolidations within the banking community have occurred and that the new frontier will involve mergers among banks, securities and insurance firms.

As a side point, that is the kind of activity which the S. 900 restructuring bill will authorize.

According to Treasury Secretary Rubin, if we wish to preserve the relevance of CRA at a time when the relative importance of bank mergers may decline and the establishment of nonbank financial services will become increasingly important, the authority to engage in newly authorized activities should be connected to a satisfactory CRA rating.

That is the philosophical underpinning. We will be dealing with a new world, a new financial structure, and that, we believe, is appropriate in light of the changes in market conditions.

What are the requirements that would be imposed upon a depository institution under the provisions of this amendment which would seek to avail itself of these new activities—insurance and securities? No. 1, as a condition precedent, a depository institution would have to have a satisfactory rating. That is not, it seems to me, an unreasonable provision.

What kind of action must the regulator consider? If the institution has a satisfactory CRA rating and all other regulatory issues nonrelated to CRA are in place, that application could be approved, it could be subjected to certain conditions, or it could be denied. An agreement could be entered into between the financial institution and the regulator if, indeed, there were some concerns about maintaining the CRA, and the regulator would have the ability to do several things if there were a noncompliance with the agreement entered into.

On balance, what we are talking about is preserving the relevance of CRA in this new financial world we are talking about that will deal with mergers and acquisitions involving brokerage and insurance type of services which are not currently authorized under the regulatory framework.

So I think, just by way of concluding, what we are talking about is not a bold or reckless expansion of CRA. We are really talking about, No. 1, maintaining the status quo with respect to CRA and its traditional functions as it deals with the mergers and the acquisition and charter changes and the new branch request, which is the current part of the law. And we are simply saying, with respect to these new services, these new opportunities which financial institutions will be allowed to participate in, which as Secretary Rubin points out is where the action is going to be, that is where the field of play is. To say that with respect to those new activities no CRA would be applicable, no requirement would be in place, is, in effect, to roll back the application of CRA to the range of financial services that banks are currently allowed to participate in.

In my judgment, this is a reasonable and fair amendment. Bankers support it. Securities firms support it. Insurance companies support it. It enjoys a broad range of support.

Let me emphasize to my colleagues that, unlike some issues which have tended to divide us in terms of partisan differences, the House of Representatives, in considering banking legislation and financial restructuring—the same type of legislation we are debating here today—in a vote of 51 to 8 approved CRA provisions which essentially track the Bryan amendment. In the last Congress, when we came within a gnat's eyelash of getting financial restructuring legislation enacted, it was approved by a bipartisan majority in the House and it cleared the Senate Banking Committee on a vote of 16 to 2.

So this should not be, and I hope it will not be, a partisan vote.

In the 21 years that CRA has been around, 86,000 applications have been received that were triggered by the provisions of the existing law. And in fewer than 1 percent—fewer than 1 percent—have objections or adverse comments been made.

I think the amendment is fair. It strikes a middle ground. It acknowledges the concerns of small banks with the changes that were made in 1996. I hope my colleagues on both sides of the aisle will support this legislation.

I see the Senator from Maryland——

Mr. SARBANES. Will the Senator yield for a question?

Mr. BRYAN. I am happy to yield to the Senator from Maryland.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Maryland.

Mr. SARBANES. First of all, I commend the able Senator from Nevada for an extremely fine statement in support of this amendment which I very strongly back.

The Senator made reference—I think it is an extremely important point—to the fact that the decisions with respect to complying with CRA are made by the regulators. As I understand it, community groups or anyone else can come in and make comments when some of these steps are to be taken for which an institution would have to meet CRA muster, and some of those comments, I assume, can be right on point, others may wander about. But whatever the case, it is not the people who comment who make the judgment; it is the regulators who make the judgment. So they can take it into account, give it some weight, give it no weight—isn't that correct?

Mr. BRYAN. The Senator from Maryland is absolutely correct. It is the regulators, whether it is the OTS, or Federal Reserve, or the OCC.

As the Senator from Maryland knows, because of his longstanding membership on the committee, much can be said about bank regulators. I do not believe anybody would indicate or suggest the record would indicate that there is a hostility by the regulators to the institutions they regulate. In effect, the regulators have the opportunity to consider the CRA issues presented among a range of other issues—capital adequacy, a whole host of things that may be unrelated.

As the Senator from Maryland knows—and I think this is something that needs to be pointed out—even if the institution which has the application has the lowest possible rating—substantial noncompliance, which, in effect, means they have done virtually nothing—the regulator can still approve the application. They can still approve it. So there is no requirement under the existing law with respect to the kinds of mergers, acquisitions, charter changes, and branch expansions that requires a financial institution to even have a satisfactory rate.

So this is hardly an onerous provision, I say to my friend from Maryland.

Mr. SARBANES. The Senator from Texas interrupted the Senator to make the point on this ''comments'' question, the safe harbor issue, that if we previously had a satisfactory rating or better, they could not take into account people's comments, unless they had substantial, verifying information, and then we are being told that a lot of cases were read that indicated that ''substantial'' means a scintilla of evidence.

The Senator was a distinguished attorney general for the State of Nevada for a number of years before he became the Governor. Wouldn't he read the phrase ''substantial, verifiable information'' as a more exacting standard than ''scintilla'' of evidence?

Mr. BRYAN. The Senator from Maryland makes a good point. I think any fair reading, in terms of the standards of proof, is that a ''substantial'' standard is much higher than a scintilla.

In effect, what this provision would do is raise the bar substantially, I say to my friend from Maryland, for community investment groups being able to, in effect, make their case for the consideration—the consideration of the regulator.

I come back to the point. Even if they make their case that, indeed, the bank has not been responsible, has not done what it ought to do under CRA, the regulator may disregard that and still grant that approval. So it strikes me that by posing a standard before they even get into the ball game of ''substantial,'' you indeed cut off access to much of the input the community groups ought to have before a regulator makes a decision.

Mr. SARBANES. It is interesting. The current system I think is seen by most people as working fairly well. In fact, many fine financial institutions do not complain about it. They are prepared to continue to work under the current system, and many of them have even said they see strong positive value in it. So it seems to me this is an effort to institute an important change that would really cut off open comment.

You see, none of this is done, as I understand it, in the committee bill with respect to management or capital or any of the other issues the regulators look at when they undertake to consider one of these mergers or affiliations. It is being applied only to CRA. I mean CRA is being singled out for the application of this kind of prescreening, as it were, of people's ability to come in and make their comments.

Mr. BRYAN. The Senator makes a good point. That is absolutely correct. As the Senator knows, as a practical matter, although CRA is triggered generically in two circumstances—one, part of a periodic review; the other, when applications are made for charter changes or new branches or mergers or acquisitions—as a practical matter, the only opportunity community groups have is in this application process which the Senator has described.

That is the only opportunity. So if you foreclose them by a standard that is unreasonable and difficult to meet, you have, for all intents and purposes, foreclosed community groups from registering any effective concerns that they have.

Mr. SARBANES. I think that is an extremely important point. The chairman has said they have court opinions. I have not seen these cases that interpret ''substantial'' to mean ''a scintilla of evidence.''

Mr. GRAMM. More than a scintilla.

Mr. SARBANES. The chairman corrects me and says ''more than a scintilla.'' I don't know how much more, but more than a scintilla.

In any event, isn't it the case that no full hearings have been held on CRA? We come to the floor, and we get all of these assertions about abuses of one sort or another, sort of radical changes in a program that is seen as having been the lifeblood, enabling communities to renew themselves. To my knowledge, we have not had within the committee any sort of comprehensive hearings to examine those questions; is that the Senator's understanding?

Mr. BRYAN. That is the understanding of the Senator from Nevada, we have had no hearings at all.

I must tell the Senator from Maryland that the financial institutions in my State are supportive of CRA. If we want to take anecdotal evidence, I have to say financial institutions in my State have indicated, one, it is good public policy, and, two, they have financially benefited. But there is no record before us, based upon any hearings or testimony—and I must say I think that there is opportunity for hearings to be held. When we are dealing with some other regulatory relief issues in the Banking Committee, that might be an appropriate time to bring people in so we can build a record.

My understanding is that we have had nothing to that effect and, indeed, this Senator has been on the committee now for 11 years. Financial institutions in my own State are very supportive of the provisions.

Mr. SARBANES. Isn't it also the case, I ask the Senator, that in the mid-1990s, when a number of banks were complaining about the regulatory burden associated with CRA, Secretary Rubin undertook a major effort to address the question of regulatory burden and made very substantial changes in the requirements, which were greeted by the various banking associations at the time as being very forthcoming in dealing with this question of overregulation?

Mr. BRYAN. The Senator from Maryland is correct. Recognizing that small banks are in a different situation than larger banks in terms of staff capability, the Secretary did precisely that. In January 1996, these new provisions went into effect, and they are appropriate, in my judgment, and they are dramatic.

No small bank under the size of $250 million has to report CRA. There is no reporting requirement for CRA that is incumbent upon a small bank, as defined in the provisions.

The responsibility of the small bank is simply to make available to the bank examiner, when he or she comes in periodically or when the examiner is reviewing the records for an application, the fact that the bank is serving the community.

Moreover, the standards which are required for a larger bank dealing with a lending standard, a service standard and investment standard are inapplicable to small banks.

In trying to balance the inequities here, as I know the distinguished Senator from Maryland is interested in doing and all of us share in a very bipartisan way, dealing with the very special concerns of small banks has been addressed, we have eliminated the reporting requirement and have simply said, if I might respond to my friend from Maryland, that when the bank examiner comes in, the only obligation on the part of the financial institution is to direct the bank examiner to the file drawer and say, ''Those are our records.'' The bank examiner examines those records, and that is the burden that is imposed.

I must say, in terms of the balance, as the Senator from Maryland knows, coming from a State which has major metropolitan areas that fight urban decay, as does every major community in America, CRA is one of the most effective redevelopment tools for the inner cities in America that we have. It has poured hundreds of millions of dollars of new investments into the inner cities. That benefits not just the inner cities, but that benefits all of us.

The tragedy that occurred in Littleton, CO, 2 weeks ago occurred in a suburban area, but I think it is increasingly apparent to America, whether you live in the inner city or live in the suburbs, the problems that our inner cities have in America spread like a contagion. So it is in the best interest of every American, wherever he or she lives, that those inner cities which face all the problems of urban decay, crime, and drugs, that what we can do to help to build those inner cities and strengthen the hands of mayors, Democrats, Republicans, nonpartisan, is important public policy, and CRA has done the job. That is why the U.S. Conference of Mayors, as the distinguished ranking member knows, has been so strongly supportive of the provisions in the BRYAN amendment that we offer today.

Mr. SARBANES. The Senator has been very patient. Will he indulge me for one further question?

Mr. BRYAN. The Senator from Nevada is happy to do so.

Mr. SARBANES. The Senator's amendment, I think, has an extremely important provision which says that if a banking institution wishes to go into securities or into insurance, which would be permitted in a comprehensive way for the first time by this legislation, that banking institution must

pass the CRA test in order to do that. It is asserted that this is a, I think the language was used by my colleague, the chairman, a massive expansion of CRA.

I take a very different view of that. It seems to me it is only keeping CRA abreast of the developments that are taking place with respect to financial modernization, because heretofore banks could not reach out and do—they did some of those activities within the bank of a very limited nature that had been permitted either by regulation or by court opinion but which were highly controversial and contested, and one of the things this bill is intended to do is to resolve those questions in terms of the structure of the financial services industry. Both the Senator and I are supportive of trying to do that.

It seems to me that if the bank is now going to be permitted to move out to do these other activities, it is not some massive expansion of CRA. That CRA requirement would be placed upon the bank before they could move to do those other activities. Otherwise, it seems to me, over time, you will erode CRA, as institutions begin to shift their assets out from under the banking activity into the securities and the insurance activities.

This amendment, the proposal the Senator has, does not extend CRA to the securities and insurance affiliates; am I correct on that point?

Mr. BRYAN. The Senator is correct.

Mr. SARBANES. Which in fact has been strongly urged by a number of the community groups that are supportive of CRA. They in effect want to extend it out. If that were to be done, I would recognize that as an expansion, and we could fight that issue, as it were. But that is not what is in this amendment.

This amendment puts the requirement only on the bank, if it seeks to go out and do those activities. That seems to me to be perfectly reasonable. In fact, it seems to me failure to do that is really a setback or an erosion of CRA.

I ask the Senator his view on that question.

Mr. BRYAN. I share the observation and the conclusion reached by the distinguished ranking member. That is precisely the case. As the Senator from Maryland knows, we are dealing with a changing dynamic in the financial marketplace. That really is the catalyst that brings us into this financial restructuring debate.

The Senator may have been off the floor when I shared the observation that the Treasury Secretary made, which reflects the view that the Senator has expounded upon. He says, in effect:

> [I]f we wish to preserve the relevance of CRA at a time when the relative importance of bank mergers may decline and the establishment of non-bank financial [services] will become increasingly important, the authority to engage in newly authorized activities should be connected to. . .CRA.

He is saying that much better than I. He is saying, in effect: Look, this marketplace is shifting, it is moving. From what we have seen historically, since CRA has been in effect, with the traditional consolidation and mergers of one bank with another, that is not likely to be where the dynamic is in the marketplace in the future. We have already seen it.

What we are going to see are consolidations and mergers with other aspects of the financial services community—insurance and securities. And if you say that CRA has no reference or application to those applications, in effect you are relegating CRA to the dustbin of history; by and large, it is no longer as relevant as it is currently.

So, in effect, what we are trying to do is simply keep CRA as relevant in the new financial world as we have in the old financial world. I do not view this as an extension of CRA. It simply reflects a change in the marketplace that we are likely to see with respect to the way the financial services are provided to Americans.

Mr. SARBANES. In fact, unless we do this, you could have a bank in substantial noncompliance with respect to the CRA test which would then be able to reach out and exercise these additional powers?

Mr. BRYAN. That is precisely the case.

Mr. SARBANES. I thank the Senator. I thank him very much for his strong opening statement on this important amendment.

Mr. BRYAN. I thank the Senator for his comments, which I think helped elucidate a number of comments which are going to be important in this debate.

I yield the floor. I note that the Senator from Minnesota may wish to speak.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Chair.

Mr. President, I want to take time today to first outline my support for the bill overall, and then also to talk a little bit about the current pending business, and that is the question concerning CRA.

As a member of the Senate Banking Committee, I rise in strong support of S. 900, the Financial Services Modernization Act of 1999, and urge my colleagues to take the committee's recommendation to pass this very important piece of legislation.

The Glass-Steagall Act—which prohibits commercial banks from affiliating with companies predominantly engaged in the securities busines—was passed at a different point in time and in a dramatically different economy. In response to the numerous commercial bank failures during the depression, the Glass-Steagall Act was enacted as part of President Roosevelt's economic recovery package. One premise leading to the law which has since been proven incorrect, by the way—was that commercial banks which were involved in securities underwriting failed at a higher rate than other banks due to losses in their securities business when Wall Street collapsed. Subsequent studies have proven that these very same banks actually fared better than other banks which had not diversified by offering broad securities products. Unfortunately, as with most of the flawed legislation on our books, the law was not sunset and has hindered America's financial institutions—banks and securities firms alike—since its enactment in the 1930s.

Although commercial banks in recent years have been able to conduct limited securities underwriting activities through Section 20 affiliates, S. 900 appropriately repeals the Glass-Steagall prohibitions on common ownership of commercial banks and securities firms and will allow these activities to be conducted without the arbitrary restrictions which govern these activities currently.

The Bank Holding Company Act also includes similar restrictions in Section 4(c)(8) which have prevented safe, sound, and well managed commercial banks from affiliating with insurance companies. Although insurance is unquestionably a financial product, banks have been prohibited from underwriting insurance, and insurance companies have been restricted from fully entering the business of banking. This bill removes the Bank Holding Company Act restrictions and it preempts State laws which prohibit these affiliations.

Although there always seems to be broad agreement that the time for reform is now, every recent effort has failed because the devil has been in the details of how to regulate the new entities. S. 900 successfully incorporates a wide array of negotiated agreements between the interested industries to provide functional regulation—meaning regulation by product and not by the entity offering it. Under the bill's regulatory structure, banking products will be regulated by bank regulators, securities activities will be regulated by the Securities and Exchange Commission, and insurance will continue to be regulated by State insurance commissioners. This system will ensure that the experts in each area will oversee the activities to protect the consumer and to ensure that all parties are playing on a level playing field.

As part of this system of functional regulation, the bill retains the current system of State regulation of insurance. While I strongly support State regulation of insurance, I believe there is a role for some Federal oversight. I believe that because Congress delegates the authority to regulate the insurance activities of national banks, it also has the responsibility to ensure that State regulation does not result in bloated, burdensome, and unresponsive regulation. Also, I will be holding hearings this year in the Securities Subcommittee to explore where any flaws exist and will work hard to address them with all of the interested parties.

Another major area of functional regulation contained in S. 900 is the regulation of securities activities. The bill provides a workable compromise which eliminates the bank's existing broker-dealer exemption and substitutes a system of targeted exemptions which protect traditional banking products while requiring other securities activities to be offered by a broker-dealer. Also, the bill requires the SEC and the Federal Reserve Board to work together to determine how future products will be regulated.

There has been some talk around Washington that an amendment may be offered to delete these bank exemptions and give the SEC complete authority to determine how future products will be regulated.

Let me be clear that if this amendment is offered, it is done so for only one reason—and that would be to kill the bill. If the bank exemptions are eliminated and traditional activities, such as trust activities, are not statutorily protected, the entire banking industry will unite against this bill. Again, I urge my colleagues to oppose any amendments which significantly alter the bill's securities provisions.

When repealing current law affiliation restrictions, the question is also raised about what activities the new broader bank holding companies will be able to conduct. The bill contains a standard—financial in nature—by which all activities of a bank holding company must comply. This provision maintains the current separation of banking and commercial activities, while providing appropriate flexibility, again, subject to Federal Reserve Board oversight. Some have criticized even the narrow flexibility which is provided in this bill. However, without this flexibility many financial companies will not be able to take advantage of the new structure contained in the bill and will continue to expand their activities outside of the bank holding company model and, thus, outside the oversight that the structure would ensure. Also, while on the topic of banking and commerce, I want to briefly touch on the unitary thrift holding company. There are three thrift related provisions either in S. 900 or which are expected to be considered as floor amendments. First, as reported by the Committee, the bill prevents the formation of any new unitary thrift holding companies after February 28, 1999. This provision will protect any applications which were ''in the pipeline'' at that time, on the date the bill was unveiled but will prevent any new unitary charters, thus providing a finite universe of unitary charters.

Mr. President, another provision which is included in the base text of the bill extends the assessment differential between banks and thrifts on the payment of interest on bonds that were issued by the Financing Corporation as part of the savings and loan crisis. In 1996, Congress enacted legislation requiring thrifts to make a one-time assessment into the Saving Association Insurance Fund or better known as SAIF, to fully capitalize the then-undercapitalized fund. This assessment was included predominantly because it was scored as a revenue gain under budget rules, and it could be used as the offset that Congress needed to grant the President added spending that he was demanding in return for his support of the balanced budget plan.

In order to lighten the blow to thrifts and to ensure that the FICO bond interests payments were made in a timely and also in a dependable manner, Congress for the first time spread the assessment for FICO interest to the commercial banks. Under that legislation, banks were to be assessed at a rate one-fifth of that which thrifts are assessed until January 1, 2000, at which time all institutions would be assessed at the same rate.

The bill before us today extends for 3 years the period during which there will be an assessment differential. Not surprisingly, the thrift industry adamantly opposed this provision. It is expected that Senator JOHNSON will be offering an amendment, which I intend to support, which strikes the FICO assessment extension and eliminates the thrifts' ability to affiliate with nonfinancial firms.

Although this amendment presents an unpopular choice for thrifts, I believe that it is in the best interest of the thrifts in my State because it will positively impact their bottom line while only slightly impacting their ability to affiliate.

I should note that if the Johnson amendment were approved outside of the underlying modernization bill, it would be much more burdensome, because thrifts would then be limited to selling only to banks or to other thrifts. However, the bill's expansion of the ability of bank holding companies to affiliate with insurance companies and securities firms passes through to thrifts and will now permit nonunitary thrifts to also sell to banks, sell to securities firms, or insurance companies.

Now I want to take a moment to discuss the issue which will likely be the most contentious during the debate on this bill. That is the Community Reinvestment Act or CRA. During consideration of this bill, the Banking Committee approved two balanced amendments designed to bring rationality to a law which has ventured far from what I believe was its original purpose. CRA was enacted in 1977 to encourage financial institutions to help meet the credit needs of the local communities in which they were chartered. Although noble sounding, CRA has drifted far afield from that original purpose. S. 900 includes a small bank exemption, approved on a bipartisan vote of the committee, which exempts banks with assets of under $100 million and which are outside of a metropolitan statistical area for the CRA.

Although I have received a number of calls of opposition from constituents in urban areas in my State, which will not be affected by this exemption, I do think it is important to listen to what some of the bankers in rural Minnesota are also saying. I am sure this is true not only in Minnesota but in rural banks across the country.

Although these bankers are often vilified, I believe that they play a very crucial role in ensuring that affordable financial services are widely available in the rural America.

Just take, for example, the comments of John Schmid of the Security State Bank in Sebeka, MN. John writes:

> We are a small rural Minnesota bank with assets of $21 million—$21 million, this is not a large money center bank—and our town population is 680 souls. We could not exist if we did not support and reinvest as much as we could in our town and surrounding area.

Gregory Morgan of First National Bank of Montgomery, MN, also tells a similar story. He writes:

> Our bank is 36 years old, founded on the idea of serving the entire community of Montgomery and as such, we have been successful. Our efforts of living and breathing community reinvestment are not driven by having to be in compliance with some law written in Washington but rather by listening and serving our friends and neighbors throughout the Montgomery area.

Yet another constituent committed to his hometown is Romane Dold, of Currie State Bank. Romane writes:

> We are a small community bank located in a town of 300 people. Our assets are $17 million. Our bank has always adhered to the regulations of CRA and, in fact, received an ''Outstanding'' rating in our most recent exam. The problem that we have with the regulations is that it just is not necessary. Our bank has been in this town since 1931 and quite honestly, if we hadn't been reinvesting in this community for over 60 years we wouldn't be here. CRA has just been another ''little burden'' that we have to contend with to appease some regulator.

Finally, the message Kieth Eitreim of Jasper State Bank in Jasper, MN, shared also proved that CRA is a bottom-line issue, costing small rural communities precious dollars, a lot of money. His bank is

> . . .an $18 million bank located in a town of 600 people in southwestern Minnesota. CRA is a requirement that does absolutely nothing to protect the people of my community except to cost them money. The last exam we had lasted 3 days and proved what we already knew. We service our community. If we did not, we would not be in business.

Mr. SARBANES. Will the Senator yield on that point?

Mr. GRAMS. I will yield to the Senator.

Mr. SARBANES. I am quite prepared to concede that there are a lot of small banks that do, in fact, service their community, as the Senator has indicated by the quotes. We have never held extended hearings on this issue, but the material from the Federal Deposit Insurance Corporation says that 57 percent of small banks and thrifts have a loan-to-deposit ratio below 70 percent and that 17 percent of those have levels less than 50 percent. Conceding that there are small banks who

really pay attention to their community, it is obvious that there are also small banks which are not doing that.

In fact, the Madison Wisconsin Capital Times, in an editorial a couple of years ago, said:

> Many rural banks establish a very different pattern than reinvesting in their communities where local lending takes a lower priority than making more assured investment like Federal Government securities. Thus, such banks drain local resources of the very localities that support them, making it much harder for local citizens to get credit.

I do not gainsay the examples that the Senator cited. But clearly, there are examples on the other side. And CRA, of course, is directed to get not at the good or the best actors, but the ones that are not addressing needs. The statistics from the regulators seem to indicate, and this editorial that we have—and we have other comments to the same effect—seems to indicate that there is a problem.

Mr. GRAMS. I understand the concern, and I know those numbers have been raised in the questions.

I also know, if you look at the other side of the story, I have talked to some of these small bankers who say they live in a town or work in a town of 300 people. And if you look out in the rural parts of the country today, most of the population in these small towns is growing in age. So his concern was, although we make all these loans available, there are not many home mortgages being sought. There are not many automobiles being bought. There are not many washers and dryers for which loans are being asked. There isn't the demand for the loan.

You have to expect that these bankers are going to have to put the money to some use, if there is nobody out there asking for the loan. The question I have for the Senator is, how many of those loans have been asked for and then denied?

The story I have—and I don't have this information in front of me—is that he said it is awfully hard to loan money to my community when there is no request for loans. What do I do, let the money sit in the safe overnight? No, he has to invest it, maybe in some of these other government or other financial institutions or financial mechanisms.

I think there are two sides of that story. It is not that these banks are turning down loans. In many cases, in these small communities in rural parts of the country, there is no demand for these loans. The bank is a good, safe place to keep it, but not always to be able to use the bank's facilities.

Mr. SARBANES. That is a reasonable point. It ought to be examined in a set of careful hearings, because, in fact, the particular institution may confront that problem, although it may be overlooking loan possibilities, which has frequently been the case and is certainly the case in many instances in which areas people were neglected in terms of the availability of credit. We have never done those kinds of hearings. We have never really looked at this problem in some sort of objective, comprehensive way.

And we hear all these kinds of ad hoc stories, as it were. But, you know, there are counter-ad hoc stories. I am frank to say I don't think we ought to be making the kind of significant changes in the CRA that are in the committee bill without having gone through the sort of process I am talking about.

I thank the Senator for yielding.

Mr. GRAMS. Mr. President, by putting a face on the businesspeople working day in and day out trying to help America's rural communities strive and survive, I hope we can eliminate the vilification which is cast upon them. We are talking about banks under $100 million. As the gentleman from Sebeka said: 680 people is not a major financial center, and we have done the best we can to meet the requirements. We would not be in existence and would not be able to survive in our community if we didn't reinvest and if we had turned down these loans.

There is a commonsense way to look at it. According to the stories we have heard and the bankers we have talked to, a lot of times these are banks with three or four employees. Many times they are asked to have a full-time employee just to work on government regulations, which takes a lot of money that could be used for loans, et cetera, out of the bank, and, as one banker said, it does absolutely nothing for his community. That is where we have to look at some of this. This is common sense.

By using their words to show that they are meeting their communities' needs, not because Washington tells them to do so or says they have to, but, again, because it is in their best interest and it is in the best interest of their community and their town, it proves the need for the small bank exemption.

The Committee also included a provision which has mistakenly been deemed a ''safe harbor.'' Unlike a safe harbor, which gives an institution a free ride, the rebuttable presumption included in S. 900 simply gives meaning to the work of the regulators during CRA exams. CRA's stated purpose is to require each appropriate federal banking regulator to use its authority when examining financial institutions to encourage such institutions to help meet the credit needs of the local communities. By providing a rebuttable presumption, the bill gives the regulator the benefit of the doubt that they are meeting the requirements of CRA by encouraging action by the institution during the exam. However, the bill provides a safety that if someone feels that the regulator has not properly assessed the institution, provided the individual can prove the regulators failure, it can still protest an action. Thus, this amendment simply protects federal banking regulators against harassment by individuals who simply want to criticize their work.

Finally, Mr. President, I regret to have to include a negative comment in this statement about an otherwise outstanding bill. However, I believe that the operating subsidiary provisions included in S. 900 are inadequate and should be amended. As the Senator who worked on a bipartisan basis last year with Senator REED of Rhode Island to draft a compromise operating subsidiary amendment, I have vested 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. I enthusiastically support the op sub amendment of Senator SHELBY which will be offered to this bill. It is identical to the amendment I authored last year and again this year in Committee. The amendment provides adequate safeguards to ensure that the sub poses no greater risk to the bank than a holding company affiliate. Another benefit of this amendment is to provide competition among regulators. 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 have been cooperative in helping his client work through issues and find creative ways to deal with their problems while the other has done nothing to help. If we were to eliminate the competition, regulators would have no incentive to be responsive to the institutions they regulate and American banks would have no where to turn if they are unhappy with their treatment.

Mr. President, in closing I again urge my colleagues to support this important legislation so that we can move the bill through conference and to the President for his signature.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

Mr. President, the bill which is before the Senate, S. 900, is known in the shorthand form as the Financial Modernization Act. It is a 150-page bill which has been the subject of debate and deliberation on Capitol Hill for almost 10 years—a 10-year effort by the House and the Senate to try to modernize the laws and regulations in Washington relative to banks and financial services. Of course, anyone who has paid any attention understands that while we have been debating, there has been a revolution taking place.

I am reminded that just a few years ago we passed major reform in the area of telecommunications—years of hearings, extraordinary testimony from expert witnesses, the best staff work, the best lawyers, the best efforts by the

Members of the House and Senate—and we delivered the Telecommunications Act modernizing regulation when it came to this industry.

Now, a few years later, we take a look at that work product. I was amused to find someone who came to my office and reported to me that they had found in that 1,000-page bill only two references to the Internet. Think of that. We modernized our telecommunications law and almost overlooked the most amazing phenomena that is taking place in telecommunications.

I hope we don't make the same mistake here. I hope in our effort to modernize financial institutions that we are thoughtful, that we modernize them in a way that is good for everyone—consumers and families in America as well as the owners of those institutions.

Twenty-two years ago we took a look at banking in America. We decided that we had some interest as a nation in making certain that the banks served the communities where they were located. That is not a radical notion, is it—to say if you have a bank in a town that is holding the savings and checking accounts of individuals and families and businesses, that when that bank does business it should do business in that same community where the people live, where the businesses are located, where the farmers have their farms, and where the ranchers have their ranches.

We found that some banks were, in effect, in a parasitic capacity. They were drawing out the resources of communities and regions and not putting the money back in. In its worse situation, you would find in some of the urban areas redlining, where banks would take the money out of a community and refuse to write mortgages for the people who wanted to build homes, or to modernize their homes. They wouldn't put money into the small businesses in the same communities where they were drawing the money.

In 1977, we decided there was a need for legislation called the Community Reinvestment Act. It speaks for itself—that the banks reinvest in the communities where they are located. It is not a radical concept. In fact, I think it is a rational concept. It is one that, frankly, has served us very well for 22 years. Now, as part of Senate bill 900, there is an effort to radically change community reinvestment.

I don't know what the experience of other Senators might be. But I can tell you what my experience has been in my hometown of Springfield, IL. I have lived in that town for about 30 years, practiced law there, and raised a family. There was a time when I not only knew the name of every bank downtown, but I knew the bank presidents. I might not have socialized with them, but I sure knew where they were. I knew where they lived, and I knew who their families were. I had a feeling that those banks were going to be around for a long time. You could just tick them off: The First National Bank, the Illinois National Bank, The Springfield Marine Bank.

But over a span of 10 or 15 years a dramatic change has taken place. I think a lot of Americans find themselves in the same situation that I am in. I struggle to remember the latest names of these latest banks. Which one is the First National Bank? Which one is the Planters and Growers Bank? I can't keep up with it. It seems every 6 or 12 months there is a change, and not just a change in name, there is a change in ownership. The bank that used to be run downtown in Springfield may be run out of someplace in Ohio, New York, or Europe.

If Members ask whether or not we need this law of 1977, this Community Reinvestment Act, to make certain that as these changes are taking place in the banking industry—whoever owns them, wherever their home might be—that they still serve the communities where they draw their money from, I think is still a very sound concept.

Yet this bill, S. 900, suggests it is a concept that should be largely abandoned, because in three specific areas there are changes in the law.

First, it eliminates the requirement that all banks within a holding company have and maintain satisfactory Community Reinvestment Act ratings as a condition for exercising new financial powers. To put it in common English, if you want to take your bank and holding company and expand it in some direction, we are going to take a look to see if you have been good citizens in the communities where you are located.

I think that is a reasonable suggestion. That is the law. But this bill changes it. This bill removes that requirement and says you can't take a look at their records and see if they have been helping local farmers and businesspeople, families, with mortgages.

Does that make sense, at a time when bank ownership is becoming further and further removed from the people who bank, that we are going to somehow absolve them of responsibility to the neighborhoods, the communities, the towns, the counties around them? I don't think that makes any sense at all.

The second thing, the so-called safe harbor provision. If an institution had a good conduct ribbon for 36 months under the Community Reinvestment Act, this bill basically says leave those banks alone, don't ask any more questions.

I don't think that makes sense either.

The Community Reinvestment Act examinations take place about once every 18 to 24 months. In fact, for the smaller institutions, they have been streamlined more dramatically. I don't think we ought to say that after some 3 years of good conduct we are no longer going to ask basic questions as to whether or not you are making an investment in your community.

The final provision, which the previous speaker, the Senator from Minnesota, addressed from his point of view, was whether or not a bank—rural bank in this instance—with less than $100 million in assets should be required to meet the requirements of the Community Reinvestment Act. An argument can be made, and has been made by some, that these are smaller institutions and, as such, should not be burdened by regulators and paperwork, let them do their business, they are good neighbors, and things will work out.

Yet in the report filed with this bill, we find the statistics do not bear out that point of view. Let me read:

> Over 76 percent of rural U.S. banks and thrifts have assets less than $100 million.

We are talking about more than three-fourths of the bank and thrift institutions in the smalltown areas.

> It is asserted these small rural banks by their nature serve the credit needs of their local neighbors. However, small banks have historically received the lowest Community Reinvestment Act ratings. Institutions with less than $100 million in assets accounted for 92 percent of institutions receiving noncompliance ratings under the CRA.

What many do is take the money from the community and then do not lend it back into the communities. They turn around and buy government securities instead of lending it to the businesses and families that need those assets to make investments in the communities.

I don't think the small bank exemption is the way to go. I think the provision in the CRA change relating to that overlooks the fact that just a few years ago we put in new regulations to streamline CRA investigations in smaller banks, banks of less than $250 million in assets. We exempted many small banks from reporting requirements and eliminated a lot of documentation and paperwork. We need to continue to focus on banks of all sizes to make sure they are doing the right thing.

After 22 years of the Community Reinvestment Act, what do we have to show for it? Has it worked? I think, quite honestly, it has worked very well. My State of Illinois is very diverse, with a large city like Chicago and many small towns. In the Chicago area, thanks to a strong economy and CRA, the number of home loans to low-income borrowers almost doubled between 1990 and 1996, enabling 30,000 families to become homeowners. Is it of value to those families that those banks put the money back into the community? I think it obviously is.

I want to take a look at some of the other areas of my State. Voice of the People, in the Chicago Uptown area, has provided quality, affordable housing for low-income families. The racially and economically diverse community of Uptown Chicago, on the far north side of town, partnered with the

Uptown National Bank of Chicago and completed the International Homes project, a development of 28 town homes constructed on five vacant lots within a four-square-block area in Uptown. This made homeownership possible for 28 lower-income minority and immigrant families. Half of these first-time homeowners are families earning under 50 percent of median income.

At the same time, down in my old hometown of East St. Louis is Winstanley/Industry Park Neighborhood Organization, a new nonprofit corporation representing 8,000 people. For those not familiar with it, my old hometown has had a tough time for the last 20 or 25 years. They struggled to keep the community together and to survive. The Winstanley/Industry Park Neighborhood Organization has been a plus. It is a mixed-use area comprised of residential, commercial, and abandoned industrial sites. What they have tried to do is to work with Magna Bank of Illinois to change the area. They have created a farmers market, community owned and operated, which was developed by this organization. What makes the market particularly unique is 14 of the 16 vendors are local residents.

If your bank were located somewhere in Europe and you came into the branch in your hometown and said, ''We have some people here who are struggling to make a living; they are low income and they want a chance to start a farmers market,'' is it more likely that you are going to get a sympathetic response from someone who knows the community, has a responsibility to the community, rather than someone who is just hammering away at the bottom line? I think the answer is obvious.

A residential loan counseling program of the same organization has launched a response to the victimization of over 1,400 lower-income families who were being misled by unscrupulous realtors into home purchase agreements known as bond-for-deed. The realtors who engaged in this often held the title to the properties throughout the length of the contract without recording the transaction and without hazard insurance for the purchaser. Most of these agreements contain no terms and have open-end type mortgage balances. This organization counseling program helped these same residents, lower-income families, refinance with conventional mortgages on their own homes.

Finally, West Humboldt Park is a low-income, predominantly minority neighborhood on Chicago's west side. It is plagued by poverty, illiteracy, welfare dependence, street and domestic violence, alcohol and substance abuse, and a lack of job opportunity. In 1989, Orr High School and the 12 neighborhood elementary schools formed a partnership with Bank of America—then Continental Bank—establishing a community network of schools in West Humboldt. The partnership has grown to include over 25 programs providing education and social services. They include Boys and Girls Clubs, the creation of the BUILD project, which is a group of parents who are really trying to keep the streets safe for their kids.

It amazes me that in our efforts to modernize the laws involving banks and thrift institutions, one of the first casualties proposed in the Republican majority bill before the Senate is to eliminate the Community Reinvestment Act. A party which dedicates itself to the premise that local control is best is virtually ready to give it away. To say that when it comes to local control of banking assets so critical for building and rebuilding a community, it will no longer hold them responsible, I think that is shortsighted.

For 22 years, the Community Reinvestment Act has worked. I hope we defeat this provision if we can muster a direct vote on it. If not, defeat the bill if it continues to push the things which are not in the best interests of consumers and families across America.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I want to respond to the amendment that has been offered. I apologize if anybody has the idea, listening to this debate, that there is not another side to the argument. We had several people who had time constraints and wanted to speak. Senator SARBANES and I are being held hostage here, in managing the bill. So as a courtesy to others, we have let them speak first. But I now want to give a comprehensive response to this issue. Let me begin.

Mr. SARBANES. Will the Senator yield for a minute?

Mr. GRAMM. I am happy to yield.

Mr. SARBANES. How long would the Senator expect to go?

Mr. GRAMM. I think it is going to take me probably a minimum of about 30 minutes to go through the entire group of issues.

Mr. SARBANES. Could we then put Senator BAYH and Senator EDWARDS in line to speak after you finish?

Mr. GRAMM. I do not know that any Republican has spoken on this issue. Did Senator ENZI speak?

To this point, if I might say, the distinguished Senator from Nevada spoke at length. You engaged in a lengthy colloquy with him. We then had a nonrelevant speaker.

Mr. SARBANES. Senator GRAMS spoke for you.

Mr. GRAMM. By nonrelevant I do not mean the Senator was irrelevant on the issue. It had no relevance to this issue. It was about another issue completely. Senator GRAMS really talked about the bill itself.

So it is my turn to speak. I intend to speak and answer the points that have been raised. Then I would like to continue going side to side. We only have one other person here. I do not know if he is going to speak at any great length.

Mr. SARBANES. Then I guess our colleagues know in about 30 minutes they could hope to get recognition to speak.

I thank the Senator.

Mr. GRAMM. Mr. President, I think it is important for people to step back and look at what is being proposed. I have to break the discussion down into two parts. No. 1, what it is that Senator SARBANES would do with his amendment, and, second, what it is he would undo with his amendment.

Mr. SARBANES. Senator BRYAN.

Mr. GRAMM. So let me explain what he would do with his amendment, then explain what he would undo, and then explain why both what he would do and what he would undo is bad.

First of all, let me begin with current law in CRA, then what I am going to do is go through what the Senator's amendment would do. I am then going to talk about the history of CRA and within that history I am going to try to explain the problems that we are trying to fix in the underlying bill. Then I want to talk at some length about those problems and about the underlying bill. I think I will have covered the whole waterfront.

Let me remind our colleagues the current Community Reinvestment Act basically has two provisions. The first provision is that bank regulators have to consider how a bank has been meeting local credit needs only when a bank applies to open a new bank, branch or to merge. Second, bank regulators may deny application based on a CRA record. So basically, in terms of the existing CRA law, the way it was written, there is no violation for simply failing to comply. The enforcement mechanism is that if you apply to open a new branch or open a bank or to merge, then the bank regulator—whichever one you are subject to, based on your charter—looks to see if you are meeting the needs of your community. And community reinvestment, I would like to remind our colleagues, is focused on lending. The primary focus of community reinvestment is lending in the communities where you take deposits.

A bank regulator can deny an application based on your CRA record. There is no penalty involved other than the denial of the application. That is current law in CRA. What the substitute that has been offered by Senator BRYAN would do—I have ''The Sarbanes Substitute,'' because Senator SARBANES offered this in committee and we assumed he would offer it today, but it is the same provision—is this:

The Bryan substitute would add eight more requirements to CRA than the are required under current law. In fact, this would be a good opportunity to ask unanimous consent to have printed in the RECORD a letter from Chairman Greenspan that outlines what the CRA provisions of this substitute are, what the CRA provisions of the bill are, and exactly what they would do. Because, as I am sure all of

our colleagues are aware, what tends to happen in these debates is people set up straw men. In this case the straw man is that somehow the underlying bill undoes CRA —that is straw man 1. Straw man 2 is that the substitute virtually leaves CRA as it is.

The reality, as I will paint in some detail, is that the underlying bill tries to deal with two clear abuses in CRA: One, an integrity provision; and, two, a relevancy provision. It in no way does violence to the basic idea of CRA. And the second reality as compared to the straw man is that this substitute is the most massive expansion of CRA in its history and would literally impose a penalty structure that goes far beyond anything ever contemplated in CRA when it was adopted in 1977, or that has ever been discussed since. In fact, our colleague keeps wondering where the hearings are concerning the two modest changes that we have made in the underlying bill, without ever raising the question: Where are the hearings on which these massive punitive penalties would be based? Where is the abuse that they seek to address? The point is, the rhetoric of Senator SARBANES applies more to his substitute than it does the underlying bill.

So let me ask unanimous consent that the letter from Alan Greenspan with regard to the CRA provisions of the substitute and the CRA provisions of the underlying bill be printed in the RECORD.

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

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, April 7, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You have asked for an analysis of how the financial modernization bills recently passed by the House Committee on Banking and Financial Services (H.R. 10) and the Senate Committee on Banking, Housing, and Urban Affairs affect the Community Reinvestment Act of 1977 (CRA). Enclosed is a memorandum from the Board's General Counsel discussing the impact of these bills on the CRA.

That memo indicates that H.R. 10 would affect the CRA in three principal ways. It would require at least a ''satisfactory'' CRA performance rating as a precondition for engaging in the new financial activities, provide for the enforcement of this requirement, including through penalties and divestiture, and apply the CRA to uninsured wholesale financial institutions. Currently, the CRA does not require that an institution's CRA record be considered in connection with proposals to engage in nonbanking activities, authorize enforcement of the Act outside the applications process, or apply to uninsured depository institutions.

The bill recently passed by the Senate Committee on Banking, Housing, and Urban Affairs does not contain similar provisions. The Senate bill, however, does contain two CRA-related provisions not contained in H.R. 10: an exemption from the CRA for small insured depository institutions that are located outside metropolitan areas and a rebuttable presumption regarding an institution's compliance with the CRA.

I hope this information is helpful.

Sincerely,

ALAN GREENSPAN,
Chairman.

Enclosure.

MEMORANDUM REGARDING THE EFFECT OF RECENT LEGISLATIVE PROPOSALS ON THE COMMUNITY REINVESTMENT ACT

Chairman Phil Gramm has asked for an analysis of how H.R. 10, as passed by the House Committee on Banking and Financial Services last month, and the bill passed by the Senate Committee on Banking, Housing, and Urban Affairs on March 4, 1999, would affect the Community Reinvestment Act of 1977 (''CRA'').

H.R. 10 would primarily impact the CRA in the following three ways.

1. The CRA currently applies only to federally insured depository institutions. H.R. 10 would subject the newly established uninsured wholesale financial institutions to the CRA.

2. The CRA currently requires that the Federal banking agencies consider the CRA performance of an insured depository institution in connection with proposals by the institution, or the institution's holding company, to acquire or establish a deposit-taking facility (e.g., open a branch or acquire or merge with another insured depository institution). It does not require that an institution's CRA record of performance be considered in connection with proposals to engage in, or acquire a company engaged in, nonbanking activities. H.R. 10 would allow a financial holding company to engage in new financial activities only if all of the company's subsidiary depository institutions have and maintain at least a ''satisfactory'' CRA rating. Thus, H.R. 10 would link CRA performance to the ability of a banking organization to engage in, or acquire a company engaged in, a nonbanking activity. More than 95 percent of the depository institutions examined for CRA compliance in 1997 received a ''satisfactory'' or better CRA rating.

3. Current law does not authorize a Federal banking agency to take any type of enforcement action against an insured depository institution that has a less than satisfactory CRA rating, other than denying proposals by the institution (or the institution's holding company) to establish or acquire a deposit-taking facility. Thus, current law does not permit the Federal banking agencies to take actions, including enforcement actions or divestiture proceedings, outside the applications process if an institution fails to maintain a ''satisfactory'' CRA rating on an ongoing basis. *See* Memorandum from Walter Dellinger, Assistant Attorney General, U.S. Department of Justice, to Eugene A. Ludwig, Comptroller of the Currency, 18 U.S. Op. Office of Legal Counsel No. 39 (Dec. 15, 1994).

H.R. 10 would require that the subsidiary depository institutions of a financial holding company maintain at least a ''satisfactory'' CRA rating for the holding company to continue to engage in the new financial activities. If a subsidiary depository institution fails to maintain such a rating, the financial holding company and subsidiary depository institution must execute an agreement with the appropriate Federal banking agencies to correct the deficiency and such agencies could impose limitations on the activities of the financial holding company or subsidiary depository institution until the subsidiary's rating is restored. The failure by a financial holding company or subsidiary depository institution to comply with these requirements would constitute a violation of the Bank Holding Company Act. In such circumstances, the appropriate Federal banking agency could take enforcement action (e.g., issue a cease and desist order, assess civil monetary penalties or, in the case of the Board, seek criminal sanctions) against the financial holding company, the subsidiary depository institution, or an individual participating in the violation (such as an officer or director of the holding company or depository institution). Finally, if the subsidiary depository institution's CRA rating is not restored to at least the ''satisfactory'' level by its next examination (or such longer period as the Board determines to be appropriate), H.R. 10 would authorize the Board to require that the financial holding company divest the subsidiary depository institution or, alternatively, cease engaging in new financial activities.

Section 121 of H.R. 10 also would permit a national bank to control an operating subsidiary engaged in financial activities permissible for a financial holding company, but only if the national bank and its depository institution affiliates have and maintain at least a ''satisfactory'' CRA rating.[1] National banks and affiliated depository institutions that did not maintain such a rating could be subject to the same type of corrective measures as discussed above for financial holding companies.

The bill passed by the Senate Banking Committee does not contain provisions similar to those discussed above. The Senate bill, however, would exempt from the CRA any insured depository institution that has $100 million or less in total assets and that is located outside a Metropolitan Statistical Area. Data indicate that approximately 3,871 insured banks and thrifts, representing approximately 37 percent of all insured banks and thrifts and 2.7 percent of the assets of all such institutions, would meet these criteria, as of December 31, 1998. In addition, under the Senate bill, an insured depository institution would be presumed to be in compliance with the CRA until its next examination if the institution received at least a ''satisfactory'' rating at its most recent CRA performance examination and at each CRA examination in the preceding three years. This presumption would not attach if the appropriate Federal banking agency receives substantial verifiable information, arising since the date of the institution's most recent CRA examination, that demonstrates the institution is not in compliance with the CRA.

Mr. SARBANES. Will the Senator yield? I understood the Greenspan letter compared the provisions in the House bill with the committee bill, not the provisions of the substitute.

Mr. GRAMM. They are virtually identical, but I stand corrected. In fact, let me yield to you to tell us the difference.

Mr. SARBANES. They are not identical. There are some significant differences between the two, and I will develop them after the Senator finishes his presentation.

But as I understand it, your request to the Fed and their response was to compare the House bill with the committee bill. Am I correct in that?

Mr. GRAMM. I think that is correct. I stand corrected. I would like it printed in the RECORD, but I would be happy

[1] Part 5 of the OCC's regulations, which purports to allow subsidiaries of national banks to engage in activities that national banks are not permitted to conduct directly, currently requires that a national bank have and maintain at least a ''satisfactory'' CRA rating to control an operating subsidiary engaged in principal activities that the bank cannot conduct directly. See 12 C.F.R. §§5.34(f)(3)(iii), 5.3(g)).

to hear the distinguished Democratic ranking member of the committee explain to us the differences. I assert that there are no significant differences, but I would like to hear them.

Let me go over basically what we have in terms of additions to CRA in the pending amendment, if the Senate decided to adopt it.

No. 1, by making noncompliance with CRA or falling out of compliance with CRA a violation of banking law, officers and directors of banks for the first time could be fined up to $1 million a day for CRA noncompliance. I will come back to this in a moment.

Under this substitute, banks can be fined up to $1 million a day for falling out of compliance.

Under this substitute, cease and desist authority for CRA noncompliance are brought into the system.

Bank regulators may place any restrictions on any banking activities for CRA noncompliance.

Bank regulators may place any restrictions on any insurance activities for CRA noncompliance.

Bank regulators may place any restrictions on any securities activities for CRA noncompliance.

Bank regulators may place any restrictions on any other activities of the holding company for CRA noncompliance.

Any violation by any one bank in the holding company can trigger penalties against any and all activities of the entire banking company.

Insurance sales of bank subsidiaries can be restricted for CRA noncompliance.

Finally, the provision adds new expansions of CRA far beyond the existing law. Under current law, banks sell insurance—small banks in cities of less than 5,000, other banks depending on their State regulation—and they do it without CRA approval.

The substitute would expand the decision of banks or ability of banks to sell insurance to require CRA approval. Some 20 banks now provide some security services. They do it without being required to get CRA approval. The pending substitute would expand CRA approval to that activity.

The first point I want to make is, contrary to the rhetoric being used, we are talking about the largest, most significant expansion of CRA in history—none of which is based on any assertion of any abuse—and we are talking about imposing confiscatory penalties that are devastating to our banking industry.

I want to read pieces of two letters on this issue of the potential for a million-dollar-a-day fine. One letter is from the Independent Community Bankers of America. This is a letter from an organization of very, very small, generally community banks, often in rural areas that would be affected by this. Let me read the paragraph:

> We also have grave concerns about expanding CRA enforcement authority to include the levying of heavy fines and penalties against banks or their officers and directors. An ongoing challenge for many community banks in small communities is finding willing and qualified bank directors. Legislation following the savings and loan crisis of the 1980s and 1990s greatly increased the amount of civil money penalties to which bank officers and directors may be subject. Any increase in the potential for fines and penalties could provide further disincentive for service on a bank board.

Here is the point. If a small bank is going to hire somebody to be president or be an officer or recruit somebody to be on a bank board, they are going to have to buy liability insurance to protect that person from this potential fine, which would literally put thousands of rural banks in America out of compliance.

If there is a problem here that needs to be fixed, if there is an abuse that should be dealt with, then one might say that perhaps this is justified. But here is the record: There have been some 16,380 examinations of small, rural banks in America since 1990, and of those 16,380 examinations, three banks and S&Ls have been found to be out of compliance to a substantial degree.

Our ranking member of the committee would bring in the potential for a million-dollar-a-day fine based on the fact that in 16,380 audits on CRA since 1990—9 years—there have been three banks substantially out of compliance. What is the justification for these massive punitive fines? There is no justification.

The justification basically is that this is seen as an opportunity to massively expand CRA. That is what the justification is.

The second letter, on exactly the same subject, is from the American Bankers Association. Here is what they say:

> We would oppose amendments we understand may be offered that would contain provisions not only eliminating the two CRA provisions currently in the bill, but also adding additional new CRA requirements. One strong concern the ABA has is that the potential for such penalties could discourage directors from serving on community bank boards and increase the cost of officer and director liability insurance coverage for banks. There has been no justification given for inserting these new penalties into CRA, particularly given the outstanding record the banking industry has in serving communities across the country.

I remind my colleagues, this substitute seeks to impose these massive punitive penalties against small banks in America when in 16,380 exams, which cost those banks cumulatively $1,310,400,000 to keep the records and comply with the exam—$1,310,400,000; I have the decimal points right this time—after all that money, after all those exams, three small, rural banks or S&Ls were found substantially out of compliance.

If this is not regulatory overkill that drives working men and women in America crazy and that threatens little banks all over the State of Kansas, the State of the Presiding Officer, and all over Indiana and all over Texas and all over America, that threatens their very existence, I don't know what it is.

First of all, this is totally unjustified, makes absolutely no sense and, to quote my colleague from Maryland, never has a hearing been held on this subject. Never has any justification been given whatsoever for imposing a million-dollar fine on bank board members and bank officers in the name of CRA. It is the most gross overkill and regulatory burden that this Senator has seen in the entire time that I have been debating banking legislation.

I remind my colleagues that I spent 12 years of my life teaching money and banking in college. I have spent too long of my life, 21 years, in the House and Senate, and I have been serving on the Banking Committee every day I have been in the Senate, and I have had the privilege this year of serving as chairman. I have never seen such a massive regulatory overkill as these proposed provisions, and I am confident that they will be rejected.

(Mr. SANTORUM assumed the Chair.)

Mr. SARBANES. Will the chairman yield on this point?

Mr. GRAMM. I will be happy to yield.

Mr. SARBANES. I am looking at a table from the Federal Deposit Insurance Corporation, from 1990 through 1998, that those 320 institutions were given a ''needs to improve'' rating which, of course, is below compliance, and 18 institutions were given ''substantial noncompliance.''

