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Senate

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Father, thank You for the gift of hope that is the anchor of our souls. We can ride out the storms of life knowing our anchor of hope is sure. How good it is to begin the work of a new week with this vibrant quality of expectation. Our hope is held fast in Your promises. You do not send trouble, but You do work out Your plans for us in spite of the difficulties we face. Our confidence is that You have chosen us to do Your work. We choose to be chosen. We claim Your promise to provide us with exactly what we need in every challenge, complexity, or conflict. We commit ourselves and our work to You.

Bless the Senators with an acute awareness of Your presence, an availability to respond to Your guidance, and an accountability to You alone for how they will exercise the authority You have entrusted to them. Dear God, we report in for duty. And now we join with the whole Senate family in expressing gratitude for the life and leadership of Senator JOE BIDEN as he celebrates 10,000 votes as a Senator. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Ms. COLLINS. I thank the Chair.

SCHEDULE

Ms. COLLINS. Today the Senate will be in a period of morning business until 2 p.m. There will be no rollcall votes during today's session of the Senate. Under the previous order, the Senate will begin consideration of S. 254, the juvenile justice bill, at 9:30 a.m. tomorrow. It is hoped significant progress will be made on that bill, and therefore Senators should expect votes after 2:15 p.m. during Tuesday's session of the Senate. I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. with the time equally divided between the majority leader or his designee and the minority leader or his designee, with Senator COLLINS permitted to speak therein for not to exceed 15 minutes utilizing the majority time.

The distinguished Senator is recognized.

Ms. COLLINS. I thank the Chair.

BIOMASS ENERGY EQUITY ACT

Ms. COLLINS. Mr. President, last Thursday, I introduced the Biomass Energy Equity Act of 1999. I was pleased to be joined by Senator BOXER, my colleague from California, as an original cosponsor. This legislation makes a common-sense change to the renewable energy production tax credit by expanding it to include additional types of biomass plants. I would like to take a few minutes now to discuss the need for this important bill and to describe what it would do.

Simply put, biomass energy production uses combustion to turn wood and organic waste into energy in an environmentally sound process. Biomass takes a public liability, organic waste, and converts it into a public asset, energy.

The renewable energy production tax credit enacted in 1992 provides incentives to the solid-fuel biomass and wind energy industry to develop economically viable and environmentally responsible renewable sources of electricity. In enacting that legislation, Congress recognized that biomass energy offers substantial environmental benefits, specifically a reduced dependence on oil and coal, a desirable alternative to open field burnings and the landfilling of organic material, and a net reduction of greenhouse gas emissions.

Unfortunately, an error was made that nullified the potential societal benefits that incentives for biomass energy production offers. The 1992 act narrowly defined an eligible biomass facility as including only so-called closed-loop biomass facilities. Closed-loop biomass is a hypothetical form of electricity generation where the fuel is planted, grown, and harvested specifically and solely for the fuel of the power plant. Not only does this definition rule out the significant environmental benefit of disposal of organic waste otherwise destined for a landfill or to be field-burned, but also this scenario is not feasible and therefore remains unused. Since the biomass tax credit was passed, no taxpayer, not one, has taken advantage of the tax benefit. Simply put, the closed-loop tax credit is not a sufficient incentive to develop a costly ''fuel plantation,'' which entails large-scale land purchases, property taxes, and growing material for the sole purpose of burning it. By demanding that newly grown material be used rather than organic waste, the closed-loop biomass definition flies in the face of the commonly accepted environmental principle that products should be put to as many ''highest value'' uses as possible.

Mr. President, several states, including Maine, are deregulating their energy industries. Starting March 1, 2000, electricity consumers in Maine will be

able to shop for electricity as they now shop for long-distance telephone service.

While the specifics remain very much up in the air, the country is progressing toward restructuring electricity generation and distribution. While there are many clear economic benefits to a deregulated energy market, without incentives like the one I am proposing, green, renewable energy production like biomass is unlikely to be able to survive in deregulated market.

The legislation that I have introduced would expand the eligibility of the biomass tax credit to include conventional biomass plants. This legislation is designed to encourage a source of energy generation that offers substantial air quality, waste management, and greenhouse gas reduction benefits. The national biomass industry currently uses over 22,000,000 tons of wood waste a year. The waste the biomass industry converts into energy otherwise would be disposed of in one of three ways: burned in an open field, which generates pollution not energy; landfilled, where it fills limited landfill space and biodegrades, emitting methane, carbon dioxide, and other gases, or left in the woods or fields, increasing the risk and severity of forest fires.