The Senator is using this ''three'' figure, and I don't know where that comes from.

Mr. GRAMM. I can tell you where it comes from. It comes from looking at the banks and S&Ls that meet two tests: One, they have less than $100 million of assets; and, two, they operate solely outside standard metropolitan areas.

And my figure is, that those banks have been subjected, since 1990, to 16,380 examinations. And in those 16,380 examinations, the average of which has cost that little bank about $80,000, according to some 488 banks which have written us on this subject, that these 16,380 examinations—this is from the Federal Financial Institutions Examination Council—that in these 16,380 examinations, costing, on average, $80,000 apiece—so this is $1.3 billion that has been taken out of these little bitty communities and out of their banks, where people are paid higher interest rates and have gotten less credit—the result of that has been that three of these banks, over a 9-year period, have been found to be in substantial noncompliance.

You do not have to have a Ph.D. in mathematics to figure out, if you have done 16,380 exams on these small, rural banks, and only three of them have been in substantial noncompliance, you

are spending a tremendous amount of their money to find a very, very small number of bad actors—in fact, three one-hundredths of 1 percent.

What is even more astounding is that all of these little banks combined make up only 2.8 percent of the capital of the banking system. They are getting 44 percent of the examinations. They make up only 2.7 percent of the assets of the banking system, and out of 16,380 exams, only three of them were out of compliance.

Mr. SARBANES. If the Senator——

Mr. GRAMM. What is wrong here? What does not make sense here?

Mr. SARBANES. If the Senator will yield, he simply stated the point all over again, but it hasn't squared the factual discrepancy.

According to our data from bank regulatory agencies, more than 70 small, rural banks and thrifts are currently deemed not in compliance; that is, below a satisfactory rating with CRA this year alone.

Since 1990, 338 small, rural banks and thrifts received CRA ratings below satisfactory.

Sure, the Senator can make the same speech about those numbers, but I just want to get those on the RECORD, because those numbers are very significantly different from the numbers which the Senator is putting forward.

Mr. GRAMM. If I might reclaim my time—and I think probably we would be better off to let me go through and make my presentation and let the Senator do the same—let me go back and restate the facts.

What the Senator has done is basically taken a totally different classification than I am talking about. I have been very clear in what I am saying. Here is what I am saying. And it is devastating, there is no question about that. I am glad I am not on the other side of this argument. I would be trying to change the subject, if I were. But here are the devastating facts.

The devastating facts are, that of the little banks in America—less than $100 million in deposits; probably have 6 to 10 employees—that are outside standard metropolitan areas—so these are banks that do not have a city to serve, much less an inner city.

Mr. SARBANES. Those are the banks we are talking about. Those are the figures I am giving you.

Mr. GRAMM. Look, let me go ahead. I will explain the difference in what you are saying and what I am saying. OK. So let me start at the top. I will go all the way down, make my point, and then I want to go on and give my presentation. You all have had many opportunities to give yours today. And I listened to them faithfully.

But here is the point, if you take every bank in America that has less than $100 million of deposits, and that is also outside a standard metropolitan area, they make up 38 percent of the financial institutions in the country. They have 44 percent of the audits. In fact, they were audited for CRA 16,380 times from 1990 through 1998.

In those 16,380 audits, that cost, on average—cost the bank; I am not talking about the Government regulator; but cost the bank to comply with gathering all the information, spending the week in the audit, keeping all the records, designating a CRA officer—and I will later in my presentation read actual letters from the banks—these little banks and these little communities spent $1.3 billion of their money complying with this law.

Of these 16,380 examinations, only three banks, over a period of 9 years, only three banks were found to be substantially out of compliance.

Our colleague has taken a different definition, ''marginally out of compliance,'' and the number was bigger, maybe 70 out of 16,380. The point being, my statement is true, that only three banks, out of all of these that are audited, have turned out to be substantially out of compliance.

On the basis of that, our colleague would impose a $1 million-a-day fine on officers and board members. And I stand by my point that that is the biggest overkill I have seen.

I think I have dealt with the proposals made which would be added by the amendment that is pending.

These proposals really boil down to punitive, crushing, regulatory burden and fines, imposing a $1 million-a-day fine on bank officers and bank board members, massively expanding CRA.

The justification in 1977 for CRA was, ''Well, you've got deposit insurance. That's a good subsidy. We ought to be able to force these institutions to allocate capital for a public purpose.'' But for the first time, this substitute would expand CRA to a noninsured institution where there is no logic for its expansion. For the first time, CRA approval would be necessary for selling insurance and selling securities within a bank or at an affiliate of a bank holding company.

These are massive expansions of regulatory burden. They are totally unjustified based on any facts, no matter how you read them. I cannot believe that a majority of the Senators would vote to do those things.

Let me talk about what we undo if we adopt the Senator's amendment. And I want to take some time to go through this. I have not done this at great length.

I want people to understand what is the problem with CRA that we are trying to deal with in these two very modest amendments which the Banking Committee has written.

First of all, let me talk about what you can view as good news. In 1977, there was a rider to a bill that was written by Senator Proxmire that created what we today call CRA. It said that banks should lend in the communities where they collect deposits. There was no enforcement mechanism. It was simply to be used when evaluating approval for bank mergers and branches.

A Democrat Senator raised an objection to the provision, worrying about redtape and paperwork. Interestingly enough, the distinguished chairman at that time said, ''No problem. The redtape and paperwork will be nominal. No big deal.'' We have all heard it millions of times when thousands of programs have become law. There was a vote in the Banking Committee to strip out this provision. And that vote failed on a 7–7 tie.

We then had the bill come to the floor of the Senate. There was another vote. And I do not have the total here, but I think it was 41–30. We had some huge number of Members of the Senate who were absent. So the bill became law.

So here is the point I want to make. In 1977, we started out with a CRA requirement. And in that year—and these figures are all from the National Community Reinvestment Coalition—in that year there were about $50 million of CRA loans or cash payments or commitments to lend. And that number was relatively small, until 1992.

Now, what happened in 1992? Well, two things happened. One, we started having a rash of mergers, so that these very large banks and also some small banks had to get CRA approval to merge. What happened is this number started to grow very rapidly. Last year, in loans, commitments to lend, cash payments, the total was $694 billion.

Now, to put that in perspective, the loans, commitments to lend, and cash payments, and commitments to pay cash—and I am going to talk about cash payments at some great length here in a moment—totaled $694 billion last year. That is bigger than the Canadian economy. That is bigger than the combined assets of Ford, General Motors, and Chrysler. That is bigger than the discretionary budget of the Federal Government. Yet our colleagues, who will oppose these two very simple amendments, say there is no need to look at a potential reform in CRA.

CRA is now bigger than General Motors. It has grown from virtually nothing to become larger than the discretionary budget of the Federal Government, and yet our Democrat colleagues refuse to admit the possibility—or many of them do—that we might need some degree of effort to deal with abuses which would naturally occur in a program that grew in a very short time from $50 million to $694 billion.

Why do I think this is a relevant point? Well, let me give you one fact. According to the community groups, $9 billion has been paid or committed in cash. Had you gone to that committee hearing in 1977 and said to the then chairman of the Banking Committee, Senator Proxmire, ''Well, what about cash payments, what about people literally giving community groups and individuals money not to testify against their merger or not to oppose it or actually paying them to support it,'' what he would think about that? I can tell you: he would have said, ''It is not possible.''

This bill in no way contemplates that cash payments would be made, but the fact remains that as this program has exploded, $9 billion of cash payments and cash commitments have been made. This basically represents an abuse that needs to be dealt with. In fact, in the one hearing we had on this subject, the spokesman for these reinvestment coalitions admitted there were abuses. He called it ''green mail,'' and he said that it hurt the program. Most people would call it blackmail. The point is, if these abuses exist—and no one disputes they do—why shouldn't we begin to try to do something about them?

Now, let me turn to a quote, and then I will get into some of these abuses.

This is a quote from a Cornell University law professor, Jonathan Macey, who specializes in banking law and is one of the most respected lawyers in banking law in the country. Here is what he said about CRA, as it exists in 1999:

> You see really weird things when you look at the Code of Federal Regulations . . . like Federal regulators are encouraged to leave the room and allowing community groups to negotiate ex parte with bankers in a community reinvestment context . . . Giving jobs to the top five officials of these communities or shake-down groups is generally high up on the list (of demands).
>
> So what we really have is a bit of old world Sicily brought into the United States, but legitimized and given the patina of government support.

It has never been stated more clearly than that.

Now, let me give you an example, if you would give me those agreements.

Part of our problem—and this will be discussed later, and I hope people will listen to this point—part of our problem is that community groups, in negotiating with banks, in virtually every case negotiate for and insist on the confidentiality of these agreements. So one of the problems in evaluating this $9 billion is, we do not have any of the facts as to where this money goes, who it goes to, and what they do with it when they get it.

One of the amendments that Senator BENNETT or someone else will be offering later in the Senate's consideration of financial services modernization is a sunshine amendment, which says that in the future these agreements have to be made public, that they have to go to the regulator, that the regulator has to require that the information be provided, and that they be made public. The logic of that is, nothing disinfects like sunshine.

Now, it so happens that we have three of these agreements that we have obtained on the condition that we not disclose the names of the bank or community group involved. We have redacted those names. I just want to give you a flavor of what these agreements looks like, and I have pieces of three of them here.

This is Bank A: Provide blank—and this is a community group—with a grant of up to $20,000. Provide blank—another community group—with a grant of up to $50,000. Provide blank with a grant of up to $25,000 to pay reasonable and necessary ''soft costs'' to be incurred by blank. Provide blank with a grant of a reasonable amount. . . .

That is the quid; now the quo:

Blank agrees to withdraw on the date hereof the comment letter, dated blank 28, 19 blank, and any related materials collectively, the comment letter filed with the Office of the Comptroller of the Currency, the Federal Reserve Bank, and the board. I don't have the second sheet.

The point is, the community groups gets all of these cash grants and then agrees to withdraw the complaints they have filed, a classic quid pro quo.

Now, what happened to these complaints? Were they not meritorious or did the community groups suddenly no longer care about the people they were protesting against? What did all of those cash grants do that induced them to withdraw their comment?

Bank A, one more thing, blank and blank agree—this is the community group and the bank—agree not to disseminate or otherwise make available to the public copies of this agreement.

So the community group gets these cash payments and in return agrees to withdraw their protests, and then the bank and group agree that they will keep the agreement secret.

Now, let's look at Bank B: Blank will receive a fee of 2 and three-quarters percent of the face amount of each program loan made by blank. This is an agreement whereby a community activist and their community group receive a rake-off of 2.75 percent of the face value of every loan made under this agreement.

Do you think people receiving that loan know that this individual and this group will get 2.75 percent? In fact, they don't. And, as you will see later, unless we open up this process, they never will. No one will ever know what is happening. Continuing with the Bank B's agreement:

Blank will receive a fee of $200,000 as reimbursement; according to blank, $100,000 is payable upon execution and delivery and $100,000 six months later.

We have the quid, now the quo.

The community group or the individual agrees to withdraw all pending protests of blank regulatory applications and related materials and not to sponsor, either directly or indirectly, the protest or to supply information in connection with any protest relating to pending or future blank applications with regulators.

In other words, the community group is agreeing that in return for this 2.75 percent of the face value of all loans that are made, not only will they withdraw the complaint they have already filed, but they will never make another one. They will never make another one, no matter what.

At blank's request—listen to this one. Many of you wonder why you have gotten letters from banks, and I got a letter from a big North Carolina bank, might I say, and I was shocked. Then I read the letter and it, in essence, said that they are required by a CRA agreement to send me this letter saying they support CRA. I said, how is it possible that somebody could be required to send me a letter? And this is a different bank altogether and a different agreement. Here is how it happens:

In addition, the bank agrees to send letters to customers of blank previously contacted by blank—well, I will get to the point on the next sheet. And then the community group agrees to purge their files and database of all information related to this bank's customers. In other words, they get this breakoff; they get these cash payments. They agree to withdraw their objection. They will never do another objection. They are even going to destroy the computer database they used to do it.

Now I think we are getting to the thing I mentioned. The community group agrees to: immediately cease and desist all activities directed against blank; to maintain the confidentiality of this agreement, to maintain the confidentiality of this agreement and any other agreements; to cooperate with them in getting agreements with other banks. And then is the thing about sending letters. This is called ''public policy partnership.''

In this public policy partnership: blank will work with the blank to establish a clear written declaratory statement indicating support for the Community Reinvestment Act and the Home Mortgage Disclosure Act, and the party's opposition to any attempts to weaken the law. Blank will send the final copy of this statement to the blank, the American Bankers Association, the Federal Reserve Board, the Office of the Comptroller of the Currency, the blank Congressional delegation, and all Members of the House and Senate banking committees.

So when you have letters from banks telling you what great things CRA is doing, many of those were dictated by commitments they made as part of contracts, secret agreements they signed with protesters in order to get them out of the way to do their work.

Now, I could go into a hundred other examples—someone who graduates from college, goes to graduate school, and goes to work for the Federal Reserve in acquisitions and mergers, quits and goes into business, spends 4 years harassing a bank and bank presidents, and finally the bank craters and gives them $1.4 million, gives them $200,000 to set up their organization; they now have 20 offices, lending $3.5 billion, getting 2.75 percent of every penny they lend right off the top, that nobody knows about, forcing people to participate in their program and pay $50 a month for 5 years in order to get the loan, and the bank actually collects the money for them as if somehow it were part of the loan. I could go

on and on. But we are not here to debate dramatic reforms in CRA. We are only trying to do two things, and here they are; here is the concern. You have heard the number.

Only in 1 percent of the cases is a protest filed. Well, remember that in 90-some-odd percent of the cases, where somebody wants to open or close a branch, regulators generally get no comments. Where the protests come are in the big mergers, and in some of the smaller ones that get contentious. But what happens more often than not is that rather than filing a protest, the protest group simply goes to the bank and says: I am going to file a protest and I am going to say—to quote one of the protesters in what they said about a bank in New England—I am going to say, A, you are a racist; and, B, you are a loan shark. That is my charge. I am going to make that charge, and you can either reach an agreement with me, or I am going to do that.

Now, here is the problem, and I don't think it is that hard to visualize. You have a bank and it has agreed to merge with another bank. And people don't know whether the merger is going to be approved or whether it is good or bad for the bank. So during that period, the stocks of these two banks are just fluttering. The bank literally has hundreds of millions—and sometimes billions with these big bank mergers—at risk. So it doesn't take a lot of imagination to see that when a protester shows up and says, ''Look, I am going to go to the Comptroller of the Currency and tell him you are a racist and that you are a loan shark; I am going to file a complaint and I am going to hold up this merger,'' the bank is under immense pressure to act as quickly as possible. What is happening in America today is that banks that are risking hundreds of millions, or billions, of dollars are settling these threats with secret agreements that the public knows nothing about, and they are often paying thousands, or hundreds of thousands, of dollars in cash payments.

Now, who ever said CRA had anything to do with cash? Yet, according to the CRA groups, $9 billion of cash payments have been made under CRA. I would like to ban cash payments, quite frankly. I don't think they are what CRA is about. I don't think some protester getting a rake-off of interest or getting a cash payment is what community lending is about. I think it is wrong, but I don't have the votes to do it and I didn't try to do it.

So, here are the two modest changes in our bill. Number 1, consider a bank that has been consistently in compliance with CRA. In fact, in its last 3 evaluations it has consistently been in compliance and is in compliance now. What do we require that Senator SARBANES and others so strenuously object to? We require that if a bank has historically been in compliance, if it has been evaluated for meeting its community lending requirements by its Federal regulator three times in a row and was found to be in compliance, and if it is currently in compliance, then somebody can still protest. They can call the bank all the nasty names they want to call them. In fact, the regulator is required to hold a hearing if they provide any complaint just saying ''I oppose it.'' There is a hearing.

None of that has changed. Anybody can say whatever they want to say. All our amendment says, however, is that before you can stop the action from going forward in the normal timeframe, the objector has to present substantial evidence. In other words, a bank that is historically in compliance, and is in compliance now, is deemed to still be innocent until proven guilty. And a protester can protest all they want to. But the regulator can't stop or delay the process unless some substantial evidence is presented.

Now, I know we have some distinguished attorneys here, and I am not going to get into any kind of legal debate with distinguished attorneys. Number 1, I object to duels between armed and unarmed men, especially when I am the unarmed man. Every once in a while, I have mercy on other types of issues where I am armed and others are not. I don't shoot down unarmed men.

But I want to remind those who aren't legal experts that ''substantial evidence'' is not a trivial phrase. It was chosen because it is not trivial. It is referred to 900 times in the United States Code. There have been over 400 instances in case law where the term ''substantial evidence'' has been defined. Let me give you some definitions that came from the Supreme Court, and they are important because they give examples of the evidence that is required to be submitted by a protester in order to stop a bank from doing something that they are qualified to do based on their record.

In other words, what do you have to have in order to say, ''This person is not meeting the requirement of law and I want him stopped''? Knowing that it may cost them hundreds of millions of dollars, even billions of dollars, what is the standard you have to meet? What does ''substantial evidence'' mean?

Here is what it means. Here are four definitions from Supreme Court rulings. ''Substantial evidence'' is understood to mean:

No. 1, ''more than a mere scintilla.'' More than a mere scintilla.

No. 2, ''such relevant evidence as a reasonable mind might accept as adequate to support a claim.''

Not that they have to accept it. Notice that the Court said that substantial evidence is ''such relevant evidence as a reasonable mind might accept.'' They might not accept it. But they might accept it as adequate to support a claim.

No. 3, ''real, material, not seeming imaginary.''

And, finally, ''considerable in amount, value and worth.''

I fail to understand why there is an objection when a protester wants to come into a bank which has been in compliance with the lending laws of this country for three evaluations in a row and is currently in compliance, why anyone would object to saying that in order to stop the bank from exercising the right they have earned, the protester has to provide some evidence. I cannot understand why anybody would object to that. Why is it important?

I have spent a lot of time talking about why it is reasonable. But why is it important?

It is important because it eliminates the worst abuses where someone comes in, they have no evidence, they have no facts, there is no abuse. They simply say, ''I will go away if you can give me some money.'' In this case, if they can't provide substantial evidence, they can't stop the process. But it doesn't prevent the regulator from saying, ''You have to do a new CRA review.''

Our colleague talked about what regulators could do. Nothing in our amendment would prevent the regulator from saying, ''Every time you want to merge, we have to have a new CRA evaluation.'' We don't stop that. All we are trying to do is to require some substance—and require someone to have the evidence—before they can stop the application process and cost taxpayers and investors hundreds of millions of dollars.

It is a strange thing to say in America. But I am going to say it, because I believe it. I will never forget when the American Airline pilots were getting ready to go on strike. I met with some Members of Congress to talk about what Congress could do because of the disruption that might be caused by the strike. I finally said, ''Look. You know, it is no secret that most unions do not love me, but I believe in freedom. And people have a right to strike, if they want to strike. And I am not voting for a bill that prevents them from striking.'' One Member of Congress, who will go unnamed, said, ''Well, wait a minute. These pilots make $150,000 a year. I am not worried about their rights.''

Let me tell you why that is relevant. One of the reasons this is so hard to discuss is that everybody has the idea that these bankers are rich. So we are not worried about their rights.

When do our rights end based on how much money we have? I can understand and I accept that you ought not have more rights because you have more money, but you ought not have less.

The idea that we would let someone or some group impose hundreds of millions of dollars of costs on other citizens, many of whom are stockholders—my teacher retirement fund, I am sure, is invested in some financial institution, or in a thrift. I don't know, because I don't keep up with what they are invested in. But every teacher in America is invested in stocks of some of these companies.

How is it right to let somebody literally deprive them of millions of dollars without providing any evidence?

So that is the substance of the first committee provision. I don't know why it requires so much discussion, but it does. I don't mind discussing it, though, because it is something that I feel strongly about.

This is about abuse. This is about a wrong that is going on in America today, right now. The fact that there are many success stories in CRA, the fact that there are probably wonderful people in almost every circumstance, does not justify looking the other way at the kind of abuses that are occurring. We are not trying to fix them here.

We are going to have a lot of hearings this summer. We are going to bring a lot of people in and put them under oath. We are going to have a major GAO study. We are going to look at this thing in great detail.

We are just trying to deal with two little commonsense things that ought to be done in the bill. I talked about the first. What is the second?

The second committee provision exempts little banks in rural areas from CRA. Why? Because the regulatory burden on these very small banks in very rural areas is oppressive.

First of all, these are banks that are not in standard metropolitan areas. They are by and large serving areas that do not have a city, much less an inner city to serve. So making them comply with these laws that are really aimed at inner-city lending makes absolutely no sense.

Why is this provision important? Because these banks—as documented in the letters they have written to us—are spending $60,000 to $80,000 a year complying with CRA.

I have used the figure before, but it fits here, and I want to use it again. Since 1990, there have been 16,380 CRA examinations of these little banks in rural areas, and only three of them have been found to be substantially noncompliant. But even though three bad actors have been found, $1.3 billion in compliance costs has been imposed on these little banks that have only between 6 and 10 employees. It is a very heavy regulatory burden.

Let me read just a couple of letters from the banks that are affected. Our colleague from Illinois was here. I am sorry he left. We probably have more letters from Illinois than any other State. But he won't get to hear it. But I am going read three of his letters, and then the others.

This is a letter from Franklin Bank in Franklin, IL. I don't know how big the bank is, but it is small. Their building looks like a house. Here is what he says:

> Were it not for the time-consuming paperwork involved, we in small banks in rural America would find CRA laughable. Our community is our business. We wrote this book long before the government did. Offering us exemption from the requirements of the Community Reinvestment Act would not change the way we do business, but it would relieve us of the mounting paperwork from this examination for one day every other year.

In other words, relief by exempting them—they don't change their business. They are just not going to have the examination to do and the paperwork and cost of about $80,000 involved in it.

This is from Security Bank of Hamilton, IL:

> Our experience is that regulators struggle to fill out their questionnaires when we are being examined as most sections do not apply. Then we really have to stretch to imagine our community of 3,000 having the same problem as Chicago or Los Angeles as none of the demographic stratifications fit.

This is the First National Bank of Nokomis, IL. It doesn't say how big they are:

> I truly believe we could free up one-half to one employee in our banking operation to put in positive service thereby expanding our service to the community we serve.

That is what they believe they could do if we could reduce the regulatory burden on them.

They don't say in their letter, but my guess is they don't have even 10 employees. So when they are talking about freeing up one half of one employee, they are talking about a tremendous reduction in their cost and their regulatory burden.

Let me read a couple of other letters. This is from the Cattle National Bank in Seward, NE:

> Since the origination of public disclosure of CRA examinations, we have not had one person from our community ever request the information.

I remind Members that CRA went into effect in 1977 and public disclosure went into effect about a decade after that.

So for about 12 years nobody in this little community has ever raised a CRA question. The only people who have raised those questions are bank consultants.

The next bank is Copiah Bank from Crystal Springs, MS:

> Our compliance officer, Gerry Broome, and his assistant have spent many research hours and reams of paper in their efforts to comply with mandated requirement's paper work. We have even had to outsource some of its checkpoints to a compliance consultant from time to time.
>
> * * * * *
>
> As an $83 million community bank, we feel an obligation to help you in your efforts toward easing our paper work burden.

Lakeside State Bank, New Town, ND:

> As a former bank examiner for the Federal Deposit Insurance Corporation, which included consumer compliance experience, and as a banker for over 15 years I believe I have a good understanding of the intent and the workings of the CRA.
>
> * * * * *
>
> Over the 47 years of our existence we have provided financing to virtually every main street business in our town, our customer base includes approximately 80 percent of the area farmers and for the last several years over 50 percent of our loans have been to American Indians.
>
> The law [he means the CRA law] is a heavy burden because of the expansiveness of the regulations and the paper requirements of compliance. We spend hours documenting what we have already done, rather than spending that time more efficiently by doing more for our community.

The Farmers and Merchant Bank of Arnett, OK:

> I am the CEO as well as the chief loan officer, compliance officer and CRA officer. I have to wear so many hats because we are small and have a staff of only 7 including myself. CRA compliance, done correctly, takes a lot of time, which takes me away from my primary responsibility of loaning money to my community. It has almost gotten to the point that lending is a secondary function. It seems like we have the choice of lending to our community or writing up CRA plans showing how we would loan to the community if we had time to make loans.
>
> * * * * *
>
> Large banks can hire full time CRA officers and other compliance personnel to administer CRA programs but, small banks cannot. . . .

Redlands Centennial Bank:

> We spent approximately $80 thousand of our shareholders' money last year supporting this ill-defined regulation. Even the regulators who examined us were hard pressed to give us specific definition on how we might better implement this regulation.
>
> * * * * *
>
> I am urging you to get rid of the nonsensical CRA yoke. Keep up the fight because there are a lot of us out here who are too busy balancing, making a living with government regulation in this crazy business.

Chemical Bank North is a bank of $74 million in Grayling, MI:

> As it is, we must devote disproportionate resources to creating and maintaining the ''paper trail'' that the current CRA regulations require. Our board members must attend time consuming CRA Committee meetings and our officers and staff members spend significant valuable time preparing reports and keeping records that serve no purpose other than to keep us in compliance with a regulation that attempts to enforce from a regulatory standpoint what we do everyday in the normal course of our business. . . . I would estimate that we devote the equivalent of a full time employee to all aspects of CRA compliance.

The First National Bank of Wamego, KS—I mispronounced Wamego yesterday; the Presiding Officer was from Kansas and I appreciate him correcting me. This is a $65 million bank, which means this bank probably has five or six employees.

> Our bank was listed two years in a row as the ''best'' bank in Kansas to obtain loans for small businesses. . . . [This bank also was rated outstanding on CRA.]
>
> * * * * *
>
> [O]ur outstanding grade did not make us a better bank. The CRA did not make us make loans we wouldn't have made. The CRA did take a lot of employees' time to document that we were an outstanding bank.

This is from Nebraska National in Kearney, NE. This is a very small bank. In fact, I think this might be one of the smallest banks in America that was not a recent start. This bank has $34 million in assets, so we are talking about probably four or five employees working in this bank:

We do not make foreign loans, we don't speculate in derivatives, and we don't siphon deposits from this area to fund loans elsewhere. Instead, like virtually all the banks under $250 million in assets we provide home loans, business loans, farm loans, and construction loans. We don't do this because of the Community Reinvestment Act but because it makes good business sense. . . . I bitterly resent every minute of my time and that of my staff spent to comply with this regulation because it takes time away from productive duties.

I feel the regulation is now being used by consumer activist groups to ''shakedown'' banks seeking regulatory approval for expansion or merger.

Finally, from American State Bank, an independent bank, from Portland, OR:

As one of the oldest and most strongly capitalized African American-owned banks west of the Mississippi River, Portland-based American State Bank supports your position on CRA exemption for non-metropolitan banks.

We also urge you to explore exempting from CRA requirements minority-owned commercial banks. . . . Today, minority-owned banks still maintain their focus on serving our nation's minority communities and their citizens. It is redundant, at best, to impose CRA requirements on banks whose sole purpose is to serve minority citizens. At worst, it compels minority banks to sustain burdensome expenses and administrative costs and subjects banks to a bureaucracy largely unaware of the realities of the inner-city marketplace.

I have covered a lot of territory. Let me sum up with the following points. The Bryan amendment before us has two parts. It does a whole bunch of bad things, and it undoes two little good things. What are the whole bunch of bad things it does? It is the largest expansion in the regulatory burden of CRA in American history; it would expand CRA to noninsured institutions, violating the very logic of CRA, which is, banks get deposit insurance that is partly subsidized by the Government, so it is reasonable for the Government to force them to do things that have a community benefit.

The proposed substitute would expand CRA to institutions that are not insured. It would expand CRA approval as being necessary to sell insurance and securities in a bank, something that is not required today and it is occurring every day today without CRA approval.

The proposed amendment would impose a potential fine of $1-million-a-day on bank officers and bank board members without any evidence whatsoever that abuses occur. In fact, as I pointed out over and over again, with small banks in rural areas having 16,380 examinations at a cost of about $80,000 in annual compliance, where the banks had to pay $1.3 billion to comply with all this regulation, all this paperwork—all of these evaluations, 16,380 of them, found only three banks that were substantially out of compliance. So, the regulatory overkill already exists. Why you would want to come in and subject small banks and large banks, and their officers and board members, to a million-dollar-a-day for if their institution fell out of compliance with CRA, I cannot understand. In fact, I have never heard an explanation for this draconian change in law.

I read earlier, and I will not read again, letters from the American Bankers Association and the Independent Bankers Association saying how the pending amendment will make it virtually impossible for them to get quality people who will serve on bank boards. They also talk about the cost of liability insurance, which will explode if you are going to impose these new potential penalties on banks, their officers and directors, all in the name of abuses that apparently exist at the extreme level in .03 percent of all CRA examinations.

Those are all the bad things the substitute does. What are the good things that it undoes? Is that a word, ''undoes''? I guess so. To try to curb some of the abuses—and the abuses are very similar to the strike lawsuit that we dealt with 2 years ago, and again last year.

The abuse basically occurs during the critical moment when a bank is trying to merge with another bank or sell or engage in some new activity: it's at that moment the bank has a lot at stake and is most vulnerable. Under current law, any protester can come in and threaten to hold the whole thing up. This creates immense pressure on the bank to settle with that protester and either commit some bank action or pay the protester cash in return for not filing a protest.

A lot of rhetoric has been used on this, and I am being redundant because when other people say something wrong, you have to say it right twice to get people to get it straight. Our amendment does not prevent people from protesting. They can protest. Our amendment does not prevent people from filing complaints. They can file complaints whether they have any facts or whether not. Our amendment does not prevent the regulator from holding a hearing. Under current law, the regulator has to hold a hearing if somebody complains. We do not change that. Our amendment does not prevent the regulator from forcing an entirely new CRA evaluation.

All our amendment says is: If you have a bank that has been in compliance with CRA over a 3-year period, and if they are currently in compliance, a protester can still file a protest, but in order to stop the bank's application from going forward, the protester has to provide substantial evidence.

Then I went through and read from Supreme Court cases, how you define ''substantial evidence''—more than a scintilla; enough that a reasonable person might believe that what you are saying is true. Those are not high standards.

Why anybody would want to let protesters potentially impose hundreds of thousands of dollars or millions of dollars in losses on a bank and their stockholders, many of whom are members of teacher retirement programs and other broad investment groups, without providing any evidence whatsoever to back up their claim, I don't know. But that is the debate we are having.

So, that is what the amendment does and does not do. It is not a safe harbor. It is not a safe harbor. It is not a safe harbor. The Secretary of the Treasury came up with the use of that term and now all critics use it, even though it is verifiably false. This is a rebuttable presumption. Stated another way, if a bank has a good record of compliance and it is deemed by the regulator to be in compliance, it is innocent until proven guilty. You have to present some facts to substantiate your claim if you are going to stop it from going forward. You don't have to have any facts to state your opinion. You don't have to have any facts to declare that there ought to be a hearing. You don't have to have any facts to protest. But before the regulator can stop it, you have to present some facts.

The final provision that would be undone here is the eminently reasonable exemption of very, very small, very, very rural banks that on average have a regulatory burden of about $80,000 a year in complying with CRA, even though in the last 9 years, with 16,380 examinations of these small, rural banks, only three have been deemed to be substantially out of compliance with CRA.

If you were from a small town like I am, or you represented a State that had a lot of little bitty towns and a few little bitty banks left and you went to those banks, you would discover why only .03 percent have been found out of compliance in 9 years. If you are from a small town and you have a bank with four or five employees, your bank ends up lending to everybody in town because they have nobody else to lend to. That is basically what the debate is about.

I wish every person could, in some simple form, get all these facts. But it takes time to debate them, and I am grateful to have the opportunity. I am sure we will get some more opportunity today. But I thank my colleagues for their patience, and I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Indiana.

Mr. BAYH. Mr. President, I rise in strong support of the Bryan amendment, which contains, in my opinion, a balanced approach to the Community Reinvestment Act as well as a bipartisan spirit enjoyed in the last session of Congress.

I also want to say, to my colleague from the State of Texas, how much I respect his expertise in this area as well as his dedication to this cause. But I must also respectfully disagree and say to all those who are concerned about this issue that if there are problems with this amendment, in terms of

the fines that can be imposed or other details, let's correct them. If, in the past, overly zealous advocates have used CRA as an excuse for extortion, then let's prosecute them. If there are other problems, let's correct them.

Let's throw out the bathwater, not the baby. At the dawn of the 21st century, let us not turn back the clock and deny to thousands of Americans, because of the color of their skin, because of their race, because of their income, the right to access one of the basic tools for empowerment and progress, and that is credit and the ability to start a business or build a home. We cannot return to those days.

I should also say I am somewhat disappointed that we have arrived at this impasse, because this is important legislation. It is my great hope we will ultimately get it enacted, because it is important to the financial services industry, insurance, banking, as well as other industries that need access to credit and to consumers across our country. This should not be a partisan debate. In fact, in the very recent past, it has been nonpartisan or even bipartisan. Unfortunately, it has become an issue that has broken down more and more along party lines.

I especially regret this has happened in large part because of efforts to curtail and restrict the Community Reinvestment Act, which the vast majority of evidence has suggested works well, has served the American people well in the past, and I believe is critical to equal opportunity for all Americans as we advance to a new century and a new millennium.

We are increasingly relying upon the use of market forces to create opportunity. We are asking the American people to be self-sufficient, to save, to work hard, to be personally responsible, and I support those trends. At the same time, we need to ensure that the market system works for all Americans and that every American, regardless of whether that person happens to come from the right side of the tracks or the wrong side of the tracks, be he or she Hispanic, African American, Native American or any other race, creed or religion in this society, that they have access to those tools in the marketplace that will allow them to be self-sufficient, to build a better way of life for themselves and their families.

It is important that we pass this law, as I mentioned. It is one of the areas in which we are internationally competitive. It is important that we pass legislation that will allow our financial services industry to provide comprehensive services to their customers and to compete with our foreign competitors.

It is important that consumers be allowed to have access to these services on a coordinated basis, on a one-stop shopping basis. It is better for consumers as well. It means jobs for your State and my State and the rest of the 48 States across the United States of America, not just in insurance, which is important to the State of Indiana, or investment banking or in securities or on the part of insurance company employees, agents, and brokers across this country. It means jobs for small businesses and industries in the State of Indiana and elsewhere that need access to low-cost credit, so that they can invest, be more competitive, more productive and create good-paying jobs across our country. This is an issue not just for Wall Street, but for Main Street and for all of our streets across this country.

Unfortunately, there has been increasing partisanship. I think that is very, very important. Just last year this measure passed out of the Senate Banking Committee on a 16-to-2 vote. This year, unfortunately, it broke down exactly along party lines, 11 to 9.

Earlier this year, this provision, very similar to the amendment I am supporting today, passed out of the House of Representatives Banking Committee 52 to 8, with the vast majority of Republicans and Democrats supporting a continuation of a vital CRA and equal financial opportunity for all Americans.

The administration strongly supports this point of view. It is important to note that there is virtually no significant opposition from industry groups. I find it to be somewhat ironic that in the past, members of my own party have been accused of favoring legislation that would unduly hamstring business for ideological reasons. Today, the shoe seems to be on the other foot.

Let me be very clear what this dispute that has brought us to this impasse is not about. It is not about the organization under which future banking, insurance and security services will be offered. This is not really a dispute about operating subsidiaries versus the affiliates and holding companies, although there is a very serious dispute between the Secretary of the Treasury and the Chairman of the Federal Reserve on this issue. I am convinced that this can be resolved if we are given a chance.

Our dispute in this impasse is really not about the unitary thrift and whether commercial entities should be allowed to get involved in the financial services sector. That is a legitimate issue and a concern that I am convinced that, too, can be resolved if we can only deal with the issue currently before us. No, Mr. President, the dispute that has brought us to this point involves the Community Reinvestment Act.

I say to my colleagues and those listening and watching us at home that the Community Reinvestment Act has been good for America and good for Americans. It is working. Between 1993 and 1997—4 years—loans in low- and middle-income areas across our country for mortgages and building homes increased 45 percent, 45 percent in just 4 years; up 72 percent for African Americans; up 45 percent for Hispanic Americans; up 30 percent for Native Americans.

In the same period of time, actually just last year alone, there were 525,000 loans to small business men and women in low- and moderate-income areas, with total capital investments of $34 billion.

The Community Reinvestment Act has proven to be a boom for the American dream: families wishing to invest in home ownership, entrepreneurs wishing to start small businesses, Americans of every race, creed and religion wanting to participate in the American dream of a better way of life for themselves and for their loved ones.

The Community Reinvestment Act has worked in my own home State of Indiana. I won't go through all the cases here. From Gary, East Chicago, Indianapolis, South Bend, Lafayette, Bloomington, from the north to the south, from the east to the west, in communities large and small across my State, more Hoosiers have opportunities to make investments, make a decent income through a good job, buy a home, or start a small business. It has been good for our country. It has been good for my State.

Mr. President, I have a letter with me today that I think my colleagues will find to be of some interest. It was sent to me 2 days ago. It happens to be from the mayor of the city of Fort Wayne. The reason this may be of interest is that Fort Wayne is the second largest city in the State of Indiana. More than that, Paul Helmke, the mayor of Fort Wayne, happened to be my opponent in the race for the Senate last year.

Paul Helmke is a card-carrying member of the Republican Party. He also believes in opportunities for the citizens of Fort Wayne, business investment expansion, and home ownership. The mayor of Fort Wayne, my opponent in the election last year, has written me asking me to support a vigorous and vital Community Reinvestment Act.

I read from his correspondence:

> . . . In Fort Wayne, banks have fulfilled their CRA requirements in creative and meaningful ways that have allowed us to leverage their resources with public and other private influences to help in our urban revitalization efforts.
>
> . . . Perhaps the banking community would continue to see their investment in urban renewal as beneficial without the CRA requirements. But I do not think that it is wise to tempt fate.

Mr. President, neither do I. Involved mayors, like Mayor Helmke, who was the head of the mayors association last year, and I believe concerned Senators should rise to vote in favor of a vital and continually vigorous Community Reinvestment Act. On April 22 of this year, the Los Angeles Times wrote:

> Before Congress voted to establish the CRA in 1977, many banks wrote off entire areas, refusing to lend to anyone who lived behind the red line.

The unfortunate truth is that while the vast majority of bankers across our country are involved and caring and doing a good job, both before and afterwards, too often there were bankers

who were willing to accept deposits from some parts of our communities and not make loans to those very same parts of our communities. That is what CRA has established. It is a very strong track record of change.

Unfortunately, the bill, as unamended, before us poses a serious threat to the continuation of this progress we have seen across this country and in my State. My understanding is it would make 97 percent of all banks presumptively exempt from the requirements of CRA, 38 percent entirely exempt from the provisions of CRA, and would exclude the whole new areas banks hope to get into, entirely exempt, new users entirely exempt from the provisions of CRA. Mr. President, now is not the time to turn back the clock.

I will summarize before yielding the floor. Access to credit today is as important an opportunity for Americans of every walk of life as rural electrification was in the 1930s. Access to credit today is as important to the future well-being of all of our citizens as universal service to telephones was in the fifties and the sixties.

That is why I believe very strongly, as we ask Americans to be more responsible, to take charge of their own lives, as we encourage them to start homes and build businesses and to build for the future, we must give them the tools within the market economy to get the job done. That means equal access to credit as we approach the new millennium, not just to the few, not just to the powerful, but to Americans of every race, ethnicity, and those of even modest means. That, Mr. President, is why I rise in support of the Bryan amendment and urge my colleagues to vote in the affirmative for it.

Thank you. I yield the floor.

Mr. EDWARDS. Would the Senator from Indiana yield for a question?

Mr. BAYH. I would be glad to yield to my colleague from North Carolina.

Mr. EDWARDS. Thank you.

I am wondering, Senator BAYH, if you have had the same experience I have had. That is, I come from a State with many banks, including some of the largest banks in America, Bank of America being one. And having had many conversations with representatives of banks that are headquartered in my State, what I hear from them is, in fact, they enjoy participating in the Community Reinvestment Act. They take great pride in the work they do in the communities where they are located. They have absolutely no opposition to the Community Reinvestment Act and, in fact, do not oppose the Community Reinvestment Act provisions of the Democratic substitute offered by Senator SARBANES.

I am just curious whether the banks in your State of Indiana have had the same kind of reaction.

Mr. BAYH. I say to the Senator, I appreciate your question. As a matter of fact, one of the things that has been most impressive about this issue has been the uniformity of opinion among our banks in my State, large and small. They find that CRA has not been a significant impediment to their doing business, and really the industry groups are not in opposition at all. As a matter of fact, they support the intent behind this very, very important provision.

So we have a situation here where many of our community groups, including our mayors—as a matter of fact, I should mention for the RECORD I spoke to the mayor or Gary last night, as well, who believes very strongly that a city like Gary, which has been struggling to get back on its feet, needs this provision.

The banks are not opposed and, in fact, find it to be a very positive element.

Mr. EDWARDS. That is exactly the response I have had. I thank the Senator.

Mr. President, I seek recognition at this time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. DODD. Will the Senator from North Carolina yield?

Mr. EDWARDS. Absolutely.

Mr. DODD. I want to say to my colleague from Indiana, before he leaves the floor, that was an excellent set of remarks. I think it points out the importance of this issue. I was particularly taken by the comments of your mayor of—which city was that, I ask?

Mr. BAYH. Fort Wayne.

Mr. DODD. Fort Wayne. This was your former opponent, I think, that my colleague pointed out. And I just say to my colleague, again, I have had a similar reaction from my mayors across my State. I know others have.

We have a tendency to think of these issues in terms of just what the banking community wants. And that is an important consideration for us, as we certainly deal with financial institutions. But I think—and I would ask my colleague from Indiana whether or not he would agree with this—that, in addition to the banking community, we bear a special responsibility, as Members of the Senate, to also consider what occurs to the customers' financial services.

I think sometimes that constituency is given a back seat when it comes to considering the implications of decisions we make. It is the farmer in Wyoming; it is the small businessperson in Connecticut; it is the consumer in Indiana; it is the minority business in North Carolina—all of us have consumers out here who use these financial institutions.

I commend my colleague from Indiana for a very thoughtful set of remarks, pointing out that side of the equation, the consumer side, the user side, the business side of our financial services, and I commend him again for his remarks.

Mrs. BOXER. Before the Senator yields, I wonder if I could pose a question for 20 seconds.

Mr. EDWARDS. Of course.

Mrs. BOXER. Thank you. I also want to thank my colleague for his remarks. I wonder if he was aware of the comments made —and this gets to the Senator from North Carolina—by the President of Bank of America about this program. If not, I would like to put them in the RECORD. If he answered that question——

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I believe the Senator from North Carolina has the floor. The question was being directed to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from North Carolina does have the floor and may only yield for a question.

Mrs. BOXER. I would be happy to direct this to the Senator from North Carolina.

Mr. EDWARDS. Yes, absolutely. I am aware, I say to Senator BOXER, of the comment by Hugh McColl, who is head of Bank of America. I think I can quote him exactly.

Mrs. BOXER. I would like you to do that right now in the RECORD, because it is a very telling comment.

Mr. EDWARDS. I think it is, too. He says, ''My company supports the Community Reinvestment Act both in spirit and in fact. We have gone way beyond its requirements. We have had fun doing it. And we have made a business out of it.''

Now, here is the head of the largest, or one of the largest, banks in the country, headquartered in my home State. I happen to know that Mr. McColl has, in fact, strongly supported the Community Reinvestment Act. His bank has gone above and beyond the call of duty in that respect.

Mrs. BOXER. One more question before I yield to my friend.

I find it very interesting that Senators would get up and attack this program as if it were some kind of a giveaway program. These bank presidents have told us that these loans are very profitable. As a matter of fact, I wonder if the Senator is aware, at least in California—and now we do have a tie in because, as you know, Mr. McColl, although headquartered in your fair State, does a lot of business in my fair State—they have told us that they are doing very well with their CRA ratings. As a matter of fact, they are telling us—and I want to know if the Senator was aware of this—that their portfolio of CRA loans—these are loans that never used to be made in the old days—are just as profitable, that portfolio, as their other loans. Is my friend aware of that?

Mr. EDWARDS. Yes, I say to Senator BOXER, I am aware of that, and that is what I have been told consistently by the banks located in North Carolina.

Mrs. BOXER. I thank my friend, and also my friend from Indiana, because I think the notion that somehow, if you are for CRA, you are for doing something with social value and yet interfering with business is simply not true.

These loans are profitable loans. They are good for the community. It goes back to the old adage: ''If you do good, you do good things, you will do well.''

I hope we will stand together in favor of this program that does good things for people and does well for the banks.

I yield back to my friend.

Mr. EDWARDS. Thank you, I say to Senator BOXER.

I will add to what she just said: When you do good things and have the impact that the Community Reinvestment Act has had, it does not just inure to the benefit of the people who are directly affected, it inures to the benefit of all of us.

Mrs. BOXER. Absolutely.

Mr. EDWARDS. I want to address that in just a moment. I want to say, first, in relation to the remarks of my friend, the Senator from Indiana, who has become a very close friend and colleague of mine during our tenure—we came to the Senate together—that I am proud of what he had to say. I completely agree with everything he had to say, and his remarks particularly about turning back the clock on this very, very important piece of legislation ring true with me and I think ring true with most Americans.

Mr. President, if I may, there is a really critical thing I want Americans, who are listening to this debate, to understand. This is not some obscure piece of banking legislation that has nothing to do with their lives.

It is really important for Americans to understand that this bill—I refer now to Senator GRAMM's bill—that this bill will have, or has the potential to have, a dramatic effect on the lives of every American, not just the poor, not just minorities, not just the elderly, not just those who run a small business or want to get into the family farming business, and not just those people who are directly impacted by the Community Reinvestment Act.

This bill has the potential to affect every single one of us, every single American. And here is why. Because it weakens the Community Reinvestment Act. Because of CRA, we provide low-income housing, we provide single-family housing, we give families a place to live, we give small businessmen and women, minority and otherwise, a chance to engage in entrepreneurship, to open their own business. We give the people the opportunity, in my home State of North Carolina, to start a small farm, and expand that farm.

Every time we provide these kinds of economic opportunities to people, every time we give families, core families, a chance to live together, to stay together, and not be spread out, we do a number of things: No. 1, we reduce crime; No. 2, we create pride, an extraordinary amount of self-esteem that may not have existed before; and we give people an opportunity to do something they otherwise might not be able to do—own their own home or open their own business.

I speak to every American when I say, crime, core family values, the fact that the folks who benefit directly from the Community Reinvestment Act are folks that we may otherwise, as a Government, have to support, these are things that affect every American. This bill is not some obscure banking bill that has nothing to do with people's lives. The Community Reivestment Act has a dramatic effect and has had a dramatic effect on every single American. I think it is critically important for people to understand that.

I think it is also important for them to understand what exactly Senator GRAMM's bill does to the existence of the Community Reinvestment Act. I have heard the bill described by him and others as being ''Community Reinvestment Act neutral,'' as to the overall purposes of this legislation.

I might add parenthetically that I strongly support the idea that banks ought to be able to expand services and affiliate with other financial institutions. They ought to be able to sell insurance. They ought to be able to sell securities. It is good for banks. We have a lot of banks in my State that need to do this and want to do it and, I think, ought to be able to do it. It is also good for consumers because it creates competition, and it is a good thing for consumers to have access to these services when they go to their banks. I strongly support those opportunities.

Here is the problem. Under existing law, when a bank seeks to expand, either by merger or by opening a branch, then its CRA rating is one of the things that is taken into consideration. Under the provision that is proposed by Senator GRAMM, when a bank seeks to expand services by affiliating with a company that sells insurance, by affiliating with a company that sells securities, CRA, or the Community Reinvestment Act, plays no role whatsoever.

Let me say this in the simplest terms. A bank with a completely unsatisfactory Community Reinvestment Act rating that has been determined by regulators to not be complying with the law, to not be doing what it should be doing with respect to investing in its community, I am talking about a totally noncompliant bank, that factor cannot even be taken into consideration in determining whether that bank should be allowed to sell insurance and whether it should be allowed to sell securities.

This bill, Senator GRAMM's bill, is not CRA neutral for one simple reason. We are, by virtue of this law, expanding what banks can do, allowing them to sell insurance, allowing them to sell securities. If we don't take CRA, which presently applies to applications for branching and mergers, and apply it as a precondition for these new services they are going to engage in, then we have withdrawn from CRA. We will have cut the underpinnings from CRA. It is something we shouldn't do—it is fundamental—we shouldn't do. CRA compliance ought to be a consideration when banks seek to engage in the expanded services permitted under this bill in exactly the same way, in exactly the same fashion that it presently applies to their attempts to merge with other banks or to their attempts to open other branches.

Now, I want to show a couple of examples with the indulgence of my colleagues.

I want to show a couple examples of what the Community Reinvestment Act has done in North Carolina. I show now a photograph of a neighborhood, an economically disadvantaged neighborhood, a minority neighborhood in Durham, NC. This is a house that existed in that neighborhood.

As a result of the Community Reinvestment Act, and as a result of a bank partnering with local community groups, this house that we have just taken a look at was turned into this house.

If I could hold up the first photo just a minute, this was a crime-ridden, drug-infested community. As a result of the Community Reinvestment Act, we went from this to this—a place that the people who occupy this home are proud of; a low-income family was able to reside there. They take pride in their community. And as Reverend Brooks, who was part of this effort, said:

> Before, there were drug dealers sitting on this corner. Now, we have homeowners hoping to be in these houses.

The Community Reinvestment Act. It changes communities. It changes families. It changes people's lives. It also changes the financial obligations that the rest of us, as Americans, have to support opportunities for people who want to support themselves. They just need a chance. What the Community Reinvestment Act does is, it gives those folks a chance.

I want to show one last photo. We have seen one house. This is a neighborhood. This is located in Durham, NC. This is a neighborhood that, again, has gone from a high-crime, drug-dealers-on-the-street-corner neighborhood to a model community. Can you imagine the difference between the way a family feels when they live in a community where right outside their doorstep people are selling drugs and all the houses are in terrible shape versus how they feel when they find themselves in a community that looks like this? Now they take pride in their community. The children growing up in this community take pride in where they live. It gives them a sense of self-esteem. It allows them an opportunity to have pride in themselves and their family that they otherwise might not have.

Now, there are some simple facts that I will speak to briefly that have emerged from the progress of the Community Reinvestment Act during the time it has been in place. If I could have the appropriate chart, please.

First of all, just since 1993, the private sector lending in low- and moderate-income areas, which is what we have been concerned with, has risen.

From 1993, I guess this is the number of loans, 185,014 to 268,463 in 1997. Over a period of 4 years, there is an increase of 45 percent, almost a 50-percent increase in just 4 years, as a result of the Community Reinvestment Act.

The argument is made that—and we have heard a lot of it from Senator GRAMM over the course of the last 45 minutes to an hour—that the Community Reinvestment Act places an enormous regulatory burden on banks, unfairly so.

Well, I think, unfortunately, with all due respect to Senator GRAMM, the facts do not bear that argument out. What we find is that among CRA-covered institutions, when they make an application, for example, when a bank decides they are going to merge with another bank, when a bank decides they are going to expand and open a branch, and therefore they file a CRA application, 99 percent of those applications are never even challenged by community groups. So we start with a base of 99 percent where there is no challenge whatsoever. I would love the comments of Senator SARBANES on this in a moment, if he will. It is my understanding that the banks are not required to keep additional information as a result of this expansion of services. In fact, I think they use exactly the same base data that they kept previously. Is that correct, Senator SARBANES?

Mr. SARBANES. I say to the Senator, that is correct. Senator BRYAN spoke to that earlier, about the effort that was made in the mid-1990s to ease the regulatory burden on the banks.

Mr. EDWARDS. That is my understanding.

So we start with this basic idea that 99 percent of all the CRA-covered applications are not challenged at all. Then of the ones that are challenged, in only 1 percent of those cases are the applications denied. So 1 percent are challenged versus 99 percent that are not, and of that 1 percent, only 1 percent of those are denied.

I think the facts prove that CRA has not been an enormous regulatory burden and that banks, as has been the experience of Senator BAYH, as has been the experience of Senator DODD in Connecticut, and as has been my experience in talking to my bankers in North Carolina, the reality is they do not oppose the Community Reinvestment Act. They simply do not.

As the quote from Hugh McColl indicated earlier, banks take great pride in their opportunities to invest in their community. Our banks are good corporate citizens who do what they do because they take pride in it. They believe in the Community Reinvestment Act. They support it. They are not opposed to it.

Finally, this chart depicts what CRA has done in loans to low- and moderate-income communities. This is as of 1997, $34 billion in small business loans. I think it is really important that we understand we are not just talking about housing. We are talking about small businesses, entrepreneurs who want to get started and just need a leg up, giving them a chance to develop their own business, $34 billion as a result of the Community Reinvestment Act; $18.6 billion in community development, the kind of community development that we saw photographs of just a few moments ago; and critically important to my State of North Carolina—and I suspect Senator BAYH's State of Indiana—$11 billion in small farm loans. That is $11 billion going to small farmers as a result of the Community Reinvestment Act.

Here is what we have. We have a bill that makes a great deal of sense on the whole. We want to expand the services of banks. We believe—at least I believe—that banks ought to be able to engage in those services. But it is critically important that we maintain the viability and the vitality of the Community Reinvestment Act. It is important that we maintain it for a lot of reasons: because we need to support minorities; we need to support the elderly; we need to support low-income families; we need to support people who need or want to start their own small business or their own family farm. It makes good business economic sense for the country.

But what I want the American people to hear from me today, if they hear nothing else, is that this is not some obscure piece of banking legislation that is technical or difficult to understand. This legislation can affect their lives and, in fact, will affect the lives of every American every day because to the extent that we keep poor families together, to the extent that we reduce crime in this country, to the extent that we give people an opportunity to seek out good employment, to get jobs to support their own families—all those things that we as Americans believe in—when we do those things in conjunction, we as a country benefit. And to the extent that we look at it selfishly, we as individuals benefit because those people will not be supported by the Government. They won't be supported by taxpayers. They will support themselves. And the reality is that is exactly what they want. They want the opportunity to support themselves and to know the pride of homeownership. That is what community reinvestment is all about. That is the reason Senators SARBANES, KERRY, BAYH, DODD, and myself believe in it so deeply.

Mr. SARBANES. Will the Senator yield for a question?

Mr. EDWARDS. Yes.

Mr. SARBANES. Let me compliment the Senator from Indiana and the Senator from North Carolina for their very strong presentations and their tremendous contributions to the Banking Committee. They both came on the committee this year, and we are barely a few months into their first session and they have both made extraordinary contributions to the work of the committee and to the work of the Senate. I simply want to say, as one Senator who has been here for a while, we are very honored to have them as part of the Senate and thankful and grateful to them for the contributions they make.

I wanted to ask the Senator this: In a letter we received from the U.S. Conference of Mayors, which in effect fits in with the point that both Senators were making about the importance of the Community Reinvestment Act—it is signed by close to 170 mayors from all over the country, besides the ones that are trustees and on the advisory board of the U.S. Conference of Mayors—it says:

> . . .As mayors, we recognize that CRA has been an essential tool in revitalizing cities around this nation. In fact, there is now increasing recognition that the strength and economic health of whole regions require strong and vibrant cities. Creating new economic activity—new businesses, new jobs, new homeowners—is key to the revival of urban areas and their surrounding regions, CRA has been a key component to creating this new economic activity.

They go on later to say:

> Prior to the enactment of CRA, banks and thrifts routinely redlined low and moderate-income neighborhoods in our nation's cities. The modest requirement in CRA that financial institutions meet the credit needs of their communities has led to the successful channeling of billions of dollars into localities.

Then they note that the bill brought out by the committee would severely weaken CRA. They say:

> Unless the onerous CRA provisions are addressed and CRA is preserved and strengthened, we would urge strong opposition to the Senate bill.

I raise that with the Senator because it seems to me that it goes to this very point, including the pictures he was showing. We are talking about the elected officials who are right on the front line, so to speak, trying to deal with the problems of their communities, trying to bring them back and achieve revitalization and renewal. They, obviously, have come in feeling very strongly.

Mr. President, does the Senator feel that this is another perspective on the very point he was trying to make of the importance of CRA—not just for the people who directly benefit from it but for the broader community, for all of us, it seems to me, here is, in a sense, an endorsement of the very position the Senator has been enunciating.

Mr. EDWARDS. I think that is a wonderful indication, as the Senator put it, of the people on the ground, on the spot, seeing what is happening on a day-to-day basis, recognizing how critically important CRA is to this country. They see what is happening. I think it goes hand in hand with the fact that the banks—and I might add, I take great pride in the fact that every bank in North Carolina has a satisfactory CRA rating, every single one of them—are helping make a difference.

I think the fact that the mayors are behind it, the fact that the community

groups are behind it, the fact that the banks themselves, the financial institutions, are behind it, I think all these things in combination go to prove a very simple point: The Community Reinvestment Act has been good for America. It is good for the specific groups it directly benefits, and it is good for all of us as Americans because it allows these folks to support themselves, which is what they want to do.

Mr. BAYH. Will the Senator yield for a question?

Mr. EDWARDS. Yes.

Mr. BAYH. Mr. President, I echo the words of the Senator from Maryland in complimenting my friend from North Carolina for his eloquence and his insightful presentation on a continued, strong CRA. I observe and I can tell that he has taken his advocacy skills from the courtroom to the floor of the Senate, and the American people are better for it.

I compliment the Senator on his statement, which is built upon what the ranking member said in the statement he read from the Conference of Mayors. The Senator from North Carolina has become a dear friend and someone I have admiration and great respect for. I have heard the Senator mention on many occasions his dedication to ensuring that not just big cities or large institutions have opportunities, but that the farmers and small rural areas across North Carolina are afforded the same opportunities as those in the large cities and in the large financial institutions.

My question is this: Very often, this financial modernization bill is portrayed as something that just Wall Street and big institutions are interested in. The Senator touched on this briefly, and there is one thing I was hoping he can expand on. I wonder if his experience in North Carolina is the same as ours in Indiana, which is that CRA can be an engine for making sure that farmers and small businesses in rural areas are afforded the same kinds of opportunities as the mayors indicated the cities enjoy.

Mr. EDWARDS. I thank the Senator for his kind comments. He and I share the same feelings about each other. We share a lot of the same beliefs and values. There is no question that in the State of North Carolina we have had the same experience they have had in Indiana, which is that the Community Reinvestment Act, in fact, reaches out into rural, underserved communities, to small farmers, small businesses and communities that are chronically and economically disadvantaged and so desperately need its help. I think it is another example of how well the CRA has worked.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Wyoming is recognized.

Mr. KERRY. Will my colleague yield for a question?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. KERRY. I would like to ask a question.

Mr. ENZI. The Senator doesn't even know what my statement would be. It would be difficult to yield for a question based on what I haven't said yet. There is a little bit of smoke that needs to be cleared out of the Chamber before we proceed.

Mr. SARBANES. Mr. President, I think the Senator was just asking you to yield in order to determine the procedure.

Mr. KERRY. I was just going to ask the Senator how long he was going to speak.

Mr. ENZI. I apologize. I have been listening to a lot of statements made, and I probably reacted in a way that I should not have.

Mr. GRAMM. Will the Senator yield?

Mr. ENZI. I will yield for a question, yes.

Mr. GRAMM. Mr. President, I will make the following point. We go back and forth to try to keep some balance in the debate.

I think when people have a real question that it is a logical thing to do. But when questions used really disrupt the flow of the debate so that you have long periods of time on one side of the aisle, I don't think it is quite fair. Obviously under the rules we can do it, but it can be done on both sides.

I would like to just suggest—we are going to vote on this at about 7 o'clock. We have plenty of time. Everybody can be heard. I would just like to suggest that we go back and forth. Everybody will get a chance to speak.

I urge our colleagues, if you have a real question on something you don't know—other than, ''Do you realize that our proposal is a great proposal and their proposal is a rotten proposal?''—yes, I realize that—if you have a real question, I think it makes sense. But in fairness to what we try to do in going back and forth, I urge people to wait for their time to speak so we have debate on both sides of the aisle. That is my point.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. ENZI. The answer to the question of the Senator from Massachusetts is, I think about 10 minutes.

Mr. KERRY. I thank the Senator.

Mr. SARBANES. I ask unanimous consent that when the Senator from Wyoming concludes that the Senator from Massachusetts be recognized.

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

The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank you for the recognition. I appreciate this opportunity to speak.

There is a certain amount of tension that builds up as you listen to some of the comments. The comments have been very good about CRA, the Community Reinvestment Act, in general, and in general nothing is going to happen to that CRA. The Community Reinvestment Act will still be in place. There will still be community reinvestment.

There are two changes in this bill that have been suggested. They make some changes. They make some important changes that may make CRA more viable, more valuable, more productive, and more useful.

There has been a tremendous escalation in the number of dollars being given in CRA commitments. We note that in 1995 the annual dollars were 26 million, almost $27 million. In 1998, the annual dollars were 694 million.

What do you suppose caused the increase? Are banks just discovering this? I don't think so.

A while ago you had the opportunity to listen to some of the contents of an agreement that was necessary in order to move on in a banking arrangement. There are a lot of clauses in that which are pretty disturbing to me.

It has been said that you are not hearing from the banks. If that letter has been used by many groups—you can see by the numbers that it is rapidly escalating—how many groups are being brought into this? There is a clause in that which says they cannot complain about CRA. That is freedom of speech? You cannot complain about somebody extorting money from you?

When banks are merging, there are a lot of stockholders who are nervous. There are customers who are nervous. They do not know whether they want to stay with the bank or not just because of the media turmoil that is caused by the merger.

Then you have a group coming in to take advantage of that crisis moment, that interest moment. They raise an issue. The bank isn't found to be out of compliance; the bank is in compliance. Under this bill, they have to have been in compliance for 3 years. For 3 years they have been following this.

We had some discussion earlier that there are audits done on this. They are checked on. It has always been shown that the ones that are most likely to be involved in this, the bigger banks, are also the best respondents. But there is a clause they have that says, first of all, they are not going to complain about CRA; second, they are going to write this Congress and say what a good deal CRA is.

Does that sound like a normal business transaction? Does that sound like something that businesses ought to be involved in?

If these things are really invalid actions by those banks, they ought to be taken to the highest level and the highest opportunity to punish. But that destroys the value of the company. So they enter into agreements like this and send letters that say that the CRA is OK.

This bill does not gut CRA. It keeps the same program in place. If a bank, which is audited regularly, has met the criteria for 3 years, and meets it at the moment, then actual objections have

to be lodged. It seems like common sense to me. It doesn't sound like doing away with the program. It is just common sense.

Small banks were mentioned. There is a change for small banks in here, too, if they have under $100 million in assets. I think if any of you look into banks, you will find that it is a very small bank that has five or six employees. You will probably find that one of those employees is dedicated to just doing CRA—doing CRA so they can prove that they don't have a problem. It is only rural banks.

We have had these letters from Fort Wayne and some other cities. Those aren't rural banks. I don't care what their asset base is. They don't get this advantage.

We are talking about the very small communities. I have those in Wyoming. Those very small communities, even if they only have one or two employees, have to have somebody dedicated to doing the CRA. It is a paperwork experience. They are having to fill out paperwork to prove that they are not in violation in a community where there may not even be minorities. So they cannot rest as well, because they don't have a classification they can meet in their customer base in their community.

Three-fourths of the banks are rural banks. It was said that we had an amendment that put that at $2 million. I also want to point out a comment that was made about these small banks. There were over 16,000 of them audited for CRA. There were three out of compliance. According to my record, there were three out of compliance. There are some that get lower ratings, and I have explained why they are lower ratings. But even if they were considerably more out of compliance, it is not good auditing to do it under that basis.

I am an accountant. I am the only accountant in the Senate. When you have criteria for auditing businesses, you come up with higher statistics than that kind of a base, or even a higher base than that. You have to. Otherwise, you are wasting resources.

What I am saying is that some of these benefits that are talked about may not have been worth it even on the basis of the auditing costs. We are talking about the basis of the business cost as well complying with this law.

These banks are community banks—rural banks. In Wyoming, the bank may be 100 miles from another bank. Who do you think they serve? People from other States in the Nation don't mail their money there. It is the people who live in that community, and they expect and they get service, or the bank goes out of business.

We have heard some statistics about how business has increased because of the CRA. We have heard statistics about how loans have increased because of the CRA. Take a look at the timeframe. It wasn't the CRA that drove up the number of people buying houses or drove up the opportunity for more people to go into business. It was the interest rate. The interest rate plummeted. More people could make house payments. More people bought houses. It wasn't that the banks were being forced into this; the banks are already precluded from having to do bad loans. They are not loaning to just anybody who comes in the door. They are just doing a lot of paperwork to show that the loans they are granting are valid loans and the ones they are not are not valid loans.

The economy makes the difference in whether new businesses start and whether people buy more houses. The exemption for small banks will solve some problems for small banks, and it probably ought to be a higher amount than that.

Again, if you are looking at auditing statistics, you could double or triple that number without affecting the numbers that are out of compliance; hardly at all.

I want to reiterate again that that amount of extortion to the big banks has gone from $27 billion up to $694 billion. That is going to be something on an ever-increasing basis. As more people get into the business of taking on CRA, taking a base and a commission off of that, none of this goes to the sector of the community we are talking about.

CRA is important. CRA is included in the bill. CRA only makes two changes. It does not gut the bill. There are two changes: One for small, rural banks so we don't have to spend so much annually complying with CRA and they instead can put it into their community, which is where they put their money; the other one is for the big banks so they don't have to write these required letters we heard to their Congressman saying they don't have any problem with CRA.

This is not an attempt to gut CRA. This is an attempt to make it more valuable, more useful and more applicable in the banks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank particularly the Senator from Maryland, the ranking member, for his leadership on this issue. I regret that the Senate is in the position it is in on this particular bill.

I have previously supported financial modernization. We have voted on it in several incarnations. Last year I was among those who happily sent this bill, what was then H.R. 10, to the Senate with a very significant vote of support in the Banking Committee, because we believed overwhelmingly that we had the right balance between the interests of the financial services community, whom we are all concerned about and we all understand need the needs of that community; at the same time we had what most people thought was a very fair and sensible recognition of the virtues of the CRA.

In the waning hours of the last Congress, all Members remember there was a single, very adamant voice of opposition, the now chairman of the committee, who in fairness has deep-rooted beliefs about it, but who frankly stood in a very, very small number last year who ultimately, because of the timing of the bill, was able to prevent an entire bill from passing the Senate.

Now we are back here once again revisiting the important imperatives of financial modernization. This year many of us who want to vote for that financial modernization are put in the very difficult position of having to take a position of fundamental principle that because we believe so deeply that the CRA provision is so disturbed by this bill that a strong relationship that has existed and worked with a profound, positive impact for people in this country, is being sufficiently undone, even attacked, and requires that we oppose the bill in its current form.

I am used to going through Pyrrhic exercises in the Senate, regrettably with increased frequency. It is a sad commentary on the nature of the legislative process today that sometimes measures move through here in a very partisan way and then we ultimately wind up in the conference committee with the administration negotiating and things are changed.

That may or may not happen here. It certainly didn't have to be this way. We could have arrived at some kind of fairminded compromise that reflected the views of the vast majority of Senators. Instead, we find ourselves with a bill that is not just about financial modernization. It is also about a significant reduction in the capacity of the Community Reinvestment Act to work. Many Members believe very, very deeply we can do better than that.

I think we obviously need to recognize that U.S. financial institutions as a whole are the most efficient providers of financial services in the world today. There have been remarkable changes in the marketplace in the last years. All Members ought to pay proper tribute to the virtues of the entrepreneurs who have themselves undertaken to put those changes in place.

I don't think Congress can stand here with a straight face and take entire credit for the virtues of the economy that we are living in today. I do think we take partial credit because I think it was a courageous effort in 1993 to face up to the realities of the deficit and to come up with a solid deficit reduction act. In addition to the congressional efforts, Alan Greenspan, the chairman of the Fed, deserves enormous credit for his courage during the banking crisis of the last years of the 1980s and the beginning of the 1990s when he took bold action to help refinance the banks, as well as his remarkable stewardship of monetary policy itself.

Finally, it seems to me a very significant amount of the credit goes to the companies themselves and the CEOs

who saw a change coming down the road, who responded to the demands of the 1980s when people were writing books about Japan, Inc. and writing off American enterprise and suggesting we needed a wholesale adoption of another model. Indeed, our model has proven perhaps at times to be excessive and at times even to be insensitive, but nevertheless to be way ahead of any other capacity or structure in the world in the marketplace.

Increasingly, one of the reasons for that success has been the blurring of the lines between banking, insurance, and securities. We need to do our part. We are way behind the curve, years behind the curve. Were it not for the thoughtful and judicious steps taken by the regulators themselves without congressional impetus we perhaps wouldn't have been able to accomplish some of what we have.

Now is the time to respond by breaking down the artificial legal barriers of an outdated era, the barriers that prevented banks, security firms and insurance companies from affiliating. It is time we take the step to ratify the liberation of financial service companies so they can provide a broader array of services to consumers and corporate customers. I don't think we should hesitate to do it. This is several years overdue.

It is regrettable that we find ourselves in this position, after the Senate Banking Committee overwhelmingly by a 16–2 vote passed legislation. That is a fairly profound statement of the Senate Banking committee's willingness to move forward.

Here we are again, notwithstanding the challenge of financial modernization, with too many Members having to say no to moving forward because of the extreme measures being applied to the CRA itself.

That judgment is not ours alone. The Treasury Secretary, whose expertise and judgment over the last years, I think, has been without parallel, and the President of the United States, clearly on Secretary Rubin's recommendation, have stated that if the CRA measure stays as it is, this measure will be vetoed. Very simple: It is going to be vetoed.

We have a choice. We can either take a look at the CRA and make a judgment about what it accomplishes or we can go through another Senate exercise, send the bill out for veto and accept failure in the end for our capacity to be able to recognize the importance of the vast changes that I referred to a moment ago.

Let me say a few words about the CRA, if I may. The CRA is now more than 20 years old. It is very straightforward in concept. It is imminently reasonable. It says simply that banks have to provide credit to all the communities in which they take deposits. In other words, if a bank accepts deposits from a neighbor, that bank has some kind of responsibility to make loans available to creditworthy borrowers in those neighborhoods. That is common sense and it is fundamentally fair. This statement of reciprocity, of mutual responsibility, says an awful lot about the kind of country we want to be and the kind of country we are as a consequence of that kind of effort.

Let me speak for a moment to what the CRA has accomplished. It has helped to make more than $1 trillion in good, profitable loans to low-income areas, loans that bankers in my State and in States all across the country have said would not have been made without the law. It has given low-income communities of working families access to capital that is absolutely crucial to start a small business or to buy a home. And it has created new business opportunities for the banks themselves.

I would say that CRA is a fundamentally conservative, procapitalist law because it is not a handout; it is not something for nothing. It requires responsibility. It broadens the tax base. It broadens the capitalization capacity of a community. It brings people into the economic mainstream. It is a law that provides that all Americans, low- and moderate-income Americans, very often African Americans or Hispanic Americans, with the opportunity to buy a home or build a business if they are creditworthy.

The law is very clear on the last point, about creditworthiness. Loans have to be made with all of the normal concerns for safety and for soundness. The act itself could not have been more clear on that. It says that it has to help meet the credit needs of the local communities from which it is chartered, ''consistent with the safe and sound operation of such institutions.''

So, when the chairman of the committee says it is just an extortion program, I think there is such a level of extreme exaggeration and rhetoric in that, measured against what happens —and I will speak for a moment later to the question of extortion—because any bank has the ability to prove that any particular request was not able to meet the requirement of safe and sound operation of that institution. It is clear there are plenty of ways of doing that. And the balance of the weight is on the bank; it is really against the person requesting the credit, based upon the normal standards by which banks do business.

If you talk to most bankers, they will tell you the CRA loans perform as well as the rest of their portfolios. We are not looking at some enormous drag on banking institutions. In fact, some banks have begun to sell CRA loans on Wall Street in order to acquire more capital to make more CRA loans. Those are market forces that are being harnessed to expand opportunity and to grow our economy.

Here in the Senate, lately, we have heard a lot of talk about the ''opportunity society.'' The fact is, the Community Reinvestment Act exemplifies that notion. Credit is the economic lifeblood of every community, whether it is rich or poor. In our society, I think it is fair to say that historically we know that credit denied is also opportunity denied. When you deny hard-working Americans the chance to buy their own homes or start their own businesses, you are denying them the opportunity to share in the American promise.

This is a country where we have demanded a lot of our citizens. We expect them to make the most of their own lives, to take responsibility for themselves and for their families—largely because of the kinds of public policy decisions we have had the privilege of supporting here in the Senate with respect to this kind of economic sharing, if you will. We say to Americans: If you take the effort to live by the rules, to show your creditworthiness, to stand up within the economic structure, then we have the ability to help provide some of the tools to build that decent life for yourself. CRA was built on that.

But what we are considering today—and I heard the Senator from Wyoming and I have heard other Senators try to suggest this is really just a fixing of the CRA, that it doesn't really take it apart, it is going to leave it in place; we are just going to take, whatever, about 38 percent of the banks out from under it—those are the banks under the $100 million mark—and then we are going to make it a lot more difficult to apply any real measurement because we are going to change the standard by which we measure a violation; and, we are also going to change—according to the chairman—we are going to exempt banks from protest based on a 3-year satisfactory CRA record no matter what. And of course for the new activities we are empowering in this bill, it doesn't apply at all.

If ever there was a reason to make judgments about whether or not people are in compliance, it is when they are going to go out and engage in new activities that involve a whole series of new, larger roles within the economic community.

It seems to me it is inconceivable that, when they are going to take on those new kinds of responsibilities, you are suddenly going to say: We are not going to apply it; we are going to hold it where it is based on the theory of what CRA is supposed to be.

There is a reason that there is this kind of semi-subtle approach—I would not call it that subtle in the end. It is sort of a sledgehammer, but it is hidden enough in a way that people who are not completely familiar with it or with the process might say there are some redeeming factors here. But the fact is, the reason it is done in this sort of backdoor approach is that they learned they cannot do a frontal assault. They are not going to strike it altogether. It does not give people enough cover. So then you are left sort of analyzing: What is it that it is really going to do? What is going to happen here, in terms of this effort?

I believe the Bryan amendment will preserve the appropriate relationships by simply requiring that banks have and maintain a satisfactory CRA rating as a condition of exercising the new affiliations allowed in this bill. The Bryan amendment also strikes the safe harbor language and the exemption from CRA regulations for banks with less than $100 million of assets.

I listened to the chairman in the committee and I addressed this directly—raised this issue of extortion. I acknowledged at the time, and I will acknowledge on the floor, that I know of instances where people have come into a bank at the last minute, or at the moment of a merger, feeling the iron is hot, and of course when the bank wants the merger to move—carefully and without ruffled feathers. When the banks don't want the regulators suddenly getting their dander up at this critical moment of merger. So people take advantage of this opportunity.

Let me say, I know of some instances where there have been some marginally meritorious requests. But the record of the numbers of challenges—and I will address that in a moment—is very clear. It is so de minimis that no one can come to the floor with anything except pure anecdote, sort of a story here or there, that suggests that somehow there is some massive problem. What bank does not deal with community groups, all the time—this is not some sort of a last minute thing where there are a bunch of unknown people sitting at a table who can walk into the bank and the newspapers and the local television are all going to take them seriously. We are dealing, after all, with communities in which there are sets of relationships which everybody understands.

Most of the people within that community—the political leaders, the elected political leaders, the opinion leaders, the bankers, the businesspeople, the news people—understand the difference between legitimacy and extortion. They understand the difference between a community that is getting its fair share of community investment from a bank and a community that has been starved.

The fact is, if somebody is walking in, in some sort of bald-faced ''extortion effort,'' the bank can tell them no way and probably stand there with impunity and justification in doing so. If some banker is complaining about some illegitimate group coming in and holding them up, then that banker, frankly, ought to be fired for not having the courage and the guts to say: Look, we are meeting our standards. We have covered all the people who have made legitimate requests. Your request is not legitimate. It will not withstand the scrutiny in the light of day, and I am not going to be blackmailed, period.

Moreover, there are laws in this country already on the books, Federal laws, State laws and local—within counties—which district attorneys can prosecute with respect to those kinds of extortion efforts.

To suggest we are going to hold up the financial modernization efforts of the United States of America in a global marketplace over these anecdotal stories and not be able to find a common ground where we could fix or address the question of legitimacy—there are any number of language changes you could make in the standards or in the review process or in the process, all of which would be adequate to deal with the questions that the Senator from Texas has raised. But none of those is on the table, none of them. What is on the table is an entire exemption for a whole set of banks for whom this has worked very effectively. Moreover, what is on the table is an exemption of any consideration at all for these remarkable new powers that are going to be given to the banks which demand that you make some kind of judgment about what their commitment really is in their community.

You can talk to most of the bankers in the country right now.

The Wall Street Journal summed it up this way:

> Few Republicans share (the Chairman's) passion for the (CRA) issue. Bankers don't love the CRA but have largely made their peace with it. . . . ''CRA is part of the way we do business—we don't have any problems with it,'' says Pamela Flaherty, a vice president at Citigroup, Inc.

It is not industry leaders or community leaders who are driving this effort to undermine the CRA; it is the tendency in this Chamber and in our politics for ideology sometimes to work against the needs of communities and the interests of good public policy. When you measure what we are doing against the broad-based effort of the House of Representatives and the House Banking Committee to develop a more broad-based effort, you have a real confrontation with that approach.

If you look at some of the language we have heard about the CRA—comparing it to slavery—that is the kind of statement that just ignores the reality of what the CRA has accomplished.

The CRA, accepted by most bankers in this country, supported by people like Alan Greenspan, supported by major bankers in the country, has brought billions of dollars of credit into African communities, Hispanic communities, and Asian-American communities where thousands of banks have become active partners in creating opportunities for working families so they can become new homeowners and by providing the capital to budding entrepreneurs.

Slavery? That is an extraordinary comment. Too many of our colleagues are willing to forget the redlining and the racism that plagued lending in too many low-income communities in previous years. Before 1977, when the Community Reinvestment Act became law, many financial institutions believed they had absolutely no responsibility to the communities they served. Some financial institutions accepted racial and economic discrimination as part of their mortgage credit and business lending policy. It is because we found that too many banking institutions saw an ease to the profit line by moving into certain areas and an unwillingness to do business and reach out to Main Street with access to credit that we put the CRA in place.

Studies from that time period show that some financial institutions routinely invested more than 90 percent of their deposits that they received from low-income and minority neighborhoods into other areas. Ninety percent of the deposits that came from certain low-income communities went out to other areas. We have a fundamental responsibility not to start segmenting and dividing up the financial marketplace in a way that is going to allow people to turn away from that responsibility of inclusion that has benefited everybody in this country and has made this country a better place.

In Roxbury, MA, a low-income minority neighborhood within the city of Boston, only 20 percent of home sales were financed by financial institutions between 1975 and 1976. But in the prosperous suburbs of Boston, 83 percent of home sales were financed by financial institutions in the same time period.

The residents of Roxbury who were able to obtain financing were forced to use private mortgage companies, often at substantially greater expense than at financial institutions. The cost of denying private mortgage credit and business lending was literally devastating to the social and economic growth of Roxbury and other low-income neighborhoods in the inner city and in rural areas. Over time, property values and small business activity plummeted, and then crime and poverty escalated.

We can recreate that cycle if we want to go backward in time, Mr. President. Activities like that are exactly what brought the Congress to pass the Community Reinvestment Act in 1977, to encourage bank and thrift regulatory agencies to help meet the credit needs in all areas of the communities that they serve.

I don't think we can afford as a nation to roll ourselves back to those days when it was more power to the powerful, more money to those who already had the money, and less concern and less effort to try to be the country that all the speeches are about and all our days of celebration are about.

CRA has worked in Massachusetts where there has been more than $1.6 billion in commitments made by financial assistance institutions to assist low-income neighborhoods. These funds have been invested in home ownership, affordable housing development, minority small business development, new banking facilities and services, and it has made a difference in our inner-city neighborhoods from Roxbury to Jamaica Plain to the South End. Let me give a direct example.

Stacy Andrus, from Jamaica Plain, Massachusetts, was a restaurateur struggling to make ends meet and retain her clientele in a competitive environment. She knew she had to be creative just to keep pace. She began toasting chips out of pita bread to serve as finger food before meals. As one might expect, those chips soon became the most popular item on the menu.

Like so many businessowners who know they have latched on to a great idea, she wanted to expand the operation. She tried to bring the concept to scale, but capital and credit were not available to her; they were not available in Jamaica Plain. Even though their deposits went into the bank, they did not come back into the community.

She could not find the help she needed until finally she started working with the Jamaica Plain Neighborhood Development Corporation. This corporation works within a network of small business providers that use CRA programs at local banks to secure funding for small businesses. With their help, Stacy obtained a $60,000 loan from BankBoston. As a result, her business expanded rapidly: She has leased a production plant in Jamaica Plain; she has residents of the low-income community working for her; she has put former welfare recipients on the payroll; she has 900 bags of chips rolling off the assembly line every single day. Thanks to CRA she has now made them one of the top selling gourmet snack foods in all of Boston, and she has major airlines interested in serving her chips to first-class customers. Without the CRA, Mr. President, the community of Jamaica Plain would not have received those kinds of benefits from economic development that has been generated. In addition, it is also giving low-income communities a shot at home ownership.

Julie Orlando is a single working mother of three. She wanted to buy a home for her family in Leominster, MA, which is Northwest of Boston. In the days before CRA, she would not have possibly been considered a likely candidate to own a home, but because the Fidelity Cooperative Bank was involved in the CRA coalition, she was able to obtain a $72,000 mortgage with no points. The city of Leominster provided additional assistance to Julie and her family. Because the Fidelity Cooperative Bank participated in the CRA coalition, she and her children can live with their first home, which is, after all, Mr. President, not just the American dream, but it is good for the community.

How many times have we heard of the problem of crime that comes from transient members of the community, people who do not have a stake in the community. That is exactly the type of assistance that CRA was designed to provide.

It is my hope we are not going to take measures here that deny a whole generation of CRA success stories in the future. The CRA and the Home Mortgage Disclosure Act data continue to show that blacks and Hispanics face significantly higher mortgage rejection rates.

The Boston Federal Reserve showed conclusively that African Americans get turned down for a mortgage 1.6 times more often than whites, even after you control for many of the economic income and creditworthiness differences.

A New York Newsday study, looking at 100,000 mortgage applications on Long Island, showed that blacks' applications were rejected three times as often as whites', even when they had the same income.

In a study right here in the Washington, DC, area, completed last year, we found that significant lending discrimination exists against blacks and Hispanics.

Mr. President, the need for the CRA remains very much alive in the United States. Let's put the rhetoric aside. Let's put the ideology aside. Let's find the common ground within the Senate whereby we can guarantee that we can build a coalition that will support the best of financial modernization and the best of our effort to broaden the economic base of this country.

I might add, some have suggested there is sort of a legalized concept to what has been called the ''legalized extortion.'' In fact, some people have suggested that the regulators have assisted that process.

Let me say, Mr. President, I find it very hard to believe that people would suggest that Alan Greenspan, the Chairman of the Federal Reserve, for whom we have—all of us—such respect for, is complicitous in that process. This is what he said about the CRA:

> . . . the CRA process is something that we clearly have been supportive of and think is crucial and necessary to the development of communities. We think that it's in the interest of the banks. We think that it's in the interest of communities.

Mr. President, the data from the regulators—let me just close on this—the data from the regulators is clear. The chairman of the Banking Committee wants the Senate to fundamentally weaken CRA. He will stand up and argue, this is not taking it away. He is going to try to point to the exemption for the small banks. And he will come back to the notion that it somehow is still in effect, even though it does not apply to the new services that will be provided, and even though the 3-year safe harbor provision is included.

But the fact is, that fewer than 1 percent of bank applications have been receiving an adverse CRA comment. Fewer than 1 percent of the 660 applications that received the adverse comment were denied on CRA grounds—1 percent of the 1 percent. Not a single application receiving adverse comments has been denied since 1994.

So here we are with the entire regulatory structure of our modernization effort of the financial services of our country held hostage to a few people's perceptions, based on ideology, of 1 percent of 1 percent, notwithstanding that all of the banks in the country have learned that this is, in fact, good economic policy, good banking policy, and they have accepted the CRA.

It is my hope that our colleagues will recognize that, even as this country has grown strong and the economy and the marketplace has grown, even as the stock market is reaching the extraordinary 11,000 level, the fact is that there are more Americans who are poor, there are more Americans who are living on 1989 wages, there are more children in poverty today than there were 3 years ago or 4 years ago in this country, by a figure of about 400,000, and the fact that too many families are working too hard at the bottom level just to make ends meet.

For us to backtrack on a fundamental commitment about the relationship of financial institutions within the communities in which they do business, would be to turn our backs on what has made America stronger and better. And I hope my colleagues will not do that. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Texas.

Mr. GRAMM. Mr. President, you will hardly know where to begin when you have listened to these speeches for a couple hours, and most of them have nothing whatsoever to do with what we are talking about on the floor.

It reminds me of the old Lincoln adage, where Lincoln was engaged in a debate, and the guy debating Lincoln got up and gave a wonderful speech that had nothing to do with the subject being debated; and Lincoln got up and said that his colleague had given a wonderful speech that would be appropriate for another day and another occasion.

I want to go through, roughly, 10 points that have been raised in all these speeches, and then go back to what we are debating.

No. 1, we have had a lot of speeches for CRA. And one would get the idea in listening to these speeches that someone is proposing to repeal CRA. In fact, as far as I am aware, no one has ever offered an amendment or bill since 1977 proposing repeal of CRA.

Whether the record for CRA is as wonderful as our colleagues have claimed, have we built more houses because the economy is better or because of CRA? Who wants to get into that debate? Because it is not relevant to what we are talking about, nobody is talking about repealing CRA.

No. 2, nobody is talking about ''turning back the clock.'' What we are talking about is dealing with abuses that exist in the current system, and that can and should be fixed. One of those abuses basically has to do with extraordinary power that protesters and protest groups have at critical moments when banks are trying to make

decisions. The second has to do with the relevancy of CRA, and which banks under what circumstances have relevant requirements, and what are the regulatory burdens and costs involved.

In terms of a point that was made way back so many speeches ago—I forget which one it was—that in 99 percent of the cases where banks apply to do something that requires CRA evaluation, nobody challenges that action, that is a very misleading number, really, for a number of reasons.

First, most of these applications concern the opening or closing branches. They are not very relevant. It is basically the mergers and acquisitions that are relevant to CRS protests.

Second, as I have pointed out on many occasions, most of the CRA action takes place not in the formal complaint, but basically when the protester goes to the bank threatening that unless the bank takes certain action, often giving that person money, that they are going to file a complaint. So it never shows up in the statistics. So that is all interesting but largely irrelevant.

One of our colleagues said that I said, or someone had said, that CRA is just an extortion program. No one ever made that statement. What I have said is that CRA has become a vehicle where a tremendous number of actions occur that certainly look like extortion. When you look at contracts that are being signed, these individuals and groups are given large sums of money, and then they sign a commitment that they will withdraw their objection. That is a classic quid pro quo, that is the essence of extortion or bribery or kickbacks. There are a lot of names you can use. But no one has suggested any of them in this debate. Many, most, almost all of the people involved in CRA are conscientious and honest.

We are talking about people here who are abusing the system. And even spokesmen for CRA, even spokesmen for community groups, say there are abuses, that the abuses undercut the system. As everybody who is on the Banking Committee knows, when the CRA advocates testified before the Banking Committee, a clear point was made that abuses do occur. They called the abuses ''greenmail.'' I think the standard term is ''blackmail,'' but nobody disputes that they occur. What we are trying to do is to deal with them.

In terms of half the banks being out of compliance, half the banks being affected, there isn't any proposal that would let half the banks out of CRA. Basically, the proposal in the underlying bill is that banks with less than $100 million in assets and which are also in nonmetropolitan areas, in rural areas, that these banks be exempt from CRA. Now, why?

First of all, since 1990, over a 9-year period, there have been 16,380 examinations of these small rural banks; 16,380 times Federal regulators have gone to these rural banks. They have sat down for days and weeks, looking through their records. They have done reports to determine whether these rural banks are lending in their community and meeting their community reinvestment requirements.

After 16,380 examinations, only 3 banks have been found to be substantially out of compliance. The cost of complying with CRA for these examinations to the small banks has been roughly $80,000 a year, according to the 488 letters we have received from small banks on this subject.

That is $1.3 billion of cost imposed on small banks. I have read at great length letters about how small banks can't serve their customers because they have to do all this paperwork and how it is interfering with community lending. I have read some passionate letters on this subject on the floor of the Senate in this debate. I am not going to reread them now.

The point is, $1.3 billion later, 16,380 examinations later, crushing paperwork, cost burden on very small banks, many of them between 6 and 10 employees, $1.3 billion of costs banks have paid, and only 3 small rural banks have been found to be substantially out of compliance.

What does our bill do? It exempts from CRA very small, very rural banks. In total, in terms of the number of banks, that is about 38 percent of the banks in America. In terms of available capital, as you can see from this chart, that is 2.7 percent of all the assets in all the banks and S&Ls in America.

Now, the logical question is this: 44 percent of our auditing effort is going into banks that have only 2.7 percent of the assets, and they have been found to be substantially out of compliance only 3/100 of 1 percent of the time. Is this not massive regulatory overkill? What does this have to do with meeting community needs for loans? If there has ever been an overreach in regulatory terms, imposing $1.3 billion of cost on little banks and little communities to turn up three banks in 9 years that have been substantially out of compliance, this is regulatory overkill. We are trying to fix it.

In terms of exemption based on a 3-year record, one of my frustrations in debating on the Senate floor—and I guess all of us can be accused of doing it; I try to, at least within my own mind, be careful about things I say. I try to put my argument in the best light I can. Everybody else does. I try not to say things I don't believe to be true. But we continue to hear these things like, if a bank has been in compliance three times, they are exempt from CRA. That is not what our bill does.

Here is what our bill does. Let me explain the problem. In fact, let me have that quote from the law professor at Cornell. This quote is from Cornell law professor Jonathan Macey. Jonathan Macey is one of our Nation's premier experts in banking law and is very knowledgeable in this whole area of application of CRA. In evaluating what is happening, this is basically what he says:

> You see really weird things when you look at the code of Federal regulations . . . like Federal regulators are encouraged to leave the room and allowing community groups to negotiate ex parte with bankers in a community reinvestment context. . . . Giving jobs to the top five officials of these communities or shake-down groups is generally high up on the list (of demands). So, what we really have is a bit of old world Sicily brought into the U.S., but legitimized and given the patina of government support.

Let me see those CRA agreements, if you will stack all those back up there one more time. I am going to zip through them real quickly.

One of our problems in evaluating what happened to the $9 billion of cash payments that were made under CRA—something never contemplated; nobody on the Banking Committee in 1977, I don't believe, thought CRA would ultimately produce cash payments being made to individuals and to groups; they thought, as we have heard arguments all day, that CRA is about lending—we don't know where all this money goes. We don't know what percentage of rake-offs, for example, these groups get on loans banks make, because we don't have the records. These CRA agreements are confidential; they are not made public. That is something later that we hope to change.

But let me just say, I have three pieces of CRA agreements. These are all private agreements where the parties have agreed not to make them public. We have redacted the names to protect the people who committed not to make them public.

The point I am trying to make here is how far away from lending, as we conventionally know it, this is.

This is from Bank A: Provide blank—this is the CRA group—with a grant of up to $20,000. Provide blank with a grant of up to $50,000. Provide blank with a grant of up to $25,000. And on this one they say why: to pay reasonable and necessary soft costs incurred. Provide blank with a grant of a reasonable amount.

And then after they agree to pay that money, look at this provision: Blank agrees to withdraw on the date hereof the comment letter, dated blank 28, 19 blank, and any related materials filed by blank with the Office of the Comptroller of the Currency, the Federal Reserve Bank, and the board—and it goes on.

The point is, on one page they give all these grants to groups, and then on the second page the groups agree to withdraw the complaints they filed against the action the banks want to make.

Here is the point: Did the groups file the complaints to get the money? What about the legitimacy of the complaint? Did it go away when they got the money?

It goes on. We are getting more and more of these every day. Then, in every one of these agreements we have seen,

there is an agreement by the community group or the individual and the bank not to disseminate or otherwise make available to the public copies of this agreement.

Here is a second bank agreement, Bank B: Blank will receive a fee of 2 and three quarters percent of the face amount of each program loan made by blank.

Now, I wonder if people in that community realize that this undisclosed individual, or group, is getting a rake-off of 2.75 percent of the face value of every loan that is being made by this bank. Blank will receive a $200,000 fee as reimbursement, $100,000 payable fund, execution and delivery, $100,000 6 months from now. That is the quid. Here is the quo: The group commits to withdraw all pending protests of regulatory applications and related matters, but not to sponsor, either directly or indirectly, to protest or supply information in connection with any protest relating to the pending or future blank applications with bank regulators.

In other words, it doesn't matter what abuses the bank might do in the future. They are never going to protest again because of this. At the request to send letters to the customers of the bank—well, let me go on. Not only do they agree never to protest again on any issue, but they agree to purge the files and data bases of all information relating to the bank's customers.

Now, it goes on: to immediately cease all activities directed against the bank; to maintain the confidentiality of this agreement—they have confidentiality again here—and then: to cooperate with the community group, to help them use this agreement to leverage other financial institutions to get money from them. In other words, not only are they paying this money, they are going to help them get other banks to pay it.

It is funny how little things grab you. Maybe it is just me, but this one hits me the hardest. I was wondering why we were getting these letters from banks in favor of CRA when the bank officers were telling me—and in some cases saying publicly—that CRA was blackmail. Yet, I was getting letters from these banks saying CRA is great. Well, here is the reason:

Blank will work with the blank to establish a clear, written declaratory statement indicating support for the Community Reinvestment Act and the Home Mortgage Disclosure Act, and the party's opposition to any attempts to weaken the law. Blank will send the final copy of this statement to the blank.

In other words, they will let them go over and rewrite the letter they are going to send. And they are going to send the letter to the American Bankers Association, Federal Reserve Board, Office of the Comptroller of the Currency, the whole congressional delegation of their State, and to all members of the House and Senate Banking Committees.

So, Senator BENNETT, when you got a letter from this bank telling you that CRA is the greatest thing that has ever been, you probably did not know that was the result of a CRA agreement so that a bank could do business in America. And we are not talking about Honduras; we are not talking about Thailand. We are talking about the United States of America, and we have banks—some of the richest and most powerful institutions in America—that are having dictated to them at this very moment that they have to write us letters telling us things they do not believe. How is that happening? How can that be happening in America? I ask you, how can it happen?

Not only is it happening, it is being condoned because, as the law professor from Cornell said, we have given the patina of Government support to something that if it happened to an American bank in Thailand, we would file an unfair trade practice against them.

So when you are getting all these letters telling you how wonderful CRA is from banks, remember this agreement. In fact, I received such a letter from a particular bank. Fortunately, to show you this is a very good and honorable bank, they say in their letter they have been forced to send this letter as a result of a CRA agreement.

I discovered this letter because there was an editorial written attacking the bill quoting this bank, or this letter, interestingly enough. There was an editorial written quoting a letter from First Union Corporation, a wonderful, great bank. They were quoted in the editorial as saying how great CRA was and why we should not be making any changes to the bill. Well, I said I want to see this letter. So we got the letter. Let me read the first paragraph:

> As part of a CRA pledge we made during our merger with CoreStates, First Union National Bank committed to send a written statement to certain individuals or organizations clearly expressing our position on CRA and HMDA regulations. We, as an organization, are very committed to serving all of our communities, including underserved areas. We are happy to provide this statement.

Then they go on to say that nothing in the letter is meant to be an endorsement or opposition to any particular bill. I know we have one of the most distinguished former prosecutors in America sitting in the Chair. I have to say—not to speak for him, because in his role as Presiding Officer, he can't speak until he comes down here—what is the difference between this and the old protection racket that existed when I was a child? I am proud to say that my uncles, as sheriffs and police officers, broke up some of those protection rackets. But the only difference is that this is Government; this is the Federal Government that is basically allowing this to happen.

Now, we are not talking about repealing CRA. We are not talking about ending a program that obviously has had many successes. We are talking about trying to deal with abuse. So what are the two things we do? No. 1, we say that if a bank has a history of being in compliance with the law, if they have been evaluated 3 years in a row and been found to be in compliance with CRA, and if they are presently in compliance with CRA, then any individual or group can protest, file a complaint; and under the existing regulations of the Comptroller of the Currency, there has to be a hearing for any complaint that is lodged.

But what our amendment adds is the requirement that if this bank has a long history of being in compliance, before the regulator can stop the action that they have earned the right to undertake, the protester must present some substantial evidence. In other words, if you are a good actor and you have been evaluated 3 years in a row and were found to be in compliance, you are innocent until proven guilty. Somebody can't just walk in and say a banker is a racist and a loan shark.

Some protesters have done exactly that. There is a CRA protester who calls himself an ''urban terrorist,'' who used those charges against a bank, harassed them for 4 years, went to a speech of the president of the bank at Harvard University, disrupted the speech, made this man's life miserable for 4 long years, until the bank gave him $1.4 million and a $200,000 grant and set up an organization that now lends $3.5 billion, totally unregulated by the Federal Government. He gets a 2.75-percent rake-off of each one of those loans, and nobody knows what he does with the money. He is not accountable to anybody.

Now, all we want to do is say if a bank has consistently been in compliance and you want to stop them from merging with another bank, or opening a branch, you have to present some evidence. Now, what is the standard we have used? The Presiding Officer, as a distinguished attorney and former prosecutor, knows that substantial evidence is the most defined term in American law. It is referred to over 900 times in the United States Code.

There have been 400 court decisions that have defined ''substantial evidence.''

So what standard do we require a protester to meet if he tries to impose potentially hundreds of millions of dollars in costs on a bank, and to stop a bank from doing what it appears to be qualified to do? They have to present evidence.

Here are four standards set by the Supreme Court as to what ''substantial evidence'' means:

They have to present evidence that is understood to mean ''more than a mere scintilla.''

That is a standard we are setting. You can't come in and stop a bank with a consistent record of CRA compliance. You can't automatically stop, shut down, and delay the process unless you present evidence that is ''more than a mere scintilla.''

Unless you present such relevant evidence as a ''reasonable mind might''—

notice it didn't say ''would,'' but ''might''— ''accept as adequate to support a claim.''

You have to present evidence that is real, material, not ''seeming or imaginary,'' and considerable in amount, value, and worth.

Why in the world would we stand by and allow a bank that has complied with the law of the land and been evaluated three times in a row as being in compliance to be prevented from exercising a right they have earned unless somebody presents credible evidence, substantial evidence, to the contrary? I don't understand. Why would anybody be against this change?

I continue to be stunned that our colleagues talk about CRA and how wonderful it is. That is not what we are talking about.

Should you have to present some evidence if you are going to try to deny people the rights they earned under the law? How can that be unfair? How can that be reaching? How can that be burdensome? Who could be against that?

The second provision of the bill provides relief to small banks in rural areas. I have gone through the figures: $1.3 billion later, in this decade of audits and costs imposed on the banks, three small rural banks—three one-hundredths of 1 percent—are bad actors. Is that not regulatory overkill?

We have forced little banks, many with just 6 to 10 employees, to pay $1.3 billion in compliance costs, and in 16,380 examinations, only 3 of them have been deemed to be substantially out of compliance. Does that make sense? Is that crazy? Did I miss something?

I could read to you letter after letter. We have had 488 letters from banks urging the committee to take this action. I have read them before; I will not do so again.

Finally, let me remind my colleagues that the amendment that is pending doesn't just strike these two provisions—the ''integrity and relevance'' provisions—it does far more than that. It would create a situation where individual officers and directors of a bank could potentially be fined up to $1 million a day for noncompliance.

Remember, in these little banks you have 16,380 examinations over the decade, and just 3 banks have been found to be substantially out of compliance. What is the justification for this $1-million-a-day fine?

I have letters from the American Bankers Association, and from the Independent Bankers Association, pointing out the obvious.

This provision that has been offered by our colleague from Nevada, and was offered in committee by Senator SARBANES, will make it virtually impossible for small banks to get quality directors, because who can afford that potential liability? It will make it virtually impossible for small banks, who can't buy the insurance to protect people from liability, to hire quality bank officials.

The bill goes on and on and on in the most massive overkill of expanding CRA to nonbanking activities. Currently, a bank can sell insurance without CRA approval. This substitute that is now pending would require CRA approval for that. Banks can sell securities without CRA approval. This takes CRA out of banking and into other areas.

What is the justification for that? The justification for requiring CRA was that banks have a federal subsidy through deposit insurance. So that is public insurance, and making banks do things in the public interest could be justified. But how does expanding that requirement outside banking make any sense? Are we simply going to keep writing laws telling people what to do with this money?

Basically we have a choice. The choice is the following:

Both of these provisions concern CRA. The bill that was adopted by the Banking Committee has two reforms—one an integrity provision, and one a relevancy provision. The amendment that has been offered strikes both of those reforms and imposes all of these new regulations.

So I think it is as clear a choice as you can make.

Just a couple of other points, and I will stop, because I know that others want to speak. One of our colleagues quoted the Wall Street Journal. The Wall Street Journal has editorialized not once but twice in favor of the position the committee has taken here.

I urge my colleagues again to look at the debate—not get carried away or be confused by people who say the committee has gutted CRA, is killing CRA, or is repealing CRA. We are not doing any of those things. But we are dealing with abuses of CRA. They need to be dealt with. They scream out to be dealt with.

If I could make a plea to the other side, it would be a simple and short plea: If we don't fix the abuses of CRA, by the time we are through letting people know what is happening in terms of these $9 billion of cash payments, and by the time we finally do run down and know where all of this money is going, and we find that much of it—or some of it—is not being used to benefit people who are supposed to be benefiting from community loans, I think it is going to undercut CRA.

If I were a strong proponent of CRA, I would be for these reforms, because they clean up a program that clearly has had an impact. But our colleagues—as they did on welfare—it was abused and abused and abused and abused and abused. But they would never ever, ever, ever say that it should be fixed. Finally, the American people rose up and elected a new Congress. We are probably in the majority because of their intransigence. So God does provide His services from time to time. And then it was fixed. They probably could have had it closer to what they wanted had they been willing to fix it.

But the position we have heard today over and over is, never ever, ever, ever will we allow any change whatsoever, no matter how bad the abuse is in CRA.

I don't understand it. I think it is an extreme view. I hope that even yet, by the time we get through conference, by the time we have had a chance to discuss this over many more times, perhaps there can be a compromise.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

PRIVILEGE OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that Karen Brown of my office, a fellow, be granted floor privileges during the consideration of S. 900.

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

Mr. SARBANES. Mr. President, will the Senator yield to me for 2 minutes without losing his right to the floor?

Mr. DODD. Fine.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I have refrained from taking a lot of debate time this afternoon, because a lot of our colleagues want to speak. I recognize that. Of course, the temptation is very great to sort of rise every time the chairman of the committee speaks. He has done that at some length here this afternoon. So I am not going to do it now, because I have colleagues here. I hope before we get to 7 o'clock I will get a chance to have a few minutes to make a statement.

But I want to say that there is kind of an Alice-in-Wonderland quality to this debate. The chairman pulls these figures out of the air. I don't really know where they come from. I asked him where they come from. He says there have been 16,000 something examinations of banks under $100 million in nonmetropolitan areas.

I don't know where he gets that figure. The figure from the Federal Deposit Insurance Corporation is 11,445. He says only 3 have been found in substantial noncompliance; the figure is 18, and another 320 have been found a need to improve. This chart is from the FDIC.

The Chairman says only three—it is not only three. I want to make that point.

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. I yield.

Mr. GRAMM. These are figures from the interagency CRA rating.

Mr. SARBANES. The Senator said earlier today that the cost this is imposing on small banks is $1.3 trillion.

I am thinking to myself, $1.3 trillion from these examinations? So I asked him, How did you get that figure? He took the number of examinations—about which we have just disagreed—and he multiplied it by 80,000. I am not sure where he got the 80,000 figure. Someone must have written in and said: That is what it costs our bank.

Mr. GRAMM. That is right, a small bank said that.

Mr. SARBANES. I don't know any study that validates that figure as the right figure.

Even assuming for the purpose of this Alice-in-Wonderland discussion that both the number of exams and the costs which we were then told came to a $1.3 trillion burden, the fact is, it is $1.3 billion. That is still a lot of money. I don't pretend to the contrary, but it is a lot different from $1.3 trillion. It was escalated 1,000 times.

Let me give one other example. We were told the CRA is allocating more money each year than the gross domestic product of Canada. The CRA commitments are over a 10-year period. Those commitments, factored out over a 10-year period, do not begin to approach the gross domestic product of Canada.

These are only a few examples. We could give a lot more. I want to underscore these figures that come floating in out of the air, and we hear this long disquisition. When we start probing these figures, we discover it is not there; it is Alice in Wonderland.

I thank the distinguished Senator.

Mr. DODD. Mr. President, I rise in support of the Bryan amendment. My fervent hope is that we can adopt this amendment and move on with passage of this bill. There are other outstanding issues that need to be resolved. No issue is as galvanizing or as important as this issue of the Community Reinvestment Act and how it is to be handled.

My friend from Texas, the chairman of the committee, and I have worked very closely together over many years. We have been each other's chairman and ranking minority member, depending on who was in control of this August body. We have dealt with securities matters, we have written legislation together, passed it together here on the floor, carried it through conference, overrode the President's veto—the only time a veto by this President has been overridden.

It is not easy for me to disagree with a man with whom I have agreed on many occasions in dealing with financial issues. However, on this we have a fundamental disagreement. I listened for a good part of the chairman's presentation, especially the last part of the presentation dealing with the alleged abuses that have occurred. I know of nothing in the bill violating existing federal laws on extortion. We may do some things in this bill Members do not want, but to the best of my knowledge the criminal code is left intact. Nowhere in this bill do we touch on the issue of whether or not people are going to be excused from engaging in extortion, blackmail, green mail—call it what you will.

The suggestion that there are serious violations of law—State and Federal that I know of—ought to be brought to the proper authorities. If someone believes they have been extorted, then we have Federal prosecutors and State prosecutors to bring those matters to the light of day and those accused can be brought to the bar of justice.