The air quality benefits of biomass energy are of particular importance. According to the Northeast States for Coordinated Air Use Management, an organization of all the Northeastern States Air Quality Bureaus, biomass energy produces less nitrogen oxide than biomass alternatives, and furthermore, it generates virtually no sulfur dioxide, particulate matter, or mercury. Biomass energy production also results in a net reduction of greenhouse gases, as I have previously stated.

In addition to their environmental benefits, biomass plants contribute to the economy of many rural towns throughout America. Because of their dependence on organic waste, biomass facilities are usually located in rural areas where they are often important engines of economic growth. For example, in the small town of Sherman, ME, a biomass facility provides 56 percent of the property tax base. It also directly employs 23 individuals and indirectly provides work for hundreds of truck drivers, wood operators, mill workers and maintenance contractors.

In another small town of Maine, Athens, ME, a biomass facility provides a third of that small town's tax base and directly employs 20 people, while supporting a local wood operator who, in turn, employs 40 people.

The point is, the economy in many of the small towns in Maine, in towns such as Livermore, Ashland, Greenville, Fort Fairfield, Stratton and West Enfield benefit considerably from these biomass facilities. In total, there are over 100 biomass facilities in the United States, representing an investment in excess of $7 billion. These facilities contribute jobs, property taxes and a disposal point for waste products. In addition, rural biomass facilities also provide ash for use by local farmers, reducing their purchases of lime. I understand there is regularly more demand for the ash produced by these biomass plants than there is supply.

With biomass energy production, nothing is wasted. Biomass turns waste products—the byproducts of timber, paper or farming operations—into needed energy, wasting nothing. Even the ash is returned to the Earth to grow organic matter yielding both crops and waste to generate still more electricity.

We in Congress often discuss ways to help rural America. I know that is of great concern to the Presiding Officer. This proposal offers an opportunity to do so in a way that not only benefits the economy of small towns in rural America but also in a way that generates considerable environmental benefits that we all can enjoy.

This measure makes both economic and environmental sense. I urge my colleagues to join me in supporting this important legislation and working for its passage.

Thank you, Mr. President. I yield the floor.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I ask unanimous consent that I be recognized for 15 minutes following the presentation of the Senator from Oregon.

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

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent that Anthony Blaylock be granted the privilege of the floor during morning business this morning.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon.

Mr. WYDEN. Thank you, Mr. President.

JUVENILE VIOLENCE

Mr. WYDEN. Mr. President, this is going to be an important week in the Senate. I am very glad there is going to be a discussion—a long overdue discussion—on juvenile violence and steps that can be taken to prevent it in our country.

BOOK SELLING IN AMERICA

Mr. WYDEN. Mr. President, I turn for a few minutes this morning to an issue that many Senators may not have heard much about but one that has great implications for the consumer, for intellectual freedom and the quality of life in our communities across the country.

The issue I intend to focus on specifically is the proposed acquisition by Barnes & Noble of the Ingram book company. The price tag on this acquisition is $600 million, and it involves the Nation's largest bookstore chain, Barnes & Noble, joining forces with the Ingram book company, the world's largest book distributor.

I am concerned that this deal will give Barnes & Noble a competitive stranglehold on the bookselling business in America. That is why last November I asked the Federal Trade Commission to investigate this proposed acquisition. Based on information I have learned in the last few days, I believe the Federal Trade Commission will soon make a decision on this proposed acquisition. I am very hopeful that when the Federal Trade Commission comes down with that decision, they will come down foursquare for the consumer.

Right now across this country, thousands and thousands of Americans have stopped at small bookstores to sign petitions urging that this proposed acquisition be blocked. In fact, there is a special phone line at the Federal Trade Commission because there has been such a tidal wave of interest on this specific proposal. I will briefly outline this morning what I find troubling about this proposed deal.