Second, I have never known the banking community to be terribly shy about things that they want. They are usually pretty vociferous. They are never reluctant to tell us how they want us to vote on matters that affect their institutions. They lobby quite effectively. They do a good job. The idea that the banking constituency, the thousands of banks all across this country, are somehow afraid of some community-based groups, and would not bring to light their concerns because of fear of some retribution, just doesn't hold up when it comes to how the banking community generally makes its concerns known.

The fact of the matter is, here on this issue there really is not a constituency for the provisions in this bill dealing with CRA. Usually we have a litany of organizations that are in favor of or against a provision, organizations and groups which have felt outraged or discriminated against in some way and will stand up and defend in a very loud and clear voice their rights or how their rights are being infringed upon.

In the last almost 6 hours of debate, I defy anyone to show me a list of organizations here across the country that feel as though the Community Reinvestment Act is somehow a great infringement on their ability to conduct their business. It is nonexistent. In fact, the only time we have ever actually voted on these matters prior to today is when the House Banking Committee recently voted—51–8, Democrats and Republicans, voted for provisions we are seeking here contained within the Bryan amendment. The Banking Committee last year voted 16–2, Democrats and Republicans, in favor of the provisions that we are trying to reinsert into this legislation. There is overwhelming evidence from the Federal Reserve Board, the banking regulators, banks all across the country, that the Community Reinvestment Act is working, and working well.

Let me quickly add I have never met any institution which was overly enthusiastic about any regulation—State, local or Federal. They usually do not welcome these and I understand why. There is a cost associated with it. I appreciate that they try to keep their costs down.

Most banks, certainly in my State, have been active in our community and do a great deal of good. However, as the Presiding Officer who has been identified as a distinguished scholar of the legal codes of our country knows, we do not write laws for the overwhelming majority of Americans who obey the law, who try to do the right thing. Laws are written for those who try to abuse what we believe is proper behavior. Only a small percentage of Americans violate the law. But that is not an excuse for not writing laws, because, unfortunately, some do in fact break the law.

So when it comes to the Community Reinvestment Act, we seek here not to lay a burden on the overwhelming majority of banks who do a good job. We must recognize that there are institutions which have discriminated against various groups in this country based on race, religion, ethnicity. So several years ago, we decided to enact the Community Reinvestment Act to require that lending institutions, depository institutions, pay attention to our nation's underserved, pay attention to our small farmers, and pay attention to our small businesses. If you are going to do business in Alabama or business in Connecticut as a depository institution, we do not want you to neglect the people in your communities, in your States, on any basis.

So we passed CRA and it has worked well. My colleague from Texas has said that there are extortionate practices ongoing. Let me quote him, from a statement made last October. The chairman of the committee said:

> It has now become common practice in CRA for professional protest groups to protest a bank's community service record and in turn to use the leverage of those protests to extract bribes, kickbacks, set-asides in purchases, quotas, hiring and promotion, none of which has anything to do with CRA and the lending practices of banks in the communities that they serve.''

It is a pretty broad statement. Now, let me give you the facts. Mr. President, four-tenths of 1 percent—let me repeat that, four-tenths of 1 percent of applications have resulted in agreements with community groups; four-tenths of 1 percent have resulted in these agreements. We have had them up here on placards and the easel here today. A great amount of time has been spent talking about these outrageous provisions in these agreements. If one sort of casually tuned into the debate the assumption would be, as the Senator from Texas has said: It is common practice. Common practice? Four-tenths of 1 percent of all the applications? Under any estimation that is not a common practice, less than 1 percent of all the applications.

During the past 21 years, there have been approximately 360 agreements reached. How many applications do you think there have been in the past 21 years? Mr. President, 86,000; 86,000 applications and 360 agreements. When you stand up here for an hour and a half or so and list these agreements that have been reached, you leave our colleagues and others with the impression that this has, to quote my friend from Texas, ''become common practice in CRA.'' That is an exaggeration. That is an extreme exaggeration.

I do not like what I heard in these agreements. It bothers me a bit. I would like to know more about it. A great deal of information was redacted. We do not have the whole agreement. But I tell my friend from Texas, I am concerned about it, too, and we ought to take a good look at this. Let us remember, however, that we ought to take a look at the 360 agreements, and

many of those probably are proper and worthwhile agreements. In fact, many lenders also require counseling for certain loan practices because they improve the quality of loans. To meet commitments, banks sometimes provide payments to community groups for services provided. It is not some outrageous behavior. It goes on all the time. But, nonetheless, if problems exist, let's look at them.

But with all due respect to my good friend from Texas, it appears as though we were sort of squirrel hunting with a machine gun here. That is not what his amendment or the language of the bill does. All we are saying here is we want to preserve the Community Reinvestment Act in a new financial framework. This modernization bill allows for the consolidation of financial services. If we are going to do that—and I think we should, I am a strong supporter of it—then it seems to me we should be preserving the Community Reinvestment Act to ensure that we do not have discrimination in lending. We must ensure that Hispanics, African Americans, Asian Americans, and Native Americans, as well as small businesses and small farmers, are not going to get short shrift. We are going to have a lot of large institutions, a lot of large banks. We want to make sure the average citizen is not going to find himself or herself denied fair access to credit. That is what the Community Reinvestment Act has been able to do for millions of Americans.

I listened to my colleague from Massachusetts and others here today go over the statistics of how vastly the availability of credit has increased to groups who in the past were denied those opportunities. We in this country cherish the notion of equal opportunity. We have never achieved the perfection that our Constitution and our Founding Fathers sought in creating equal opportunity for every citizen in this country, regardless of where they come from or the color of their skin. We all know, painfully, the discrimination that existed for a long time in all parts of our country.

Let me reiterate—all parts of our country. I could take you to the Northeast. You do not have to go to the home of my friends from the South in this country to find discrimination in lending. In Connecticut, a year or two ago, you could see the redlining that went on. People talked about this being a southern issue. That is untrue. I could take you to places all across this land where redlining occurred, where neighborhoods and communities were denied equal opportunity. If they are creditworthy people, they ought to get the credit and financing to buy a home, start a business, and get on their feet. Because of these discriminatory practices, we passed the Community Reinvestment Act. It has made quite a difference in our country. It is not a perfect condition yet, but we have reached into the communities of people who never had a chance before and they have a chance today.

Now we are going to allow these institutions to affiliate, and engage in new financial activities. With this legislation, are we now going to deny them the very benefit that the Community Reinvestment Act has afforded during the past 22 years? I do not think we ought to deprive them of that.

That is what the Bryan amendment attempts to address in part. It says we ought not to exclude certain creditworthy consumers in the process of allowing banks to expand in these new financial areas. To suggest that the extortion of banks by community groups is somehow a common practice—again, four-tenths of 1 percent, 360 applications out of 86,000, is not legitimate. Under anyone's estimation, that is not justification for weakening the Community Reinvestment Act in the 21st century.

Again, there is no constituency here. Most people, I think most of my colleagues from all across this country, believe the Community Reinvestment Act is doing a good job. Nobody here wants to be on the side of an equation that says: Having made these gains now we are going to turn back the clock. We should not do that. I do not believe the people who have communicated with us, who write us—bankers, consumers—said that.

One of the things we need to keep in mind as we talk about banking legislation and financial institutions in general, is that one of our major responsibilities is to ensure that our nation's financial institutions are going to work well. So we pay a lot of attention to their needs, as we should. But we also need to pay attention to the people who do business with our financial institutions. They are an important part of the equation here as well. Let us not forget the people who show up at that bank window, who go in nervous about whether or not they can get a home loan. Let us not forget the person with a good idea to start a business who needs to know if that local banker will take a chance on him, back him, give him a chance to get on his feet. Those are our constituents, too. They are a fundamental part of this equation.

It is not just the person behind the grate; it is the person in front of the grate, too, who we have an obligation to watch out for when we pass financial services modernization legislation. It is those people out there tonight who would like to start a new business, buy a new home, get a chance to share in the American dream. And the Community Reinvestment Act has been the engine for many achieving those desired results.

Again, in the past, we have seen votes of support on CRA by our colleagues, Democrats and Republicans. It would be a great pity, indeed, for this bill to fail over this issue.

It would be a great pity, indeed. This issue ought not to be the one that causes this bill either to be defeated or to be vetoed by a President and sent back after all the years we tried to get this done.

We are 240 days away from the next millennium, the year 2000. The world and its financial markets are getting more complicated. The United States of America has always been a leader in financial services. I do not want to see us lag behind because we couldn't come to terms with what is essentially a fundamental civil rights issue. I do not want to see us lose our leadership role in the global marketplace because we decided we were not going to expand the equal opportunities that are so much a part of this country's heritage. I am concerned that we are willing to give up all the other things we are trying to achieve in financial modernization over CRA provisions that are not supported by the banks they purport to help.

In fact, Mr. President, I will include in the RECORD, and others have already, countless statements from many others— the Federal Reserve Chairman, the Treasury, and major banks in all parts of this country who have said the Community Reinvestment Act is working. Sometimes conflicts occur; it is difficult. Sometimes we have two groups we admire and support, that are fighting hard for their points of view, and we are asked to make a choice between them. That can be a hard decision.

This is not a hard decision. There is no one on the other side of this equation. Yet we are dangerously close to killing an otherwise great bill that does a lot of good things.

As I said a moment ago, we have an obligation to make sure our financial institutions are strong. We have an obligation as well to see to it that the users of these financial institutions are not going to be adversely affected by legislation we pass.

Let me focus for a second on the small, rural bank exemption that is included in this bill. The bill exempts rural banks with less than $100 million in assets from the requirement of CRA. This exemption addresses that there is some undue burden imposed on small banks complying with CRA, and there may be some merit in that. But the provision in this bill which the Bryan amendment would take out exempts 76 percent of rural banks from CRA, 38 percent of all the banks and thrifts in the United States.

Again, I can understand if you just hate CRA, you just think it is a bad idea and we ought to get rid of it. Then I accept that—I disagree with it, but I accept your position. But if you believe CRA makes a difference and it actually helps rural people have greater access to fair credit, then you must acknowledge that this bill exempts 76 percent of rural banks in this country. Virtually one out of every three banks in the country will be exempt from CRA. That seems to me to go too far.

CRA loans in rural areas assist small farmers in obtaining credit. Small bankers have historically received

lower CRA ratings, quite candidly, than larger banks and have invested less in their communities. On average, 50 percent of large banks have a loan-to-deposit ratio below 70 percent. 25 percent of small banks have a loan-to-deposit ratio of less than 58 percent.

The supporters of the small bank exemption contend the CRA creates an onerous regulatory burden. However, the federal banking regulators specifically reduced the regulatory burden on banks when the new CRA enforcement rules went into effect 3 years ago. These efforts streamlined CRA, facilitated easier compliance by lenders, and reduced paperwork requirements.

Addressing the specific point the Senator from Texas made that sometimes these banks have a few employees—and, again, I do not want to overload that small bank—in 1996 we streamlined that process considerably for them.

If there are some other ideas that will help achieve that, I think we ought to listen to them. Again, think not only about the 8 or 10 employees of that small bank, but think about those small farmers who do not have any other choice but to do business at that bank. Small communities do not give you much of a choice. Your local farmers in Alabama or Connecticut have one bank to go to. It is not like living in New York City or Washington, DC, where you can walk down the street and compare which bank will give you the better deal.

Under this bill, if you have only one bank window to go to, and you are living in rural America, you will be told that your bank is exempt from having to see to it that you are going to be dealt with fairly. There is something seriously wrong here.

Streamlining the process for rural small banks is something I applaud; it is something we ought to move ahead on to make it easier. I do not want people to be denied options, denied choices, and to be discriminated against when it comes to getting the credit they need.

According to Christopher Williston, the president of the Independent Bankers Association of Texas:

> Most small banks are really very accustomed to complying with CRA. . .. Now they know exactly what the regulators are looking for, many of my members would say CRA is here and I can live with it.

Mr. President, again, if there are specific problems with the implementation of CRA, if there are certain activities that should be considered that are not considered, then the appropriate way to address those specific concerns is to work with the regulators or come up with a specific legislative approach.

The Senator from Texas, our distinguished chairman, should remember our conversations to address this and have some hearings to look into the issues he raised.

Again, don't exaggerate and turn four-tenths of 1 percent of the applications into a common practice, and then miss the opportunity to include reasonable CRA provisions in this consolidation of financial services.

I hope there will be enough votes on the other side to support the Bryan amendment. I am fearful if we do not do so, this bill is doomed. I mentioned at the outset of my remarks the other day that my colleague from Maryland and I have been at this together for the full 18 years I have served in the Senate. He has been at it longer than that, having served a bit longer than I have in the Senate. Nothing—nothing—would make me happier than to pass this bill and expand and consolidate financial services to serve consumers' needs and keep America in a leadership position on these issues.

However, I cannot support a bill that turns its back on my constituents at home. I want to help my financial institutions in Connecticut. I want to help banks across the country. But I cannot, in doing so, turn the clock back on the gains, on the strengthening of America that we have made with the Community Reinvestment Act.

Whatever shortcomings it has—and I am certain they are there, CRA is not perfect—let's fix the shortcomings. Let's deal with those, but do not deprive people in this country of the increased opportunities. We have a CRA bill on the books that has worked well, even by those who must bear the burden of implementing these regulations. We must no place in jeopardy an otherwise fine bill that, in my opinion, deserves broad-based support in this Chamber and the other body.

I hope that we will stand at 7 p.m. tonight when the votes are cast, in what may be the only civil rights vote of this Congress, and the Bryan amendment will be adopted. Maybe other civil rights votes will come along, but as of right now, this will be the only test as to where people stand when it comes to seeing that equal opportunity in America is going to be at least preserved in this Congress and not set back.

I hope at 7 o'clock, when the vote begins and as Members come to the Chamber to cast their ballots, they will keep in mind the importance of this bill. And to a far greater extent, keep in mind those who depend upon us to see to it that they are going to have equal opportunity in America, a chance to participate in the American dream in the 21st century, and will not be denied because of an action we take tonight by denying the preservation of CRA in a new financial services framework.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Utah.

Mr. BENNETT. Mr. President, I have listened to this debate with some interest. I have enormous respect for members of the Banking Committee on which I have served since I came to the Senate. I know there is good intention on both sides of the issue, on both sides of the aisle.

I echo the comments of the chairman of the committee in that much of the debate that I have heard has been focused on the wrong issue; that is, you would think that this was an attempt on the part of the majority in the committee to repeal CRA. I do not condone redlining. I recognize that the decision which was made by the Congress in 1977 to create CRA was motivated by a genuine abuse that required a genuine Federal fix.

At the same time, I recognize also that under Secretary Rubin's leadership, attempts have been made to alleviate the regulatory burden of CRA, that there has been a recognition on the part of this administration—I think belatedly, but nonetheless I will accept it whenever I can get it—a recognition that CRA has gotten out of hand and has become, in some instances, a paperwork burden that is nonproductive and anticompetitive and puts an undue burden on places where it should not be.

The question is not, Should we abolish CRA? The answer to that is clearly no. The question is not, Should we turn our backs on those people who have been benefited by CRA? The answer to that is no.

The question is, Can we streamline CRA, as we are going through the process of modernizing our financial institutions, in a way that recognizes the reality of the marketplace? And there the answer is yes.

One of the criticisms which has been made, and I think with some justification, is that a good part of the debate has been anecdotal; that is, one situation has been described, and we extrapolate from that, and then another has been described, and we extrapolate from that.

I agree with those members of the committee who have suggested at some point it would be well for the committee to have hearings on the whole CRA matter and examine it at great detail. I think that is a salutary thing to do.

But we have an opportunity here in this bill to take some steps which I consider to be relatively modest and relatively straightforward. The one I want to focus on is the exemption of CRA, the CRA requirement for institutions that have $100 million or less in aggregate assets.

I want to share with the Senate the reaction of banks from my home State that have been contacted about this. And this is their information. This is not some professor at some university. This is the everyday banker doing business in the everyday community. And I will go beyond simply quoting the letters because I want to put it in context so you can understand the market.

I have said around here before—and undoubtedly in the spirit of the Senate where there is no such thing as repetition—I will say, again, that if I could control what we engrave in the marble around here to remind us of our duty—not to denigrate the marvelous phrases

that are here—I would have engraved in stone, at least in our committee rooms, the phrase: ''You cannot repeal the law of supply and demand.''

We try to do that continually in Congress. We try to think that markets do not matter, that governments are smarter than markets, that governments can make decisions that interfere with the law of supply and demand and produce beneficial results with no side effects. People have been trying to do that in government not only for centuries but for millennia. And they always fail.

Here are the market realities with respect to CRA.

I first quote from a letter of the Cache Valley Bank. No one in this Chamber knows where Cache Valley is; but I know where Cache Valley is. I have spent a lot of time there. My family has done business there. We have owned a business there. The president of the Cache Valley Bank says in his letter:

> Our community is a middle class farming community with a university. Most all of our customers are of modest income, small businesses and small farms. The rich professionals have gravitated to the local credit unions where they know they can get something for nothing.

That last sentence indicates how he feels about the competitive impact of credit unions in Cache Valley.

He says:

> We are chartered to serve our community. We have no business going outside our community. We live off the ability to say we are a hometown institution.

Let me underscore that last sentence again. ''We live off the ability to say we are a hometown institution.''

In Cache Valley, there are branches of large banks, large banks that are located someplace else. There are, as an earlier somewhat sarcastic comment indicated, credit unions. They happen to be very large credit unions. We have some of the largest credit unions in the United States in Utah because of Utah's law. There is competition in Cache Valley for the banking customer.

How does he deal with that competition? He says:

> My bank is . . . a $90 million institution operating from one office . . .

One office—so he does not have branches around the city. The credit union does. He does not have the reach of advertising that the large banks which are there as his competition do. He has one office. And he makes his living advertising himself as a hometown institution.

This, in marketing, is what is known as a marketing niche. He recognizes that he cannot compete with the big banks throughout the entire city. He recognizes that he has a particular niche in the market that he can fill, and he goes after it and he fills it.

He says:

> We do what the CRA regulation intended us to do because it makes good sense. The documentation and time spent telling the regulators that that is what we do is just wasted by both us and the regulators. I have never had a customer come in and ask to see our CRA file.

Then, with the optimism that comes from every small businessman, he says:

> As I will probably [pass] the $100 million proposed limit some day, I can see that not having to comply would give smaller institutions a slight advantage from costs they would save. The real issue is if the whole rule for community oriented institutions makes any sense. It doesn't and no one has provided any evidence that it does.

He is not operating in a vacuum. He is not operating in a situation where there is no credit available to anybody else if he does not serve his niche. He is operating in a highly competitive situation, and yet he is examined as if he is the only institution, and he is looked at in terms of his lending to his market niche.

All right. Let me go down the highway a little from Cache Valley to the First National Bank of Morgan. This is a smaller bank. This is a smaller community. The president of this bank says that they have $37 million in current assets. They serve a county, the population of which is approximately 7,000. In Utah, given our family size, a total population of 7,000 means that there are probably about 2,000 families there. I do not know how many of those are borrowers. This is a relatively small base for him to serve.

Once again, while it is an isolated farming community, in today's modern world there is competition there. The big banks can go after his customers on the Internet if they want. They can open ATM stations or put branches there, if they want. There is a big bank just down the highway, within 20 miles of this small institution. How does he survive under these competitive conditions? He survives by serving the community. This is what he has to say:

> Exempting our institution from CRA requirements would allow bank personnel to spend more time with our customers in developing new products rather than gathering information to satisfy CRA documentation requirements. Competition is the greatest enforcer of CRA. The delivery of financial services is a highly competitive business. If my institution is not offering free checking or mortgage loans, then my competitor down the road will be taking advantage of my financial institution's shortcomings.

I think he is absolutely right. In today's competitive world, you do not operate in a vacuum. If he wasn't doing his job, even though he is in a small, rural community, with Internet banking and advertising over television, the large institutions would come in.

It is interesting, again, referring to Utah's somewhat unique situation, in many communities where the local bank was perceived as having something of a monopoly or a free ride in the community because of the physical isolation, it was not another bank that came in to offer competition; it was a credit union, operating under Utah's credit union laws. The competition produced the kinds of challenges that competition always produces. Once again, you cannot repeal the law of supply and demand. If there was demand in that community that was not being met by the local institution, competition came in and met it.

Now, a little further down the highway, I want to refer to the Frontier Bank of Park City. Here the president of the bank says:

> As president of a nonmetropolitan community bank, I am of the opinion that existing CRA regulations are largely superfluous for both my institution and its direct competitors. The fact remains that we have and will continue to lend to all segments of our community because it is good business, not because it has been defined by regulation. Additionally, the time spent documenting our community lending efforts for regulatory purposes is in itself counterproductive as we could instead redirect our energies towards additional lending and community development activities.

An interesting quote, Mr. President. He feels that CRA gets in the way of community developing activities that he would otherwise engage in.

When I first went on the Banking Committee, some 6 years ago, I had never heard of the CRA. I heard at that time institutions coming in and complaining that the CRA documentation burden was overwhelming and that CRA had become more of a documentation issue than it had been a lending issue, that if they could fill out the documents in such a way as to satisfy the regulators, it didn't matter what their lending practices were.

We had some testimony—I can't go back and put my hand on it now—that made it clear that CRA was failing in its purpose to produce a meaningful impact for those in need in communities where they were not getting served.

I am hoping that the reforms established by Secretary Rubin have begun to lift that burden and change that situation, but I am satisfied now that we have enough evidence that indicates that the vast majority of small banks with capitalization under $100 million are spending their time on CRA, filling out documents and meeting with regulators, spending their time performing the bureaucratic chores necessary to file a report, where they could be spending their time better serving their communities.

Therefore, I will vote to see to it that the language that was adopted in the committee report remains there. I will oppose the Bryan amendment.

Mr. LEVIN. Mr. President, I rise to speak about the Community Reinvestment Act. The CRA was enacted in 1977 to encourage banks to serve the credit needs of the entire community including low and middle income areas. The obligations that banks owe to the entire community stem from their charters and the public benefits they receive through the Federal Reserve. The CRA is a way to encourage banks to live up to their public obligation.

Nationwide the CRA has been recognized as an effective way to increase credit availability in underserved

areas. In his testimony before the House Banking Committee in February, Federal Reserve Chairman Greenspan remarked, that the CRA has ''very significantly increased the amount of credit in communities'' and the changes have been ''quite profound.'' In 1997 alone, almost 2,000 banks and thrifts reported $64 billion in CRA loans, including 525,000 small business loans worth $34 billion; 213,000 small farm loans totaling $11 billion; and 25,000 community development loans totaling $19 billion. Those loans went to affordable housing projects, economic development through financing small businesses or farms, and activities that revitalize or stabilize low or moderate income areas. CRA has also encouraged a dramatic increase in home ownership by low and moderate income individuals. Between 1993 and 1997, private sector conventional home mortgage lending in low and moderate income census tracts increased by 45%.

And the CRA has done so without forcing a large paperwork burden onto banks and without forcing banks to make bad loans. During the same House hearing, Chairman Greenspan alluded to the mutual benefit of the CRA to consumers and banks when he said, ''CRA has helped financial institutions to discover new markets that may have been underserved before.''

While there are countless examples of the Act's effectiveness in encouraging lending in underserved areas all over the country. Here's some examples from Michigan. Lake Osceola State Bank in Baldwin just completed their CRA exam under the reformed 1996 regulations. They said it was not a burden, and they received a rating of outstanding. Under the terms of S. 900, the bill before us today, Lake Osceola State Bank would qualify for an exemption from the CRA because of their size and location, but the bank has told my office that they are not seeking a CRA exemption. To the contrary, they are justifiably proud of the contributions they are making to community development in the Baldwin area.

We Care, Inc. is a small non-profit that rehabilitates a few houses a year in Detroit's Van Dyke and 7 Mile area. They say the CRA and National City Bank have been their life-line for credit.

Northwest Detroit Neighborhood Development, Inc. is yet another nonprofit organization that has contacted me in support of the CRA. They praised the National Bank of Detroit and Comerica for extending credit to them and supporting their mission of homebuilding in the Brightmore area of Detroit.

The Local Initiatives Support Corporation (LISC), a nationally prominent community development group that operates in five Michigan cities, considers the CRA critical to their efforts. In an effort to boost their CRA scores, lenders have sought out groups like LISC and the Neighborhood Reinvestment Corporation to develop ''shared risk'' loan pools that offer financing to first time home buyers. Over the past 5 years, more than 400 mortgages were written in six Michigan cities. This has generated over $16 million in direct public and private investment in central city neighborhoods. According to LISC, without the CRA ''these types of programs would not have been established.'' Other Michigan community development groups like U-SNAP-BAC, SWAN and New Hope also rely on loans encouraged by the CRA.

Many Michigan mayors have expressed their support for the CRA. They praise the CRA for encouraging private business investment and creating new jobs and businesses in their communities. In addition, money from federal grants is leveraged to obtain millions of dollars in private investment. There are twelve mayors from all over Michigan on this letter from the U.S. Conference of Mayors supporting the CRA. I oppose the provisions weakening the CRA included in S. 900, a bill intended to modernize the financial sector of our economy. Both small and large banks in Michigan have received outstanding CRA ratings. The community groups and nonprofits make great use of the resources which are made available through the CRA. The federal independent agency that oversees the nation's banking system says its not onerous and has been very successful. Therefore, I will not support a bill that weakens a program that has been so important to community development efforts in Michigan and nationally.

Mr. KOHL. Mr. President, I rise in strong support of the Bryan amendment. While my comments today will be brief, my conviction on the issue of the Community Reinvestment Act (CRA) is strong.

CRA came into being in 1977 thanks to my Wisconsin colleague, Senator Bill Proxmire. While there's been talk of CRA as merely an urban concern, in fact, it has enriched and addressed inequities in both urban and rural areas in Wisconsin and across the country. We are all familiar with the numbers—more than $1 trillion in community development, small business and home mortgage loans—to communities that were once deemed unworthy.

CRA has been, and remains, vital to our common efforts of ensuring that credit is extended to all Americans without prejudice. But CRA lending has also proven that the ability and willpower of a borrower is often just as important, if not more important, than a loan determination based solely on income or economic history. In other words, new and innovative lending inspired by CRA has promoted fairness, but also made good business sense and delivered profits to lending institutions. And, fortunately, we've made substantial progress at making CRA compliance less burdensome.

While impressive, this progress has not reduced the need for an effective CRA. In 1977, Senator Proxmire's legislation was timely and appropriate, but in 1999, it has proven timeless and visionary. We are contemplating an era of more diversified, and potentially bigger, actors in the financial marketplace—one in which vigilance to ensure fair lending is all the more important. Overall, with adequate safety and soundness protections and an effective CRA, this new financial marketplace will yield benefits for consumers—more financial products delivered more conveniently and rapidly and at a better price.

I strongly support financial modernization and want to help send a signable, bipartisan and well-balanced piece of legislation to the President's desk. Last year, we secured a compromise bill that passed out of Committee by a vote of 16 to 2 that would have had my support. It is regrettable that this year we find this legislation and the financial industry held hostage to a counterproductive agenda to scale back CRA.

Financial modernization is about moving forward, paving the way for marketplace innovation and consumer benefits. But Senator GRAMM's bill and his proposed CRA restrictions move us backward. I urge my colleagues to support the Bryan amendment and ensure that CRA will remain strong and viable for all American communities, whether urban or rural, in the new financial era that we hope to create.

Mr. HARKIN. Mr. President, I rise today in strong support for preserving current law with regard to the Community Reinvestment Act (CRA) and striking the provisions of S. 900 which will harm this important and worthwhile program. CRA was enacted in 1977 to help prevent ''redlining'' of poor neighborhoods by banks, which denied loans to residents and businesses in those areas.

For more than twenty years, CRA has been a key means of increasing capital and credit to underdeveloped areas through market based loans. CRA has created jobs and contributed to the economic revitalization of many depressed urban and rural areas. It has been a force for the capital needed to increase home ownership and business development. CRA has contributed greatly toward the revitalization of many areas, helping to generate an estimated one trillion dollars in lending over 22 years. Put simply, CRA is good public policy.

Mr. President, community groups, housing groups, farm groups, minority groups, civil rights groups, mayors and rural organizations all support a vibrant CRA and are opposed to S. 900's CRA provisions.

In my State of Iowa, many rural residents remain in desperate need of affordable capital, especially during the farm crisis gripping the mid-West. Under S. 900, as it is now written, 276 of the 325 banks and thrifts in rural Iowa counties would be exempt from CRA requirements. That's 85 percent of all the

rural banks in Iowa. If the provision exempting banks under 100 million dollars in assets remains, the benefits of CRA would not be available to a large share of the rural communities in Iowa.

I have here a letter from the Iowa Coalition for Housing and the Homeless, which describes the importance CRA has for our communities. It reads, in part, ''Through increasing the access to capital and credit, CRA provides a market-based solution for economic revitalization and even job creation. A strong and vibrant CRA has meant that hundreds of billions worth of new home mortgage loans and small business loans have been made in low and moderate income, urban and rural communities throughout the country in the past several years.''

I ask unanimous consent that the text of this letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, so ordered.

(See Exhibit 1.)

Mr. HARKIN. Mr. President, I would just like to mention briefly the CRA reforms already in place to protect small and rural banks. In 1995, new regulations dramatically simplified the CRA exam process for small banks under 250 million dollars in assets. Under the new rules, small banks are not subject to the lending, investment and service tests applied to large institutions. Additionally, for small banks, examiners look at only five factors: loan to deposit ratio; percentage of loans inside bank's CRA assessment area; record of lending to borrowers of different income levels and businesses of different sizes; geographic distribution of loans; and a bank's record of taking action in response to written complaints about its CRA performance. Finally, small banks are not subject to any data collection requirements for CRA. So, we have already addressed these issues. This Senator would certainly welcome hearings on the current state of those reforms and their effectiveness. In fact, I would ask the Banking Chairman to consider holding such hearings on CRA before we make changes to an important and effective program.

Mr. President, CRA has provided jobs, helped our economy to grow, and ensured all of our citizens are considered for loans based on their financial history, not their address. I urge all my colleagues to support removal of these provisions.

EXHIBIT 1

IOWA COALITION FOR HOUSING AND THE HOMELESS,
Des Moines, IA, May 3, 1999.

Rep. TOM LATHAM,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN LATHAM: As organizations that work with and on behalf of low-income and homeless individuals, we join today to share our concerns regarding the proposed financial modernization legislation currently being considered in Congress. By combating discrimination and promoting bank-community partnerships, the Community Reinvestment Act (CRA) extends the American dream of home and small business ownership to millions of Americans. Without this sustained access to capital and credit, our neighborhoods die. We ask that you support a strong CRA and the benefits it has brought our communities.

Through increasing the access to capital and credit, CRA provides a market-based solution for economic revitalization and even job creation. A strong and vibrant CRA has meant that hundreds of billions worth of new home mortgage loans and small business loans have been made in the low- and moderate-income urban and rural communities throughout the country in the past several years. Any bill that threatens to eviscerate the effectiveness and application of CRA will only destroy this promotion of wealth creation and entrepreneurial development in minority and working-class neighborhoods. While the various versions of financial modernization that have been introduced and contemplated may not directly attack CRA, they will eventually undermine the law by preventing its evolution with the rapid changes in the financial industry.

The current versions of financial modernization only demonstrate its fundamental problem: the ability of financial conglomerates to offer loans through their holding company affiliates, without having to conform to CRA requirements. Stated simply, holding companies will be able to shift assets from CRA-covered banks to mortgage and insurance companies, securities firms, and other institutions exempt from CRA-like requirements. Banks, therefore, will be left with fewer resources with which to make affordable housing economic development, and small business loans. If any financial modernization bill fails to extend CRA to the lending and bank services activities of mortgage companies and other non-depository affiliates, CRA will cover an ever-shrinking amount of traditional banking products and services.

In addition to the expansion of CRA, financial modernization could further serve low-income consumers if it improved upon data disclosure requirements. Such data disclosure requirements help communities identify missed market opportunities and eliminate discriminatory practices. These requirements help leverage reinvestment by making financial institutions publicly accountable to serve all borrowers in a fair and equitable manner. Insurance companies and others affiliating with banks should be required to report data on policies and services issued by income and race and small business data should include the race and gender of the borrower as well as the neighborhood in which the business is located.

We would also urge you to fight attempts to directly attack or weaken CRA; specifically, proposals such as safe harbors, small bank exemptions, and ''anti-greenmail'' bills or amendments. Mergers and acquisitions can disrupt the lives of thousands of citizens in a community through job losses, closing of offices, decreases in lending, and higher fees. CRA reviews are critical to ensure that lenders involved in mergers can preserve their CRA performance after such enormous institutional changes. Moreover, affected citizens ought to have the right to speak up and have their concerns addressed before a merger application is approved, regardless of the pre-merger CRA ratings.

Small bank exemptions would also be extremely harmful to communities because they eliminate community reinvestment requirements for most of the banks in the country. Small towns and rural areas that depend on these banks for home and small business lending would only suffer a new round of credit and capital flight. as proposed, the current legislation would exempt small rural banks under $100 million in assets from CRA altogether. Almost 40% of all lenders in the country will then have no obligation to serve minority and working-class neighborhoods. Seventy-two percent of all rural banks would be exempt from CRA. In Iowa, this exemption would include 85% of the lenders in non-metropolitan areas, many of whom enjoy a near monopoly in their service areas.

It would be detrimental to the wealth-building efforts in this country to pass a financial modernization bill that would halt community reinvestment progress by failing to keep CRA on pace with the evolution in the financial industry. Congress has required that banks serve ''the convenience and needs'' of the communities in which they are chartered because of the vital role they play in our lives. We believe that this same standard should be applied to the entire financial industry. A financial modernization bill that carefully modernizes the Community Reinvestment Act to the entire financial industry could have a profound effect in democratizing access to credit and capital accumulation tools in our society. Clearly, that would be good for America.

Sincerely,

SANDI MURPHY,
Policy Director.

The organizations listed below support the position of the Iowa Coalition for Housing and the Homeless and strongly encourage you to oppose the current financial modernization legislation and demand a strong, and protected, CRA.

John Boyne, United Action for Youth, Street Outreach, Iowa City.

Crissy Canganelli, Emergency Housing Project of Iowa City.

Jan Capaccioli, Domestic Violence Intervention Program.

Amy Covreia, Iowa City, Iowa.

Mike Coverdale, Iowa Community Action Network.

Bill Holvoet, Southeast Iowa Community Action.

Greg Jaudon, Iowa Homeless Youth Centers.

Gene Jones, Des Moines Coalition for the Homeless.

Mike Kratz, Veteran Affairs Medical Center.

Lora J. Morgan, Goodwill Industries of S.E. Iowa.

Mark Patton, Muscatine Center for Strategic Action.

Linda Severson, Johnson County LHCB.

Lisa Wageman, Operation Threshold, Waterloo.

Mr. REED. Mr. President, I rise in strong support of the Bryan CRA amendment. This amendment would strike the small bank exemption and the CRA safe harbor provisions included in S. 900 and require banks to have a ''satisfactory'' CRA rating as a condition for engaging in the expanded powers allowed under this bill.

The language of this amendment is similar to language that was included in the financial modernization bill which passed the House and Senate Banking Committee by a vote of 16 to 2 last year and which enjoyed broad industry support. Similar language has also been incorporated in the H.R. 10 bill that recently passed the House Banking Committee and is pending in the House Commerce Committee.

In short, the Community Reinvestment Act requires financial institutions to meet the credit needs of the

local communities in which they are chartered, including low- and moderate-income communities, consistent with safe and sound practices. Let me reiterate, CRA requires banks to make credit-worthy loans. It does not require banks to make bad loans.

Despite this fact, some have argued that CRA is tantamount to government-mandated credit allocation. Nothing could be further from the truth. Neither the Act nor its regulations specify the number of loans, the type of loans, or the parties to CRA loans. To the contrary, CRA relies on market forces and private sector ingenuity to promote community lending. This is evidenced by the tremendous flexibility that financial institutions have in satisfying CRA. For example, loans to low-income individuals; loans to nonprofits serving primarily low- and moderate-income housing needs; loans to financial intermediaries such as Community Development Financial Institutions; and loans to local, state, and tribal governments may qualify for CRA coverage. Moreover, loans to finance environmental clean-up or redevelop industrial sites in low- and moderate-income areas also qualify as CRA loans.

In addition to lending, CRA is satisfied through investments by financial institutions in organizations engaged in affordable housing rehabilitation, and facilities that promote community development such as child care centers, homeless centers, and soup kitchens.

Even Federal Reserve Chairman Alan Greenspan has weighed in on this issue, arguing, ''The essential purpose of the CRA is to try to encourage institutions who are not involved in areas where their own self-interest is involved, in doing so. If you are indicating to an institution that there is a foregone business opportunity in an area X or loan product Y, that is not credit allocation. That, indeed, is enhancing the market.''

As illustrated by these examples and Chairman Greenspan's comments, it is clear that CRA is a far cry from government-mandated credit allocation. To be sure, CRA is predicated on two simple assumptions that were well-articulated by the legislative architect of CRA, former Senate Banking Committee Chairman Proxmire, who stated, ''(1) Government through tax revenues and public debt cannot and should not provide more than a limited part of the capital required for local housing and economic development needs. Financial institutions in our free economic system must play the leading role, and (2) A public charter for a bank or savings institution conveys numerous benefits and it is fair for the public to ask something in return.''

In the words of former Comptroller of the Currency Eugene Ludwig, ''CRA is in many respects a model statute. It requires no public subsidy, no private subsidy, and no massive Washington bureaucracy.''

It is this simple concept that has resulted in more than $1 trillion in loan commitments for low- and moderate-income borrowers since CRA's enactment in 1977. Indeed, the record home ownership rate that the U.S. is now enjoying—66.3 percent of Americans own their homes—is in large measure due to CRA lending to minorities and low-income individuals. Minorities have accounted for a disproportionately large share of home ownership growth since 1994—roughly 42 percent.

Also, since 1993, home mortgage loans to low- and moderate-income census tracts have risen by 22 percent, which is more than twice as fast as the rate of growth in all home mortgage loans. In view of these statistics, it is clear that CRA has played a tremendous role in the home ownership boom.

In addition to increases in home mortgage lending, CRA has also been responsible for an increase in community development lending. In the past four years, banks have invested four times as much in community development projects, as they did in the previous thirty years.

This increased investment in community development by banks has also furthered the evolution of a secondary market for community development loans, which ultimately provides additional capital for community development. For many years, the development of a secondary market for community development loans had been limited. This development was limited for a number of reasons including the lack of conformity in the underlying loans, as well as the fact that community development securities typically do not receive a rating from a nationally-recognized rating agency. Also, the underlying loans lacked long-term performance data, making them difficult to rate.

However, because of CRA, a secondary market for community development securities is beginning to emerge. This is happening for two specific reasons: (1) The federal banking regulators have interpreted CRA to allow banks to get CRA credit for purchasing community development securities, even if they lack ratings or performance data, if the purchases are consistent with safe and sound banking practices, (2) Also, as banks have increased their community development lending, they have been able to draw on this experience to improve underwriting standards and create greater conformity in underwriting, which is important for investors in the secondary market. Also, this experience has provided banks with greater empirical data on loan performance, which is another important consideration for secondary market investors. These are trends that we should clearly be excited about and should seek to further.

Instead, S. 900 would undermine this progress. Specifically, one provision of S. 900 would exempt rural banks with assets under $100 million from CRA. Although this exemption is limited to the smallest institutions, over 76 percent of rural banks would be covered. This is of great concern since small banks have historically received the lowest CRA ratings. In fact, institutions with less than $100 million in assets accounted for 92 percent of institutions receiving ''non-compliance'' CRA ratings in 1997–1998.

I am also concerned about this exemption because smaller banks are typically the primary sources of credit in rural communities. Hence, absent CRA, it is likely that many rural communities could become credit-starved.

The bill also includes a provision that would provide a safe harbor for banks with a ''satisfactory'' or better CRA rating. Specifically, institutions receiving a satisfactory CRA rating at their most recent examination would be presumptively in compliance with CRA, unless ''substantial verifiable information'' to the contrary was presented. I am concerned about this provision because it establishes a very difficult-to-satisfy burden of proof for individuals or groups wishing to protest a bank merger on CRA grounds. Indeed, I fear this provision will greatly inhibit the ability of groups to get the necessary information from banks to protest a merger. Also, when considering the fact that 97 percent of institutions receive a satisfactory or better CRA rating, it is clear that this provision will effectively eliminate CRA comment on a bank merger.

If these provisions of S. 900 are not eliminated, I fear a return to the days prior to CRA's enactment when access to credit was limited for many minorities and those living in low-income neighborhoods. In fact, testimony before the Senate Banking Committee during the consideration of CRA in 1977 revealed how bad things were. Witnesses recounted stories of financial institutions that had previously been active in urban lending, that disinvested in those same urban neighborhoods as minorities increasingly moved in. Testimony before the Senate Banking Committee also brought to light a 1974 study of six Chicago banks. In the study, it was found that these banks, which held $144 million in deposits from low-income and minority communities, returned one-half cent on the dollar in home loans. Such was the deplorable state of lending in low-income and minority communities before CRA.

While certainly we have come a long way since CRA's passage in 1977, lending discrimination, unfortunately, persists. In a study published earlier this year by the Fair Housing Council of Greater Washington, it was revealed that Washington area lenders discriminate against two out of five African American and Hispanic mortgage applicants. In one incident cited in the study, a Rockville lender advised a black tester that the lender did not make loans to first-time home buyers. The same lender later met with a white tester, also posing as a first-time home buyer, giving the tester an appointment and encouraging him to apply for a mortgage loan. Lending studies by

other organizations reveal similar findings. These studies have shown that minority borrowers receive fewer bank loans even when their financial status is the same as or better than white borrowers.

By encouraging lenders to extend credit to all communities, CRA has been an important weapon in fighting lending discrimination. The Bryan amendment will ensure the potency of CRA in fighting lending discrimination and providing fair access to credit to low-income and minority communities.

In closing, Mr. President, let me reiterate how important it is to include CRA in any modernization legislation that passes. It is very likely that if S. 900 is enacted, we will see increased consolidation in the financial services industry. As we know from recent experience, this consolidation will likely lead to layoffs and bank branch closings. Absent the CRA language included in the Bryan amendment, I fear that this consolidation could have a significant and adverse impact on access to banking services and credit in low-income and minority communities. By adopting the Bryan amendment, we will at least ensure that industry consolidation will not decrease access to credit in these communities.

In fact, I feel so strongly about these provisions that I plan on opposing the bill if this amendment is not adopted. I would hope my colleagues can support this amendment.

Mrs. BOXER. I have been a longstanding supporter of financial services modernization and affirmed such support in a letter to Secretary Rubin about two years ago, and last year, as a member of the Banking Committee, I voted in support of H.R. 10—the Financial Services Modernization bill reported out of the Banking Committee with strong bi-partisan support.

I believe it is important that our financial services sector adapt to contemporary market conditions, marketplace innovations and to growing financial competition from abroad. Moreover, I understand and appreciate the desire of our financial services industries—banks, securities firms, and insurance firms—to further expand their traditional lines of business.

I joined the Banking Committee in 1993 when I was first elected to the Senate, and I proudly served on that Committee until this year. So I realize the process of financial services reform has been long, tedious, and often quite contentious. I also realize that many financial services firms are looking forward to the Senate putting an end to that long process by passing a financial services modernization bill. And I would like to see us pass a good bill—a fair and balanced bill.

Nonetheless, it is important to remember that the U.S. already has the best banking system in the world. It is the best capitalized, the most transparent, has the highest accounting standards, is very innovative and its safety and soundness is unsurpassed.

Therefore, it is appropriate to ask, ''why is financial services modernization necessary?'' It is necessary because the financial marketplace has changed, brought on by, among other things, a combination of new and innovative products and services, as well as technological advances.

Regulators must keep pace with these innovations, and we, as legislators must set the appropriate parameters for this changed financial services marketplace. We cannot leave it up to piecemeal regulation and legislation as, all to often, has been the case.

Our goal should be to create a regulatory framework which provides measurable benefits to consumers and businesses, enhances competitiveness of the financial services sector on a global basis, and ensures the continued safety and soundness of our financial institutions. While the bill before us goes a long way toward achieving that goal, unfortunately I believe, it falls short.

It falls short, principally in my opinion, because it fails to ensure the continued strength of the Community Reinvestment Act. CRA has been invaluable in helping to assure low and moderate income consumers, communities and small businesses have sufficient access to credit.

The Community Reinvestment Act has been important to both urban and rural communities. Every CRA dollar is a loan—it is the leveraging of capital. Over the past seven years or so, approximately $400 billion of community development has been leveraged. It has proven to be an effective tool in my home state of California and in states throughout the country.

CRA encourages federally insured financial institutions to help meet the credit needs of the communities in which they do business. As Senator Proxmire said in 1974, ''CRA is intended to establish a system of regulatory incentives to encourage banks and savings institutions to more effectively meet the credit needs of the localities they are chartered to serve, consistent with sound lending practices.''

CRA does not, despite many implications to the contrary, impose any requirement upon banks to make unsound or unsafe loans. CRA does not require banks to engage in risky lending or investments. It does not require banks to make loans outside of the lending criteria they have established. I would suggest, in fact, that given how well banks are doing these days, one would be hard pressed to make a reasonable case that CRA has been detrimental to the bottom line of banks or to their safety and soundness.

I think it is wonderful banks are doing so well, I appreciate the contributions they are making to our economy. I remember all too well when banks were not doing so well. Thus, I would not support CRA, or any other requirement, which encouraged banks to engage in unsafe lending practices.

My specific concerns as relate to the CRA provisions in this bill are as follows. First, as I understand it, there are no enforcement mechanisms or penalties for failing to maintain a ''satisfactory'' CRA rating. By contrast, the bill passed last year by the Senate Banking Committee required all banks in a holding company structure to have a satisfactory CRA rating as a condition of affiliation, and maintain a satisfactory CRA rating in order to continue to engage in new financial activities.

Second, this bill provides for a CRA ''safe harbor.'' Under this provision, all institutions which received at least a satisfactory CRA rating on their most recent examination, and received a satisfactory rating in each of the past 3 years, would be deemed to be in compliance with CRA. Such a safe harbor, I believe, would often effectively eliminate the opportunity for public comment. Banks and thrifts are usually examined every two to three years. CRA performance can change in the interim.

Third, S. 900 exempts those banks with less assets of less than $100 million, and those that are not located in metropolitan areas, from CRA. While I think we can all agree that institutions with assets of less than $100 million are small, the amendment would exempt more than 75 percent of rural institutions from CRA requirements—that is almost 40 percent of all U.S. banks and thrifts. Ironically, I would note, it has traditionally been these smaller institutions that have had the worst CRA records. Moreover, the new CRA rules, which went into effect in January 1996, provide a streamlined examination for banks and thrifts with assets less than $250 million. In fact, pursuant to the changes which took effect in 1996, small banks do not have any data collection or reporting requirements.

I do not believe the CRA changes envisioned in S. 900 are appropriate, or needed at this time. If there are abuses or specific problems, let's deal with them—let regulators, and, if appropriate, law enforcement deal with them. Such abuses are hurtful to CRA and to those who can potentially benefit from CRA. These abuses, I would suggest however, are extraordinarily rare. On the whole, bankers have found CRA to be an extremely minimal intrusion at most.

CRA has not been a problem to most bankers in my home state of California. BankAmerica, Wells Fargo and others have made important CRA commitments in my state.

Between 1992 and 1997, BankAmerica made $3 billion in conventional small business loans and lines of credit for less than $50,000. In 1997, it made more than $1 billion in loans and lines of credit for $100,000 or less. And BankAmerica has often noted their CRA loans have performed as well as other more traditional loans made by the bank. These loans have also been profitable for the bank. In fact, Hugh

McColl, the Chairman and CEO of BankAmerica Corp. has said, ''My company supports the Community Reinvestment Act both in spirit and in fact. We have had fun doing it. We've made a business out of it.''

Moreover, in Los Angeles, as a result of CRA, loans to African American owned businesses increased a whopping 171 percent between 1992 and 1997. However, it is important to note that small business owners of every race have obtained credit as a result of CRA-related programs. For example, in San Diego, at least 25 percent of the loans made by local community development organizations were to white business owners.

So Mr. President, although I am a enthusiastic supporter of financial services modernization, I cannot support S. 900 if the CRA provisions contained in the bill are maintained. Access to capital and economic development, I believe, will potentially be some of the most important tools available to low and moderate income Americans in the coming century. Without such access to capital, far too many Americans, particularly those in urban and rural areas, will not be able to share in the economic wealth of our remarkably exuberant economy.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I have refrained from speaking all day. I do need to speak for a brief period of time, but I want to try to accommodate colleagues as well. If I can inquire of Senator SCHUMER, how much time would he need to speak, 5 minutes or thereabouts?

Mr. SCHUMER. Yes, that would be fine.

Mr. SARBANES. And Senator SHELBY?

Mr. SHELBY. About 10.

Mr. SARBANES. I would like to propound a request that Senator SCHUMER be allowed to speak and then Senator SHELBY and then after Senator SHELBY that I would be recognized.

Mr. GRAMM. Could we add to it that, after the Senator from Maryland, I be recognized?

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

The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my friend, the Senator from Maryland, as well as the Senators from Alabama and Texas for their courtesy here this evening.

I also thank Senator SARBANES for his indefatigable efforts to defend the Community Reinvestment Act.

And I'd like to thank my Democratic colleagues as well as Secretary Rubin for their strong commitment to CRA.

In 1977 when CRA was enacted, the thinking was that banks—though privately owned—receive public benefits in the form of deposit insurance and access to the Federal Reserve's discount window and payments system.

And in return, they would have an obligation to ''serve the convenience and needs'' of their communities.

Over 20 years later, banks still CRA as an obligation—but as an obligation that a minimum they can live with—and in many cases, that they endorse.

Does CRA work?

The answer has been a resounding yes.

Since its enactment, CRA has resulted in $1 trillion of investments in underserved communities. It's been a driving force for community economic development; one of the best ways to bring people together, to bring poor people and people of color upward, which we all want to do.

It's also driven a 30 percent increase in home ownership among low-income families since 1990, making the American Dream of home ownership a more commonplace reality for our minority communities.

And in 1997, large banks and thrifts made approximately 525,000 small business loans totaling $34 billion to entrepreneurs located in low and moderate communities.

CRA works.

And we know it works because banks who have never been shy in fighting what they view as burdensome or intrusive Federal regulation are not pushing to repeal CRA or even to roll it back.

In fact, they're supporting it. Every major bank in my State has contacted me in favor of CRA.

Some have been honest enough to admit that because of CRA they are reaching out to communities that they would not otherwise have served.

And they're serving them profitably.

Hugh McColl, Jr., Chairman and CEO of BankAmerica Corp., stated earlier this year; ''My company supports the Community Reinvestment Act in spirit and in fact. To be candid, we have gone way beyond its requirements * * *. We're quite happy living with the existing rules.''

A Federal Reserve study showed that banks with higher volumes of loans to low-income communities were on average more profitable than those with a lower volume.

And we know that banks have had some of their most profitable years even as CRA loans have reached record heights.

Finally, our regulators, who are committed to ensuring the safety and soundness of our financial institutions, have been very vocal in their support of CRA.

So there's more evidence that CRA has been effective in communities' edification than in any invidious exploitation of banks, as some of its critics have been charging.

The question is, then, with everyone in support of CRA, why do we want to throw away our best chance to pass financial modernization solely to end a law that we know is working?

The President has stated very clearly that with these CRA provisions, this bill will end in veto. His veto letter states:

We cannot support the ''Financial Services Modernization Act of 1999'' * * *. In its current form, the bill would undermine the effectiveness of the Community Reinvestment Act (CRA), a law that has helped to build homes, create jobs, and restore hope in communities across America. The CRA is working, and we must preserve its vitality as we write the financial constitution for the 21st Century.

Contrary to what many think, this amendment does not expand CRA. It simply maintains the status quo.

First, it requires that banks have at least a ''satisfactory'' CRA rating as a precondition for affiliation with securities and insurance firms. Today our insured depository institutions have this obligation. And 97 percent of them meet it. They meet it precisely because it is not a tremendous burden.

Second, this amendment would remove the small bank exemption that narrowly passed the Banking Committee. Small banks account for 70 percent of the ''needs improvement'' ratings handed out to banks by the regulators last year. So the idea that we should exempt the institutions that are most likely to be in noncompliance seems ill-advised.

Finally, the amendment eliminates the safe harbor provisions in the Committee print. The safe harbor sets up an unnecessary burden of proof that is simply unnecessary.

In sum, these provisions would restore CRA to today's potency.

As I said yesterday, I say, it is my hope that we can set aside our partisanship for the sake of pragmatism.

And set aside confrontation for the sake of compromise.

Mr. President, I strongly support this amendment, and I urge my colleagues to support it.

A vote for this amendment is a vote for modernization.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I rise in opposition to the Bryan CRA amendment. This amendment not only strikes the small rural bank exemption that we have in the Banking Committee bill and that we adopted on a bipartisan vote, but it also replaces that language with a significant expansion in CRA—the same language Chairman GRAMM and I vehemently opposed on the Senate floor this past year.

Community banks, as the Presiding Officer knows, by their very nature, serve the needs of their communities and do not need a burdensome Government mandate to force them to allocate credit or to originate profitable loans. And, contrary to the assertions of critics, there is no evidence whatsoever that the small bank exemption would have ''devastating consequences'' for low- and moderate-income rural communities. There remains no documented evidence to prove such an assertion, just as there is no tangible evidence that CRA has ever helped rural communities in America.

What is documented, though—and Chairman GRAMM has worked tirelessly to do so—is the kinds of blackmail agreements and extortion practices

that the Community Reinvestment Act enables community groups to engage in. The truth of the matter is that the small bank exemption would exempt less than 3 percent of bank assets nationwide. Thus, 97 percent of all bank assets would still be subject to the Community Reinvestment Act.

Just bear with me a minute on this chart. We have bank assets of $5.711 trillion. But banks above $100 million, rural and nonrural, control 97 percent of the bank assets in America. The small banks in America that we are talking about, those under $100 million in assets—there are 3,667 of them—control only $165 billion, or 2.9 percent of all the banking assets. Can you imagine? BankAmerica, for example, has $614 billion in assets. And I commend them for that. They are a well-run bank. But that is more than all 3,667 small rural banks in America put together; it is about 4 times more. So let's look at this in a realistic situation, as this chart here depicts.

Mr. President, critics will point out that the small rural bank exemption which I and Senator GRAMM have in the bill would exempt 3,700 banks. That is true. But to put that into context again, and to reiterate, one needs to understand that BankAmerica, as I have just shown, is four times the size of all small rural banks in America.

Indeed, BankAmerica possesses $614 billion in assets, or 10.7 percent of all bank assets in this country. If one looks at the list of large banks, one will soon realize that the vast majority of bank assets are concentrated in the large, multibillion-dollar banks that can most easily shoulder the burden of CRA.

The assertions of those who oppose the small bank exemption that we have in the banking legislation also do not comport with the comments I have received from small banks across the country. In fact, I have many letters from small bankers who complain about the burden of CRA, as well as the regulators' subjective reporting requirements dealing with CRA.

I would like to take a moment to read some letters from some small bankers in Alabama. I believe they have a right to be heard. I will quote from some of these. The first one says:

I don't think, in these small community banks, that we have to be examined by people who usually don't understand our purpose, to enforce us to service our community * * *. Small community banks are a Service Institution. I know because I have just completed 39 years this month. All this time in small home-owned banks that deliver services that are essential to rural life. Where services have been rendered over the years even before we knew anything about CRA.

That was from Charles Willmon, chairman of the First Bank of the South in the small town of Rainsville, AL.

I have another letter, from John Mullins, president and CEO of First Commercial Bank of Cullman, AL, which says:

Exempting small banks would be a wonderful opportunity for me to spend less time on unnecessary and nonproductive paperwork and more time helping the citizens of my market area improve their financial well-being . . . CRA examiners spend many unnecessary hours examining our loan track record. Banks our size are an integral part of the local community and we are always sensitive to the needs of our citizens. They are not faceless names, but people whom we know. We don't need a law to require us to help them with credit, we do it anyway.

I have another letter from a small banker in Clanton, AL. He is Leland Howard, Jr., of Peoples Southern Bank. He says:

We in the community banks feel that the CRA exception for banks with aggregate assets of $100 million or less is a very good start on the road to easing the regulatory burden.

I have a letter from John Hughes, CEO of First National Bank of Hartford, AL, a small town in south Alabama. He says:

Extra work created by the CRA is tremendous. Most rural banks know at least 95 percent of all their customers, their family, and their situation. The rating system that most examiners used is highly subjective and the rural banks have a hard time to achieve a grade higher than satisfactory. Again, it would be a great day in Alabama if you . . . could get this amendment passed.

Those are just a few letters, and they come from all over the Nation.

Mr. President, the Federal Reserve Bank of Richmond published its 1994 annual report on ''Neighborhoods and Banking,'' where it reported its findings on the costs of CRA. The report found:

The regulatory burden [of CRA] would fall on bank-dependent borrowers in the form of higher loan rates and on bank-dependent savers in the form of lower deposit rates. And to the extent that lending induced by the CRA regulations increases the risk exposure of the deposit insurance funds, taxpayers who ultimately back those funds bear some of the burden as well.

The report goes on to say that, basically, the CRA imposes a tax on banks. CRA, then, is a tax on community banks and raises the costs of inputs to banks by increasing their regulatory burden and compliance costs. Mr. President, in addition, CRA forces banks to make loans according to a Federal quota, increasing the risks, and therefore the costs, of borrowing to consumers. Make no mistake about it, the Community Reinvestment Act raises the cost of borrowing through higher loan rates and punishes savers in the form of lower savings rates.

Critics of the small bank exemption claim that small banks get the worst CRA ratings. The truth of the matter is that one size does not fit all in any business. These critics point to lower than average loan-to-deposit ratios of small banks as evidence that they are not serving their communities. That is nonsense. That is like saying the average male wears a size 42 regular suit and that every male in America who does not fit in that size suit should be reprimanded by the Federal Government.

Every community in this great country is different. Most of us take pride in such diversity. That is the foundation on which this country was built.

However, the Community Reinvestment Act punishes banks who do not comport with national averages. Indeed, the loan demand in Prattville, AL, is not the same as in Lafayette, LA. Nor is it the same as in Shelbyville, TN. Nonetheless, CRA judges banks based largely on their loan-to-deposit ratios that the regulators deem to be appropriate. That, my friends, is nothing but a quota. When everything is said and done, CRA promotes quotas and creates a regulatory burden.

As if that is not bad enough, Mr. President, the Bryan amendment would also expand the reach and the scope of the Community Reinvestment Act.

Specifically his amendment would:

One, increase administrative enforcement authority of the regulators to fine directors and officers up to $1 million a day for CRA noncompliance. Just think about that.

Two, it would make expanded activities subject to CRA compliance on all depository institution affiliates on an ongoing basis.

And it would give the regulators the authority to shut down any affiliate within the holding company if just one subsidiary depository institution falls out of CRA compliance.

The Bryan amendment dramatically expands, Mr. President, CRA enforcement authority to allow civil money penalties for bank directors and officers, as I have pointed out.

The amendment would require bank holding companies who seek to become financial holding companies to be compliant with the Community Reinvestment Act of 1977 just in order to be eligible. If even one subsidiary depository institution ever falls out of compliance, the holding company, including the nonbank affiliate, would then be subject to section 8 of the Federal Deposit Insurance Act, which is 12 U.S.C. 1818, which authorizes bank regulators to invoke cease and desist orders, civil penalties, and fines.

Regulators would be authorized to fine bank directors and officers up to $1 million a day. This, Mr. President, is a dramatic expansion in the enforcement authority and reach of bank regulators.

Such authority does not exist today. The Clinton Justice Department even agrees.

In late 1994, Comptroller of the Currency, Eugene Ludwig, tried to invoke the administrative enforcement powers under Section 8 of FDIA (12 U.S.C. 1818) to enforce CRA. The Justice Department issued a memorandum stating:

[T]o move from an enforcement scheme that relies upon a system of regulatory incentives to a scheme that entails cease-and-desist orders and potentially substantial monetary penalties is a leap that we do not believe can be justified on the basis of the text, purpose, and legislative history of CRA. We therefore conclude that enforcement under 12 U.S.C. 1818 is not authorized by CRA.

Bank trade associations were very pleased with the Justice Department decision. The Bankers Roundtable, the American Bankers Association, the Consumer Bankers Association, and the Savings and Community Bankers of America, filed joint letters focusing in substantial part on the regulators claims of enforcement authority.

The Bryan amendment also permits regulators to force divestiture since banks cannot ''retain shares of any company'' if ever out of CRA compliance. This provision also explicitly states that a bank holding company may not ''engage in any activity'' unless the institution is CRA compliant always and forever.

Think about it.

If just one subsidiary depository institution of a financial holding company falls out of compliance with CRA, the substitute authorizes the Federal Reserve Board to ''impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate * * *'' This, too, is a dramatic expansion of enforcement authority under CRA. For the first time, regulators will be able to impose restrictions on activities throughout the entire holding company. This means a bank regulator could prohibit a securities affiliate from underwriting securities or an insurance affiliate from underwriting insurance.

Regulators do not have such authority today. Currently, CRA only allows regulators to prohibit the merger, acquisition or branch expansion of an institution that is not compliant with CRA.

Current law does not give bank regulators the authority to prohibit eligible activities of a given charter due to CRA non-compliance. The Bryan amendment requires an operating subsidiary who wants to engage in agency activities to maintain CRA compliance on all depository institution affiliates.

Thus, non-banking financial agency activities would be held hostage to CRA, with the bank regulators given the authority to enforce such law. This is the first time CRA has ever been expanded to cover the approval of non-depository activities.

I urge my colleagues to vote against the Bryan amendment and support what is in the bill.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, shortly we will be voting with respect to the Bryan amendment.

I, again, want to underscore the very strong and powerful statement which I think Senator BRYAN made shortly after noon at the outset of this debate, and I am deeply appreciative to him for the strong leadership he has shown with respect to this amendment.

We have tried to give all Members a chance to speak. I, in fact, have refrained from doing so in the course of the day in order to make sure that our colleagues had a chance to speak. I would like to take just a few minutes now.

I want to speak in support of the amendment. But I really do not want to repeat a lot of the extensive discussion of the issues which have taken place, both during opening statements on the bill, and on the alternative amendment, and now on this amendment itself, although they may well bear repeating.

I want to make sure my colleagues appreciate the intense feeling and the critical importance which civil rights groups, mayors, rural groups, Hispanic groups, and Native American groups attach to this issue of CRA. They have all sent letters to the committee.

I ask unanimous consent those letters be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. SARBANES. Mr. President, these letters reflect how CRA has benefited communities all over this country—small, urban, and rural. They demonstrate how CRA has expanded economic opportunities for people of all races, colors, and ethnic affiliations.

Yesterday morning, the Leadership Conference on Civil Rights, our preeminent civil rights group, held a press conference in support of CRA. I would like briefly just to quote some of the comments made by civil rights leaders at the press conference, as well as comments made by individuals who benefited from CRA.

Dr. Dorothy Height, chairman of the Leadership Conference on Civil Rights, president emeritus of the National Council of Negro Women, spoke, and said:

> Since its enactment in 1977, the Community Reinvestment Act has served as one of the crowning achievements in the civil rights movement.
>
> The premise of the legislation is simple—to make sure that economic opportunity for families and communities is available to every American.
>
> Opportunities for home ownership, small business development, and sustaining rural communities are critical to the strength of this Nation.
>
> With CRA our neighborhoods have a chance. Without it, they are discriminated against.
>
> Just as civil rights legislation enacted a decade ago sought to break down the walls of discrimination that separated us in schools, restaurants, and places of work by the color of our skin, the CRA has meant opportunity for everyone, whatever race or color. As a result of CRA, millions of minorities across this Nation now have access to the capital that will allow them to build new homes, to create new businesses, and to improve education.

She concluded her introductory remarks at the press conference by saying:

> Leaders you see before you represent dozens of organizations galvanized by an assault on the Community Reinvestment Act. Those organizations represent millions of Americans who have been touched by CRA and millions more who deserve the same opportunity.

Make no mistake about it, this issue is seen by the civil rights community as a critical civil rights issue. Fair access to credit is fundamental to hopes for economic progress in our minority communities.

Another speaker at the press conference was Hugh Price, president of the National Urban League, who said:

> We of the National Urban League strongly support financial services modernization because we believe it is in tune with the times. But we staunchly oppose any effort to gut the CRA. We at the Urban League work with the leaders of many financial institutions. Just last week I talked with Kenny Lewis, president of Bank America, who said that his bank stands strongly behind the renewal of CRA.

I know that belief is echoed by many leaders in the financial services and banking community who see it as good business for their corporations.

Charles Kamasaki, senior vice president of the National Council of La Raza, stated:

> The National Council of La Raza is the Nation's largest Hispanic civil rights organization. We represent more than 200 local community-based organizations who provide a range of services, many of them supported by CRA-related funds in over 32 States.

Mr. Kamasaki, the head of the National Council of La Raza, introduced Richard Farias as president of the Tejano Center for Community Concerns in Houston, a member organization of La Raza. Mr. Farias stated, in speaking of the importance of CRA:

> Now because of CRA, a number of banks in Houston created a consortium to help us purchase a $2.1 million school building. The building has 7.5 acres and 80,000 square feet of space, including a gymnasium, a cafeteria, an auditorium and 25 classrooms. They now have a charter school for success that houses 400 students and is expected to grow to 650 students.

He goes on to say that it is very important to understand that CRA is not just about community development; it is about empowerment of the people; it is about being able to give low-income children and families the right that they have to not only good housing but to good education and to good health services.

Daphne Kwok, executive director of the Organization of Chinese Americans, also took part in the press conference. She stated that the Organization of Chinese Americans supports the Community Reinvestment Act because it has enabled home ownership among minority and low- and moderate-income individuals:

> Asian Pacific-Americans, especially Chinese-Americans, Korean-Americans, Vietnamese-Americans, Asian Indian-Americans are small business owners, and many of them are seeking to open up businesses in low and moderate income areas.

JoAnn Chase, executive director of the National Congress of American Indians, then spoke and stated:

> Founded in 1944, the National Congress of American Indians is the oldest, largest and most representative national organization

devoted to promoting and protecting the rights of American Indian tribal governments and their citizens. One of our key missions has been to continuously advocate for Indian self determination and self sufficiency, and toward that end from its very inception, our communities, our governments, our people have supported the Community Reinvestment Act, which has proven to be an effective means of encouraging federally insured financial institutions to extend prudent and profitable loans in traditionally underserved areas, particularly in Indian country.

Specifically, the CRA has helped focus attention to the challenges of extending credit to reservations and has acted as a catalyst to reservation-based economic development. Since the implementation of the CRA, Native American governments and citizens and our own banks have negotiated agreements for lending more than $155 million within the Indian country which has substantially advanced efforts toward economic self-sufficiency. It is a law that has helped build homes for our people, has inspired hope and has created jobs in many native communities.

The final speaker at the press conference was Hillary Shelton, Washington bureau director of the NAACP, who stated:

* * * on behalf of the NAACP * * * we are honored to strongly support and continue to endorse the Community Reinvestment Act and consequently oppose any attempts to weaken it.

The CRA has been instrumental in the revitalization of literally tens of thousands of communities nationwide, and continues to be an important tool in the NAACP's ongoing efforts to help people and communities achieve the goals of community resurrection, development, and growth, at no cost to American taxpayers.

Mr. President, there has been printed in the RECORD a letter from the U.S. Conference of Mayors which was quoted from earlier, a letter from a coalition of 19 family farm and rural groups, which states:

Rural areas continue to suffer from a serious shortage of affordable housing. Farmers are facing the worst financial conditions in more than a decade due to declining commodity prices. Rural Americans continue to need the tools of the CRA to ensure accountability of their local lending institutions. CRA helps to meet the credit demands of millions of family farmers, rural residents and local businesses.

Mr. President, I ask unanimous consent to have printed in the RECORD other letters from a number of organizations which have written to us in very strong support of the CRA, as well as editorials.

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

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 consider 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.

[From the Washington Post, May 4, 1999]

BANKING ON REFORM

The Senate today is scheduled to begin considering a bill that would remake the financial services industry, allowing banks and insurance companies and investment firms to merge and compete. Similar legislation is making its way through the House. The thrust of both bills is sound. But while the industries have lobbied hard to shape a law satisfactory to them, the current legislation doesn't adequately protect low-income communities or consumers' privacy. Financial modernization should apply to them, too.

Since the Depression, federal law has sought to keep the banking, insurance and securities industries separate. The idea, in part, was to make sure that federally insured bank deposits didn't wind up somewhere risky and unregulated. But in recent years, even without a change in the law, that separation has eroded. Banks have found ways to offer mutual funds to their customers; investment firms function like deposit institutions; etc. It makes sense now to bring legislation—and regulation—in line with reality.

Congress has been trying to do so, and failing, for more than a decade, and may again. But on the major issues, the administration, the Federal Reserve and Congress have pretty well agreed. They would let the financial services industries meld while for the most part keeping them out of other businesses, a wise decision. They've come up with fire walls and regulatory schemes that, while still not entirely agreed upon, have satisfied most concerns about protecting federally insured deposits.

But there is no consensus yet on safeguarding the interests of underserved communities. Since 1977 federally insured banks have been subject to the Community Reinvestment Act, requiring them to seek business opportunities in poor areas as well as middle-class and wealthy neighborhoods. The law, a response originally to clear evidence of bias in lending, has worked well. It doesn't force banks to make unprofitable loans, but it encourages them to look beyond traditional customers, and it's had a beneficial effect on home ownership and small-business lending.

Sen. Phil Gramm, chairman of the Banking Committee, now wants to scale the law way back. He argues that community groups use it to extort money from banks; there's scant evidence for that. The real danger is that, with financial modernization, banks will gradually escape their community obligations by transferring capital to affiliates that aren't covered by the law. The law should be extended and modernized to keep pace with a changing industry.

Consumer privacy also could be in danger as barriers among industries break down. An example: Should your life insurance medical records be shipped over, without your knowledge, to the loan officer considering your mortgage application? Sen. Paul Sarbanes of Maryland and Rep. Ed Markey of Massachusetts, among others, would give consumers more control over the sale and sharing of personal data. As the financial industry moves into a new era, privacy laws should also keep pace.

JESUIT CONFERENCE, THE SOCIETY OF JESUS IN THE UNITED STATES.
Washington, DC, March 3, 1999.

Hon. PAUL SARBANES,
Seante Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: We are writing you on behalf of the Jesuit Conference Board of the Society of Jesus in the United States. With the House and Senate Banking Committees scheduled to mark-up financial modernization legislation this week and vigorous discussions already underway we call your urgent attention to the status of the Community Reinvestment Act (CRA) in this debate. We urge your vocal and unconditional support for safeguarding and effectively applying CRA to any proposed financial modernization legislation. By maximizing the capital available to undeserved urban and rural areas, CRA has proven to be an exceptional means of promoting vital and sustainable communities. CRA should be allowed to continue its invaluable work.

There are approximately 4,000 U.S. Jesuit priests and brothers working abroad and in our domestic projects which include: 28 Jesuit-affiliated universities and colleges, more than 50 Jesuit high schools and middle schools, nearly 100 Jesuit parishes, and various other apostolic programs throughout the country. We have an overriding commitment to empower individuals, families and communities who are most at-risk in our society. In essential ways, CRA enables these marginalized groups to fully integrate into society.

Propelled by a mission of justice and social progress, Jesuit institutions have CRA-type goals of investing in the communities where they are located. For example, Fordham University is situated in one of the poorest urban counties in the nation. In 1983, Fordham formalized a long-standing partnership

with the Northwest Bronx Community and Clergy Coalition to form the University Neighborhood Housing Corporation (UNHP). UNHP believes in working aggressively to develop and preserve innovative, community-controlled, affordable housing. With the strength and leverage of CRA, UNHP, has built a positive, working relationship with Chase Manhattan Bank. From the late 1980s, this relationship has resulted in millions of dollars of capital for affordable housing and economic development in the northwest Bronx. Recently, this successful partnership yielded $25 million in housing rehabilitation funding from Fannie Mae. The force of community leaders working with university, banking and Fannie Mae representatives is not merely a lifeline for the northwest Bronx; it has added self-sustaining stability and growth to an historically distressed, densely populated neighborhood. This is one example of an estimated $1 trillion in CRA-leveraged financial commitments since 1977.

We ask for your continued support for national economic development policies which equip people with the means to lead respectful and dignified lives. CRA is in the interest of underserved communities; it is in the interest of our Jesuit institutions; and it is in our collective, national interest.

Thank you for your consideration and efforts.

Sincerely,

REV. RICHARD RYSCAVAGE, S.J.,
Secretary, Jesuit Social & International Ministries.
MS. BRITISH ROBINSON,
National Director, Jesuit Social & International Ministries.

DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE
Washington DC, March 4, 1999.

Hon. PAUL SARBANES,
Banking, Housing, and Urban Affairs Committee, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I write to ask that you oppose any provisions in the Financial Services Act of 1999 that may eliminate consumer protections and/or dilute the fair lending laws.

The United States Catholic Conference has vigorously supported the disclosure of lending patterns since 1975 and was one of the original supporters of the Home Mortgage Disclosure Act. We believe people must have access to information about the lending practices and patterns of the financial institutions in their communities that are seeking their business. In the past banks, mortgage companies, insurance brokers and other financial institutions have discriminated against minority populations, low-income individuals and the communities in which they live with virtual impunity. The Community Reinvestment Act (CRA) and the effective enforcement of its regulations have proved significant tools in ensuring that financial institutions meet the credit needs of the local communities in which they are located, particularly by increasing the flow of credit to low-income and minority communities.

Since 1977, CRA has channeled tens of billions of dollars *profitably* back into rural and urban communities. This success of local communities gaining access to private capital should not be jeopardized. Communities and neighborhoods need the investment of private capital particularly as government curtails its spending on housing and social services programs and local communities are being asked to assume more responsibility for their own development. Low and moderate income families of all races and ethnicities have benefited from CRA with increased opportunities to purchase homes, open small businesses or operate farms.

As Congress seeks to modernize the banking and financial industry, fair lending laws must not be undermined. Once more, we urge you to oppose any efforts to diminish consumer protections and to weaken fair lending laws.

Sincerely,

CARDINAL ROSER MAHONY,
Archbishop of Los Angeles, Chairman, Domestic Policy Committee.

NATIONAL LOW INCOME HOUSING COALITION/LIHIS
Washington, DC, April 6, 1999.

Hon. PAUL S. SARBANES,
United States Senate, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National Low Income Housing Coalition, I must express in the strongest terms possible our objection to the evisceration of the Community Reinvestment Act in the Financial Services Modernization Act of 1999 recently reported out of the Senate Banking Committee.

The National Low Income Housing Coalition represents thousands of local housing organizations that are doing the hard work at the local level to rebuild neighborhoods that have been depleted by disinvestment, and to produce safe, decent, and affordable housing for people at the low end of the economic spectrum. These are organizations that are masterful at the management of multiple funding streams, bringing together the public and private resources required to stimulate and produce new housing and economic development initiatives at the local level. Each of our members can attest to the necessity of the Community Reinvestment Act in putting together the resources required to do the job we all expect of them. At a time when responsibility for solving serious community problems is being devolved to local organizations, it is mystifying as to why one of their most critical resource development tools would be pulled out from underneath them.

Especially serious is the provision in the Senate bill which allows banks not in compliance with CRA to expand their affiliations and engage in new powers. This would essentially render the CRA useless in the new world of financial modernization.

We also object to the creation of so-called ''safe harbors'' for institutions with at least a satisfactory CRA rating, which in effect eliminates opportunity for public comment on the community reinvestment activities of the banks, while maintaining opportunity for public comment on all other aspects of the institutions' functioning.

Finally, the small bank exemption would mean that rural communities have no options for acquiring credit, as small banks are often the only source of credit in many rural parts of the country.

The Community Reinvestment Act is a model of the Federal government at its best, stimulating investment in poor neighborhoods and creating a true partnership among the private, for profit sector; the private, not for profit sector, and the public sector. As we move into an era of a bigger and more comprehensive banking system, building on, not tearing down, this core element of community reinvestment should be an essential principle.

We urge that the Senate not take this action, and prevent the dire consequences that would result in its wake of its passage.

Sincerely,

SHEILA CROWLEY,
President.

Mr. SARBANES. Mr. President, as I draw to a close, let me again say to the distinguished Senator from Nevada we very much appreciate his very strong and powerful statement.

EXHIBIT 1

APRIL 8, 1999

Hon. PAUL S. SARBANES,
Senate Hart Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The undersigned organizations write to express strong opposition to the Financial Services Modernization Act of 1999 as reported out of the Senate Banking Committee on March 4th. The Act would restructure the financial services industry in the United States by allowing broad affiliations among banks, insurance companies, and security firms. Currently, the law strictly limits ownership among different financial entities and between financial companies and commercial corporations. The Act seeks to ease these restrictions, without commensurate expansion of the Community Reinvestment Act (CRA) to cover insurance companies, securities firms, mortgage companies, and other financial entities allowed to affiliate with banks. The Act would undermine one of the most effective revitalization vehicles for underserved low-income and minority communities, including Hispanic American communities across the country.

We have found, and research confirms, that all too often the credit and financial needs of these communities are severely underserved. Historically, many financial institutions have avoided investing in these communities due to their perceived higher level of risk. Unfortunately, ''perceived higher level of risk'' is often code for ''low-income'' or ''minority.'' But the facts show that low-income and minority communities are not inherently riskier than other communities. In fact, most financial institutions find them to be quite profitable, once they begin investing in them. Unfortunately, without the CRA, many financial institutions have not and would not be encouraged to do so.

As the data show, Hispanics are the fastest-growing population in the United States. We are a growing force in the expansion of homeownership and small business development, two leading indicators of the economic well-being of this country. For example, between 1987 and 1992, Hispanic-owned business grew by over 76%, compared to 26% for U.S. businesses overall. According to a 1997 Harvard study, ''the number of Hispanic homeowners has shown the most spectacular rise'' in recent years compared to that of Whites and of other minority groups. Population projections forecast Hispanics to be the largest minority group in the U.S. by the year 2005, causing the U.S. economy to be increasingly dependent on the continued prosperity of the Hispanic American community. Without the CRA, this growth may be impeded.

As reported out of the Senate Banking Committee, the Financial Services Modernization Act of 1999 would hinder that growth by weakening the CRA in the following three ways. First, ''satisfactory'' CRA rating is not required in order for financial institutions to enjoy the new powers afforded to them by the legislation, thereby allowing banks to exercise their privilege, even if they are not meeting the credit needs of the communities where they do business.

Second, banks receiving a ''satisfactory'' CRA rating would be given a ''safe harbor'' from public comment on CRA performance. Since over 95% of banks receive a ''satisfactory'' rating, this would undermine the effectiveness of the law by restricting a community's right to voice its experience with

banks. While a ''satisfactory'' rating provides a helpful guide to a bank's overall performance, it may not provide an accurate picture at the neighborhood level.

Third, the Act proposes to exempt all small rural banks (those with less than $100 million in assets) from CRA, thereby releasing 76% of all rural banks from their CRA obligations. As with the safe harbor provision, this undermines the spirit and the effectiveness of the law by exempting most rural banks. This would have particularly adverse consequences in low-income rural communities where often the only source of credit is a small bank. Moreover, researchers have found that small banks have disproportionately poor CRA records compared to larger banks, thereby highlighting the need for CRA in rural communities and small towns.

CRA is one of the strongest incentives to encourage investment in low-income and minority communities. Over the last twenty-two years, neighborhoods across the country have benefited from CRA-encouraged investments. This has resulted in increases in homeownership and business development, leading to the rebirth of many American neighborhoods. However, many communities remain underserved by capital and investment vehicles. For this reason, reinforcement, not weakening, of CRA is critically needed. We urge you to support the continued strengthening of America's communities by vigorously opposing the Financial Services Modernization Act of 1999 as reported out of Committee, and supporting amendments that would strengthen the Bill's CRA protections. Thank you.

Sincerely,

Rick Dovalina, National President, League of United Latin American Citizens; Arturo Vargas, Executive Director, NALEO Educational Fund; Ruth Pagani, Executive Director, National Hispanic Housing Council (NHHC); Juan Figueroa, President and General Counsel, Puerto Rican Legal Defense and Education Fund (PRLDEF); Antonia Hernandez, President and General Counsel, MALDEF; Raul Yzaguirre, President and Chief Executive Officer, National Council of La Raza (NCLR); Manuel Mirabal, President and Chief Executive Officer, National Puerto Rican Coalition (NPRC).

NATIONAL FARMERS UNION,
Washington, DC, March 24, 1999.

DEAR SENATOR: On behalf of the 300,000 farm and ranch families of the National Farmers Union, I write to express our strong opposition to the Financial Services Modernization Act of 1999, as reported out of the Senate Banking Committee earlier this month. Specifically, we are concerned that the bill would undercut the Community Reinvestment Act (CRA)—a law that has significantly expanded access to credit in rural communities across the nation.

The Community Reinvestment Act prohibits redlining, and encourages banks to make affordable mortgage, small farm and small business loans. Under the impetus of CRA, banks and thrifts made $11 billion in farm loans in 1997. CRA loans assisted small farmers in obtaining credit for operating expenses, livestock and real estate purchases. Low- and moderate-income residents in rural communities also benefited from $2.8 billion in small business loans in 1997.

In 1999, access to credit is tighter than usual, making it critical to maintain the CRA. There are three provisions in the pending legislation that jeopardize the CRA.

First, the bill exempts banks and thrifts that are located in rural areas and have less than $100 million in assets, from CRA requirements. This provision would exempt 76 percent of all banks and thrifts in rural communities. A Congressional Research Service study of data from 1997 to mid-1998 found that banks with less than $100 million in assets receive 70 percent of the ''below satisfactory'' CRA ratings.

Second, the banking bill fails to require that banks have a satisfactory CRA rating in order to affiliate with securities and insurance firms. In the absence of this requirement, banks could ignore local credit needs in favor of expanding to other areas.

Third, the bill has the effect of eliminating the public's opportunity to comment on a bank's performance pending expansion, if that bank has had a satisfactory CRA rating during the previous 36 months.

There is no compelling reason to weaken the CRA. In fact, CRA regulations were revised in 1995 to reduce compliance burdens on small banks and allow for streamlined examination.

The CRA has been extremely successful in encouraging financial institutions to help meet the credit needs of rural communities across the nation. Therefore, we urge you to oppose the Financial Services Modernization Act of 1999 until the provisions against the CRA are removed.

Sincerely,

LELAND SWENSON,
President.

SMALL BUSINESS ADMINISTRATION,
Washington, DC, May 3, 1999.

Hon. PAUL S. SARBANES,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing to express my concern with provisions of the Financial Services Modernization legislation that would weaken the Community Reinvestment Act (CRA). The President has made clear that he would veto legislation that weakens CRA, and it is my hope that the U.S. Senate will not move to undermine this important statute.

The CRA is a vital tool in providing access to capital in communities traditionally underserved and once perceived as high-risk lending areas. Financial institutions have found, through CRA, that creditworthy borrowers and sound investments do exist in these areas. The CRA has resulted in viable small businesses creating jobs and stimulating local economies. Without CRA, lending institutions might never realize the maximum potential of these marketplaces, and many communities could lose access to bank credit, which is so important to small businesses.

The CRA focus for banks strikes at the heart of fulfilling the U.S. Small Business Administration's (SBA) mission. SBA is in the business of providing credit to those who cannot obtain it elsewhere, and we do this largely through our partners—local financial institutions. Everyday, SBA and banks across the country help entire communities grow through SBA-backed equity investments and guaranteed loans, many of which fall under CRA goals. Additionally, studies analyzing CRA data identify and quantify what would have been only hunches just 4 years ago, and the result is a more accurate depiction of the patterns and gaps of small business lending across the Nation. The CRA is essential in meeting the credit and investment needs of our America's small businesses.

Weakening CRA could reverse the progress we have made in small business lending in this country. As you seek to modernize the financial industry, I urge you to oppose any provision that actually moves us back in time.

Sincerely,

AIDA ALVAREZ
Administrator.

CHAIRMAN GREENSPAN COMMENTS ON CRA

''Anecdotal information seems to suggest that loans to low- and moderate-income people perform, with respect to repayment, as well as loans to others, though some studies have suggested that delinquency rates on some types of affordable mortgage loans are higher. . . . there is little or no evidence that banks' safety and soundness have been compromised by such lending, and bankers often report sound business opportunities.''—January 12, 1998.

''When conducted properly by banks who are knowledgeable about their local markets, who use this knowledge to develop suitable products, and have adequately promoted those products to the low- and moderate-income segments of the community, CRA can be a safe, sound and profitable business.''—May 17, 1995.

Chairman Greenspan noted during testimony before the House Banking Committee on February 11, 1999 that CRA has ''very significantly increased the amount of credit in communities'' that the changes have been ''quite profound.''

''CRA has helped financial institutions to discover new markets that may have been underserved before.''—May 17, 1995 repeated January 12, 1998.

CRA ADMINISTRATION AND DEMOCRATIC SUPPORTERS

''We must pass a stronger Community Reinvestment Act that challenges to lend to entrepreneurs and promotes development projects that reinforce community and neighborhood goals.''—Governor Bill Clinton and Senator Al Gore, ''Putting People First,'' 1992.

''[T]he town banker is doing pretty well where you live—in a big city or a small town. And yet, unbelievably enough, when we are proving it is working, the Community Reinvestment Act is under fire again.''—President Clinton to the U.S. Conference of Mayors, January 29, 1999.

The CRA has ''helped to build homes, create jobs, and restore hope in communities across America.''—President Clinton, Letter to Senator Paul Sarbanes and Senator Phil Gramm, March 2, 1999.

''We must protect the Community Reinvestment Act, which expands access to capital from mainstream financial institutions. We have greatly improved CRA by streamlining its regulations so that they focus on performance, not paperwork. CRA has been an enormous success.''—Treasury Secretary Robert Rubin, Letter to Senator Phil Gramm, February 1, 1999.

''It's very significantly increased the amount of credit that's available in the communities, and if one looks at the detailed statistics, some of the changes have been quite profound.''—Federal Reserve Chairman Alan Greenspan, Testimony before the House Banking and Financial Services Committee, February 11, 1999.

''[C]redit is the key to the American dream. Without it, people cannot share the tremendous wealth of our free market system—cannot buy a home, own a car, or send a child to college.''—Former Rep. Joseph Kennedy (D–MA), House Floor Statement during the Debate on the Financial Institutions Safety and Consumer Choice Act, November 1, 1991.

WHAT SENATOR GRAMM HAS SAID ABOUT CRA

''I believe that perhaps the greatest national scandal in America . . . is a scandal

where a law is being used in such a way as to extract bribes and kickbacks and in such a way as to mandate the transfer of literally hundreds of millions of dollars and to misallocate billions and tens of billions of dollars of credit.''—Senate Floor Statement, October 5, 1998.

''[A]ll over the country banks that have exemplary records in community lending and that have received the highest ratings on CRA are routinely shaken down every time they want to open a branch, every time they want to start a new bank, every time they want to engage in a merger.''—Senate Floor Statement, October 5, 1998.

''[CRA] conjures up in my mind the ''protection'' racket of an earlier era, where the little merchant had the gangster come into his place of business and say, 'You know, somebody could come in here and do you some real harm, and I am willing to protect you.'''—Senate Floor Statement, September 30, 1998.

''Let this evil, like slavery in the pre-Civil War period, let it exist, but do not expand it.''—Senate Banking Committee Markup Hearing, September 11, 1998.

''CRA has since been corrupted into a system of legalized extortion, often with the assistance of regulators. Moreover, it has increasingly replaced market-directed financial activity with politically directed and motivated channeling of private sector financial resources. . . . This cronyizing (sic) of the American economy is more typical of a third world economy and will undoubtedly be damaging to our national economic growth.''—Letter to Senate Committee on the Budget, March 5, 1999.

THE WHITE HOUSE,
Washington, March 2, 1999.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR PAUL: This Administration has been a strong proponent of financial legislation that would reduce costs and increase access to financial services for consumers, businesses and communities. Nevertheless, we cannot support the ''Financial Services Modernization Act of 1999,'' as currently proposed by Chairman Gramm, now pending before the Senate Banking Committee.

In its current form, the bill would undermine the effectiveness of the Community Reinvestment Act (CRA), a law that has helped to build homes, create jobs, and restore hope in communities across America. The CRA is working, and we must preserve its vitality as we write the financial constitution for the 21st Century. The bill would deny financial services firms the freedom to organize themselves in the way that best serves their customers, and prohibit a structure with proven advantages for safety and soundness. The bill would also provide inadequate consumer protections. Finally, the bill could expand the ability of depository institutions and nonfinancial firms to affiliate, at a time when experience around the world suggests the need for caution in this area.

I agree that reform of the laws governing our nation's financial services industry would promote the public interest. However, I will veto the Financial Services Modernization Act if it is presented to me in its current form.

Sincerely,

BILL CLINTON.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, March 2, 1999.

Re the Financial Services Modernization Act and the Community Reinvestment Act.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The National Association for the Advancement of Colored People (NAACP), the nation's oldest and largest grassroots civil rights organization, strongly supports the Community Reinvestment Act (CRA) and opposes any attempts to weaken it. The CRA has been instrumental in the revitalization of literally tens of thousands of communities nationwide, and is an important tool in the NAACP's efforts to help people and communities achieve their goals at no cost to the taxpayer.

Through CRA, financial institutions are discovering that there are benefits to working in and with low to moderate income and minority communities. Since its enactment in 1977, CRA has helped lenders tap into previously unchartered areas and consequently they are learning what a viable, profitable market the low-moderate and minority communities are.

One example of a CRA success story would be the NAACP's Community Development and Resource Centers (CDRCs). The NAACP, working together with NationsBank, opened our first CDRC in 1992 in part to help NationsBank comply with CRA. Since that time, NAACP–CDRCs have made mortgage, consumer and small business loan referrals amounting to over $100 million, and more than 10,000 individuals and businesses have received counseling or technical assistance through CRDCs.

Due to the vital role the banking industry plays in the success or failure of every American neighborhood, CRA is a necessary tool for the sustained economic development of our nation. Thus the NAACP urges you, in the strongest terms possible, to oppose any amendments or bills that would in any way weaken the effectiveness of CRA. The NAACP also urges you, again in the strongest terms possible, to support any move to expand or modernize CRA as the financial services industry is allowed to change and grow. By not including CRA in any restructuring of the financial services industry, you would effectively be denying whole communities access to much-needed mortgages, consumer or small business loans, or basic financial assistance.

I hope that you will feel free to contact me if you have any questions regarding the NAACP position on CRA, or if there is any way that I can work with you to ensure that CRA is allowed to continue to prosper and provide assistance to people and communities across the nation.

Sincerely,

HILARY O. SHELTON,
Director.

Mr. BRYAN. I note that the distinguished chairman wants to speak. The Senator from Nevada would like to get 5 to 6 minutes at some point, if that can be accommodated.

Mr. GRAMM. Mr. President, under the unanimous consent request, I was to be recognized next.

I suggest we let Senator MACK speak for 4 minutes, have the distinguished Senator from Nevada speak for 4 minutes, and then I will speak for 4 minutes and we will be through. Would that work?

Mr. BRYAN. That is fine.

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

The Senator from Florida.

Mr. MACK. Mr. President, I thank Senator GRAMM and the other Members on the floor for this time. I will be brief.

I have spoken on this issue throughout my time in the Senate serving on the Banking Committee which now is into its 11th year. I also make these comments from the perspective of an individual who was president of a small bank in southwest Florida for 5 years out of a 16-year banking career.

One would think, listening to the comments that have been made by the distinguished Senator from Maryland, that we were proposing to repeal CRA. We are not proposing that at all. There may be Members who want to do that, but that is not what the issue is about. The issue is about regulatory overkill.

This little bank that I was president of had about $60 million in assets—very small bank—in a community that was developed, one of these Florida developments, that began in the late 1950s. To suggest that this small community bank in a very well-defined and confined market was not providing resources to that market is just absurd. If we did not lend money into that market, we would, in fact, have gone broke. So all I am suggesting is the amendment being proposed here is being sold as if we were trying to repeal CRA. The information I have is with the committee position: Only 2.8 percent of the total assets of the banking industry in America are affected by this carve-out, 2.8 percent. There were 16,000 banks audited over a 9-year period and only three of those banks—I am talking about small banks now—only three of those banks were found to be significantly out of compliance.

Small banks in America need some regulatory relief. That is all we are suggesting here. Again, my experience was this little bank of $60 million in assets had to assign one individual whose job it was to put pins into a map in our market showing where we had made real estate loans. That is all we had to do. But I had to assign one person to do that. She had to put programs into effect in the bank to make sure we were complying with lending to our community. It was the only place we could have loaned.

So the idea that we needed to have the Community Reinvestment Act for my bank and for small community banks is absurd. I ask my colleagues to reject the amendment and to support the committee position.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the chairman for accommodating me and allowing me to speak for 4 minutes.

Let me say we had much debate and much discussion. There are amendments on bills that come and go. They really do not impact the overall outcome. This amendment is the most important amendment that will be considered in this debate. If the Bryan amendment loses, we convert what can be a bipartisan effort to get this legislation, which I strongly support and supported in the last Congress—and it becomes immediately a partisan vote, and that legislation has no chance in that form of becoming law. Whatever

one's view is on CRA, and I understand we have widely different views, I respectfully submit this is not the vehicle to make this the issue. If, as the distinguished chairman and others have said, CRA needs to be revisited, let's do so in the context of some type of other legislation that is presently before the Banking Committee. We have had no hearings at all on this.

The Bryan amendment does two very simple things. One, it retains the current CRA provisions, including those provisions which relate to small banks that eliminate their need to even file a report. All they have to do is to point for the bank examiner and say the records are in the file cabinet. They need do no more. So this is not, in my judgment, an onerous burden.

And with respect to the new services that we permit banks to participate in, if Secretary Rubin and other experts who are looking at the banking field are correct, that is the wave of the future. If we do not require CRA as the condition of availing oneself of these new financial services, securities and insurance, in effect we marginalize and relegate CRA to a much lesser role.

What is accomplished? Hundreds of millions of dollars have been invested in the inner cities in our country. Thousands of minority businesses have had an opportunity to participate, which they would not otherwise have gotten, and home ownership opportunities have expanded for literally millions of Americans. It would seem to me those are the kind of issues we can agree on—Democrats, Republicans, conservatives and liberals. CRA has accomplished much.

We have gone through this before. A year ago, we nearly got a bill. It passed by a bipartisan majority in the House, with virtually the identical provisions that relate to CRA as contained in the Bryan amendment. It passed 16 to 2 out of the Banking Committee in this session of Congress; in the House Banking Committee by a vote of 51 to 8. This legislation has progressed with, again, virtually the identical provisions as it relates to CRA that the Bryan amendment contains.

So why are we going through this? The protagonists, the bankers, the insurance companies and the securities industry, do not oppose this legislation. We are going through this because our able chairman, whom we all greatly respect, says he needs leverage in dealing with the House. The last time I looked at the record of the composition of the House, the Republican Party was in the majority. Among its leaders were people such as TOM DELAY and DICK ARMEY, not exactly what you would call liberal exponents, bleeding-heart types.

It seems to me the argument that we need leverage makes no sense at all.

Finally, let me say this may be the only opportunity in this Congress to vote on a civil rights amendment, a process that has worked well and has served the nation well. It is not objected to by those who are struggling to reach the compromises on this piece of legislation. We should enact the Bryan amendment and move forward and get this bill over to the House, get it to conference and signed into law by the President. We have that opportunity only if the Bryan amendment prevails.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Texas.

Mr. GRAMM. Mr. President, this has been a long debate and I think a good debate. Rather than trying to go back and answer specific points that have been made, and correct statements, let me just try to cut to the heart of this. This is not about banks, even though the Independent Bankers, the American Bankers Association, the Bankers Roundtable oppose this amendment and support the underlying bill.

This is not about insurance companies. This is not about securities companies. This is about right and wrong. I have presented today, from redacted agreements, secret agreements that have been entered into by community groups and banks, three examples, the only three we have, where over and over again community groups are paid cash payments in return for them withdrawing objections which they have made to banks taking specific action, or where they have agreed not to raise an objection.

So the first thing we are trying to do is bring integrity to the process by preventing people, in essence, from paying witnesses. How do we try to do that? We try to do it in the following way: If you are a bank and you have an excellent CRA record, you have been in compliance for three audits in a row and you are in compliance now—we do not in any way limit the ability of anybody to object to that bank doing what it has a right to do under law—all we are saying is you are innocent until proven guilty if you have a long record of compliance. If you are going to come in and prevent a bank from taking an action they have earned the right to do based on audits on community lending, and you come in and say they are racists, or they are loan sharks, that is not enough. What we require is you present substantial evidence.

How is that defined? The Supreme Court defines substantial evidence as ''more than a mere scintilla . . . such relevant evidence as a reasonable mind might accept as adequate to support a claim.''

That is not a high standard. That is simply a credibility standard. And all over America—we have professional protesters in Boston who are protesting bank mergers in Illinois. What do they have to do with community lending in Illinois? Nothing. But they file a protest. The bank is deathly afraid of being held up in its merger, for example. Obviously, they do not want to be called bad names by people who are professionals at calling people bad names. So they end up paying these groups cash. That is not right.

This is an issue of right and wrong. The second issue is the issue relating to small banks. Little banks in rural communities in total hold only 2 percent of the assets of banks, but in 16,300 audits of these banks, each one of them on average cost the bank $80,000 to comply with. They found three banks in 9 years that are substantially out of compliance. They made these little banks pay $1.3 billion to find three bad actors. And little banks all over America are threatened by this regulatory burden. So we exempt them from it.

Mr. President, 44 percent of the enforcement effort is going to banks with 2.8 percent of the capital. Take that enforcement effort and put it where the money is and you will get more community lending, not less.

Finally, it is not as if the Sarbanes amendment simply strikes our provisions. But the Sarbanes amendment is the largest expansion of CRA in American history.

It would impose a million-dollar-a-day fine on bank officers and board members if they fell out of compliance. The American Bankers Association and the Independent Bankers Association have urged us not to do this, because they will not be able to get board members to serve and they will not be able to hire officers if they have to buy insurance to potentially pay a million-dollar-a-day fine if they fall out of compliance with this regulation.

What is the justification for this regulatory overkill when you have had three cases of substantial noncompliance out of 16,300 audits over 9 years? What is wrong with this picture?

What is wrong with the picture is, sadly, that many of our Democrat colleagues have decided, even though the spokesman for CRA testifying before our committee said, yes, there are abuses and, yes, they hurt the process and, yes, there is what they call green mail. Most people call it blackmail. But our colleagues have taken the extreme position that not only will they not address these abuses, they are going to vastly expand this to insurance, to securities and, with these million-dollar-a-day fines, producing a situation where every abuse we are concerned about today is going to be greatly expanded.

I urge our Democrat colleagues, if you support CRA, to help us bring an end to these abuses. If you support CRA, end the regulatory paperwork burden overkill so we can focus in this law on the real problem. While groups claim we are endangering CRA, it is those who will not fix clear wrongs that scream out that endanger it.

Mr. President, I move to table the pending amendment and ask for the yeas and the nays.

The PRESIDING OFFICER (Mr. BROWNBACK). 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. 303. 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. REID. I announce that the Senator from New Jersey (Mr. LAUTENBERG) is necessarily absent.

I also announce that the Senator from Louisiana (Ms. LANDRIEU) is absent attending a funeral.

I further announce that, if present and voting, the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Louisiana (Ms. LANDRIEU) would each vote ''no.''

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—52

Abraham	Frist	Murkowski
Allard	Gorton	Nickles
Ashcroft	Gramm	Roberts
Bennett	Grams	Roth
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Stevens
Collins	Inhofe	Thomas
Coverdell	Kyl	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
DeWine	Mack	Warner
Domenici	McCain	
Enzi	McConnell	

NAYS—45

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Jeffords	Robb
Byrd	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerrey	Schumer
Daschle	Kerry	Specter
Dodd	Kohl	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Landrieu Lautenberg

The motion was agreed to.

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

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

The motion to table was agreed to.

Mr. BUNNING. Mr. President, I rise today in support of S. 900, which will modernize our financial services laws.

If our financial industries are going to be able to compete in the world market in the next century, we must modernize our depression-era banking laws.

The next century is almost here. We all talk about a Y2K problem. What about the antique banking law problem? Entering the new century with antiquated banking laws would be foolhardy. We have to reform our financial service system.

Most of the financial services and bank laws that are on the books today are based on the Glass-Steagall Act, legislation passed in 1935, over 60 years ago!

The world has changed a great deal since then, and it is going to change further and faster as we move into the 21st century. We need to update our outdated laws to account for this change and to give flexibility to American companies.

At the same time, we must make sure that any bill we pass treats all the segments of the financial industry fairly, and that there is a level playing field for all of the groups involved.

If history is any indication, any new law we pass will be with us for a long time, so we had better get it right.

We've been working to get it right for a long time. Eleven years ago, when I was a member of the House Banking Committee, we were able to report a financial services modernization bill to the floor.

Last year the House passed a bill and the Senate was able to pass a bill out of committee.

As a Member of the House last year, I supported the bill that passed by one vote in the House. It wasn't perfect. There were things I would have liked to change.

But I believed at the time that we couldn't allow the search for perfection to block real progress.

That's even more true this year.

We can talk about banking reform—and negotiate issues—for another twelve years—and we won't ever be able to make everyone totally happy.

There are too many competing interests and too much complexity is involved in the rapidly changing financial services industry for us ever to find a regulatory framework that will completely satisfy all of the players involved.

It's not going to happen.

At some point, we just have to do the best we can and move ahead. I'm convinced we have reached that point now—we should pass this bill.

Fortunately, the bill our committee approved this year is even better than the bills we considered last year. Chairman GRAMM and his staff did a good job—the committee did a good job.

It is time to move ahead.

We should pass a clean bill quickly and send a message to the other body that we are serious about financial services reform.

This bill has many important provisions. And I'm not going to talk about them all, but I would like to mention one issue in particular.

The one issue my bankers bring up every time they come to visit is Community Reinvestment Act or CRA reform.

I am very pleased the chairman has agreed to put CRA provisions in the bill and that we were able to pass Senator SHELBY's amendment in committee that will provide CRA relief, especially to small banks in my State and across the Nation.

Senator SHELBY's amendment will exempt 154 small banks in Kentucky from Federal CRA burdens.

These banks have always invested in the community. That is where their business is. A bank in Clinton, Kentucky does not lend in Louisville or Lexington, it lends in Clinton.

I have a letter from Robert Black, president and CEO of the Clinton Bank. Mr. Black says: ''We were using good CRA practices long before the burdensome regulation was passed. This regulation is now requiring much of our time preparing documentation and placing pins in a map just to prove that we made loans in every community.''

I should mention that Clinton, Kentucky was not named after Bill Clinton.

I would also like to read a passage from a letter from E.L. Williams, president of the Citizens Deposit Bank of Arlington, in Arlington Kentucky.

Mr. Williams states: ''In our opinion, the time and money afforded to CRA compliance in small banks could be used to a much greater advantage, such as lending and assisting the low to moderate income population for which the CRA was originally implemented.''

These small banks will lend in their own communities with or without CRA. They don't need Federal regulators breathing down their necks to make sure they are doing what they would be doing anyway.

I would personally like to see even greater reform of CRA—across the board—but our small banks really need and deserve relief and this bill provides it.

In closing, Mr. President, I repeat that this bill is not perfect. But it is a dramatic improvement over the antique financial laws we are operating under now and it is a dramatic improvement over the Sarbanes substitute.

We must enter the 21st century ready to compete and this bill will make that possible.

It is a good bill—I urge my colleagues to support it.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 4, 1999, the federal debt stood at $5,563,049,386,516.94 (Five trillion, five hundred sixty-three billion, forty-nine million, three hundred eighty-six thousand, five hundred sixteen dollars and ninety-four cents).

One year ago, May 4, 1998, the federal debt stood at $5,477,263,000,000 (Five trillion, four hundred seventy-seven billion, two hundred sixty-three million).

Five years ago, May 4, 1994, the federal debt stood at $4,572,995,000,000 (Four trillion, five hundred seventy-two billion, nine hundred ninety-five million).

Ten years ago, May 4, 1989, the federal debt stood at $2,770,422,000,000 (Two trillion, seven hundred seventy billion, four hundred twenty-two million).

Fifteen years ago, May 4, 1984, the federal debt stood at $1,489,259,000,000 (One trillion, four hundred eighty-nine billion, two hundred fifty-nine million)

which reflects a debt increase of more than $4 trillion—$4,073,790,386,516.94 (Four trillion, seventy-three billion, seven hundred ninety million, three hundred eighty-six thousand, five hundred sixteen dollars and ninety-four cents) during the past 15 years.

CINCO DE MAYO

Mr. DOMENICI. Mr. President, today, May 5, or ''Cinco de Mayo,'' marks an important holiday for Mexicans and Mexican-Americans alike, and it will be observed with celebrations and festivities across the United States. Contrary to a popular misconception, Cinco de Mayo does not commemorate Mexico's independence from Spain. That holiday is celebrated on September 16. Instead, Cinco de Mayo marks the victory in 1862 of the Mexican army over a larger, better armed and better trained invading French army at La Batalla de Puebla.

After gaining independence in 1821, Mexico endured a series of set backs while trying to establish a republic. By the late 1850s, Mexico was in the grips of a severe economic crisis, and the treasury was bankrupt. In 1861, President Benito Juarez placed a moratorium halting payments on foreign debt. Since much of Mexico's debt was owed to France, Napoleon III responded by invading Mexico. After landing in the port of Veracruz, the French army, which was considered the finest military force of the period, expected to march through the country and easily capture the capital, Mexico City. However, a small Mexican army, under the command of General Ignacio Zaragosa, mounted a strong defense at the town of Pueblo and routed the invading force.

The stunning victory was short-lived, though. The French returned with reinforcements and were able to defeat Mexican forces the following year. But they were only able to control Mexico for four years, and President Juarez regained power in 1867.

Although, in the end, La Batalla de Puebla had little lasting military significance, it was, culturally, a watershed event for the fledging nation, and for Latin America as a whole. After seeing Europe's best army routed by a hastily gathered and largely untrained Mexican defense, European leaders became more wary of exerting military force in the Americans. Europe never sent another invading force to the Americas after this episode.