For a small bookstore, if this acquisition goes forward, they will have to depend on a megastore for the products they sell. The new bookstore colossus, with Barnes & Noble coming together with Ingram, will essentially have a huge competitive advantage that could work to cause great hardship for small bookstores in our country. Because the Ingram Company has information about sales and volume and ordering habits of small bookstores, is the new megastore going to use that information in a fair way? I am very concerned about it, but I can tell you that small bookstores across this country are very troubled when it comes to getting fair access to the titles they need, when it comes to how that information which Ingram has, that will be part of the new operation with Barnes & Noble, is used. I can tell you that small bookstores across this country believe this issue is literally one of life and death for them.

Second, I am concerned about issues relating to intellectual freedom. My concern is that with this deal and the potential that there will be just a handful of big bookstores in our country dominating the Nation, what they will stock are largely the best sellers.

I have had some experience with this. My father, who passed away, was an author and had a small publishing company. He said there is always room at the big stores in titles involving sex and drugs and rock and roll.

But I am concerned about what is going to happen when we have just a handful of these megastores, whether we are going to see intellectual freedom prosper and those titles that are not always on the best seller list accessible the way they are today.

Third, I am concerned about the vitality of our communities. These small bookstores in so many of our communities do more than just sell books. Yes, they sell publications and they make it possible for young people in rural America and inner cities and others to have a comfortable place to learn, but they are also a huge addition to Main Street in so many parts of rural Oregon and, I am sure, in Kansas where the Presiding Officer resides. Having been born in Wichita, we have talked before about life in rural America.

I do not want to see those small bookstores becoming part of the Main Street of yesteryear in rural America. I am very concerned that if this proposed merger goes forward, as it is currently structured, it really will put a hardship on a lot of main streets in rural communities and will diminish the vitality of many of those towns.

I admit to growing up a bit skeptical of some of these large megastores. As I said, my dad was an author, and I spent a lot of Sunday afternoons going through some of those megastores with my dad trying to persuade them to put one of his titles that did not fit their view of what was popular up close, up close to where the consumers were when they stopped to browse in the window. My father was concerned about the concentration of economic power in the bookselling business.

I tell you, I think this deal, if it goes forward as structured, will confirm a lot of the worries that my dad and others like him have had about our country and where the bookselling business is going.

Finally, I think we all understand that the bookselling business has changed certainly on the Internet. The Presiding Officer has worked with me on legislation which has been important to me such as the Internet Tax Freedom Act.

The Internet has changed the bookselling business. There is no question about the fact that with Amazon.com and others in the business of selling books on line, the business has changed very dramatically. But I do not buy the idea that Barnes & Noble had to merge with Ingram in order to take on Amazon. I do not buy that idea at all.

I think there is a role in our country for a variety of ways for consumers to order publications. I think there is an important place for the small bookstore, especially because of the contributions they make to main streets in rural communities and inner cities. I certainly do not want to hold back on-line shopping. That is why I was a principal sponsor in the Senate of the Internet Tax Freedom Act. So I do not take a back seat to anybody in terms of trying to ensure that we take advantage of all the technological innovations that are available for the consumer.

What concerns me about this proposal is that a lot of small bookstores are not going to be able to survive. A lot of small bookstores are going to find it difficult to survive if Barnes & Noble has proprietary information about them, about their volume, about their sales practices, about the way they do business, and if that information is used against small bookstores.

So I believe the Federal Trade Commission has in front of it an issue of extreme importance, one which will dramatically affect intellectual freedom, one which has great implications for antitrust policy and the consumer, one which will be vital to the well-being of communities and main streets across this country. I believe the Federal Trade Commission is going to rule soon on this proposed acquisition. I believe they are going to act in the interest of the consumer. I appreciate the opportunity to bring the Senate up to date on this important economic matter.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from North Dakota.

FAMILY FARMERS

Mr. DORGAN. Mr. President, I come to the floor briefly today to talk about two issues. First, tomorrow the appropriations conference begins between the House and the Senate on the emergency supplemental appropriations bill. That includes specifically the President's request for emergency appropriations to be made for some agricultural spring planting loans, some emergency appropriations to be made for the purpose of helping the victims of Hurricane Mitch in Central America, and then since that time the President has made new recommendations on emergency funding for the Defense Department needs as a result of the actions in Kosovo.

The House of Representatives took a request by President Clinton for nearly $6 billion in added funds for the military especially, but including some humanitarian relief for the actions in Kosovo, and added to that $6 billion of emergency funding nearly $7 billion more, to reach a total of close to $13 billion in emergency funding.