The victory at Puebla also instilled a great sense of pride and patriotism in the people of Mexico. They proved their military mettle to themselves and the world, and their government, led by President Juarez, secured legitimacy in the eyes of other nations.

Finally, La Batalla de Puebla asserted the right of people living in former European colonies to self determination and national sovereignty, and it unified all the citizens of Mexico, from landowners to laborers, in a common cause. It marks the point when people stopped seeing themselves as subjects of monarchy in a distant land or restricted their loyalty to a particular state or region, but instead viewed themselves as citizens of a new nation, a nation united under the green, white and red colors of the Mexican flag.

Much has been said in recent years about the ''commercialization'' of Cino de Mayo, and it is true that importance of this holiday often has been overlooked. However, to most Mexican-Americans, or Chicanos, Cinco de Mayo has a special meaning. Many scholars believe La Batalla de Puebla produced the first military hero from the American Southwestern region in General Ignacio Zaragosa, who was born in Texas. The holiday has long been a lesson in overcoming great odds through determination and unity. Today, Cinco de Mayo is an occasion for people of Mexican descent to come together to express pride in their history, and I encourage all Americans to enjoy this opportunity to celebrate and appreciate the contributions of Mexican culture.

RUMORS OF NURSING HOME BANKRUPTCY

Mr. GRASSLEY. Mr. President, I serve as chairman of the Senate Aging Subcommittee and I feel a necessity to inform my colleagues about the issue of rumors about the pending bankruptcy of some nursing home chains in the United States.

There are reports in the press, and in discussions with my colleagues I have received information, indicating that one and possibly two large nursing home chains may be facing bankruptcy in the near future. That has an economic side and it has a human side. I will speak first about the human side.

Should one or both of these nursing home chains go bankrupt, we would have an immediate challenge to ensure the continued care of somewhere between 35,000 residents, on the one hand, and 70,000, on the other, in these respective homes where they are currently under care. This would be a significant task. Nursing home residents are frail and are not easily moved. Moving them runs the risk of causing ''transfer trauma,'' a condition that can result in death. Therefore, it is critical that we keep focused on preventing avoidable harm and take precautions to prevent this from happening.

I have introduced legislation to ensure that the quality of patient care is monitored if there would be bankruptcy. My legislation requires the appointment of an ombudsman to act as an advocate for the patient. This change will ensure that bankruptcy judges are fully aware of all the facts when they guide a health care provider through the process of bankruptcy. Prior to a chapter 11 filing, or immediately thereafter, the debtor employs a health care crisis consultant to help it in its reorganization effort. The first step is usually cutting costs. Sometimes this step may result in a lower quality of care for the patients who live there. The appointment, then, of an ombudsman, should balance the interests between the creditor and the patient. These interests need balancing because the court-appointed officials owe fiduciary duties to creditors and the estate but not necessarily to the patients.

There will be occasions which illustrate that what may be in the best interest of creditors may not always be consistent with the patients' best interest. The trustee's interest, for example, is to maximize the amount of the estate to pay off the creditors. The more assets the trustee disburses, the more his payment will be. On the other hand, the ombudsman for the patient is designed to ensure continued quality of care at least above some minimum standards. Such quality of care standards currently exist throughout the health care environment, from the health care facility itself to State standards and even Federal standards that were adopted in 1987.

I would like to have my colleagues consider the following excerpt from the Los Angeles Times on September 28, 1997, which describes the unconscionable, pathetic, and traumatizing consequences of a sudden nursing home closing because of bankruptcy:

> It could not be determined Saturday how many more elderly or chronically ill patients may be affected by the health care company's financial problems. Those at the Reseda Care Center in the San Fernando Valley, including a 106-year-old woman, were rolled into the streets late Friday in wheelchairs and on hospital beds, bundled in blankets as relatives scurried to gather up clothes and other personal belongings.

The presence of an ombudsman should help prevent a recurrence of instances similar to what I just described, where trustees quickly close health care facilities without notifying appropriate state and federal agencies and without notifying the bankruptcy court.

I began discussions with the Health Care Financing Administration at the beginning of April to urge them to take seriously the rumors we were hearing about possible nursing home bankruptcies and to encourage them to make preparations. I called for contingency plans that would prepare, well in advance, for the daunting challenges bankruptcies would pose to various federal and state agencies. HCFA briefed the staff of the Aging Committee, as well as staff from the Finance Committee and Budget Committee. While the HCFA staff appreciated the severity and size of the problem of ensuring resident safety in the event of a bankruptcy, they did not have a plan—or even a plan for a plan.

I wrote to the HCFA Administrator urging her to take the effort very seriously, to keep at the planning and to stay in touch with my office. Only on April 28th did I hear from her office

that we could expect to see the plan in the next two weeks. That is why I wrote to her again on April 29, to tell her to get on with the effort and to let me and interested Members know of the plan to ensure that the people in the affected nursing homes will be protected.

Once we are assured that residents will be safe we can turn to the financial part of the bankruptcies. Now I will address these financial issues.

Before we take any action involving the taxpayers' hard-earned dollars, we should ask, and get solid answers to, some critical questions.

The first is this: if the rumors of financial distress are true, how is it that some providers are in such distress while others seem not to be? What factors have put certain companies at particular risk? The answer to that question will go a long way to help us know what kind of response their situation demands.

At this point, I'd like to make an observation about the Medicare element of this situation.

This is in response to the one excuse you are going to find from some of these changes why something ought to be done in the balanced budget amendment of 1997.

A Prospective Payment System (PPS) for Skilled Nursing Facilities was mandated by the Balanced Budget Act of 1997 (BBA). Some argue that, comparing CBO's 1997 baseline with its 1999 baseline, Medicare has saved $7 billion more than originally anticipated, and that this pushed these companies over the edge.

But we need to ask whether or not it did.

CBO has recently clarified its baselines, explaining that the alleged difference between the two baselines comes from an apples-to-oranges comparison: the 1997 baseline included Part B spending on patients in these facilities, while the 1999 baseline does not. When apples are compared to apples, CBO tells us, the Medicare Part A baseline for Skilled Nursing Facilities has decreased by only $200 million over 5 years—not by the $7 billion that we are hearing. Of course this doesn't tell us what is going on in the real world—it only tells us that the discussion should not be about CBO's baselines, it should be about what is really going on out there.

And that is what we need to find out.

Next, questions have been raised by shareholders, in class action suits against the management of these companies, about the competence and effectiveness of the management of these two companies. Did these companies try to grow too large, too fast? Did they take on more debt than they could manage? Was their business strategy flawed? A host of questions need to be answered about the internal operation of these companies—to see if they were being well run—before we assume that more taxpayer dollars will fix the problem. Otherwise we could wind up subsidizing the mistakes of well compensated executives.

These are serious questions that should be answered by the committees of this body. We should make full use of the evaluators who work for Congress. And the Administration should devote some effort to the inquiry as well. We need to understand the problem before we propose a solution.

Yet, some solutions are being presumed, and they are being presumed based on that apples-to-oranges comparison which says there has been $7 billion more saved from Medicare than was anticipated in the 1997 balanced budget amendment. We should make haste to get these answers, and not rush blindly into what could otherwise be a thoughtless bailout.

COMMENDING THE EFFORTS OF THE REVEREND JESSE JACKSON

Mr. DORGAN. Mr. President, I would like to take this opportunity to join all Americans in expressing my profound relief at the safe return of Sergeant Andrew Ramirez, Sergeant Christopher Stone, and Specialist Steven Gonzales from captivity in the Federal Republic of Yugoslavia.

I was necessarily absent from the Senate this morning in order to attend a technology conference in my home State of North Dakota. Had I been present, I would have gladly joined 92 of my colleagues in commending the Reverend Jesse Jackson, and the delegation of religious and political leaders he led, for their instrumental efforts in securing the release of these three Americans. A grateful nation owes them its gratitude.

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 appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 118. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

H.R. 459. An act to extend the deadline under the Federal Power Act for FERC Project No. 9401, the Mt. Hope Waterpower Project.

H.R. 509. An act to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property.

H.R. 510. An act to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest.

H.R. 560. An act to designate the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the ''Jose V. Toledo Federal Building and United States Courthouse.''

H.R. 686. An act to designate a United States courthouse in Brownsville, Texas, as the ''Garza-Vela United States Courthouse.''

H.R. 1121. An act to designate the Federal building and United States courthouse located at 18 Greenville Street in Newnan, Georgia, as the ''Lewis R. Morgan Federal Building and United States Courthouse.''

H.R. 1162. An act to designate the bridge on United States Route 231 that crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, as the ''William H. Natcher Bridge.''

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 84. Concurrent resolution urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act.

H. Con. Res. 88. Concurrent resolution urging the Congress and the President to increase funding for the Pell Grant Program and existing Campus-Based Aid Programs.

The message further announced that pursuant to the provisions of section 503(b)(3) of the National Skill Standards Act of 1994 (20 U.S.C. 5933) and upon the recommendation of the Minority Leader, the Speaker reappoints the following members to the National Skill Standards Board on the part of the House for a four-year term: Ms. Carolyn Warner of Phoenix, Arizona and Mr. George Bliss of Washington, D.C.

The message also announced that pursuant to section 2(b) of Public Law 98–183 and upon the recommendation of the Minority Leader, the Speaker appoints the following member to the Commission on Civil Rights on the part of the House, effective May 4, 1999, to fill the existing vacancy thereon: Mr. Christopher F. Edley, Jr. of Cambridge, Massachusetts.

The message further announced that the House has passed the following bills, without amendment:

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 Michigan Street in South Bend, Indiana, as the ''Rock K. Rodibaugh United States Bankruptcy Courthouse.''

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 118. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building''; to the Committee on Environmental and Public Works.

H.R. 459. An act to extend the deadline under the Federal Power Act for FERC Project No. 9401, the Mt. Hope Waterpower Project; to the Committee on Energy and Natural Resources.

H.R. 560. An act the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the ''Jose V. Toledo Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 686. An act to designate a United States courthouse in Brownsville, Texas, as the ''Garza-Vela United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 1121. An act to designate the Federal Building and United States courthouse located at 18 Greenville Street in Newnan, Georgia, as the ''Lewis R. Morgan Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 1162. An act to designate the bridge on United States Route 231 that crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana as the ''William H. Hatcher Bridge''; to the Committee on Environment and Public Works.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 84. Concurrent resolution urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 88. Concurrent resolution urging the Congress and the President to increase funding for the Pell Grant Program and existing Campus-Based Aid Programs; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times and placed on the calendar:

H.R. 509. An act to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property.

H.R. 510. An act to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest.

H.R. 1480. An act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United Sates, and for other purposes.

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–2850. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of expenditures for the period April 1, 1998 through September 30, 1998; to the Committee on Appropriations.

EC–2851. A communication from the Chief Financial Officer and Plan Administrator, Production Credit Association Retirement Committee, First South Production Credit Association, transmitting, pursuant to law, the annual pension plan report for calendar year 1998; to the Committee on Governmental Affairs.

EC–2852. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Change in Survey Cycle for the Southwestern Michigan Appropriated Fund Wage Area'' (RIN3206–A168), received on April 30, 1999; to the Committee on Governmental Affairs.

EC–2853. A communication from the Director, Office of Insurance Programs, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Federal Employees' Group Life Insurance Program; New Premiums'' (RIN3206–A154), received on April 30, 1999; to the Committee on Governmental Affairs.

EC–2854. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation relative to the Wilderness Battlefield; to the Committee on Energy and Natural Resources.

EC–2855. A communication from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Claims and Effective Dates for the Award of Educational Assistance'' (RIN2900–AH76), received on May 3, 1999; to the Committee on Veterans Affairs.

EC–2856. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Additional Authorization to Issue Certification for Foreign Health Care Workers'' (RIN115–AF43), received on May 2, 1999; to the Committee on the Judiciary.

EC–2857. A Communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to workforce reductions for fiscal year 1999; to the Committee on Armed Services.

EC–2858. A Communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to a retirement; to the Committee on Armed Services.

EC–2859. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation relative to various management concerns; to the Committee on Armed Services.

EC–2860. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation relative to various management concerns; to the Committee on Armed Services.

EC–2861. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a report relative to the fiscal year 1999 National Defense Authorization Act; to the Committee on Armed Services.

EC–2862. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report relative to the Patriot PAC–3 major defense acquisition program; to the Committee on Armed Services.

EC–2863. A communication from the Under Secretary of the Navy, transmitting, pursuant to law, a report relative to a decision to study certain functions for possible performance by private contractors; to the Committee on Armed Services.

EC–2864. A communication from the Alternate Office of the Secretary of Defense Federal Register Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''OSD Privacy Program'', received April 27, 1999; to the Committee on Armed Services.

EC–2865. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Form BDW and related rules 15b1–1, 15b3–1, 15b6–1, 15Ba2–2, 15Bc3–1, 15Ca1–1 and 15Cc1–1 under the Securities and Exchange Act of 1934'' (RIN3235–AG69), received May 3, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–2866. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation relative to a nonprofit education foundation; to the Committee on Indian Affairs.

EC–2867. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to amending the Packers and Stockyards Act of 1921; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2868. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Peanut Production, Research and Information Order; Referendum Procedures'' (Docket No. FV–98–703–FR), received on April 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2869. 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 ''Temporary Assistance for Needy Families'' (RIN0970–AB77), received on April 22, 1999; to the Committee on Finance.

EC–2870. A communication from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting, pursuant to law, the 1999 annual report; to the Committee on Finance.

EC–2871. A communication from the Board of Trustees, Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, the 1999 annual report; to the Committee on Finance.

EC–2872. A communication from the Board of Trustees, Federal Supplementary Medical Insurance Trust Fund, transmitting, pursuant to law, the 1999 annual report; to the Committee on Finance.

EC–2873. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Medicare program; to the Committee on Finance.

EC–2874. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Medicare prospective payment system; to the Committee on Finance.

EC–2875. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Chiropractic Services in Medicare HMOs and Medicare+Choice (M+C) Organizations''; to the Committee on Finance.

EC–2876. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Medicare Alzheimer's Disease Demonstration Evaluation''; to the Committee on Finance.

EC–2877. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Early Implementation of the Welfare-to-Work Grants Program''; to the Committee on Finance.

EC–2878. A communication from the Assistant Secretary for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Child Support Enforcement Program; Grants to States for Access and Visitation Programs: Monitoring, Evaluation, and Reporting'' (RIN0970–AB72); to the Committee on Finance.

EC–2879. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice of Significant Reduction in the Rate of Future Benefit Accrual'' (RIN1545–AT78), received on April 22, 1999; to the Committee on Finance.

EC–2880. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Announcement 99–40'', received on April 6, 1999; to the Committee on Finance.

EC–2881. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 99–18'', received on April 9, 1999; to the Committee on Finance.

EC–2882. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 99–18'', received on April 6, 1999; to the Committee on Finance.

EC–2883. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 99–23'', received on April 6, 1999; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. MCCAIN, for the Committee on Commerce, Science, and Transportation:

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, 0602

Captain Evelyn J. Fields, NOAA for appointment to the grade of Rear Admiral (O–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 (O–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 reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably the following nomination lists which were printed in the RECORDS of March 8, 1999 and April 15, 1999, at the end of the Senate proceedings, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

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 nomination 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 nomination 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.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. KERRY, Mr. INOUYE, Mr. BREAUX, Mr. KENNEDY, Mrs. BOXER, Mr. BIDEN, Mr. LAUTENBERG, Mr. AKAKA, Mr. MURKOWSKI, Mr. THURMOND, Mrs. MURRAY, Mr. CLELAND, and Mr. WYDEN):

S. 959. A bill to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 960. A bill to amend the Older Americans Act of 1965 to establish pension counseling programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURNS (for himself, Mr. CRAIG, Mr. BAUCUS, Mr. DASCHLE, Mr. KERREY, and Mr. JOHNSON):

S. 961. A bill to amend the Consolidated Farm And Rural Development Act to improve shared appreciation arrangements; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Mr. DODD):

S. 962. A bill to allow a deduction from gross income for year 2000 computer conversion costs of small businesses; to the Committee on Finance.

By Mr. GREGG:

S. 963. A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE:

S. 964. A bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. JEFFORDS (for himself, Ms. SNOWE, Mr. LEAHY, Mrs. MURRAY, and Mr. DURBIN):

S. 965. A bill to restore a United States voluntary contribution to the United Nations Population Fund; to the Committee on Foreign Relations.

By Mr. REID:

S. 966. A bill to require medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice, to protect employees of medicare providers who report concerns about the safety and quality of services provided by medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of medicare providers; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 967. A bill to provide a uniform national standard to ensure that consealed firearms are available only to authorized persons for lawful purposes; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. CLELAND, Mrs. LINCOLN, and Mr. ROBB):

S. 968. A bill to authorize the Administrator of the Environmental Protection Agency to make grants to State agencies with responsibility for water source development, for the purposes of maximizing the available water supply and protecting the environment through the development of alternative water sources, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ASHCROFT:

S. 969. A bill to amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to authorize schools to apply appropriate discipline measures in cases where students have weapons or threaten to harm others, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEAHY (for himself, Mr. FEINGOLD, Mr. REED, Mr. HARKIN, Mr. MCCONNELL, Mr. MOYNIHAN, and Mr. KOHL):

S. Res. 96. A resolution expressing the sense of the Senate regarding a peaceful process of self-determination in East Timor, and for other purposes; to the Committee on Foreign Relations.

By Mr. COVERDELL (for himself, Mr. FRIST, Mr. GORTON, Mr. LOTT, Mr. JEFFORDS, Mr. ABRAHAM, Mr. CRAIG, Mr. DOMENICI, Mr. COCHRAN, Mr. MACK, Mr. SMITH of Oregon, Ms. COLLINS, Mr. HATCH, Mr. LUGAR, Ms. SNOWE, Mr. GRAMS, Mr. CRAPO, Mr. KENNEDY, and Mr. WELLSTONE):

S. Res. 97. A resolution designating the week of May 2 through 8, 1999, as the 14th Annual Teacher Appreciation Week, and designating Tuesday, May 4, 1999, as National Teacher Day; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. KERRY, Mr. INOUYE, Mr. BREAUX, Mr. KENNEDY, Mrs. BOXER, Mr. BIDEN, Mr. LAUTENBERG, Mr. AKAKA, Mr. MURKOWSKI, Mr. THURMOND, Mrs. MURRAY, Mr. CLELAND, and Mr. WYDEN):

S. 959. A bill to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OCEANS ACT OF 1999

Mr. HOLLINGS. Mr. President, I rise today to introduce the Oceans Act of

1999, legislation that the Senate unanimously passed in November 1997. I am pleased to be joined in this endeavor by Senators STEVENS, KERRY, BREAUX, INOUYE, KENNEDY, BOXER, BIDEN, LAUTENBERG, AKAKA, MURKOWSKI, THURMOND, MURRAY, CLELAND, and WYDEN. Mr. President, plainly and simply, this bill calls for a plan of action for the twenty-first century to explore, protect, and use our oceans and coasts through the coming millennium.

This is not the first time we have faced the need for a national ocean policy. Three decades ago, our Nation roared into space, investing tens of billions of dollars to investigate the moon and the Sea of Tranquility. During that golden era of science, some of us also recognized the importance of exploring the seas on our own planet. In 1966, Congress enacted the Marine Resources and Engineering Development Act in order to define national objectives and programs with respect to the oceans. That legislation laid the foundation for U.S. ocean and coastal policy and programs and has guided their development for three decades. I was elected to the Senate just three months after the 1966 Act was enacted into law, but I am pleased that both Senators INOUYE and KENNEDY, the two cosponsors of the 1966 Act still serving in the Senate, have agreed to join me today in introducing the Oceans Act.

One of the central elements of the 1966 Act was establishment of a presidential commission to develop a plan for national action in the oceans and atmosphere. Dr. Julius A. Stratton, a former president of the Massachusetts Institute of Technology and then-chairman of the Ford Foundation, led the Commission on an unprecedented, and since unrepeated, investigation of this nation's relationship with the oceans and the atmosphere. The Stratton Commission and its congressional advisors (including Senators Warren G. Magnuson and Norris Cotton) worked together in a bipartisan fashion. In fact, the Commission was established and carried out its mandate in the Democratic Administration of Lyndon Johnson and saw its findings implemented by the Republicans under President Richard Nixon. With a staff of 35 people, the commissioners hear and consulted over 1,000 people, visited every coastal area of this country, and submitted some 126 recommendations in a 1969 report to Congress entitled Our Nation and the Sea. Those recommendations led directly to the creation of the National Oceanic and Atmospheric Administration in 1970, laid the groundwork for enactment of the Coastal Zone Management Act (CZMA) in 1972, and established priorities for federal ocean activities that have guided this Nation for almost thirty years.

While the Stratton Commission performed its job with vision and integrity, the world has changed since 1966. Today, half of the U.S. population lives within 50 miles of our shores and more than 30 percent of the Gross Domestic Product is generated in the coastal zone. Ocean and coastal resources once considered inexhaustible are severely depleted, and wetlands and other marine habitats are threatened by pollution and human activities. In addition, the U.S. regulatory and legal framework has developed over the years with the passage of a number of statutes in addition to CZMA. These include the Endangered Species Act, the Marine Mammal Protection Act, the Marine Protection, Research, and Sanctuaries Act, the Magnuson-Stevens Fishery Conservation and Management Act, the Coastal Barrier Resources Act, and the Oil Pollution Act. It is time to conduct a review that looks at coordination and duplication of programs and policies developed under these laws.

Today people who work and live on the water face a patchwork of confusing and sometimes contradictory federal and state regulations. This bill would allow us to reduce conflicts while maintaining environmental and health safeguards. One illustration of the type of situation that must be corrected is the southeast shrimp trawl fishery. Shrimpers are required under the Endangered Species Act to use panels or grates (known as turtle excluder devices or TEDs) in their nets to protect endangered sea turtles. The panels also reduce catches of small fish (bycatch), a new requirement of the Magnuson-Stevens Act. Unfortunately, however, the government has approved one TED for turtle protection and another for bycatch reduction—forcing the fishermen to use two separate devices, cut two holes in their nets, and double their shrimp loss. Anyone who wonders about public interest in regulatory reform has only to talk to a McClellanville, SC shrimper.

The Oceans Act is vital to the continued health of the oceans and prosperity of our coasts. It is patterned after and would replace the 1966 Act. Like that Act, it is comprised of three major elements:

First, the bill calls for development and implementation of a coherent national ocean and coastal policy to conserve and sustainably use fisheries and other ocean and coastal resources, protect the marine environment and human safety, explore ocean frontiers, create marine technologies and economic opportunities, and preserve U.S. leadership on ocean and coastal issues.

Second, the bill would establish a 16-member Commission, similar to the Stratton Commission, to examine ocean and coastal activities and report within 18 months on recommendations for a national policy. Commission members would be drawn from State and local governments, industry, academic and technical institutions, and public interest organizations involved in ocean and coastal activities. In developing its recommendations, the Commission would assess federal programs and funding priorities, ocean-related infrastructure requirements, conflicts among marine users, and technological opportunities. The bill authorizes appropriations of $6 million over two years to support Commission activities; last year's Omnibus Appropriations bill included $3.5 million to fund such a Commission.

Third, the bill would create a high-level federal interagency Council that would include the heads of the Departments of Commerce, Navy, State, Transportation, and the Interior, the Environmental Protection Agency, the National Science Foundation, the Office of Science and Technology Policy, the Office of Management and Budget, the Council on Environmental Quality, and the National Economic Council. This Council would advise the President and serve as a forum for developing and implementing an ocean and coastal policy, provide for coordination of federal budgets and programs, and work with non-federal and international organizations.

By establishing an action plan for ocean and coastal activities, the Oceans Act should also contribute substantially to national goals and objectives in the areas of education and research, economic development, and public safety. With respect to education and research, our view of the oceans thirty years ago was based on a remarkably small amount of information. When Jack Kennedy was in the White House, we were just beginning to develop the capability for exploring the oceans, and the driving factor was the military need to hide our submarines from the Soviets during the Cold War. What we knew of the oceans at that time was based as much on what fishermen brought up in their nets as it was on reliable scientific investigation.

Nowhere is the need for U.S. leadership more evident than in the area of ocean exploration. Today, we still have explored only a tiny fraction of the sea, but with the use of new technologies what we have found is truly incredible. For example, hydrothermal vents, hot water geysers on the deep ocean floor, were discovered just 20 years ago by oceanographers trying to understand the formation of the earth's crust. Now this discovery had led to the identification of nearly 300 new types of marine animals with untold pharmaceutical and biomedical potential. In recent years, scientists from 19 nations have joined in an international partnership, headed by Admiral Watkins, to explore the history and structure of the Earth beneath the oceans basins. Their ship, the Resolution, is the world's largest scientific research vessel and can drill in water depths of up 8,200 meters. Over the past 12 years, it has recovered more than 115 miles of core samples through the world oceans. Recently ship scientists worked off the coast of South Carolina collecting new evidence of a large meteor that struck the Earth 65 million years ago, and is thought to have triggered climate change that may be linked to the disappearance of the dinosaurs.

Many of our marine research efforts could have profound impacts on our

economic well-being. For example, research on coastal ocean currents and other processes that affect shoreline erosion is critical to effective management of the shoreline. Oceanographers are working with federal, state, and local managers to use this new understanding in protecting beachfront property and the lives of those who reside and work in coastal communities. Development of underwater cameras and sonar, begun in the 1940s for the U.S. Navy, has led to major strides not only for military uses, but for marine archaeologists and scientists exploring unknown stretches of sea floor. Consumers have benefited from the technology now used in video cameras. Sonar has broad applications in both the military and commercial sector.

Finally, marine biotechnology research is thought to be one of the greatest remaining technological and industrial frontiers. Among the opportunities which it may offer are to: restore and protect marine ecosystems; monitor human health and treat disease; increase food supplies through aquaculture; enhance seafood safety and quality; provide new types and sources of industrial materials and processes; and understand biological and geochemical processes in the world ocean.

In addition to the economic opportunities offered by our marine research investment, traditional marine activities play an important role in our national economic outlook. Ninety-five percent of our international trade is shipped on the ocean. In 1996, commercial fishermen in the United States landed almost 10 billion pounds of fish with a value of $3.5 billion. Their fishing-related activities contributed over $42 billion to the U.S. economy. During the same period, marine anglers contributed another $20 billion. Travel and tourism also contribute over $700 billion to our economy, much of which is generated in coastal areas. With a sound national ocean and coastal policy and effective marine resource management, these numbers have nowhere to go but up.

With respect to public safety, it is particularly important to develop ocean and coastal priorities that reflect the changes we have seen in recent years. Before World War II, most of the U.S. shoreline was sparsely populated. There were long, wild stretches of coast, dotted with an occasional port city, fishing village, or sleepy resort. Most barrier islands had few residents or were uninhabited. After the war, people began pouring in, and coastal development began a period of explosive growth. In my state of South Carolina, our beaches attract millions of visitors every year, and more and more people are choosing to move to the coast—making the coastal counties the fastest growing ones in the state. Seventeen of the twenty fastest growing states in the nation are coastal states—which compounds the situation that the most densely populated regions already border the ocean. With population growth comes the demand for highways, shopping centers, schools, and sewers that permanently alter the landscape. If people are to continue to live and work on the coast, we must do a better job of planning how we impact the very regions in which we all want to live.

There is no better example of how our ocean and coastal policies affect public safety, than to look at the effects of hurricanes. Throughout the 1920s, hurricanes killed 2,122 Americans while causing about $1.8 billion in property damages. By contrast, in the first five years of the 1990s, hurricanes killed 111 Americans, and resulted in damages of about $35 billion. While we have made notable advances in early warning and evacuation systems to protect human lives, the risk of property loss continues to escalate and coastal inhabitants are more vulnerable to major storms than they ever have been. In 1989, Hurricane Hugo came ashore in South Carolina, leaving more than $6 billion in damages. Of that total from Hugo, the federal government paid out more than $2.8 billion in disaster assistance and more than $400 million from the National Flood Insurance Program. The payments from private insurance companies were equally staggering. In 1992, Hurricane Andrew struck southern Florida and slammed into low lying areas of Louisiana, forever changing the lives of more than a quarter of a million people and causing an estimated $25 to $30 billion dollars in damage. Hurricanes demonstrate that the human desire to live near the ocean and along the coast comes with both a responsibility and a cost.

The oceans are part of our culture, part of our heritage, part of our economy, and part of our future. Those who doubt the need for this legislation need only pick up a newspaper and they will be face to face with pressing ocean and coastal issues. And while our coastal waters are governed by the United States or all of us, beyond our waters progress relies primarily on international cooperation. There are no boundaries at sea, no national borders with fences and checkpoints. Deciding how to manage all these problems and use the seas is one of the most complicated tasks we can tackle.

Therefore, we need to be smart about ocean policy—we need the best minds to come together and take a look at what the real challenges are. It is not enough to sit back and assume the role of caretakers. We must be proactive and develop a plan for the future.

The United Nations declared 1998 to the be the Year of the Ocean in part to encourage governments and the pubic to pay adequate attention to the need to protect the marine environment and to ensure a healthy ocean. This is an unprecedented opportunity to follow up the Year of the Ocean activities by celebrating and enhancing what has been accomplished in understanding and managing our oceans.

The Stratton Commission stated in 1969: ''How fully and wisely the United States uses the sea in the decades ahead will affect profoundly its security, its economy, its ability to meet increasing demands for food and raw materials, its position and influence in the world community, and the quality of the environment in which its people live.'' Those words are as true today as they were 30 years ago.

Mr. President, it is time to look towards the next 30 years. This bill offers us the vision and understanding needed to establish sound ocean and coastal policies for the 21st century, and I thank the cosponsors of the legislation for joining with me in recognizing it significance. We look forward to working together in the bipartisan spirit of the Stratton Commission to enact legislation that ensures the development of an integrated national ocean and coastal policy well into the next millennium. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 959

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 ''Oceans Act of 1999''.

SEC. 2. CONGRESSIONAL FINDINGS; PURPOSE AND OBJECTIVES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Covering more than two-thirds of the Earth's surface, the oceans and Great Lakes play a critical role in the global water cycle and in regulating climate, sustain a large part of Earth's biodiversity, provide an important source of food and a wealth of other natural products, act as a frontier to scientific exploration, are critical to national security, and provide a vital means of transportation. The coasts, transition between land and open ocean, are regions of remarkable high biological productivity, contribute more than 30 percent of the Gross Domestic Product, and are of considerable importance for recreation, waste disposal, and mineral exploration.

(2) Ocean and coastal resources are susceptible to change as a direct and indirect result of human activities, and such changes can significantly impact the ability of the oceans and Great Lakes to provide the benefits upon which the Nation depends. Changes in ocean and coastal processes could affect global patterns, marine productivity and biodiversity, environmental quality, national security, economic competitiveness, availability of energy, vulnerability to natural hazards, and transportation safety and efficiency.

(3) Ocean and coastal resources are not infinite, and human pressure on them is increasing. One half of the Nation's population lives within 50 miles of the coast, ocean and coastal resources once considered inexhaustible are not threatened with depletion, and if population trends continue as expected, pressure on and conflicting demands for ocean and coastal resources will increase further as will vulnerability to coastal hazards.

(4) Marine transportation is key to United States participation in the global economy and to the wide range of activities carried

out in ocean and coastal regions. Inland waterway and ports are the link between marine activities in ocean and coastal regions and the supporting transportation infrastructure ashore. International trade is expected to triple by 2020. The increase has the potential to outgrow—

(A) the capabilities of the marine transportation system to ensure safety; and

(B) the existing capacity of ports and waterways.

(5) Marine technologies hold tremendous promise for expanding the range and increasing the utility of products from the oceans and Great Lakes, improving the stewardship of ocean and coastal resources, and contributing to business and manufacturing innovations and the creation of new jobs.

(6) Research has uncovered the link between oceanic and atmospheric processes and improved understanding of world climate patterns and forecasts. Important new advances, including availability of military technology have made feasible the exploration of large areas of the ocean which were inaccessible several years ago. In designating 1998 as ''The Year of the Ocean'', the United Nations high-lighted the value of increasing our knowledge of the oceans.

(7) It has been more than 30 years since the Commission on Marine Science, Engineering, and Resources (known as the Stratton Commission) conducted a comprehensive examination of ocean and coastal activities that led to enactment of major legislation and the establishment of key oceanic and atmospheric institutions.

(8) A review of existing activities is essential to respond to the changes that have occurred over the past three decades and to develop an effective new policy for the twenty-first century to conserve and use, in a sustainable manner, ocean and coastal resources, protect the marine environment, explore ocean frontiers, protect human safety, and create marine technologies and economic opportunities.

(9) Changes in United States laws and policies since the Stratton Commission, such as the enactment of the Coastal Zone Management Act, have increased the role of the States in the management of ocean and coastal resources.

(10) While significant Federal and State ocean and coastal programs are underway, those Federal programs would benefit from a coherent national ocean and coastal policy that reflects the need for cost-effective allocation of fiscal resources, improved interagency coordination, and strengthened partnerships with State, private, and international entities engaged in ocean and coastal activities.

(b) PURPOSE AND OBJECTIVES.—The purpose of this Act is to develop and maintain, consistent with the obligations of the United States under international law, a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities that will assist the Nation in meeting the following objectives:

(1) The protection of life and property against natural and manmade hazards.

(2) Responsible stewardship, including use, of fishery resources and other ocean and coastal resources.

(3) The protection of the marine environment and prevention of marine pollution.

(4) The enhancement of marine-related commerce and transportation, the resolution of conflicts among users of the marine environment, and the engagement of the private sector in innovative approaches for sustainable use of living marine resources.

(5) The expansion of human knowledge of the marine environment including the role of the oceans in climate and global environmental change and the advance of education and training in fields related to ocean and coastal activities.

(6) The continued investment in and development and improvement of the capabilities, performance, use, and efficiency of technologies for use in ocean and coastal activities.

(7) Close cooperation among all government agencies and departments to ensure—

(A) coherent regulation of ocean and coastal activities;

(B) availability and appropriate allocation of Federal funding, personnel, facilities, and equipment for such activities; and

(C) cost-effective and efficient operation of Federal departments, agencies, and programs involved in ocean and coastal activities.

(8) The enhancement of partnerships with State and local governments with respect to oceans and coastal activities, including the management of ocean and coastal resources and identification of appropriate opportunities for policy-making and decision-making at the State and local level.

(9) The preservation of the role of the United States as a leader in ocean and coastal activities, and, when it is in the national interest, the cooperation by the United States with other nations and international organizations in ocean and coastal activities.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term ''Commission'' means the Commission on Ocean Policy.

(2) The term ''Council'' means the National Ocean Council.

(3) The term ''marine environment'' includes—

(A) the oceans, including coastal and offshore waters and the adjacent shore lands;

(B) the continental shelf;

(C) the Great Lakes; and

(D) the ocean and coastal resources thereof.

(4) The term ''ocean and coastal activities'' includes activities related to oceanography, fisheries and other ocean and coastal resource stewardship and use, marine aquaculture, energy and mineral resource extraction, marine transportation, recreation and tourism, waste management, pollution mitigation and prevention, and natural hazard reduction.

(5) The term ''ocean and coastal resource'' means, with respect to the oceans, coasts, and Great Lakes, any living or non-living natural resource (including all forms of animal and plant life found in the marine environment, habitat, biodiversity, water quality, minerals, oil, and gas) and any significant historic, cultural or aesthetic resource.

(6) The term ''oceanography'' means scientific exploration, including marine scientific research, engineering, mapping, surveying, monitoring, assessment, and information management, of the oceans, coasts, and Great Lakes—

(A) to describe and advance understanding of—

(i) the role of the oceans, coasts and Great Lakes in weather and climate, natural hazards, and the processes that regulate the marine environment; and

(ii) the manner in which such role, processes, and environment are affected by human actions;

(B) for the conservation, management and stewardship of living and nonliving resources; and

(C) to develop and implement new technologies related to the environmentally sensitive use of the marine environment.

SEC. 4. NATIONAL OCEAN AND COASTAL POLICY.

(a) EXECUTIVE RESPONSIBILITIES.—The President, with the assistance of the Council and the advice of the Commission, shall—

(1) develop and maintain a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities consistent with obligations of the United States under international law; and

(2) with regard to Federal agencies and departments—

(A) review significant ocean and coastal activities, including plans, priorities, accomplishments, and infrastructure requirements;

(B) plan and implement an integrated and cost-effective program of ocean and coastal activities including, but not limited to, oceanography, stewardship of ocean and coastal resources, protection of the marine environment, maritime transportation safety and efficiency, marine recreation and tourism, and marine aspects of weather, climate, and natural hazards;

(C) designate responsibility for funding and conducting ocean and coastal activities; and

(D) ensure cooperation and resolve differences arising from laws and regulations applicable to ocean and coastal activities which result in conflicts among participants in such activities.

(b) COOPERATION AND CONSULTATION.—In carrying out responsibilities under this Act, the President may use such staff, interagency, and advisory arrangements as the President finds necessary and appropriate and shall consult with non-Federal organizations and individuals involved in ocean and coastal activities.

SEC. 5. NATIONAL OCEAN COUNCIL.

(a) ESTABLISHMENT.—The President shall establish a National Ocean Council and appoint a Chairman from among it members. The Council shall consist of—

(1) the Secretary of Commerce;

(2) the Secretary of Defense;

(3) the Secretary of State;

(4) the Secretary of Transportation;

(5) the Secretary of the Interior;

(6) the Attorney General;

(7) the Administrator of the Environmental Protection Agency;

(8) the Director of the National Science Foundation;

(9) the Director of the Office of Science and Technology Policy;

(10) the Chairman of the Council on Environmental Quality;

(11) the Chairman of the National Economic Council;

(12) the Director of the Office of Management and Budget; and

(13) such other Federal officers and officials as the President considers appropriate.

(b) ADMINISTRATION.—

(1) The President or the Chairman of the Council may from time to time designate one of the members of the Council to preside over meetings of the Council during the absence or unavailability of such Chairman.

(2) Each member of the Council may designate an officer of his or her agency or department appointed with the advice and consent of the Senate to serve on the Council as an alternate in the event of the unavoidable absence of such member.

(3) An executive secretary shall be appointed by the Chairman of the Council, with the approval of the Council. The executive secretary shall be a permanent employee of one of the agencies or departments represented on the Council and shall remain in the employ of such agency or department.

(4) For the purpose of carrying out the functions of the Council, each Federal agency or department represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(A) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

(B) undertaking, upon request of the Chairman of the Council, such special studies for the Council as are necessary to carry out its functions.

(5) The Chairman of the Council shall have the authority to make personnel decisions regarding any employees detailed to the Council.

(c) FUNCTIONS.—The Council shall—

(1) assist the Commission in completing its report under section 6;

(2) serve as the forum for developing an implementation plan for a national ocean and coastal policy and program, taking into consideration the Commission report;

(3) improve coordination and cooperation, and eliminate duplication, among Federal agencies and departments with respect to ocean and coastal activities; and

(4) assist the Presdient in the preparation of the first report required by section 7(a).

(d) SUNSET.—The Council shall cease to exist one year after the Commission has submitted its final report under section 6(h).

(e) SAVINGS PROVISION.—

(1) Council activities are not intended to supersede or interfere with other Executive Branch mechanisms and responsibilities.

(2) Nothing in this Act has any effect on the authority or responsbility of any Federal officer or agency under any other Federal law.

SEC. 6. COMMISSION ON OCEAN POLICY.

(A) ESTABLISHMENT.—

(1) IN GENERAL.—The President shall, within 90 days after the enactment of this Act, establish a Commission on Ocean Policy. The Commission shall be composed of 16 members including individuals drawn from State and local governments, industry, academic and technical institutions, and public interest organizations involved with ocean and coastal activities. Members shall be appointed for the life of the Commission as follows:

(A) 4 shall be appointed by the President of the United States.

(B) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Majority Leader of the Senate in consultation with the Chairman of the Senate Committee on Commerce, Science, and Transportation.

(C) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Speaker of the House of Representatives in consultation with the Chairman of the House Committee on Resources.

(D) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the Senate in consultation with the Ranking Member of the Senate Committee on Commerce, Science, and Transportation.

(E) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the House in consultation with the Ranking Member of the House Committee on Resources.

(2) FIRST MEETING.—The Commission shall hold its first meeting within 30 days after it is established.

(3) CHAIRMAN.—The President shall select a Chairman from among such 16 members. Before selecting the Chairman, the President is requested to consult with the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

(4) ADVISORY MEMBERS.—In addition, the Commission shall have 4 Members of Congress, who shall serve as advisory members. One of the advisory members shall be appointed by the Speaker of the House of Representatives. One of the advisory members shall be appointed by the minority leader of the House of Representatives. One of the advisory members shall be appointed by the majority leader of the Senate. One of the advisory members shall be appointed by the minority leader of the Senate. The advisory members shall not participate, except in an advisory capacity, in the formulation of the findings and recommendations of the Commission.

(b) FINDINGS AND RECOMMENDATIONS.—The Commission shall report to the President and the Congress on a comprehensive national ocean and coastal policy to carry out the purpose and objectives of this Act. In developing the findings and recommendations of the report, the Commission shall—

(1) review and suggest any necessary modifications to United States laws, regulations, and practices necessary to define and implement such policy, consistent with the obligations of the United States under international law;

(2) assess the condition and adequacy of investment in existing and planned facilities and equipment associated with ocean and coastal activities including human resources, vessels, computers, satellites, and other appropriate technologies and platforms;

(3) review existing and planned ocean and coastal activities of Federal agencies and departments, assess the contribution of such activities to development of an integrated long-range program for oceanography, ocean and coastal resource management, and protection of the marine environment, and identify any such activities in need of reform to improve efficiency and effectiveness;

(4) examine and suggest mechanisms to address the interrelationships among ocean and coastal activities, the legal and regulatory framework in which they occur, and their inter-connected and cumulative effects on the marine environment, ocean and coastal resources, and marine productivity and biodiversity;

(5) review the known and anticipated demands for ocean and coastal resources, including an examination of opportunities and limitations with respect to the use of ocean and coastal resources within the exclusive economic zone, projected impacts in coastal areas, and the adequacy of existing efforts to manage such use and minimize user conflicts;

(6) evaluate relationships among Federal, State, and local governments and the private sector for planning and carrying out ocean and coastal activities and address the most appropriate division of responsibility for such activities;

(7) identify opportunities for the development of or investment in new products, technologies, or markets that could contribute to the objectives of this Act;

(8) consider the relationship of the ocean and coastal policy of the United States to the United Nations Convention on the Law of the Sea and other international agreements, and actions available to the United States to effect collaborations between the United States and other nations, including the development of cooperative international programs for oceanography, protection of the marine environment, and ocean and coastal resource management; and

(9) engage in any other preparatory work deemed necessary to carry out the duties of the Commission pursuant to this Act.

(c) DUTIES OF CHAIRMAN.—In carrying out the provisions of this subsection, the Chairman of the Commission shall be responsible for—

(1) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(2) the use and expenditures of funds available to the Commission.

(d) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation is not precluded by a State, local, or Native American tribal government position, shall be compensated at a rate equal to the daily equivalent of the annual rate payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(e) STAFF.—

(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director who is knowledgeable in administrative management and ocean and coastal policy and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) The executive director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairman may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for GS–15, step 7, of the General Schedule under section 5332 of such title.

(3) Upon request of the Chairman of the Commission, after consulting with the head of the Federal agency concerned, the head of any Federal Agency shall detail appropriate personnel of the agency to the Commission to assist the Commission in carrying out its functions under this Act. Federal Government employees detailed to the Commission shall serve without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(4) The Commission may accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, a volunteer under this section may not be considered to be an employee of the United States for any purpose.

(5) To the extent that funds are available, and subject to such rules as may be prescribed by the Commission, the executive director of the Commission may procure the temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate payable for GS–15, step 7, of the General Schedule under section 5332 of title 5, United States Code.

(f) ADMINISTRATION.—

(1) All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United

States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statement on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(g) COOPERATION WITH OTHER FEDERAL ENTITIES.—

(1) The Commission is authorized to secure directly from any Federal agency or department any information it deems necessary to carry out its functions under this Act. Each such agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information to the Commission, upon the request of the Chairman of the Commission.

(2) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(4) The Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to sections 303 of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8 of the Small Business Act (15 U.S.C. 637), pertaining to competition and publication requirements, and may arrange for printing without regard to the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

(h) REPORT.—The Commission shall submit to the President, via the Council, and to the Congress not later than 18 months after the establishment of the Commission, a final report of its findings and recommendations. The Commission shall cease to exist 30 days after it has submitted its final report.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to support the activities of the Commission a total of up to $6,000,000 for fiscal years 2001 and 2002. Any sums appropriated shall remain available without fiscal year limitation until the Commission ceases to exist.

SEC. 7. REPORT AND BUDGET COORDINATION.

(a) BIENNIAL REPORT.—Beginning in January, 2000, the President shall transmit to the Congress biennially a report, which shall include—

(1) a comprehensive description of the ocean and coastal activities (and budgets) and related accomplishments of all agencies and departments of the United States during the preceding 2 fiscal years; and

(2) an evaluation of such activities (and budgets) and accomplishments in terms of the purpose and objectives of this Act. Reports made under this section shall contain such recommendations for legislation as the President may consider necessary or desirable.

(b) BUDGET COORDINATION.—

(1) Each year the President shall provide general guidance to each Federal agency or department involved in ocean or coastal activities with respect to the preparation of requests for appropriations.

(2) Each agency or department involved in such activities shall include with its annual request for appropriations a report which—

(A) identifies significant elements of the proposed agency or department budget relating to ocean and coastal activities; and

(B) specifies how each such element contributes to the implementation of a national ocean and coastal policy.

SEC. 8. REPEAL OF 1966 STATUTE.

The Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is repealed.

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 960. A bill to amend the Older Americans Act of 1965 to establish pension counseling programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PENSION ASSISTANCE AND COUNSELING ACT OF 1999

● Mr. GRASSLEY. Mr. President, today I rise to introduce legislation to achieve one of my primary objectives as chairman of the Special Committee on Aging: to help workers and retirees achieve a secure retirement.

As with any discussion about retirement planning, it is the norm to point to the ''three-legged stool'' of retirement—Social Security, personal savings, and a pension. Unfortunately, the legs of the stool may be getting warped.

This legislation is the result of a hearing held by the Aging Committee in the 105th Congress. The Aging Committee confronted an issue that is affecting hundreds of thousands of workers and retirees—miscalculation of their hard-earned pensions. This hearing was intended to raise consumer awareness about the need to be pro-active about policing your pension. As one of our witnesses said, ''never assume your pension is error-free.''

While it is impossible to know how many pension payments and lump sum distributions may be miscalculated, we know the number is on the rise. An audit conducted last Congress by the Pension Benefit Guaranty Corporation—focused on plans that were voluntarily terminated—showed that the number of people underpaid has increased from 2.8 to 8.2 percent. Anecdotal evidence suggests that the number of people receiving lump sum distributions who end up getting short-changed could be 15 to 20 percent. Those numbers are very disturbing. The practical impact is that retirees, and young and old workers alike, are losing dollars that they have earned.

Workers and retirees need to be aware that they are at risk. They can help themselves by knowing how their benefits are calculated, that they should keep all the documents their employer gives them, and to start asking questions at a young age—don't wait until the eve of retirement.

Unfortunately, policing your pension is not easy. Employers are trying to do a good job but they are confronted with one of the most complex regulatory schemes in the Federal Government. Pensions operate in a complex universe of laws, rules, and regulations. Over the last 20 years, 16 laws have been enacted that require employers to amend their pension plans and then notify their workers of changes. It is not a simple task. If employers have problems trying to comply with Federal requirements, it is understandable that workers and retirees are having trouble getting a grasp on how their pension works.

Trying to educate yourself about pensions implies that someone is out there providing information to those who need it. That is where the legislation that I am introducing today comes in. People who are concerned about their pensions—whether it's an unintentional mistake or outright fraud—often don't have anywhere to go for expert advice.

Fortunately, there is an answer. Already authorized by the Older Americans Act, seven pension counseling projects have assisted thousands of people around this country with their pension problems. These projects provide information and counseling to retirees, and young and old workers in a very cost-effective manner.

Each project received $75,000 of Federal assistance over a 17-month period. As is normal for other programs under the Older Americans Act, these dollars were supplemented by money raised from private sources. During their operation, the projects recovered nearly $2 million in pension benefits and payments. That is a return of $4 for every $1 spent.

My legislation contains three key provisions: first, it updates the Older Americans Act to encourage the creation of more pension counseling projects. While 10 projects in 15 states currently exist, they are not enough to reach the 80 million people who are covered by pensions in this country. Hopefully, more counseling projects can be established to provide more regionally comprehensive assistance.

Second, the legislation would create an 800 number that people could call for one-stop advice on where to get assistance. Jurisdiction over pension issues is spread across three government agencies—none of which are focused on helping individuals with individual problems—especially if the problem does not seem to be a clear fiduciary breach or indicate that there may be criminal wrongdoing. An 800 number linking people to assistance will help close that gap.

Finally, the legislation would transfer authority for the demonstration

projects to Title VII of the Older Americans Act in order to make them permanent in nature. They provide a much needed service to workers and retirees. These demonstration projects have existed since 1992 and have proven to be very successful. However, they have outgrown their pilot-project beginnings and should become a permanent fixture.

I want to thank Senator BREAUX for his support of this legislation. Furthermore, I encourage all of my colleagues to support these projects and show their support by co-sponsoring this legislation.●

By Mr. BURNS (for himself, Mr. CRAIG, Mr. BAUCUS, Mr. DASCHLE, Mr. KERREY, and Mr. JOHNSON):

S. 961. A bill to amend the Consolidated Farm and Rural Development Act to improve shared appreciation arrangements; to the Committee on Agriculture, Nutrition, and Forestry.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. BURNS. Mr. President, shared appreciation agreements have the potential to cause hundreds of farm foreclosures across the nation, and especially in my home state of Montana. Ten years ago, a large number of farmers signed these agreements. At that time they were under the impression that they would be required to pay these back at the end of ten years, at a reasonable rate of redemption.

However, that has not proved to be the case. The appraisals being conducted by the Farm Service Agency are showing increased values of ridiculous proportions. By all standards, one would expect the value to have decreased. Farm prices are the lowest they have been in years, and there does not seem to be a quick recovery forthcoming. Farmers cannot possibly be expected to pay back a value twice the amount they originally wrote down. Especially in light of the current market situation, I believe something must be done about the way these appraisals are conducted.

I am aware of one case in which the amount of the shared appreciation agreement was estimated at $167,500. The increased value was estimated at $335,000! When agricultural prices are at nearly an all-time low, farmers can barely keep up with their current payment schedules. They certainly cannot pay twice what they already owe.

USDA is attempting to fix the problem with proposed rules and regulations but farmers need help with these agreements now. I cannot stand idly by and wait for bureaucratic regulations to go through the ''process'' while farmers and ranchers are forced out of business.

The USDA has issued an emergency rule which will allow people who are unable to pay their shared appreciation agreement on time, to extend their current loan for up to three years. The interest rate on this extension will be at the government's cost of borrowing. Also, the USDA is allowing farmers to take out an additional loan at an interest rate of 9.25% to pay off the amount owed on the shared appreciation agreement.

There is also consideration being given to decreasing the number of years on shared appreciation agreements from ten to five. I appreciate the efforts by the USDA to alleviate the financial burden these shared appreciation agreements impose upon farmers, and hope that farmers are able to take advantage of them.

However, as I have stated, time is of the essence. Another proposed regulation, which will require a public comment period of 60 days, will exclude capital investments from the increase in appreciation. However, this proposal has not yet been published and is not expected to be for at least another month. After that, the comment period will further drag out the process and in the meantime more farmers will be forced into foreclosure.

To ensure this regulation on excluding capital investments from the increase in value is carried out, I intend to make it mandatory by legislation. Farmers should not be penalized for attempting to better their operations. Nor can they be expected to delay capital improvements so that they will not be penalized.

Additionally, my legislation will require the appraisal to be conducted by a certified appraiser from the state where the land is located. This will prevent out-of-state appraisal businesses from conducting appraisals in land areas they know nothing about. How can an appraisal company in Arizona be expected to do an accurate appraisal on land in Montana? It is not fair to the producers on that land to have their appraisal conducted by outside interests.

I look forward to working with members in other states to alleviate the financial burdens imposed by shared appreciation agreements. I hope that we may move this through the legislative process quickly to provide help as soon as possible to our farmers.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHARED APPRECIATION ARRANGEMENTS.

(a) IN GENERAL.—Section 353(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)) is amended by striking paragraph (2) and inserting the following:

''(2) TERMS.—A shared appreciation agreement entered into by a borrower under this subsection shall—

''(A) have a term not to exceed 10 years;

''(B) provide for recapture based on the difference between—

''(i) the appraised value of the real security property at the time of restructuring; and

''(ii) that value at the time of recapture, except that that value shall not include the value of any capital improvements made to the real security property by the borrower; and

''(C) be based on appraisals that are conducted by persons with a principal place of business that is located in the State containing the real property.''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a shared appreciation arrangement entered into under section 353(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)) that is in effect on or after the date of enactment of this Act.

By Mr. LEAHY (for himself and Mr. DODD):

S. 962. A bill to allow a deduction from gross income for year 2000 computer conversion costs of small businesses; to the Committee on Finance.

THE SMALL BUSINESS Y2K COMPLIANCE ACT OF 1999

Mr. LEAHY. Mr. President, I rise today to introduce the Small Business Y2K Compliance Act of 1999. I am pleased to be joined by Senator DODD, the ranking member of the Senate Special Committee on the Year 2000 Technology Problem, as an original cosponsor of this measure.

Our legislation would offer small businesses a tax deduction of up to $40,000 towards the expenses of purchasing and installing Year 2000 compliant computer hardware and software in 1999. In addition, our bill would reward those small businesses that have acted responsibly by allowing an accelerated depreciation of up to $40,000 for the purchase and installation of Year 2000 compliant computer hardware and software made in 1997 and 1998. These tax incentives have been endorsed by thousands of small business owners at last year's White House Conference on Small Business, the American Small Business Alliance and the Small Business Administration.

Unfortunately, not all small businesses are doing enough to address the year 2000 issue because of a lack of resources in many cases. They face Y2K problems both directly and indirectly through their suppliers, customers and financial institutions. As recently as last October a representative of the National Federation of Independent Businesses testified: ''A fifth of them do not understand that there is a Y2K problem. . . . They are not aware of it. A fifth of them are currently taking action. A fifth have not taken action but plan to take action, and two-fifths are aware of the problem but do not plan to take any action prior to the year 2000.''

Indeed, the Small Business Administration recently warned that 330,000 small businesses are at risk of closing down as a result of Y2K problems, and another 370,000 could be temporarily or permanently hobbled.

Federal and State government agencies have entire departments working

on this problem. Utilities, financial institutions, telecommunications companies, and other large companies have information technology divisions working to make corrections to keep their systems running. They have armies of workers—but small businesses do not.

Small businesses are the backbone of our economy, from the city corner market to the family farm to the small-town doctor. In my home State of Vermont, 98 percent of the businesses are small businesses with limited resources. That is why it is so important to provide small businesses with the resources to correct their Y2K problems now.

A few months ago, I hosted a Y2K conference in Vermont to help small businesses prepare for 2000. Hundreds of small business owners from across Vermont attended the conference to learn how to minimize or eliminate their Y2K computer problems. Vermonters are working hard to identify their Y2K vulnerabilities and prepare action plans to resolve them. They should be encouraged and assisted in these important efforts.

This is the right approach. We have to fix as many of these problems ahead of time as we can. Ultimately, the best business policy and the best defense against any Y2K-based lawsuits is to be Y2K compliant.

That is why it is so important to provide small businesses with the resources to correct their Y2K problems now. Our legislation would provide targeted tax incentives to encourage small businesses round the country in their Y2K remediation efforts. Our bill encourages Y2K compliance now to avoid computer problems next year.

Moreover, the tax incentives in our legislation would have a negligible revenue cost. Indeed, the Joint Committee on Taxation has estimated that companion legislation introduced in the House of Representatives by Representative KAREN THURMAN, H.R. 179, would reduce revenue by $171 million from 1990–2003, but would increase revenues by the same $171 million from 2004–2008. Thus, this bill is fiscally prudent as well.

I urge my colleagues to cosponsor and support the ''Small Business Y2K Compliance Act of 1999.''

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 962

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 ''Small Business Y2K Compliance Act of 1999''.

SEC. 2. DEDUCTION FOR COSTS OF MAKING COMPUTERS AND COMPUTER SOFTWARE YEAR 2000 COMPLIANT.

(a) IN GENERAL.—

(1) PROPERTY PLACED IN SERVICE IN 1999.—A taxpayer may elect to treat the cost of a business Y2K asset placed in service during the taxpayer's first taxable year beginning in 1999 as an expense which is not chargeable to capital account. The cost so treated shall be allowed as a deduction from gross income for purposes of the Internal Revenue Code of 1986.

(2) PROPERTY PLACED IN SERVICE IN 1997 OR 1998.—A taxpayer may elect to deduct from gross income an amount equal to the unrecovered basis of a business Y2K asset placed in service during the 2 taxable years preceding the first taxable year beginning in 1999 and which is otherwise subject to depreciation under such Code.

(b) LIMITATIONS.—

(1) IN GENERAL.—The aggregate amount allowed as a deduction under subsection (a) shall not exceed $40,000.

(2) APPLICATION OF BUSINESS LIMITATIONS OF SECTION 179.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 179(b) of such Code shall apply for purposes of this section. For purposes of the preceding sentence, the cost of property to which the limitation in paragraph (2) of such section 179(b) applies shall be the sum of—

(A) the amounts elected under subsection (a)(1) with respect to property placed in service during the taxpayer's first taxable year beginning in 1999, and

(B) the amounts elected under subsection (a)(2) with respect to the unrecovered basis of business Y2K assets placed in service during the 2 taxable years preceding the first taxable year beginning in 1999.

(c) DEFINITIONS.—For purposes of this section—

(1) BUSINESS Y2K ASSET.—The term ''business Y2K asset'' means an asset acquired by purchase for use in the active conduct of a trade or business which is—

(A) any computer acquired to replace a computer where such replacement is necessary because of the year 2000 computer conversion problem, and

(B) any of the following items which are of a character subject to the allowance for depreciation under such Code:

(i) the modification of computer software to address the year 2000 computer conversion problem, and

(ii) computer software which is year 2000 compliant acquired to replace computer software which is not so compliant.

(2) COMPUTER.—The term ''computer'' means a computer or peripheral equipment (as defined by section 168(i)(2)(B)) of such Code.

(3) COMPUTER SOFTWARE.—The term ''computer software'' has the meaning given to such term by section 167(f) of such Code.

(4) UNRECOVERED BASIS.—The term ''unrecovered basis'' means the adjusted basis of the business Y2K asset determined as of the close of the last taxable year beginning before January 1, 1999.

(d) SPECIAL RULES.—

(1) IN GENERAL.—Rules similar to the rules of subsections (c) and (d) (other than paragraph (1) thereof) of section 179 of such Code shall apply for purposes of this section.

(2) TREATMENT AS DEDUCTION UNDER SECTION 179.—For purposes of the Internal Revenue Code of 1986, the deduction allowed under this section shall be treated in the same manner as a deduction allowed under section 179 of such Code.

(3) ORDERING RULE.—For purposes of section 179 of such Code, subsection (b)(3)(C) of such section shall be applied without regard to the deduction allowed under this section.

By Mr. GREGG:

S. 963, A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

FAMILY FOREST LAND PRESERVATION TAX ACT OF 1999

Mr. GREGG. Mr. President, I rise today to introduce the Family Forestland Preservation Tax Act of 1999. This bill amends several key tax provisions to help landowners keep their lands in long-term private forest ownership and management. Without these changes, many landowners will continue to be forced to sell or change the use of their land.

This bill derives from four years of work by the Northern Forest Lands Council (NFLC). The NFLC was created in 1990 to seek ways for Maine, New Hampshire, Vermont, and New York to maintain the ''traditional patterns of land ownership and use'' in the forest that covers this nation's Northeast. The Northern Forest is a 26-million-acre stretch of land, home to one million residents and within a two-hour drive of 70 million people. Nearly 85% of the Forest is privately owned. Times have changed, however, and social and economic forces have begun to affect the traditional patterns of land use with more and more land being marketed for development.

This bill will help maintain traditional patterns and, thus, preserve the forest by adjusting several estate tax provisions. This bill would allow heirs to make postmortem donations of conservation easements on undeveloped estate land and allow the valuation of undeveloped land at current use value for estate tax purposes if the owner or heir agrees to maintain the land in its current use for a period of twenty-five years. This bill also would establish a partial inflation adjustment for timber sales by allowing a tax credit not to exceed 50%. This will encourage landowners to maintain their timberland for long-term stewardship, which is both economically and environmentally desirable. Also, the bill would eliminate the requirement that landowners generally must work 100-hours-per-year in forest management on their forest properties to be allowed to deduct normal management expenses from timber activities against nonpassive income. Currently, landowners are required to capitalize these losses until timber is harvested. This legislation, though prompted by the NFLC's work, will benefit not only the four states that make up the Northern Forest, but also all states with forestland and all who enjoy the multiple uses of forestland. I urge my colleagues to support this bill, which will not only protect the historic current use patterns, but also allow the rustic beauty of our forests to be enjoyed by all.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Family Forest Land Preservation Tax Act of 1999''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—ESTATE TAX PROVISIONS

SEC. 101. EXCLUSION FOR LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) IN GENERAL.—Section 2031(c) (relating to estate tax with respect to land subject to a qualified conservation easement) is amended to read as follows:

''(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

''(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land.

''(2) TREATMENT OF CERTAIN INDEBTEDNESS.—

''(A) IN GENERAL.—The exclusion provided under paragraph (1) shall not apply to the extent that the land is debt-financed property.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

''(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to any property, the unpaid amount of—

''(I) any indebtedness incurred by the donor in acquiring such property,

''(II) any indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

''(III) any indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

''(IV) any indebtedness which constitutes an extension, renewal, or refinancing of other indebtedness described in this clause.

''(3) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

''(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

''(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—

''(i) the date which is 2 years after the date of the decedent's death, or

''(ii) the date of the sale of such land subject to the qualified conservation easement,

shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such earlier date.

''(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 2032A(e)(5)).

''(4) ELECTION.—The election under this subsection shall be made on or before the due date (including extensions) for filing the return of tax imposed by section 2001 and shall be made on such return.

''(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

''(i) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

''(ii) with respect to which a qualified conservation easement has been made by an individual described in subparagraph (C) as of the date of the election described in paragraph (4).

''(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply.

''(C) INDIVIDUAL DESCRIBED.—An individual is described in this subparagraph if such individual is—

''(i) the decedent,

''(ii) a member of the decedent's family,

''(iii) the executor of the decedent's estate, or

''(iv) the trustee of a trust the corpus of which includes the land to be subject to the qualified conservation easement.

''(D) MEMBER OF THE DECEDENT'S FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

''(7) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.—In any case in which the qualified conservation easement is granted after the date of the decedent's death and on or before the due date (including extensions) for filing the return of tax imposed by section 2001, the deduction under section 2055(f) with respect to such easement shall be allowed to the estate but only if no charitable deduction is allowed under chapter 1 to any person with respect to the grant of such easement.

''(8) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This subsection shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2057(e)(3).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1999.

SEC. 102. INCREASE IN SPECIAL ESTATE TAX VALUATION; SPECIAL RULES FOR FOREST LANDS.

(a) INCREASE IN LIMIT.—

(1) IN GENERAL.—Paragraphs (2) and (3) of section 2032A(a) (relating to value based on use under which property qualifies) are each amended by striking ''$750,000'' each place it appears and inserting ''$1,000,000''.

(2) INFLATION ADJUSTMENT.—Section 2032A(a)(3) is amended—

(A) by striking ''1998'' and inserting ''2000'', and

(B) by striking ''calendar year 1997'' and inserting ''calendar year 1999''.

(b) FOREST LAND TREATED AS QUALIFIED REAL PROPERTY.—Section 2032A(b) (defining qualified real property) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFIED WOODLANDS.—In the case of qualified woodland, paragraph (1) shall be applied without regard to subparagraph (A) or (C)(ii) thereof.''

(c) DEFINITIONS AND FAILURES TO USE FOR QUALIFIED USE.—Section 2032A(c) (relating to tax treatment of definitions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

''(9) SPECIAL RULES FOR QUALIFIED WOODLAND.—In the case of qualified woodland—

''(A) this subsection shall be applied by substituting '25 years' for '10 years' in paragraph (1) and by substituting '25-year period' for '10-year period' in paragraph (7)(A)(ii) and subsection (h)(2)(A),

''(B) the qualified heir shall not be treated as disposing of the property or ceasing to use the property for a qualified use if—

''(i) the qualified heir transfers the property to another person, and

''(ii) such other person (or their qualified heir) agrees to continue to use the property for a qualified use and files an agreement described in subsection (d)(2) with respect to the property,

''(C) the qualified heir shall be treated as ceasing to use the property for a qualified use if any depreciable improvements are made to the property (other than improvements required for the qualified use), and

''(D) a qualified heir or transferee described in subparagraph (B) shall not be treated as disposing of timber if the disposal is done in accordance with any program described in subsection (e)(13)(E).''

(d) QUALIFIED WOODLAND.—Section 2032A(e)(13) is amended by adding at the end the following new subparagraph:

''(E) OTHER REQUIREMENTS.—Real property shall not be treated as qualified woodland unless such property—

''(i) qualifies for a differential use value assessment program for forest land in the State in which the property is located, or

''(ii) if a State has no differential use value assessment program—

''(I) is forest land,

''(II) is a minimum of 10 acres, exclusive of a dwelling unit or other non-forest related structure and its curtilage, and

''(III) is subject to a forest management plan.''

(e) VALUATION.—

(1) IN GENERAL.—Section 2032A(e) is amended by adding at the end the following new paragraph:

''(15) SPECIAL RULES FOR VALUING FOREST LAND.—The value of forest land shall be determined according to whichever of the following methods results in the least value:

''(A) Assessed land values in a State which provides a differential or use value assessment for forest land.

''(B) Comparable sales of other forest land which is in the same geographical area and which is far enough removed from a metropolitan or resort area so that nonforest use is not a significant factor in the sales price.

''(C) The capitalization of income which the property can be expected to yield for timber operations over a reasonable period of time under prudent management, determined by using traditional forest management for the area, and taking into account soil capacity, terrain configuration, and similar factors.

''(D) Any other factor which fairly values the timber value of the property.''

(2) CONFORMING AMENDMENT.—Section 2032A(e)(8) is amended by striking ''paragraph (7)(A)'' and inserting ''paragraph (7)(A) or (15)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1999.

TITLE II—INCOME TAX TREATMENT

SEC. 201. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end the following new section:

''SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

''(a) IN GENERAL.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the applicable percentage of such gain.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means the lesser of—

''(1) the net capital gain for the taxable year, or

''(2) the net capital gain for the taxable year determined by taking into account only gains and losses from the sale or exchange of—

''(A) any standing timber (or the right to sever any standing timber), or

''(B) any qualified woodland (as defined in section 2032A(e)(13)(B)) or any interest therein.

Such term shall not include any gain excludable from gross income under section 139.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

''(1) 3 percent, by

''(2) the number of years in the holding period of the taxpayer with respect to the timber.

''(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.''

(b) COORDINATION WITH EXISTING LIMITATIONS.—

(1) Subsection (h) of section 1 (relating to maximum capital gains rate) is amended by adding at the end the following new paragraph:

''(14) QUALIFIED TIMBER GAIN.—For purposes of this subsection, net capital gain shall be determined without regard to qualified timber gain with respect to which an election is made under section 1203.''

(2) Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended by adding at the end the following flush sentence:

''For purposes of this section, net capital gain shall be determined without regard to qualified timber gain with respect to which an election is made under section 1203.''

(c) ALLOWANCE OF DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (17) the following new paragraph:

''(18) PARTIAL INFLATION ADJUSTMENT FOR TIMBER.—The deduction allowed by section 1203.''

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1203. Partial inflation adjustment for timber.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1999.

SEC. 202. EXCLUSION OF GAIN FROM SALES OF INTERESTS IN FOREST LAND FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and by inserting after section 138 the following new section:

''SEC. 139. SALES OF INTERESTS IN CERTAIN FOREST LAND FOR CONSERVATION PURPOSES.

''(a) EXCLUSION.—

''(1) IN GENERAL.—Gross income shall not include the applicable percentage of any gain from a qualified timber sale.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 35 percent, or

''(B) in the case of a qualified timber sale of a qualified real property interest described in section 170(h)(2)(C), 100 percent.

''(b) LIMITATION.—

''(1) IN GENERAL.—The total amount of gain which may be excluded from gross income under subsection (a) for any taxable year shall not exceed the sum of—

''(A) the amount of gain from a qualified timber sale described in subsection (a)(2)(B), plus

''(B) $800,000 ($400,000 in the case of a married individual filing a separate return).

''(2) AGGREGATION RULE.—For purposes of paragraph (1)(B), all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as one taxpayer.

''(c) QUALIFIED TIMBER SALE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified timber sale' means the sale or exchange of a qualified real property interest in real property which is used in timber operations to a governmental unit described in section 170(c)(1) for conservation purposes.

''(2) SPECIAL RULE FOR SALES TO NONGOVERNMENTAL ENTITIES.—

''(A) IN GENERAL.—The term 'qualified timber sale' shall include a sale or exchange to a qualified organization described in section 170(h)(3) if such interest is transferred to a governmental unit described in section 170(c)(1) during the 2-year period beginning on the date of the sale or exchange.

''(B) TIME FOR EXCLUSION.—If the transfer to which paragraph (1) applies occurs in a taxable year after the taxable year in which the sale or exchange occurred—

''(i) no exclusion shall be allowed under subsection (a) for the taxable year of the sale or exchange, but

''(ii) the taxpayer's tax for the taxable year of the transfer shall be reduced by the amount of the reduction in the taxpayer's tax for the taxable year of the sale or exchange which would have occurred if subparagraph (A) had not applied.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED REAL PROPERTY INTEREST.—The term 'qualified real property interest' has the meaning given such term by section 170(h)(2).

''(2) TIMBER OPERATIONS.—The term 'timber operations' has the meaning given such term by section 2032A(e)(13)(C).

''(3) CONSERVATION PURPOSES.—The term 'conservation purposes' has the meaning given such term by section 170(h)(4)(A) (without regard to clause (iv) thereof).''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

''Sec. 139. Sales of interests in certain forest land for conservation purposes.

''Sec. 140. Cross references to other Acts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 203. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) IN GENERAL.—Treasury regulations sections 1.469–5T(b)(2) (ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) CLOSELY HELD ACTIVITY.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(A) by 5 or fewer individuals, or

(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this section.

(2) TIMBER ACTIVITY.—The term ''timber activity'' means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(c) EFFECTIVE DATE.—This section shall apply to taxable years beginning after December 31, 1999.

By Mr. DASCHLE:

S. 964. A bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes; to the Committee on Indian Affairs.

CHEYENNE RIVER SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND ACT

Mr. DASCHLE. Mr. President, today I am introducing legislation to compensate the Cheyenne River Sioux Tribe for losses the tribe suffered when the Oahe dam was constructed in central South Dakota and over 100,000 acres of tribal land was flooded. Its passage will help the tribe rebuild their infrastructure and their economy, which was seriously crippled by the Oahe project during the 1950s. It is extraordinary that it has taken four decades to reach this point. The importance of passing this long-overdue legislation as soon as possible cannot be stated too strongly.

This legislation was developed with the assistance of Chairman Gregg

Bourland and Council Member Louis Dubray of the Cheyenne River Sioux Tribe. Both men have worked tirelessly to bring us to this point and I am grateful for their assistance. This legislation represents one element of their progressive vision for providing the members of the Cheyenne River Sioux Tribe with greater opportunities for economic development and to fulfill the debts owned to the tribe by the federal government.

The Cheyenne River Sioux Tribe Equitable Compensation Act is the companion bill to the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act, which passed by unanimous consent in November of 1997, and the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996, which passed the Congress unanimously in 1996.

The bill is based on an extensive analysis of the imp[act of the Pick-Sloan Dam Projects on the Cheyenne River Sioux Tribe which was performed by the Robert McLaughlin Company. The McLaughlin report was reviewed by the General Accounting Office, which found that the losses suffered by the tribe justify the establishment of a $290 million trust fund, which is the amount called for in this legislation.

It represents an important step in our continuing effort to fairly compensate the tribes of South Dakota for the sacrifices they made decades ago for the construction of the dams along the Missouri River and will further the goal of improving the lives of Native Americans living on those reservations.

To fully appreciate the need for this legislation, it is important for the committee to understand the historic events that are prologue to its development. The Oahe dam was constructed in South Dakota pursuant to the Flood Control Act (58 Stat. 887) of 1944. That legislation authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development and flood control for downstream states.

The Oahe dam flooded 104,000 acres of tribal land, forcing the relocation of roughly 30 percent of the tribe's population, including four entire communities. Equally as important, the tribe lost 80 percent of its fertile river bottom lands—lands that represented the basis for the tribal economy. Prior to the flooding, the tribe relied on these lands for firewood and building material, game wild fruits and berries, as well as cover from the severe storms that characterize winters in South Dakota and shelter from the heat of the prairie summer. Indian ranchers no longer had places to shelter their cattle in the wintertime, causing a significant loss in the value of their operations.

The loss of these important river bottom lands can be felt today. During the extreme winter of 1996–1997, the tribe lost roughly 30,000 head of livestock, including 25,000 head of cattle. Without adequate natural shelter, the remaining Indian ranchers along this stretch of river can expect to continue to have difficulty scratching out a living in future years when the winter turns particularly hard.

Mr. President, the damage caused by the Pick-Sloan projects touched every aspect of life on the Cheyenne River reservation. Ninety percent of the timber on the reservation was wiped out, causing shortages of building material and firewood. Wildlife, once abundant in the river bottom, became more scarce. The entire lifestyle of the tribe changed as it was forced to relocate much of its people from the lush river bottom lands to the windswept prairie.

Most Americans, if not all, are familiar with the many broken promises of the United States Government to Native Americans during the 1800's. For Indian tribes located along the Missouri River in the state of South Dakota, the United States Government still has not met its responsibilities for compensation for losses suffered as a result of the construction of the Pick-Sloan dams. This proposed legislation is intended to correct that situation as it applies to the Cheyenne River Sioux Tribe.

We cannot, of course, remake the lost lands and return the tribe to its former existence. We can, however, help provide the resources necessary to the tribe to improve the infrastructure on the Cheyenne River reservation. This, in turn, will enhance opportunities for economic development which will benefit all members of the tribe. Perhaps most importantly, it will fulfill part of our commitment to improve the lives of Native Americans—in this case the Cheyenne River Sioux.

I strongly urge my colleagues to approve this legislation this year. Providing compensation to the Cheyenne River Sioux Tribe for past harm inflicted by the federal government is long-overdue and any further delay only compounds that harm. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 964

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 ''Cheyenne River Sioux Tribe Equitable Compensation Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) by enacting the Act of December 22, 1944, (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), commonly known as the ''Flood Control Act of 1944'', Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ''Pick-Sloan program'')—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Oahe Dam and Reservoir project—

(A) is a major component of the Pick-Sloan program, and contributes to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(B) overlies the eastern boundary of the Cheyenne River Sioux Indian Reservation; and

(C) has not only contributed little to the economy of the Tribe, but has severely damaged the economy of the Tribe and members of the Tribe by inundating the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Tribe and the homeland of the members of the Tribe;

(3) the Secretary of the Interior appointed a Joint Tribal Advisory Committee that examined the Oahe Dam and Reservoir project and correctly concluded that—

(A) the Federal Government did not justify, or fairly compensate the Tribe for, the Oahe Dam and Reservoir project when the Federal Government acquired 104,492 acres of land of the Tribe for that project; and

(B) the Tribe should be adequately compensated for the land acquisition described in subparagraph (A);

(4) after applying the same method of analysis as is used for the compensation of similarly situated Indian tribes, the Comptroller General of the United States (referred to in this Act as the ''Comptroller General'') determined that the appropriate amount of compensation to pay the Tribe for the land acquisition described in paragraph (3)(A) would be $290,722,958;

(5) the Tribe is entitled to receive additional financial compensation for the land acquisition described in paragraph (3)(A) in a manner consistent with the determination of the Comptroller General described in paragraph (4); and

(6) the establishment of a trust fund to make amounts available to the Tribe under this Act is consistent with the principles of self-governance and self-determination.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for additional financial compensation to the Tribe for the acquisition by the Federal Government of 104,492 acres of land of the Tribe for the Oahe Dam and Reservoir project in a manner consistent with the determinations of the Comptroller General described in subsection (a)(4).

(2) To provide for the establishment of the Cheyenne River Sioux Tribal Recovery Fund, to be managed by the Secretary of the Treasury in order to make payments to the Tribe to carry out projects under a plan prepared by the Tribe.

SEC. 3. DEFINITIONS.

In this Act:

(1) TRIBE.—The term ''Tribe'' means the Cheyenne River Sioux Tribe, which is comprised of the Itazipco, Siha Sapa, Minniconjou, and Oohenumpa bands of the Great Sioux Nation that reside on the Cheyenne Reservation, located in central South Dakota.

(2) TRIBAL COUNCIL.—The term ''Tribal Council'' means the governing body of the Tribe.

SEC. 4. CHEYENNE RIVER SIOUX TRIBAL RECOVERY TRUST FUND.

(a) CHEYENNE RIVER SIOUX TRIBAL RECOVERY TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the ''Cheyenne River Sioux Tribal Recovery Trust Fund'' (referred to in this Act as the ''Fund''). The Fund shall consist of any amounts deposited into the Fund under this Act.

(b) FUNDING.—Out of any money in the Treasury not otherwise appropriated, the

Secretary of the Treasury shall deposit $290,722,958 into the Fund not later than 60 days after the date of enactment of this Act.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) IN GENERAL.—

(A) WITHDRAWAL OF INTEREST.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall withdraw the applicable percentage amount of the aggregate amount of interest deposited into the Fund for that fiscal year (as determined under subparagraph (B)) and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(B) APPLICABLE PERCENTAGE AMOUNTS.—The applicable percentage amount referred to in subparagraph (A) shall be as follows:

(i) 10 percent for the first fiscal year for which interest is deposited into the Fund.

(ii) 20 percent for the 2d such fiscal year.

(iii) 30 percent for the 3rd such fiscal year.

(iv) 40 percent for the 4th such fiscal year.

(v) 50 percent for the 5th such fiscal year.

(vi) 60 percent for the 6th such fiscal year.

(vii) 70 percent for the 7th such fiscal year.

(viii) 80 percent for the 8th such fiscal year.

(ix) 90 percent for the 9th such fiscal year.

(x) 100 percent for the 10th such fiscal year, and for each such fiscal year thereafter.

(2) PAYMENTS TO TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Tribe, as such payments are requested by the Tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Tribe has adopted a plan under subsection (f).

(C) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (B) only for carrying out projects and programs under the plan prepared under subsection (f).

(D) PLEDGE OF FUTURE PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the Tribe may enter into an agreement under which the Tribe pledges future payments under this paragraph as security for a loan or other financial transaction.

(ii) LIMITATIONS.—The Tribe—

(I) may enter into an agreement under clause (i) only in connection with the purchase of land or other capital assets; and

(II) may not pledge, for any year under an agreement referred to in clause (i), an amount greater than 40 percent of any payment under this paragraph for that year.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) PLAN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the governing body of the Tribe shall prepare a plan for the use of the payments to the Tribe under subsection (d) (referred to in this subsection as the ''plan'').

(2) CONTENTS OF PLAN.—The plan shall provide for the manner in which the Tribe shall expend payments to the Tribe under subsection (d) to promote—

(A) economic development;

(B) infrastructure development;

(C) the educational, health, recreational, and social welfare objectives of the Tribe and its members; or

(D) any combination of the activities described in subparagraphs (A) through (C).

(3) PLAN REVIEW AND REVISION.—

(A) IN GENERAL.—The Tribal Council shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council.

(B) UPDATING OF PLAN.—The Tribal Council may, on an annual basis, revise the plan to update the plan. In revising the plan under this subparagraph, the Tribal Council shall provide the members of the Tribe opportunity to review and comment on any proposed revision to the plan.

(C) CONSULTATION.—In preparing the plan and any revisions to update the plan, the Tribal Council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) AUDIT.—

(A) IN GENERAL.—The activities of the Tribe in carrying out the plan shall be audited as part of the annual single-agency audit that the Tribe is required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit described in subparagraph (A) shall—

(i) determine whether funds received by the Tribe under this section for the period covered by the audit were expended to carry out the plan in a manner consistent with this section; and

(ii) include in the written findings of the audit the determination made under clause (i).

(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audit described in subparagraph (A) shall be inserted in the published minutes of the Tribal Council proceedings for the session at which the audit is presented to the Tribal Council.

(g) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this Act may be distributed to any member of the Tribe on a per capita basis.

SEC. 5. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

No payment made to the Tribe under this Act shall result in the reduction or denial of any service or program with respect to which, under Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Fund.

By Mr. JEFFORDS (for himself, Ms. SNOWE, Mr. LEAHY, Mrs. MURRAY, and Mr. DURBIN):

S. 965. A bill to restore a United States voluntary contribution to the United Nations Population Fund; to the Committee on Foreign Relations.

UNITED NATIONS POPULATION FUND (UNFPA) FUNDING ACT OF 1999

Mr. JEFFORDS. Mr. President, today I am introducing the ''United Nations Population Fund Funding Act of 1999.'' Senators CHAFEE, SNOWE, LEAHY, MURRAY, and DURBIN join me as original cosponsors.

I will celebrate the memory of my mother this Sunday on Mother's Day. Very sadly, I know that there are millions of children in the developing world who have very few, or even no memories of their mothers. Nearly all maternal deaths are in developing countries. More than 585,000 women, many of them already mothers, die each year from causes related to pregnancy, including obstructed labor, hemorrhage and postpartum infection, and ectopic pregnancies caused by a sexually transmitted disease. Mothers also die from HIV, malnutrition and anemina, or complications of an unsafe abortion.

These are only a few examples of how poverty, lack of knowledge, and lack of basic maternal health care claim the lives of millions of mothers all over the world every year. But the importance of maternal health care to the well-being of women and their families is clear. We can support mothers in poorer countries around the world by removing the ban on U.S. funding for UNFPA. UNFPA is currently the leading maternal health care provider around the world.

During the heated debate surrounding international family planning and U.S. funding for UNFPA, ''the baby often gets thrown out with the bath water.'' The ''baby'' in this debate is the vast array of work UNFPA does around the world to improve pre- and post-natal mother's health, access to voluntary family planning programs, STD and HIV education and prevention, and programs to end the practice of female genital mutilation. UNFPA provides couples all over the world access to contraception. It seeks to reduce abortions and related deaths by improving access to family planning and to treatment for complications of unsafe abortion. UNFPA's priorities include preventing teen pregnancy. Too frequently, the bulk of UNFPA's work is overlooked in the international family planning controversy.

Many people do not even realize that UNFPA also assists women in crisis situations. UNFPA recently announced it is sending emergency reproductive health hits, including equipment for safe delivery of babies and emergency contraceptives for rape victims, to Albania for thousands of Kosovar Albanian refugee women.

The lives of pregnant women and newborns are at particular risk among refugees fleeing Kosovo. These kits include supplies for women who give birth in areas without medical facilities, including materials like soap, plastic sheeting, pictorial instructions for delivering a baby, and razor blades for cutting the umbilical cord of a newborn. These are the most basic of

items. But they can mean the difference between life and death for mothers and their newborn babies. The U.S. should contribute to this humanitarian work.

The whole world has been horrified by reports released by human rights organizations stating that the Serbs are using rape as a weapon of war. UNFPA has responded and is leading international efforts to help Kosovar Albanian women who have been raped by Serb forces. UNFPA provides trauma treatment and counseling for other mental health consequences of this form of human rights abuse.

As the legislative year progresses, the controversy over international family planning programs will intensify. My legislation calling for renewal of the U.S. contribution to UNFPA will get caught up in the controversy as well. But I will not let one of the most important issues get lost—the health of mothers in poor countries. In the coming months I will work with the cosponsors to this bill and many health care organizations to keep the issue of maternal health visible in the international family planning debate.

By Mr. REID:

S. 966. A bill to require Medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice, to protect employees of Medicare providers who report concerns about the safety and quality of services provided by the Medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of Medicare providers; to the Committee on Finance.

PATIENT SAFETY AT OF 1999

Mr. REID. Mr. President, I rise today to introduce the Patient Safety Act of 1999. This legislation focuses on the major safety, quality, and workforce issues for nurses employed by health care institutions and the patients who receive care in these facilities.

Health care consumers need access to information about health care institutions in order to make informed decisions about where they or their loved ones will receive care. My bill would require health care facilties to make information publicly available about staffing levels, patient care outcomes, and specific kinds of errors and avoidable patient care problems—such as bedsores. The Patient Safety Act would not require action to correct these problems. This is not a bill to regulate health care, but one that would provide individuals with the information they want and need when it comes time to make important health care choices.

As our front-line health care workers, nurses are usually the first to recognize dangerous patient care conditions. The Patient Safety Act would provide nurses and other hospital employees with ''whistleblower'' protections it they report problems that threaten patient safety to their employers, government agencies, or others.

Finally, the Patient Safety Act would dirct the Department of Health and Human Services to review mergers and acqusitions of hospitals to determine their long-term effects on the well-being of patients, the community and employees. While these types of transactions are regularly evaluated from a financial standpoint, little information is made available to the public about hwo such a change would affect the health care services available to them.

The Patient Safety Act is a valuable information resource for consumers. I urge you to join my efforts to provide consumers with the data necessary to make informed decisions about their health care providers.

By Mr. LAUTENBERG:

S. 967. A bill to provide a uniform national standard to ensure that consealed firearms are available only to authorized persons for lawful purposes; to the Committee on the Judiciary.

CONCEALED FIREARMS PROHIBITION ACT

Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Concealed Firearms Prohibition Act, that would help make our communities safer.

Across the country, citizens are looking for ways to stop gun violence. They see their families torn apart, their friends lost forever, and their communities shattered. And they wonder what has gone wrong in a nation where more than 30,000 people are killed by gunfire each year.

One area of growing concern is concealed weapons. Recently, the NRA tried to push a measure that would have allowed more concealed weapons in Missouri. They spent about $4 million trying to pass their referendum. But the voters responded with a resounding ''no.'' They do not want more people secretly carrying weapons in their schoolyards, malls, stadiums and other public places.

Regrettably, there are still too many politicians who will not listen to the people. They insist on marching in lockstep with the NRA. They actually want to escalate the arms race on our streets. They try to suggest that if more people are carrying guns, our neighborhoods will be safer. That position simply defies common sense. The answer to gun violence is not a new version of the Wild West, with everyone carrying a gun on his or her hip, taking the law into their own hands.

Every day people get into arguments over everything from traffic accidents to domestic disputes. Maybe these arguments lead to yelling, or even fisticuffs. But if people are carrying guns, those conflicts are much more likely to end in a shooting, and death. And since some States allow individuals to carry concealed weapons with little or no training in the operation of firearms, there is a greater chance that incompetent or careless handgun users will accidentally injure or kill innocent bystanders.

More concealed weapons on our streets will also make the jobs of law enforcement officers more dangerous and difficult. But you do not need to take my word for this, Mr. President. Just ask the men and women in law enforcement. In fact, the Police Executive Research Forum did just that. In their 1996 survey, they found that 92 percent of their membership opposed legislation allowing private citizens to carry concealed weapons.

Mr. President, although the regulation of concealed weapons has been left to States, it is time for Congress to step in to protect the public. All Americans have a right to be free from the dangers posed by the carrying of concealed handguns, regardless of their State of residence. And Americans should be able to travel across State lines for business, to visit their families, or for any other purpose, without having to worry about concealed weapons.

Besides the strong Federal interest in ensuring the safety of our citizens, there are other reasons why this area requires Congressional intervention. Beyond the lives lost and ruined, crimes committed with handguns impose a substantial burden on interstate commerce and lead to a reduction in productivity and profitability for businesses around the Nation. Moreover, to ensure its coverage under the Constitution's commerce clause, my bill applies only to handguns that have been transported in interstate or foreign commerce, or that have parts or components that have been transported in interstate or foreign commerce. This clearly distinguishes the legislation from the gun-free school zone statute that was struck down in the Supreme Court's Lopez case.

Mr. President, the bottom line is that more guns equal more death. This legislation will help in our struggle to reduce the number of guns on our streets, and help prevent our society from becoming even more violent and dangerous.

I hope my colleagues will support the bill, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 967

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 ''Concealed Firearms Prohibition Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) crimes committed with firearms threaten the peace and domestic tranquility of the United States and reduce the security and general welfare of the people of the United States;

(2) crimes committed with firearms impose a substantial burden on interstate commerce

and lead to a reduction in productivity and profitability for businesses around the country whose workers, suppliers, and customers are adversely affected by gun violence;

(3) the public carrying of firearms increases the level of gun violence by enabling the rapid escalation of otherwise minor conflicts into deadly shootings;

(4) the public carrying of firearms increases the likelihood that incompetent or careless firearm users will accidently injure or kill innocent bystanders;

(5) the public carrying of firearms poses a danger to citizens of the United States who travel across State lines for business or other purposes; and

(6) all Americans have a right to be protected from the dangers posed by the carrying of concealed firearms, regardless of their State of residence.

SEC. 3. UNLAWFUL ACT.

Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) FIREARMS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for a person to carry a firearm, any part of which has been transported in interstate or foreign commerce, on his or her person in public.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) a person authorized to carry a firearm under State law who is—

''(i) a law enforcement official;

''(ii) a retired law enforcement official;

''(iii) a duly authorized private security officer;

''(iv) a person whose employment involves the transport of substantial amounts of cash or other valuable items; or

''(v) any other person that the Attorney General determines should be allowed to carry a firearm because of compelling circumstances, under regulations that the Attorney General may promulgate;

''(B) a person authorized to carry a firearm under a State law that permits a person to carry a firearm based on an individualized determination, based on a review of credible evidence, that the person should be allowed to carry a firearm because of compelling circumstances (not including a claim of concern about generalized or unspecified risks); or

''(C) a person authorized to carry a firearm on his or her person under Federal law.

''(3) EFFECT ON OTHER LAWS.—

''(A) FEDERAL LAWS.—Nothing in this subsection supersedes or limits any other Federal law (including a regulation) that prohibits or restricts the possession or transportation of a firearm.

''(B) STATE AND LOCAL LAWS.—Nothing in this subsection supersedes or limits any law (including a regulation) of a State or political subdivision of a State that—

''(i) grants a right to carry a concealed firearm that is more restrictive than a right granted under this subsection;

''(ii) permits a private person or entity to prohibit or restrict the possession of a concealed firearm on property belonging to the person;

''(iii) prohibits or restricts the possession of a firearm on any property, installation, building, facility, or park belonging to a State or political subdivision of a State; or

''(iv) permits a person to—

''(I) transport a lawfully-owned and lawfully-secured firearm in a vehicle for hunting or sporting purposes; or

''(II) use a lawfully-owned firearm for hunting or sporting purposes.''.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. CLELAND, Mrs. LINCOLN, and Mr. ROBB):

S. 968. A bill to authorize the Administrator of the Environmental Protection Agency to make grants to State agencies with responsibility for water source development, for the purposes of maximizing the available water supply and protecting the environment through the development of alternative water sources, and for other purposes; to the Committee on Environment and Public Works.

ALTERNATIVE WATER SOURCES ACT OF 1999

● Mr. GRAHAM. Mr. President, I rise today with my colleagues, Senators MACK, CLELAND, LINCOLN, and ROBB, to discuss an issue of great importance to the people of Florida and the nation: the availability of adequate water supplies. During the last decade, many states have experienced unprecedented population growth. For example, Florida's population increased by 15 percent, or almost 2 million people, over the last 8 years. We have directed resources towards improvements in our highway infrastructure to accommodate increased use. However, an area that has not received adequate attention but has the potential to negatively impact human health and the environment as well as limit economic growth is the conservation and development of adequate water supplies.

A number of eastern states, including Florida, are now experiencing water supply problems similar to those in the arid West. We must act now to prevent salt water intrusion into our aquifers, additional loss of wetlands, and curbs on economic development due to inadequate water supplies. As we prepare for the 21st century, demand for water for domestic, industrial, and agricultural uses will continue to increase.

In just one of Florida's regional water management districts, the Governing Board has committed $10 million per year since 1994 to providing financial assistance for local alternative water source projects such as conservation, wastewater reclamation, stormwater reuse, and desalination. When fully implemented, the 23 currently active or completed projects will provide more than 150 million gallons of water per day to supply existing and future needs. These projects will also reduce groundwater withdrawals, rehydrate stressed lakes and wetlands, increase ground water recharge, enhanced wildlife habitat, and improve flood control.

We are today introducing legislation to address this critical public health, environmental, and economic issue. The ''Alternative Water Sources Act of 1999'' establishes a federal grant program for eastern states that is similar to a program already operated by the Bureau of Reclamation for western states. The program will provide federal matching funds for the design and construction of water reclamation, reuse, and conservation projects. The bill authorizes the Environmental Protection Agency (EPA) to make grants to agencies with responsibility for water resource development, for the purpose of maximizing available water supplies while protecting the environment. Under this program, water supply agencies will submit grant proposals to EPA. The proposed projects must be part of a long range water resource management plan. If approved, the federal government would provide half the cost of the project. This legislation authorizes $75 million per year over the next five years to fund alternative water source projects.●

By Mr. ASHCROFT:

S. 969. A bill to amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to authorize schools to apply appropriate discipline measures in cases where students have weapons or threaten to harm others, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SCHOOL SAFETY ACT OF 1999

Mr. ASHCROFT. Mr. President, in the past two weeks since the tragedy occurred at Columbine High School in Littleton, Colorado, we have all had time to reflect on a number of issues. Our thoughts and prayers go to the families, friends, and other loved ones affected by this incident. We have asked ourselves why this happened. How it happened.

The Littleton tragedy requires reflection, thought and corrective action within our spheres of influence and responsibility. Children must learn respect and responsibility. Parents must be responsible for their children, including what they watch and what they do. Schools must have firm, fair and consistent discipline policies. Schools must be free to expel violence-prone students. State legislators must review state laws. Congress must review federal laws.

As a member of the United States Senate, I have been prompted to stop and examine our current federal education laws involving school safety, and see if our policies are promoting and encouraging school safety—or are in some way hindering our teachers, parents, principals, superintendents, and school boards from maintaining a safe place for our children to learn and our teachers to teach.

For much of the past year and before the Littleton tragedy, I traveled through Missouri talking to teachers, principals, school superintendents and school officials about the issue of school safety and school discipline. What I heard and learned was disturbing. After listening to school officials, I have concluded that there is, in fact, at least one federal law that actually jeopardizes our schools' efforts to provide a safe learning environment. Today I am introducing legislation, the School Safety Act, to amend this law and give schools the ability to remove from the classroom students who possess weapons or threaten to use weapons in the classroom, so that we can keep our children and teachers safe.

Once enacted, this legislation will help foster a safer environment in

schools. If this legislation had been enacted years ago, would it have prevented the Littleton tragedy? It would be wrong to claim for certain that it would. The truth of the Littleton tragedy is that those involved in the massacre violated at least 13 federal laws. The existence of those 13 laws did not stop the Littleton massacre. Still, we must examine our current federal education laws involving school safety and make necessary changes.

Across America, parents, teachers, and communities have made it clear that we want our schools to offer our students a world-class education that boosts student achievement and elevates them to excellence. If children are to attain high levels of academic performance, our schools must be able to provide safe and secure learning environments free of undue disruption or violence.

When we think of school safety, we obviously turn to one element that poses a threat to a secure environment: weapons in schools.

Our general federal policy is commendable: to have zero tolerance for weapons at schools. The federal Gun-Free Schools Act requires states receiving federal education funds to have a law requiring a one year expulsion of a student who has a weapon at school. I know that my state of Missouri has such a law on the books.

We would think that the Gun-Free Schools Act settles the issue of weapons in schools. But it doesn't. This law contains an exception for nearly one in seven students in my state, and one in eight nationally. This exception is for students covered by the federal Individuals with Disabilities Education Act.

Hidden among the provisions of the Gun-Free Schools Act is section (c), entitled ''Special Rule,'' which says: ''The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.'' When you turn to the IDEA law, you see a complex and elaborate set of roadblocks and barriers that hamstring schools in applying discipline to any IDEA student for situations involving weapons possessions.

When we talk about students who are subject to the IDEA law, we are not talking about any small number of children: In Missouri, over 129,000—or nearly 14% of our 893,000 students—are classified as ''disabled.'' That's one in seven students. Nationally, there are about 12–13% of all students who are under the IDEA law. We have to keep this in mind as we talk about this issue of school discipline and safety.

We must also consider which individuals qualify as ''disabled'' under IDEA. We are not just talking about blindness, deafness, orthopedic impairments, or MS. The federal IDEA definition of disability also includes individuals with serious emotional disturbances or specific learning disabilities.

Unlike the Gun-Free Schools Act, the Individuals with Disabilities Education Act does not have a zero tolerance for students with weapons. In fact, the IDEA law makes it very difficult for schools to act effectively when a student subject to this law has a weapon at school.

While the Gun-Free Schools Act would require that any other student be expelled for a year, the ''special rule'' for an IDEA student who brings a gun or knife to school provides that he could be back in the regular classroom within 45 days.

Here is a federal law that creates dangerous situations by not allowing school officials to keep those students who have possessed weapons in school out of the classroom.

IDEA also hinders schools from taking effective action to protect their students and teachers from students who make threats to use weapons. School districts have developed policies to address student weapons threats. For example, a superintendent in my state told my office that under his school district's policy, he could suspend a student for up to 180 days for threatening to bring a weapon to school and shoot another student.

However, if that superintendent is dealing with a student under IDEA, the law makes it very difficult for him to remove the student even if he considers the student a serious threat to the safety of others. In fact, the school may be unable to remove this child from the classroom if he has already been suspended for a certain number of days during the school year.

Here is a federal law that creates dangerous situations by not allowing school officials to act on early warning signs to remove potentially violent students from school.

The costs involved with trying to keep a dangerous child out of the classroom are astronomical under IDEA. Schools have told me that the ''due process'' proceedings a parent can invoke in response to any disciplinary action taken toward a child is so expensive and time-consuming that schools do all they can to avoid these proceedings. The easiest, simplest due process hearing costs a school about $7500 in Missouri!

Not only must schools pay their own legal fees for a due process hearing under IDEA, but they also face the prospect of being responsible for the parents' attorneys fees in some cases.

Here is a federal law that discourages safe classrooms because schools cannot afford to take steps they deem essential to maintaining safety without risking serious financial jeopardy.

The problems created by IDEA are not simply theoretical. Just three weeks ago—before the Littleton incident—I traveled around Missouri to talk to parents, teachers, principals, and administrators about ways to offer each child a world class education. Again and again, I was told that schools are handcuffed by federal law in dealing with violent and dangerous behavior—often connected with weapons. Let me give you a few examples:

In one rural Missouri school, a 15-year-old IDEA student had been making numerous threats against both students and staff. He said such things as, ''I'm going to shoot you. I'm going to get a gun and blow you away.'' School officials were aware of the threats, but the federal law hindered them from taking steps they thought most appropriate to deal with the student. Unfortunately this student ended up shooting another student off school grounds. Fortunately, because he remained in the custody of law enforcement authorities, the student was not returned to the classroom. School officials in this district told me that had this student not been subject to the IDEA laws, they could have—and would have—removed him from the classroom when he made the threats of killing other students and personnel.

In an eastern Missouri school district, an IDEA student who was under school suspension was asked to leave a Friday night school dance that he tried to attend in violation of school policy. The student tried continually to regain entry into the school and said to the principal, a teacher, and a parent who was helping supervise the dance: ''I'm going to go home, get my shotgun, come back, and blow your [expletives deleted] heads off.'' The superintendent says that the federal IDEA law constrained him to return this potentially dangerous student to the classroom early the next week. If the student had not had been under IDEA, the superintendent could have imposed a far longer suspension for threatening school personnel.

I learned of a Missouri grade schooler, subject to IDEA law, who announced at school, ''I'm going to bring a knife and cut the bus driver's throat.'' Was this an idle threat? This child had transferred from another school where he had been found with a knife and was suspended for 10 days. The federal IDEA law prevents this new school from imposing any more suspensions upon this child for the rest of the school year unless he actually shows up with a weapon again!

Let me emphasize that the vast majority of disabled students under the IDEA law—just like the vast majority of nondisabled students—are good kids who don't pose discipline problems in school. However, when it comes to something as serious as a student bringing a weapon to school or threatening to kill or harm someone with a weapon, school officials must have the ability to respond in the way they believe most appropriate to maintain a safe and stable school for all children.

When I hear these incidents from Missouri schools, I cannot help but think that there is something drastically wrong with our federal education laws. We have a mass tragedy waiting to happen if federal law keeps teachers from getting teenagers with weapons out of schools. We cannot afford to keep laws on the books that preclude schools from dealing with

early warning signs of danger and handcuff them from taking swift action to prevent violence. We must give schools the power to keep our children safe by allowing them to remove all students who have weapons or threaten to use them.

Schools all over my state have told me that they need the authority to discipline all students in a fair and consistent manner—for the safety of their schools and for the benefit of disabled children. Here are some examples of what schools have told me:

Maynard Wallace, Superintendent of the Ava R-I School District, has written: ''The discipline code must be the same for all if public education is to survive.'' He says that treating children with handicaps differently than other children in the area of discipline ''not only undermines the entire discipline of the school but is a definite disservice to the handicapped child as well.''

Betty Chong, Assistant Superintendent for Special Services in the Cape Girardeau school district, writes: ''The educators are themselves advocates for children with disabilities. . . . Special educators directors and many principals were first teachers who were dedicated (and still are) to the education of students with disabilities.'' She goes on to say: ''Students with disabilities are held to the same standards as students without disabilities when they are adults. When do they learn how to be law abiding citizens?''

Lyle Laughman, the superintendent of the Lincoln County R-IV school district has written: ''It is in the total best interest of the child and society for that [discipline] determination to be made on the local, individual case level rather than the Federal law which greatly restricts what a school can do in an individual set of circumstances.''

Dale Walkup, Board of Education President of the Blue Springs School District gave me a copy of a letter he sent to President Clinton which says, ''The reauthorization of IDEA has not supported impartial and appropriate consequences for those students who choose drugs and are violent or dangerous to others. We hope the IDEA regulations become more reasonable, appropriate, and considerate of the needs of our total student population.''

In response to both the incidents and recommendations that I have heard from schools, I am introducing the School Safety Act, which will allow schools to remove from the classroom any student who has a weapon or threatens to use a weapon at school. This legislation, which has been endorsed by the Missouri School Boards Association, will repeal the federal law that handcuffs schools from taking measures they believe appropriate to maintain a safe and secure learning environment for students and teachers.

A safe and secure setting is vital to success in the classroom. Any student who has a weapon at school, or who threatens to kill or harm someone with a weapon, should be removed from the classroom immediately. Whether a student is ''disabled'' under federal law should not prevent school administrators from dealing appropriately with weapons in school. We can no longer afford to keep a federal law that threatens the safety of the classroom. We can no longer afford to tolerate federal policy that invites a mass tragedy. Under the School Safety Act, schools will be empowered with the flexibility and authority they need to remove any dangerous and violent student from the classroom when weapons are involved.

This is not the first time I have introduced school safety legislation since I have been in the Senate. I have already worked to make improvements in the federal law to create a safer learning environment for students and teachers.

I began working on this issue in 1995, after a young woman was found dead in the restroom of a North St. Louis County high school. The male special education student convicted of murdering the woman had a history of dangerous behavior, but his discipline record hadn't been disclosed to his new school. In response to this situation, I sought for ways to give schools the crucial information they need to maintain a secure school environment. I authored legislation signed into law in June 1997 providing for the transfer of discipline records when students with dangerous behavior change schools.

In the recent ''ed-flex'' bill signed into law on April 29, 1999, I secured a provision that closes a loophole in federal law concerning weapons possession in school. Missouri school board officials had alerted me to a federal provision that allows a school to discipline a student only for carrying a weapon onto school grounds, but not for possessing a weapon at school. In response to this concern, I had the law amended to ensure that school officials can remove a student from the classroom whether he possesses—or carries—a weapon at school.

The legislation I am offering today builds upon this previous safe schools legislation by giving schools authority to remove any student from the classroom if he or she brings a weapon to school or threatens to kill or harm someone with a weapon.

Mr. President, a little over a year ago, the Senator from Washington, Senator GORTON, read from an editorial in the Seattle Post Intelligencer that recounted the story of a disabled student who attacked other students with a knife on a school bus. The editorial pointed out the disparities caused by the federal IDEA laws. It said: ''If the school district really is required by law to allow students back into class who carry weapons or otherwise have demonstrated intent to harm others, that law is in error and must be changed.''

I could not agree more with this editorial. It is time to change this erroneous law, which jeopardizes students and teachers by forcing school officials to ignore early warning signs of disaster. Maintaining a safe learning environment requires that local school officials have the authority and flexibility to discipline all students in an equitable and effective manner, especially when it comes to weapons. Let's unshackle our teachers, principals, superintendents, and school boards from a law that prevents them from keeping our children safe and secure. Let's give them the power to stop a tragedy before it happens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 969

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 ''School Safety Act of 1999''.

SEC. 2. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615(k) of the Individual with Disabilities Education Act (20 U.S.C. 1415(k)) is amended—

(1) in paragraph (1)(A)(ii), by striking ''45 days if—'' and all that follows through ''(II) the child'' and inserting ''45 days if the child'';

(2) in paragraph (2), by striking ''A hearing'' and inserting ''Except as provided in paragraph (10), a hearing'';

(3) by redesignating paragraph (10) as paragraph (11);

(4) by inserting after paragraph (9) the following new section:

''(10) EXPULSION OR SUSPENSION WITH RESPECT TO WEAPONS.—

''(A) AUTHORITY OF SCHOOL PERSONNEL WITH RESPECT TO WEAPONS.—Notwithstanding any other provision of this Act, school personnel may suspend or expel a child with a disability who—

''(i) carries or possesses a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency; or

''(ii) threatens to carry, possess, or use a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

in the same manner in which such personnel would suspend or expel a child without a disability.