A number of us believe that, while we are on the subject of emergencies and in a supplemental appropriations conference, it would be inappropriate to add $7 billion to the defense budget for emergency needs relating to Kosovo—although some of it has very little relationship to Kosovo, it has a relationship to what is called ''readiness'' in defense accounts and other things—that it would be inappropriate to consider that without considering other emergency needs here at home on the domestic front. One of those is agriculture.

The plight of the family farmer in this country has been pretty well described by myself and others on the floor of the Senate in recent months. The Congress did some emergency work last fall to provide some income support to family farmers above and beyond the current farm bill. But it is not nearly enough.

We now come to May of 1999, at a time in which prices for many commodities in agriculture, in constant dollars, are at Depression level, and we are going to lose thousands, tens of thousands, perhaps hundreds of thousands, of family farmers if we decide to do nothing. Tomorrow's conference between the House and Senate may be the only opportunity that exists this year to provide support for emergency funding, to add some income price support to family farmers, which they desperately need.

This chart shows what is happening in rural America. This map shows counties marked in red which are being depopulated in our country. These are counties that have lost at least 10 percent of their population in the last 18 years. You can see on this map the large red area that shows the middle of this country—the farm belt—is being depopulated, people are leaving.

Why are people leaving the farm belt in droves, and especially now in more recent years? Why are people leaving their family farms, leaving the farm belt, and leaving rural counties? The answer is, family farmers cannot make a living when they produce grain and then have to sell it at a price far below their cost of production. It does not work that way. You go broke. Bad trade agreements, concentration in agricultural industries—there are a whole series of reasons—but the central reason, it seems to me, is low prices. If you do not get a decent price for that which you produce, you are not going to be able to make a decent living.

The question for this country is, What kind of price supports are available to farmers when market prices collapse? Every one of us in this Chamber would prefer that farmers received their prices from the marketplace. But when the marketplace collapses, farmers load a couple hundred bushels of wheat on their trucks, drive to the elevators, are told that wheat has no value, or has very little value, then the question for Congress is, Do we want family farmers in our future? And, if we do, What kind of income support are we willing to offer to create a bridge over that price valley when prices collapse?

The largest enterprises, the big agrifactories, will make it across that valley. They are big enough, strong enough, have the financial resources to make it across that price valley. It is the family farmer who will not make it. So the question for the Congress is, Do we care about family farming? And, if we do, what can we do to provide some income support when prices collapse?

A number of us will offer, during this deliberation in the conference between the House and the Senate on emergency needs, a proposal to restore some emergency funding to family farmers. There are lots of ways of doing that. I have my own feeling about how to do

it. Senator HARKIN and I, along with Senator CONRAD and others—Senator HARKIN and I, incidentally, will be in the conference tomorrow, are prepared to offer some proposals to deal with emergency needs, it is not just the Defense Department that has emergency needs, family farming is in a full-scale emergency in this country.

This Congress must take steps to save it. Tomorrow, again, Senator HARKIN, myself and some others in the conference on appropriations, of which Senator HARKIN and I are conferees, intend to raise this question in a very forceful way and push very aggressively for action on an emergency basis with our colleagues.

Republican and Democrat colleagues here in this Chamber understand that we face a very serious problem. All of my colleagues who come from the farm belt have said the same thing. Family farmers are in trouble. There is no disagreement about that. There might be some disagreement about the mechanism by which we address this question, but I think everyone here, with whom I share the long-term interests of the welfare of family farming, believes that we need, during periods of collapsed prices, to provide some income price support. The question is how do we do that. My hope is the first step will be tomorrow during the conference that we have with the House of Representatives.

KOSOVO

Mr. DORGAN. Mr. President, if I may address one additional issue, this deals with Kosovo and Mr. Milosevic. There was a piece published in the Washington Post on Sunday, written by Mark S. Ellis, that I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks on Kosovo.

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

(See exhibit 1.)

Mr. DORGAN. The piece by Mr. Ellis is entitled ''Non-Negotiable, War Criminals Belong in the Dock, Not at the Table.''