''(B) DEFINITIONS.—For the purposes of this paragraph:

''(i) WEAPON.—The term 'weapon' has the meaning given the term under applicable State law.

''(ii) THREATENS TO CARRY, POSSESS, OR USE A WEAPON.—The term 'threatens to carry, possess, or use a weapon' includes behavior in which a child verbally threatens to kill another person.

''(C) FREE APPROPRIATE PUBLIC EDUCATION.—

''(i) CEASING TO PROVIDE EDUCATION.—A child expelled or suspended under subparagraph (A) shall not be entitled to continued educational services, including, but not limited to a free appropriate public education, under this Act, during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child

does not require a child without a disability to receive educational services after being suspended or expelled.

''(ii) PROVIDING EDUCATION.—Notwithstanding clause (i), the local educational agency responsible for providing educational services to a child with a disability who is expelled or suspended under subparagraph (A) may choose to continue to provide educational services to such child. If the local educational agency so chooses, then—

(I) nothing in this Act shall require the local educational agency to provide such child with a free appropriate public education, or any particular level of service; and

(II) the site where the local educational agency provides the services shall be left to the discretion of the local educational agency.

(5) in paragraph (11) (as redesignated in paragraph (3)), by striking subparagraph (D).

(b) CONFORMING AMENDMENTS.—

(1) Section 612(a)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)(A)) is amended by inserting before the period ''(except as provided in section 615(k)(10))''.

(2) Section 615(f)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(f)(1)) is amended by inserting at the beginning of the first sentence ''Except as provided in section 615(k)(10),''.

SEC. 3. AMENDMENT TO THE GUN-FREE SCHOOLS ACT OF 1994.

Subsection (c) of section 14601 of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921) is amended to read as follows:

''(c) SPECIAL RULE.—Notwithstanding any other provision of this section, this section shall be subject to section 615(k)(10) of the Individual with Disabilities Education Act (20 U.S.C. 1415(k)(10)).''.

ADDITIONAL COSPONSORS

S. 42

At the request of Mr. HELMS, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 42, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 196

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 196, a bill to amend the Internal Revenue Code of 1986 to waive in the case of multiemployer plans the section 415 limit on benefits to the participant's average compensation for his high 3 years.

S. 206

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 206, a bill to amend title XXI of the Social Security Act to provide for improved data collection and evaluations of State Children's Health Insurance Programs, and for other purposes.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 343

At the request of Mr. BOND, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 345

At the request of Mr. ALLARD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 398

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 398, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

S. 487

At the request of Mr. GRAMS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 487, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 512

At the request of Mr. GORTON, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Mississippi (Mr. T4Cochran), the Senator from Delaware (Mr. BIDEN), the Senator from Maine (Ms. SNOWE), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 514

At the request of Mr. COCHRAN, the names of the Senator from Utah (Mr. BENNETT), the Senator from Nevada (Mr. BRYAN), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 514, a bill to improve the National Writing Project.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 566

At the request of Mr. LUGAR, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 566, a bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

S. 600

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 600, a bill to combat the crime of international trafficking and to protect the rights of victims.

S. 631

At the request of Mr. DEWINE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 659

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 659, a bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

S. 660

At the request of Mr. BINGAMAN, the name of the Senator from Montana (Mr. BURNS) 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. 697

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 697, a bill to ensure that a woman can designate an obstetrician or gynecologist as her primary care provider.

S. 752

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 752, a bill to facilitate the recruitment of temporary employees to assist in the conduct of the 2000 decennial census of population, and for other purposes.

S. 757

At the request of Mr. LUGAR, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 757, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 805

At the request of Mr. DURBIN, the name of the Senator from California

(Mrs. FEINSTEIN) was added as a cosponsor of S. 805, a bill to amend title V of the Social Security Act to provide for the establishment and operation of asthma treatment services for children, and for other purposes.

S. 864

At the request of Mr. BINGAMAN, the names of the Senator from Illinois (Mr. FITZGERALD), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. TORRICELLI), the Senator from California (Mrs. BOXER), and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 864, a bill to designate April 22 as Earth Day.

S. 890

At the request of Mr. WELLSTONE, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 890, a bill to facilitate the naturalization of aliens who served with special guerrilla units or irregular forces in Laos.

S. 897

At the request of Mr. HAGEL, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 897, a bill to provide matching grants for the construction, renovation and repair of school facilities in areas affected by Federal activities, and for other purposes.

S. 901

At the request of Mr. BINGAMAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 901, a bill to provide disadvantaged children with access to dental services.

S. 931

At the request of Mr. MCCONNELL, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 931, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 956

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 956, a bill to establish programs regarding early detection, diagnosis, and interventions for newborns and infants with hearing loss.

SENATE JOINT RESOLUTION 21

At the request of Ms. SNOWE, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Idaho (Mr. CRAIG), the Senator from California (Mrs. FEINSTEIN), and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of Senate Joint Resolution 21, a joint resolution to designate September 29, 1999, as ''Veterans of Foreign Wars of the United States Day.''

SENATE CONCURRENT RESOLUTION 9

At the request of Ms. SNOWE, the names of the Senator from Maryland (Mr. SARBANES), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of Senate Concurrent Resolution 9, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of Senate Concurrent Resolution 11, a concurrent resolution expressing the sense of Congress with respect to the fair and equitable implementation of the amendments made by the Food Quality Protection Act of 1996.

SENATE RESOLUTION 59

At the request of Mr. LAUTENBERG, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of Senate Resolution 59, a bill designating both July 2, 1999, and July 2, 2000, as ''National Literacy Day.''

SENATE RESOLUTION 96—TO EXPRESS THE SENSE OF THE SENATE REGARDING A PEACEFUL PROCESS OF SELF-DETERMINATION IN EAST TIMOR, AND FOR OTHER PURPOSES

Mr. LEAHY (for himself, Mr. FEINGOLD, Mr. REED, Mr. HARKIN, Mr. MCCONNELL, Mr. MOYNIHAN, and Mr. KOHL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 96

Whereas United Nations-sponsored negotiations between the Governments of Indonesia and Portugal have resulted in significant and encouraging progress toward a resolution of East Timor's political status;

Whereas on January 27, 1999, President Habibie expressed a willingness to consider independence for East Timor if a majority of the East Timorese reject autonomy in a planned August 8, 1999 ballot organized by the United Nations;

Whereas despite President Habibie's efforts to bring about a peaceful resolution of the political status of East Timor, the arming of anti-independence militias by some members of the Indonesian military has contributed to increased political tension and violence;

Whereas since January 1999, violence and human rights abuses by anti-independence militias has increased dramatically resulting in the displacement of thousands of East Timorese villagers and scores of deaths;

Whereas since March 1999, hundreds of civilians may have been killed, injured or disappeared in separate attacks by anti-independence militias;

Whereas there are also reports of killings of anti-independence militia members;

Whereas the killings in East Timor should be fully investigated and the individuals responsible brought to justice;

Whereas access to East Timor by international human rights monitors, humanitarian organizations is severely limited, and members of the press have been threatened;

Whereas a stable and secure environment in East Timor is necessary for a free and fair ballot on East Timor's political status;

Resolved, That it is the sense of the Senate that—

(1) the United States should promptly contribute to the United Nations Trust Fund which will provide support for the East Timor ballot process;

(2) the President, Secretary of State and Secretary of Defense should intensify their efforts to urge the Indonesian Government and military to—

(a) disarm and disband anti-independence militias; and

(b) grant full access to East Timor by international human rights monitors, humanitarian organizations, and the press;

(3) the President, after consultation with the United Nations Secretary General, should report to the Congress not later than 15 days after passage of this Resolution, on steps taken by the Indonesian government and military to ensure a stable and secure environment in East Timor, including those steps described in subparagraphs (2) (a and b); and

(4) any agreement for the sale, transfer, or licensing of any military equipment for Indonesia entered into by the United States should state that the equipment will not be used in East Timor.

Mr. LEAHY. Mr. President, today I am submitting a resolution expressing the sense of the Senate regarding a peaceful process of self-determination in East Timor. I am joined by Senators FEINGOLD, REED, HARKIN, MCCONNELL, MOYNIHAN, and KOHL.

A year ago I doubt anyone would have predicted that a settlement of East Timor's political status would be in sight.

While there are many obstacles and dangers ahead, we should take note of what has been accomplished. In the past year:

President Suharto relinqushed power.

The Indonesian Government endorsed a ballot on autonomy, which is planned for August 8th.

The United Nations, Indonesia, and Portugal are to sign an agreement today on the procedures for that vote.

If the East Timorese people reject autonomy, there is every expectation that East Timor will be on the road to independence.

The resolution that I am submitting today recognizes the positive steps that have been taken.

But it also expresses our deep concern that since January, when Indonesian President Habibie expressed the willingness to consider independence for East Timor, violence and intimidation by anti-independence militias backed by members of the Indonesian military has increased dramatically.

The perpetrators of the violence want to sabotage the vote on East Timor's future.

I spoke with one East Timorese man today, Mr. Franciso Da Costa, who witnessed the April 6th massacre of scores of people in the village of Liquica.

An Op Ed article in today's New York Times by East Timorese lawyer Aniceto guterres Lopez says it all. He wrote: ''With arms, money and a license for reckless rampages, the militia leaders have openly threatened death to anyone opposed to continued Indonesian occupation.''

I received a report earlier today that Mr. Lopez' house is surrounded and he has been threatened with death. Bishop Belo, winner of the Nobel Peace Prize and one of the most courageous people I have ever had the privilege to meet, has also been threatened.

Hundreds of East Timorese civilians have been killed, injured or disappeared. Thousands have fled their homes to escape the violence, and are struggling to survive. Food and medicines are in short supply because the Indonesian Government has severely restricted access.

This resolution sounds an alarm. The situation is extremely fragile. The militias are sowing chaos and terror. Far stronger steps are needed by the Indonesian Government and military to rein in the paramilitary groups.

The resolution calls on the President and Secretary of State to intensify their efforts to urge the Indonesian Government and military to disarm the paramilitary groups. This must be done.

Another recommendation we make is that the United States contribute to the U.N. Trust Fund which will set up polling booths and put people on the ground to monitor the vote. I plan to work with Senator MCCONNELL, who is a cosponsor of this resolution and Chairman of the Foreign Operations Subcommittee, to obtain the funding as soon as possible.

The resolution says that any agreement to sell or transfer military equipment to Indonesia should state that the equipment will not be used in East Timor. We would prefer that there be no military equipment. But at the very least, we do not want our equipment ending up in the hands of thugs who are trying to derail the vote.

We know from history how much blood can be shed in East Timor. Nobody—not the Indonesian Government, not the Indonesian military, and certainly not the East Timorese people, benefits from a return to those days.

Mr. President, this resolution should receive overwhelming bipartisan support. I ask unanimous consent that the New York Times Op Ed article by Mr. Lopez be printed in the RECORD.

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

[From the New York Times, May 5, 1999]

EAST TIMOR'S BLOODIEST TRADITION

(By Aniceto Guterres Lopes)

Dili, East Timor—April 6, 1999. Another massacre. April 17. Another. Two more to add to an already lengthy list in East Timor. Since Indonesia invaded my homeland in 1975 and officially annexed it the following year, our history has seemed little more than a succession of massacres, one following the other in a depressingly predictable pattern.

Although the recent attacks have many precedents, they were committed when we were filled with unprecedented hope. Only four months ago, the Government of President B.J. Habibie offered us the chance to vote on whether to remain in Indonesia or become independent. Indonesia began working out the logistics of the vote with the United Nations and Portugal (the former colonial power still acknowledged under international law as the administering authority over East Timor). Today the Foreign Minister, Ali Alatas, is due to sign the final agreement on the vote at the United Nations.

The recent wave of violence here reveals that the Habibie Government is reneging on the promise of a peaceful resolution to East Timor's disputed political status. Although the Habibie Government denies it, the military, since last December, has organized its hardened East Timorese camp followers into militias. With arms, money and a license for reckless rampages, the dozen or so militia leaders have openly threatened death to anyone opposed to continued Indonesian occupation. Their spokesman, Basilio Araujo, told an Australian television crew, ''We will kill as many people as we want.''

The militia bosses boast that they are countering pro-independence guerrillas, but they have not fought a single battle with the guerrillas. They have only attacked unarmed civilians and created a refugee crisis. In sweeps through the countryside, the militias have threatened to kill the families of any male, young or old, who refuses to join their ranks. Many ''members'' of the militias are ordinary villagers, some of whom I know personally. They are forced recruits sullenly going through the motions and hoping to avoid being hurt and hurting others.

The human rights organization I direct has been trying to care for those who fled the villages to escape the militia threats. According to our figures, about 18,000 refugees are now sheltered in the towns. With little food, money and medicine, they are slowly succumbing to disease.

By unleashing the militias, the Indonesian Government's apparent strategy is to create the appearance of a civil war. Indonesia falsely claims to be an enlightened and neutral arbiter between a factious and primitive people not yet ready for independence.

As is clear to all observers, the militias have not been engaged in any pitched battles with pro-independence forces. They attacked, with axes and machetes, hundreds of helpless refugees sheltered in a church in Liquica on April 6. My staff has recorded the names of 57 dead, many of them women and children. Here in East Timor's capital, they attacked another group of about 150 refugees on April 17. Meanwhile, the pro-independence guerrillas, observing a cease-fire since December, refrained from responding to the militias' attacks on civilians until mid-April, as the Indonesian military spokesman in East Timor has admitted.

The militias have no other aim than to sow chaos and terror. Instead of allowing us to vote on whether to remain within Indonesia, the militia bosses are killing those who oppose them and vowing to wreck the United Nations-supervised vote scheduled for August. Bishop Carlos Ximenes Belo, who won the Novel Peace Prize in 1996, is on their hit list, as are Australian journalists, East Timorese students and human rights workers (myself included). The militia bosses are even threatening to attack United Nations officials who will come to administer the vote.

Sadly, President Habibie and his top military commander, Gen. Wiranto, have done nothing to stop the militias. Over the past five months, the gang leaders have, in public view, committed atrocities and issued death threats. Yet they move around with impunity. The much-publicized ''peace pact'' Gen. Wiranto arranged in Dili on April 21 was nothing more than a public relations stunt. The militias continue to attack unarmed civilians unilaterally.

For a free and fair vote to be held, Portugal and the United States will have to insist on a disarming of the militias and a substantial withdrawal of Indonesia's all-pervasive troops. The United States, holding considerable leverage over bankrupt Indonesia, should take strong action, like cutting off all military aid and training until a valid vote on independence is held in East Timor.

Every day my staff records more cases of torture, disappearances and killings. All East Timorese, except for a few deranged militia leaders, have experienced enough violence in their lives. We are desperate for a peaceful resolution. Yet the Indonesian military, by allowing these militias to be deployed, is drowning our hopes in blood.

Mr. FEINGOLD. Mr President, I rise today to join my distinguished colleague from Vermont [Senator LEAHY] to offer this resolution to encourage a peaceful process of self-determination in East Timor. We are introducing this resolution because of serious obstacles that have appeared en route to a ballot to determine the future status of East Timor.

Earlier this year it appeared that there was finally some progress in East Timor. President Habibie announced on January 27 that the government of Indonesia was finally willing to seek to learn and respect the wishes of the people in that territory. There appears to be an agreement between the governments of Indonesia and Portugal to hold a vote, currently scheduled for August 8, to determine East Timor's future political status. This latter accord is expected to be finalized today at the United Nations.

Despite this positive development, excitement and tension over the possibility of gaining independence have in recent months led to an incredible level of violence and intimidation. The situation on the ground continues to worsen as East Timor has been wracked by violence throughout the last several weeks. Militias, comprised of individuals determined to intimidate the East Timorese people into support for continued integration with Indonesia and widely believed to be supported by the Indonesian military, are responsible for a sharp increase in violence.

Let me recount some of the horror stories I have heard coming out of East Timor in the last few weeks. To cite just a few examples, pro-government militias, backed by Indonesian troops, reportedly shot and killed 17 supporters of independence on April 5. Shortly thereafter, pro-independence groups reported clashes, arrests and deaths, as well as civilians fleeing violence in six cities. One of those cities was Liquica where at least 25 people were brutally murdered by pro-government militias when up to 2000 civilians sought shelter in the local Catholic church. Later, on April 17, hundreds of East Timorese fled the capital of Dili as knife-wielding militias attacked anyone suspected of supporting independence. At least 30 were killed in this incident as Indonesian troops made little effort to stop the violence. The perpetrators have not all been on the government side. Over the years there have been atrocities on the pro-independence side as well. In recent months, however, the overwhelming majority of the violence has come from army elements and militias under their effective control. Overall, hundreds of civilians have been killed, wounded or disappeared in separate militia attacks.

Unfortunately, Mr. President, there is no sign that the tension will ease between now and the August ballot. Pro-integration militia leaders announced on April 29 that they reject the concept of the upcoming ballot, or anything that could be considered a referendum. They have further stated that if a ballot leads to independence, they are prepared to fight a guerrilla war for decades if necessary to defend Indonesian rule of the territory. Independent observers fear that neither side will accept a loss in the August 8 ballot, thus setting the stage for a prolonged conflict in East Timor. This type of rhetoric does not reassure us about the prospects for a successful transition for the people of East Timor, regardless of which form of government they choose. The climate in East Timor today, sadly, may have become too violent for a legitimate poll to take place. Worse yet, the agreement on the ballot process that we hope will be announced today in New York will be rendered meaningless if people will fear for their lives if they dare to participate in the process.

The government of Indonesia must shoulder particular responsibility. Whether Indonesian troops have actually participated in these types of incidents or not, the authorities certainly must accept the blame for allowing, and in some cases, encouraging the bloody tactics of the pro-integration militias. As a long time observer of the situation there, I see the continuation of this violence as a threat to the very sanctity and legitimacy of the process that is underway. It is for this reason that Senator LEAHY and I have submitted our resolution to encourage the government in Jakarta to do all it can to seek a peaceful process and a fair resolution to the situation in East Timor.

Mr President, I believe the United States has a responsibility, an obligation, to put as much pressure as possible on the Indonesian government to help encourage an environment conducive to a free, fair, peaceful ballot process for the people of East Timor. Administration officials are saying the right things, but perhaps have not fully used the leverage we have at our disposal to make things happen. If we are ever going to resolve this issue, now is the time for us, the whole U.S. government, to act decisively.

In order to further bring pressure on the government of Indonesia to ensure the conditions necessary for the ballot on a settlement for East Timor, the Leahy/Feingold resolution would link the transfer of defense articles and services to effective measures by the Indonesian government and military to ensure a stable environment in East Timor.

Though non-binding, it is strongly worded. Specifically, our resolution recognizes progress in negotiations on a settlement proposal for East Timor, and the Indonesian government's apparent willingness to seek a peaceful resolution to the status of East Timor, but highlights the resultant increase in violence and human rights abuses by anti-independence militias and urges the Habibie government to curtail Indonesian military support to the militias. Nevertheless, despite that progress and the prospect of today's finalization of ballot procedures, access to East Timor by international monitors remains restricted, threatening the very environment needed to conduct a free and fair ballot

Most importantly, our resolution makes positive recommendations about what the United States can do to create an environment conducive to a free election. It states that it is the Sense of the Senate that we should urge the U.S. government to contribute to the United Nations Trust Fund to provide support for the East Timor ballot process. It also encourages the Administration to urge the Indonesian government to disarm the militias and grant full access to East Timor by international monitors.

Mr. President, it is not in our power to guarantee the free, fair exercise of the rights of the people of East Timor to determine their future. It is, however, in our interest to do all that we can to work with the United Nations, other concerned countries, the government of Indonesia and the people of East Timor to create an opportunity for a successful ballot process. We cannot forget that the Timorese have been living with violence and oppression for more than 23 years. These many years have not dulled the desire of the East Timorese for freedom, or quieted their demands to have a role in the determination of East Timor's status. We have to do all we can to support an environment that can produce a fair ballot in East Timor. Now. And throughout the rest of this process.

Mr. President, I ask unanimous consent that the text of a May 3, 1999, editorial from the Wall Street Journal be printed in the RECORD at this point.

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

[From the Wall Street Journal, May 3, 1999]

EAST TIMOR'S POISONED CHOICE

For more than two decades, the world has recoiled in horror at periodic reports of atrocities by Indonesian troops in East Timor, the former Portuguese colony that Jakarta invaded in 1975 and then annexed amid great protest in 1976. Despite the outrage, sympathy with the plight of East Timorese and the repressed desire of many for independence didn't stop foreigners from doing business with Jakarta over the years. In fact, East Timor largely appeared on the world's radar screen only during peaks of suffering there—as in 1991 after Indonesian troops fired on a funeral procession and killed an estimated 180 people in the capital of Dili.

Even so, when President B.J. Habibie announced in January that East Timor could choose between autonomy or independence, a great cheer of moral satisfaction went up around the globe. After all these years and all that struggle, liberation was at hand! Even in recent weeks, as local antiseparation militiamen with ties to the Indonesian army went on killing sprees in East Timor, the independence juggernaut churned on. Representatives from Portugal and Indonesia recently agreed to sign a U.N.-sponsored proposal that could bring a vote to East Timor by this summer and an end to Indonesian rule by 2000.

The fact that President Habibie didn't actually sign, but requested a delay until early next month, has led to speculation that he may be getting cold feet about a proposal that Indonesia's powerful military does not support. As ominous as that sounds for all who thought the end was in sight, what strikes independence enthusiasts as sad may not be entirely bad. Even before the emergence of East Timorese anti-independence militas added to an already volatile mixture featuring armed separatists, there was evidence that the ordinary people of East Timor might be getting a raw deal on a silver platter. Though the entire exercise, vote and all, is supposed to be about self-determination, in some ways it appears that they are being thrown to the wolves—and not only by Indonesia.

Consider the reckless manner in which Mr. Habibie acknowledged that the cost of maintaining a grip on the turbulent province was too high for Indonesia. Former colonial power Portugal departed from many of its possessions in a fit of spiteful destruction, smashing infrastructure and leaving arms in the hands of the baddest locals it could find. Similarly, Mr. Habibie offered East Timor what was in effect a poisoned choice of immediate autonomy or immediate independence. That frightened even separatists among the Timorese, some of whom have been pleading for a more gradual process that would enable the province to better prepare for an orderly transition and successful independence.

But such is the rush to complete the voting process that East Timorese expressions of concern about timing have been largely brushed aside by outsiders who claim to be on their side. Such concerns have been unheard, or dismissed as impossible to address given Mr. Habibie's all-or-nothing adamancy. Better to take what you can get, and take it now, the rest of the world has been telling the Timorese. It's a shame it has to be so hurried, and now so bloody, but these things do happen.

If outsiders are not willing to protect East Timorese from the violent consequences of the process now under way, they should stop cheering so hard for the process. Having come so far, nobody likes to think of delay, not least because that would be seen as a victory for the dark forces within the Indonesian military and elsewhere. But standing idly by while the people of East Timor are propelled into a situation that is not simply risky but more or less expected to bring death and destruction will be a crime in itself.

Mr. McCONNELL. Mr. President, having just returned from Cambodia, Indonesia, Australia and New Zealand, I was impressed by how deeply concerned regional leaders were over the status and conditions in East Timor.

Although the first really democratic elections to be held in Indonesia are coming up in June, the U.N. autonomy agreement, which should be announced today, was the focus of most of my discussions. While I was in the region, there was yet another explosive round of violence which left 17 dead. There is absolutely no question that most of these attacks are being carried out by

militias which enjoy military support from the Indonesian armed forces.

I do not believe these militias are directly commanded by Indonesian officers. However, I do think these militias are both encouraged and equipped by individuals in the military who oppose autonomy or independence for East Timor. There clearly are officers with a vested interest in controlling the ports and trade through Timor. These individuals have put self interest above their nation's interest.

While in Jakarta I raised these specific concerns directly with General Wiranto. I believe he recognizes that these events damage Indonesia's stability and stature. I hope he will pursue a more aggressive course in the days to come to assure this spiral of violence ends.

In the meantime, I think we should make clear we will not allow US equipment to be used to further the violence in East Timor. I also believe it is essential to deploy civilian poll watchers and police to restore calm and credibility to the election process. To accomplish this goal in a timely and effective manner, I have initiated discussions with key congressional members to add funds to the supplemental bill to support a peacekeeping presence in East Timor. I understand that the UN estimates an election team supported by civilian police observers may cost as much as $50 million. I fully expect our regional partners and Portugal to assume a leadership role in meeting these needs, but we have key interests in promoting Indonesian stability and security. I would hope we can commit roughly $10 million to this endeavor. I am convinced that our support for an international monitoring initiative administered through the United Nations Trust Fund will help ease this crisis and offer the citizens of East Timor a real opportunity for reconciliation, peace and democracy.

SENATE RESOLUTION 97—DESIGNATING THE WEEK OF MAY 2 THROUGH 8, 1999, AS THE 14TH ANNUAL TEACHER APPRECIATION WEEK, AND DESIGNATING TUESDAY, MAY 4, 1999, AS NATIONAL TEACHER DAY

Mr. COVERDELL (for himself, Mr. FRIST, Mr. GORTON, Mr. LOTT, Mr. JEFFORDS, Mr. ABRAHAM, Mr. CRAIG, Mr. DOMENICI, Mr. COCHRAN, Mr. MACK, Mr. SMITH of Oregon, Ms. COLLINS, Mr. HATCH, Mr. LUGAR, Ms. SNOWE, Mr. GRAMS, Mr. CRAPO, Mr. KENNEDY, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 97

Whereas the foundation of American freedom and democracy is a strong, effective system of education where every child has the opportunity to learn in a safe and nurturing environment;

Whereas a first rate education system depends on a partnership between parents, principals, teachers, and children;

Whereas much of the success of our Nation during the 20th Century (the American Century) is the result of the hard work and dedication of teachers across the Nation;

Whereas in addition to a child's family, knowledgeable and skillful teachers can have a profound impact on the child's early development and future success;

Whereas many people spend their lives building careers, teachers spend their careers building lives;

Whereas our Nation's teachers serve our Nation's children beyond the call of duty as coaches, mentors, and advisers without regard to fame or fortune; and

Whereas across our Nation nearly 3,000,000 men and women experience the joys of teaching young minds the virtues of reading, writing, and arithmetic: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 2 through 8, 1999, as the ''14th Annual Teacher Appreciation Week'';

(2) designates Tuesday, May 4, 1999, as ''National Teacher Day''; and

(3) calls upon the people of the United States to take a moment out of their busy lives to say thanks and pay tribute to our Nation's teachers.

AMENDMENTS SUBMITTED

FINANCIAL SERVICES MODERNIZATION ACT OF 1999

BRYAN (AND OTHERS) AMENDMENT NO. 303

Mr. BRYAN (for himself, Mr. DODD, and Mr. KERRY) 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:

On page 14, strike lines 8 and 9 and insert the following: ''are well managed;

''(C) all of the insured depository institution subsidiaries of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977; and

''(D) the bank holding company has filed).

On page 14, line 20, strike ''and (B)'' and insert '', (B), and (C)''.

On page 18, between lines 4 and 5, insert the following:

''(5) LIMITATION.—A bank holding company shall not be required to divest any company held, or terminate any activity conducted pursuant to, subsection (k) solely because of a failure to comply with subsection (*l*)(1)(C).

On page 66, strike lines 7 and 8 and insert the following: ''bank is well capitalized and well managed;

''(E) each insured depository institution affiliate of the national bank has achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977; and

''(F) the national bank has received the''.

On page 66, line 12, strike ''subparagraph (D)'' and insert ''subparagraphs (D) and (E)''.

On page 66, line 16, insert before the period '', except that the Comptroller may not require a national bank to divest control of or otherwise terminate affiliation with a financial subsidiary based on noncompliance with paragraph (1)(E)''.

On page 96, strike line 23 and all that follows through page 98, line 4.

On page 104, strike line 20 and all that follows through page 105, line 14.

Redesignate sections 304 through 307 and sections 309 through 311 as sections 303 through 309, respectively.

Amend the table of contents accordingly.

REID AMENDMENT NO. 304

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill (S. 900), supra; as follows:

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 by regulation 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) CERTIFICAITON 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 Government 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 of 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 relieved 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.''.

EXPRESSING THE SENSE OF THE SENATE REGARDING THE TREATMENT OF WOMEN AND GIRLS BY THE TALIBAN IN AFGHANISTAN

BOXER AMENDMENT NO. 305

Mr. GRAMM (for Mrs. BOXER) proposed an amendment to the resolution (S. Res. 68) expressing the sense of the Senate regarding the treatment of women and girls by the Taliban in Afghanistan; as follows:

On page 3, line 4, strike ''the'' and insert ''any''.

BOXER AMENDMENT NO. 306

Mr. GRAMM (for Mrs. BOXER) proposed an amendment to the preamble to the resolution, S. Res. 68, supra; as follows:

Amend the preamble to read as follows:

Whereas millions of women and girls living under Taliban rule 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

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Wednesday May 5, 1999. The purpose of this meeting will be: (1) To consider the nomination of Thomas J. Erickson to be a Commissioner of the Commodity Futures Trading Commission; and (2) to discuss agricultural trade options.

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

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, May 4, 1999, at 10:00 a.m. in open session, to consider the nomination of Ms. Carolyn L. Huntoon to be Assistant Secretary of Energy for Environmental Management.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet on Wednesday, May 5, 1999, at 9:30 a.m. on pending committee business.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 5, 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 receive testimony on damage to the national security from Chinese espionage at DOE nuclear weapons laboratories.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing to receive testimony from Timothy Fields, Jr., nominated by the President to be Assistant Administrator, Office of Solid Waste and Emergency Response of the Environmental Protection Agency Wednesday, May 5, 9:00 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, The finance Committee requests unanimous consent to conduct a hearing on Wednesday, May 5, 1999 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 5, 1999 at 10:00 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT., Mr. President, I ask unanimous consent that the Governmental Affairs Committee be permitted to meet on Wednesday, May 5,

1999 at 9:00 a.m. for a hearing on the State of Federalism.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate Wednesday May 5, 1999 at 9:30 a.m. to conduct an Oversight Hearing on Tribal Priority Allocations. The Hearing will be held in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 5, 1999, at 9:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: ''Department of Justice Oversight.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 5, 1999, at 3:00 p.m. to hold a closed markup.

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 5, 1999, to conduct a hearing on ''The Financial Institutions Insolvency Improvement Act of 1999.''

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

SUBCOMMITTEE ON SEAPOWER

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet on Wednesday, May 5, 1999, at 3:00 p.m., in closed session, to receive testimony on Submarine Warfare in the 21st century.

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

ADDITIONAL STATEMENTS

MARITIME ADMINISTRATION AUTHORIZATION ACT

● Mr. HOLLINGS. Mr. President, it is with pleasure that I join Chairman MCCAIN and Senators HUTCHISON and INOUYE to introduce the Maritime Administration Authorization Act for Fiscal Year 2000. This legislation is critical for the continuation of a modern commercial fleet owned and operated by U.S. citizens and crewed by American seafarers. It also ensures America's economic competitiveness and national security.

The Maritime Administration (MARAD) reauthorization continues very important programs, and is a much broader piece of legislation than in past years. For example, it provides the funding for the Title XI Loan Guarantee Program, a truly national and international program. Title XI shipowners, their operation and their supplier base, cover almost every state in this country. Title XI has been vital in assisting our shipyards in competing internationally. U.S. shipyards are attracting foreign interests and winning orders for many vessel types. The bill also contains technical amendments to the Title XI program which will save time and money for both the Government and those applying for a loan guarantee. It also provides the funds for the operation of the U.S. Merchant Marine Academy at Kings Point, New York and continuing assistance to six State maritime academies. These students are the future of country and our merchant marine.

This bill also recognizes the importance of the merchant marine to our national security by its support for the recently-enacted Maritime Security Program (MSP), a modern commercial fleet available to provide critical support to the Department of Defense during war or national emergency. This year's reauthorization also contains provisions which aim to strengthen our U.S.-flag fleet through a much needed infusion of new tonnage by eliminating the three-year wait that a newly-registered bulk or breakbulk vessel must currently wait to carry preference cargo. This opportunity, which would end in one year or upon enactment of the OECD Shipbuilding Agreement, would not just improve the vessel profile of this fleet, but also add U.S. jobs> Vessels allowed to enter the preference trade would be required to perform shipyard repairs and other work necessary to bring them up to U.S.-flag standards in our own U.S. shipyards.

Funding is also provided for two new programs, enacted by the last Congress. Under the American Fisheries Act, MARAD will determine compliance with citizenship standards for certain fishing vessels, assisting in proper management and conservation of an important natural resource of our country. The agency is also developing a uniform process for the administrative waiver of the U.S.-built requirement for participation in the Jones Act trade for certain small passenger vessels, so that specific legislation need not be sought each time such a waiver is needed.

Mr. President, MARAD's FY 2000 budget recognizes the importance of sealift readiness and a strong U.S.-flag fleet. It acknowledges the need for a healthy shipbuilding industry and also provides for the education of our youth. I urge my colleagues to support this legislation.●

1999 NEW MEXICO HIGH SCHOOL SUPERCOMPUTING CHALLENGE

● Mr. DOMENICI. Mr. President, it is with great pride that I rise today to recognize the contestants of the 1999 New Mexico High School Supercomputing Challenge, an impressive group of young people from my home state of New Mexico. I want to extend a special congratulations to the five Albuquerque Academy students who won this intellectually demanding contest. In addition to their normal school work and other extra curricular activities, these students—Tom Widland, Kevin Oishi, Alex Feuchter, Ryan Davies and Ryan Duryea—diligently worked on their project for nearly a year to compete in this competition.

For the past 9 years, High school students from around the state have competed against each other in the Supercomputing Challenge. The student's projects are done on high-speed supercomputers at the Los Alamos National Laboratory with the winners of the competition receiving an award, a $1,000 savings bond, a plaque, several boxes of software, and a computer for their schools.

In light of recent events in the news, it has been easy for us to focus our attention on the problems seriously troubling our Nation's youth. That is why, now, more than ever, I believe it is essential that we encourage our kids by recognizing and praising their outstanding accomplishments. These young Americans exemplify, the character our Nation was founded on and set a positive example for their peers to follow.

The participants of the 1999 New Mexico High School Supercomputing Challenge, deserve to be recognized, and I am proud to salute them on this worthy accomplishment.●

STADIUM FINANCING AND FRANCHISE RELOCATION ACT

● Mr. BIDEN. Mr. President, I am pleased to join Senator SPECTER today in introducing legislation that will create a fund to finance the building and renovation of stadiums and ballparks for major league baseball and professional football sports leagues across America. For too long, baseball and football teams have threatened to move if state and local governments do not ante up the money to renovate or build new, publicly financed stadiums for the home teams. The scene is, by now, a familiar one: multi-millionaire team owners demand new, taxpayer-funded state-of-the-art stadiums, so that they and their players can make even more money for themselves—at taxpayer expense, of course. The taxpayers are impaled on the horns of a dilemma: either pony up or risk losing the team.

This bill will strike an equitable arrangement between teams and local governments to share the costs of stadium renovation and construction—ensuring that professional sports teams put up their fair share. The way the bill would accomplish this is straightforward. Team owners owe much of their wealth to revenue from network

telecasts of their games, a boon they receive courtesy of the antitrust exemption granted by us—the Congress. The antitrust exemption contained in the Sports Broadcasting Act permits teams to pool their television rights, yielding annual revenues of $2.2 billion to the National Football League and $425 million to Major League Baseball.

This legislation would require, as a condition for retaining this lucrative antitrust exemption, that Major League Baseball and the National Football League place into a trust fund 10 percent of the revenues the Leagues receive from network telecasts. Each sport's trust fund, in turn, would be used to finance up to one half the cost of constructing a new stadium or park, or renovating an older one, for any of the teams seeking such financing—so long as the local government has agreed to provide one dollar for every two furnished by the trust fund. In other words, if a pro team in Wilmington wanted to build a $200 million stadium, it could obtain $100 million from the trust fund, a government entity in Delaware would have to kick in $50 million, and the remaining money would have to come from the team owner or some other source. In addition to allowing the Leagues to retain their current antitrust exemption, the bill would expand the exemption to give the Leagues the authority to prevent member clubs from moving their franchises.

To my mind, this bill strikes just the right balance. Let us not saddle cities and taxpayers with the exorbitant—sometimes mind-boggling—costs of building new stadiums while the teams and their owners sit back and wait for the highest bidder. If the Leagues want to keep their antitrust exemption, the major source of their millions, they should be willing to do their fair share. This legislation's condition that in exchange for the exemption, the teams set aside 10 percent of their broadcast revenues, is a reasonable and much needed measure to restore some balance to a negotiating process that is out-of-whack.●

NATIONAL ASSOCIATION OF LETTER CARRIERS' ANNUAL FOOD DRIVE

●Mrs. BOXER. Mr. President, I would like to recognize the National Association of Letter Carriers for its efforts to combat hunger in America through its annual national food drive.

Each year, on the second Saturday in May, letter carriers in more than 10,000 cities collect canned food along their postal routes to supply local food banks. Last year, over 50 million pounds of food were donated to feed the hungry, and I am confident that 1999's drive will be an even greater success. In just seven years of operation, the National Association of Letter Carrier's national food drive has grown into America's largest one-day food collection effort.

To participate, residents in participating communities need only place a can of non-perishable food near their mailbox—their letter carrier does the rest. In addition to making regular pick-ups and deliveries, their letter carrier collects donations and transports them to a nearby postal station. Food is then sorted and distributed to local charities.

Mr. President, an estimated 30 million people go hungry every day in America. Food shortages hit children especially hard in the summer months, when school lunches are not available and many charity pantries run out of supplies donated during the Winter holiday season. The Letter Carriers' food drive makes a critical contribution at a time when help is urgently needed.

I commend the National Association of Letter Carriers for its leadership in organizing this annual event. The NALC's organizing partners—the United States Postal Service, the AFL-CIO, and the United Way—also deserve our thanks.

Finally, Mr. President, I urge each American to leave a can of food by the mailbox on Saturday. Together, we can fight hunger and make a difference in the lives of millions of Americans.●

ARSON AWARENESS WEEK

●Mr. BIDEN. Mr. President, I rise today to remind the Senate and the American Public that this is Arson Awareness Week. It is that time once a year that we stop to assess how arson affects our lives. Each year hundreds of Americans die because of the arsonist's match. Mr. President, I am outraged at this and the countless firefighters who are killed every year attempting to extinguish intentionally set fires. Arsonists should be swiftly brought to justice, especially when firefighters lives are put on the line.

When a fire is intentionally set in the center of a retail city district the damaged property becomes blight on the entire community. Like cancer, arson degrades the whole area. Jobs are lost, tax bases are depleted and, most importantly, people are often killed.

As a member of the Congressional Fire Services Caucus, I have long been associated with the war against arson. I have consistently supported stricter penalties for convicted arsonists. I have supported the efforts of the Bureau of Alcohol, Tobacco, and Firearms that assist our fine state and local fire investigators. I have also supported the United States Fire Administration which provides valuable research grants and public education efforts geared toward controlling arson.

Mr. President I remind all Americans that arson is still a serious problem, one we must continually work together to solve.●

TRIBUTE TO KEVIN L. REICHERT

●Mr. FEINGOLD. Mr. President, I come to the floor today with a heavy heart. If it hadn't happened already, the Yugoslav conflict just hit home.

Early yesterday morning, NATO experienced its first fatalities in its campaign against Yugoslavia. And Chetek, Wisconsin found its way into the news.

Army Chief Warrant Officer Kevin L. Reichert, of Chetek, Wisconsin, was killed aboard an Apache helicopter during a nighttime training mission in Albania. My thoughts, prayers, and sympathies go out to the friends and family of Kevin Reichert. We can all be proud of Kevin's service to his country.

The 28-year old from Wisconsin's Chippewa Valley leaves behind his wife of eight years, Ridgeley, and 3 kids. I thank the proud residents of Chetek and of Barron County, Wisconsin, for helping to raise such a brave and dedicated American. I hope the Reichert family and the 1,700 people of Chetek will take solace in the gratitude of our Nation.

The NATO effort in Yugoslavia has its costs. Kevin's death, and that of his co-pilot, David Gibbs, of Ohio, are sad reminders that conflicts like the one in Yugoslavia, while they seem far away, have a very real impact at home.

Mr. President, I am sure my colleagues join me in paying tribute to Kevin Reichert for his dedicated service to the United States.●

HONORING ELMA F. BRITTINGHAM

●Mr. BIDEN. Mr. President, it is with utmost respect and admiration that I rise today to acknowledge the contributions of a woman who, at the age of 99, has never tired of giving her all to her country and to the men and women of the Mill Creek Fire Company—Elma F. Brittingham of Marshallton, Delaware, affectionately known to everyone as ''Mom.'' On May 8, 1999, Mill Creek will honor her at its 72nd Annual Dinner for 72 years of unmatched volunteer service to the Mill Creek Fire Company. Yes, Elma is a charter member of the Mill Creek Fire Company and she remains an institution in the Fire Hall.

This well-deserved recognition is much less than I or anyone in Delaware could ever do to capture just how significant Elma's life has been to everyone with whom she has come in contact. Her legacy is etched in the memory of every fire service professional and volunteer in our State and her life continues to be an inspiration to all of us.

While many remember Elma for her 50 years of preparing turkey dinners for the Annual Volunteer Fire Conference, or her playing Yen Man in the company minstrel show, she is most remembered for her work on the frontline, fighting fires under the most dangerous circumstances. The one she most vividly remembers was during World War II when she helped put out a fire at an old prison farm on Duncan Road in Wilmington during a thunder and lightning storm. With this same energy and vigor, Elma is as spirited

today, five decades later, as she was more than a half-century ago.

I know that there may be someone like Elma Brittingham in other States, but none can be more important to a community than this totally committed, selfless woman that I honor today. She is what we, as Americans, should aspire to be—a loyal public servant, an example of excellence and achievement in everything she has committed to accomplishing, and a credit to her community and to her country. I am deeply privileged to know this woman and proud to call her a heroic Delawarean and an outstanding American.●

TRIBUTE TO BETTY FRANKLIN-HAMMONDS

●Mr. FEINGOLD. On April 28th, Madison lost a dedicated advocate and a dear friend: Betty Franklin-Hammonds.

Betty's life story is a catalogue of remarkable achievements. From her tenure as the executive director of the Madison Urban League, where she spearheaded a study on the gap in achievement between black and white students in the Madison school system, to her leadership at the Madison Times and the numerous awards she received for her work, there are countless examples of Betty's effectiveness as an advocate in the community.

But it was her character, more than any title or award, that defined Betty and made her such a powerful presence in our community. She was a truth teller who never backed down from a fight, a woman who led by example and wasn't shy about asking others to make the commitment to change she demanded from herself.

Betty was a unique combination of a quiet dignity and a fierce passion for justice that could only be quenched by constant motion. She worked tirelessly, as a social worker, at the Madison chapter of the NAACP, at the Urban League, and at the Madison Times, to make our city a better place.

Her own words tell us more about Betty than any tribute ever could. After receiving an award for her humanitarian work, she once told a crowd that ''everybody can be great because everybody can serve.'' By that measure, Betty Franklin-Hammonds was great indeed.●

MORNING BUSINESS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. BURNS. 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. 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 have several unanimous consent requests. All of them are agreed to on both sides of the aisle. Let me just go through them.

DESIGNATING THE WEEK OF MAY 2 THROUGH 8, 1999, AS THE 14TH ANNUAL TEACHER APPRECIATION WEEK, AND DESIGNATING TUESDAY, MAY 4, 1999, AS NATIONAL TEACHER DAY

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate now proceed immediately to the consideration of S. Res. 97, submitted earlier today by Senator COVERDELL for himself and others.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A resolution (S. Res. 97) designating the week of May 2 through 8, 1999, as the 14th annual Teacher Appreciation Week, and designating Tuesday, May 4, 1999, as National Teacher Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMM. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 97) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 97

Whereas the foundation of American freedom and democracy is a strong, effective system of education where every child has the opportunity to learn in a safe and nurturing environment;

Whereas a first rate education system depends on a partnership between parents, principals, teachers, and children;

Whereas much of the success of our Nation during the 20th Century (the American Century) is the result of the hard work and dedication of teachers across the Nation;

Whereas in addition to a child's family, knowledgeable and skillful teachers can have a profound impact on the child's early development and future success;

Whereas many people spend their lives building careers, teachers spend their careers building lives;

Whereas our Nation's teachers serve our Nation's children beyond the call of duty as coaches, mentors, and advisers without regard to fame or fortune; and

Whereas across our Nation nearly 3,000,000 men and women experience the joys of teaching young minds the virtues of reading, writing, and arithmetic: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 2 through 8, 1999, as the ''14th Annual Teacher Appreciation Week'';

(2) designates Tuesday, May 4, 1999, as ''National Teacher Day''; and

(3) calls upon the people of the United States to take a moment out of their busy lives to say thanks and pay tribute to our Nation's teachers.

THE CALENDAR

DANTE B. FASCELL NORTH-SOUTH CENTER ACT OF 1999

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 73, H.R. 432.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A bill (H.R. 432) to designate the North/South Center as the Dante B. Fascell North-South Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that the statements relating to the bill appear in the RECORD.

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

The bill (H.R. 432) was considered read a third time and passed.

CONDEMNING THE ESCALATING VIOLENCE, THE GROSS VIOLATION OF HUMAN RIGHTS AND ATTACKS AGAINST CIVILIANS, AND THE ATTEMPT TO OVERTHROW A DEMOCRATICALLY ELECTED GOVERNMENT IN SIERRA LEONE

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed immediately to the consideration of Calendar No. 74, S. Res. 54.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A resolution (S. Res. 54) condemning the escalating violence, the gross violation of human rights and attacks against civilians, and the attempt to overthrow a democratically elected government in Sierra Leone.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMM. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

The resolution (S. Res. 54) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 54), with its preamble, reads as follows:

S. RES. 54

Whereas the Armed Forces Revolutionary Council (AFRC) military junta and the rebel fighters of the Revolutionary United Front

(RUF) in Sierra Leone mounted a campaign of ''Operation No Living Thing'' in 1997 and have recently renewed the terror;

Whereas the atrocities and violence against the citizens of Sierra Leone, which include forced amputations, raping of women and children, pillaging farms, and the killing of the civilian population, has continued for more than 8 years;

Whereas the AFRC and RUF continue to kidnap children, forcibly train them, and send them as combatants in the conflict in Sierra Leone;

Whereas the Nigerian-led intervention force, Economic Community Monitoring Group (ECOMOG), which has deployed nearly 15,000 troops to Sierra Leone, has made a considerable contribution towards ending the cycle of violence there, despite the fact that some of its members have engaged in violations of humanitarian law;

Whereas the United Nations High Commissioner for Refugees (UNHCR) estimates that in 1998 more than 210,000 refugees fled Sierra Leone to Guinea, bringing the total number of Sierra Leonean refugees in Guinea to 350,000, in addition to some 90,000 Sierra Leonean refugees who sought safe haven in Liberia;

Whereas the refugee camps in Guinea and Liberia are at risk of being used as safe havens for rebels and staging areas for attacks into Sierra Leone;

Whereas the humanitarian crisis in Sierra Leone has reached epic proportions with people dying from lack of food and medicine; and

Whereas the escalating violence in Sierra Leone threatens stability in West Africa and has the immediate potential of spreading to neighboring Guinea: Now, therefore, be it

Resolved, That the Senate—

(1) urges the President and the Secretary of State to give high priority to aiding in the resolution of the conflict in Sierra Leone and to bringing stability to West Africa, including active participation and leadership in the Sierra Leone Contact Group;

(2) condemns—

(A) the violent atrocities committed by the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) throughout the conflict, and in particular its attacks against civilians and its use of children as combatants; and

(B) those external actors, including Liberia, Burkina Faso, and Libya, for contributing to the continuing cycle of violence in Sierra Leone by providing financial, political, and other types of assistance to the AFRC or the RUF, often in direct violation of the United Nations arms embargo;

(3) supports continued efforts by the regional peacekeeping force, ECOMOG, to restore peace and security and to defend the democratically elected government of Sierra Leone;

(4) recognizes that basic improvements in ECOMOG's performance with respect to human rights and the management of its own personnel would markedly improve its effectiveness in achieving its goals and improve the level of international support needed to meet those goals;

(5) supports appropriate United States logistical, medical and political support for ECOMOG and notes the contribution that such support has made thus far toward achieving the goals of peace and stability in Sierra Leone;

(6) calls for an immediate cessation of hostilities and respect for human rights, and urges all members of the armed conflict in Sierra Leone to engage in dialogue to bring about a long-term solution to such conflict; and

(7) expresses support for the people of Sierra Leone in their quest for a democratic, prosperous, and reconciled society.

EXPRESSING THE SENSE OF THE SENATE REGARDING THE TREATMENT OF WOMEN AND GIRLS BY THE TALIBAN IN AFGHANISTAN

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 75, S. Res. 68.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A bill (S. Res. 68) expressing the sense of the Senate regarding the treatment of women and girls by the Taliban in Afghanistan.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. BOXER. Mr. President, I am so pleased that the Senate will stand up for the rights of women and pass S. Res. 68, a resolution condemning the Taliban's treatment of women and girls in Afghanistan. I especially thank Senator BROWNBACK in joining me as the main cosponsor of this resolution.

The Taliban is a militia group that now controls between 85–90 percent of Afghanistan. People living under its rule are subjected to an extreme interpretation of Islam practiced nowhere else in the world. It is especially repressive on women living in Afghanistan.

Under Taliban rule, women and girls in Afghanistan are denied even the most basic human rights. They cannot work outside the home, attend school, or even wear shoes that make noise when they walk. Women who are in their homes are not allowed to be seen from the street, and houses with female occupants must have their windows painted over. Parents cannot teach their daughters to read, or take their little girls to be treated by male doctors.

Women are also forced to wear a full head-to-toe garment called a burqa. This restrictive covering allows only a tiny opening to see and breathe through. I understand that some women may choose to wear a burqa for religious reasons—that should be their right. However, the requirement that women wear a burqa is a clear violation of human rights. And further, the rules surrounding this requirement are frightening.

Women found in public who are not wearing a burqa are beaten by Taliban militiamen. If they wear a burqa and their ankles are showing, they are beaten as well. Poor women who cannot afford a burqa are forced to stay at home, preventing them from receiving medical care.

The Physicians for Human Rights recently conducted a study of 160 women in Afghanistan and their findings are horrific.

The study found that 77 percent of women had poor access to health care in Kabul, while another 20 percent reported no access at all. Of the participants, 81 percent reported a decline in their mental condition; 97 percent met the diagnostic criteria for depression; 42 percent met the diagnostic criteria for post-traumatic stress disorder; and 21 percent reported having suicidal thoughts ''extremely often'' or ''quite often.'' In addition, 53 percent of women described occasions in which they were seriously ill and unable to seek medical care.

The resolution passed today calls on the President of the United States to prevent a Taliban-led government of Afghanistan from taking a seat in the United Nations General Assembly, as long as these gross violations of human rights persist.

My resolution also urges the Administration not to recognize any government in Afghanistan which does not take actions to achieve the following goals: effective participation of women in all civil, economic, and social life; the right of women to work; 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; the freedom of movement of women and girls; equal access of women and girls to health care; equal access of women and girls to humanitarian aid.

It is shocking that women and girls in Afghanistan are suffering under these conditions as we approach the 21st century. The United States has an obligation to take the lead in condemning these abuses.

I want to thank the majority and minority leaders for allowing this legislation to come to the floor, and I appreciate the support from the many cosponsors of this resolution who are working to end human rights abuses against women in Afghanistan.

Mr. GRAMM. Mr. President, I understand that Senator BOXER has amendments to the resolution and the preamble at the desk.

I ask unanimous consent that the amendments to the resolution be agreed to, that the resolution, as amended, be agreed to, and the motion to reconsider be laid upon the table, that the amendment to the preamble be agreed to, and the preamble, as amended, be agreed to with no intervening action.

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

The amendments (Nos. 305 and 306) were agreed to as follows:

AMENDMENT NO. 305

(Purpose: To improve the resolution)

On page 3, line 4, strike ''the'' and insert ''any''.

AMENDMENT NO. 306

(Purpose: To improve the preamble)

Amend the preamble to read as follows:

Whereas millions of women and girls living under Taliban rule 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

The resolution (S. Res. 68), as amended, was agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

[The resolution was not available for printing. It will appear in a future edition of the RECORD.]

ORDERS FOR THURSDAY, MAY 6, 1999

Mr. GRAMM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, May 6. I further ask consent that on Thursday 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, that the Senate then resume consideration of S. 900, and Senator GRAMM be recognized in order to offer an amendment as under the original consent agreement.

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

PROGRAM

Mr. GRAMM. For the information of all Senators, tomorrow the Senate will resume consideration of the Financial Services Modernization Act, with Senator GRAMM immediately recognized to offer his amendment.

It is hoped that the bill will be completed during Thursday's session of the Senate. Therefore, rollcall votes will occur throughout tomorrow's session of the Senate.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRAMM. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Thursday, May 6, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 5, 1999:

DEPARTMENT OF LABOR

EDWARD B. MONTGOMERY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE RICHARD M. MCGAHEY.

DEPARTMENT OF STATE

DAVID B. DUNN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ZAMBIA.