I wanted to bring this piece to the attention of my colleagues because Mr. Ellis says it well. He points out that we are at a time and a place, dealing with Mr. Milosevic in Kosovo, when it is all of our responsibilities to bring Mr. Milosevic to justice.

Some would say, well, how do you arrest someone who is not accessible to you? It doesn't matter, as far as I am concerned, whether it's possible to apprehended and arrest him. We have a responsibility in this case, just as I felt we did in the case of Saddam Hussein, to make the case against these leaders for the war crimes they have committed and to bring them to trial before an international tribunal, try them, and, hopefully, convict them as war criminals. To not do that, it seems to me, will be to continue to have to deal with people who have committed genocide and war crimes that have brought unspeakable horror to the people of Kosovo, and to continue to have to deal with them in the future.

I know some in this country and elsewhere say the problem is, if you push aggressively to try Mr. Milosevic as a war criminal and ultimately have to negotiate with him some sort of negotiated settlement in the Balkans, it is very hard to negotiate with someone you have identified as a war criminal. That is a lot of psychobabble, as far as I am concerned.

We have already decided this fellow is a war criminal by virtue of our actions in NATO. NATO decided that the genocide and ethnic cleansing that were occurring in Kosovo could not be allowed to stand.

I think it might be useful to read through a list of some of the allegations. By no means is this a definitive list, it is just a small sliver: the village of Goden, the execution of 20 men and then the burning of the entire village; Malakrusa, 112 men shot and their bodies burned; Pastasel, 70 ethnic Albanian bodies discovered; Pec, at least 50 ethnic Albanians killed and buried in their own yards; Podujevo, the execution of 200 military age men and 90 percent of the village burned as well; summary execution; robbery; rape; forced expulsion.

We now have seen the march of nearly 1 million people displaced from their homeland, villages burned, looted, and plundered. One refugee said, ''16 special policemen appeared shooting their automatic weapons in the air. Two families had strayed from the group and the Serbs opened fire, killing every member of both families, except for a 2-year-old boy who had been protected by his mother. She hid the baby in front of her and saved him. I saw this with my own eyes,'' this refugee said, ''maybe 150 feet from me.''

In 1992, Secretary of State Eagleburger publicly identified Mr. Milosevic as a war criminal; 1992, 7 years ago. Mr. Eagleburger is one of the most respected foreign policy thinkers in our country. He said Mr. Milosevic was a war criminal in 1992. What does that mean, to say someone is a war criminal or for our country to allege someone is a war criminal, if we decide to do nothing about it, if an international tribunal exists by which someone can and should be tried but we decide, no, we don't really want to do that in the face of mass executions, in the face of ethnic cleansing? We say we really don't want to do that because we may need to negotiate a settlement to this conflict.

It was a mistake not to go to an international tribunal and convict Saddam Hussein as a war criminal so that forever after he would be branded a war criminal. He is now, many years later, of course, still running Iraq. He does not have the stigma of having been convicted in absentia as a war criminal. He should have. The same, in my judgment, is true of Mr. Milosevic.

To read a paragraph from Mr. Ellis's wonderful piece in the Washington Post, he said:

When I watched the bus loads of new arrivals enter Stenkovec camp, I saw a small girl's face pressed against the window. Her hollow eyes seemed to stare at no one. History was being repeated. In his opening statement at the Nuremberg trials in 1945, U.S. chief prosecutor Robert H. Jackson said, ''The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating that civilization cannot tolerate their being ignored because it cannot survive their being repeated.'' Jackson was expressing the hope that law would somehow redeem the next generation that similar atrocities would never again be allowed. Today, we must hold personally liable those individuals who commit atrocities in the former Yugoslavia. To negotiate with the perpetrators of these crimes not only demeans the suffering of countless civilian victims, it sends a clear signal that justice is expendable, that war crimes can go unpunished. Inevitably, lasting peace will be linked to justice, and justice will depend on accountability. Failing to indict Milosevic in the hope that he can deliver a negotiated settlement makes a mockery of the words ''Never Again.''

I am not an expert in this region. I have been to Yugoslavia, when it was Yugoslavia. I sat at an outdoor restaurant on a beautiful evening and watched wonderful people, just like my neighbors in Regent, ND, just like North Dakotans or Kansans or other folks, and it occurred to me that it was a wonderful country with a lot of wonderful people. Of course, we now know that what has happened as a spark occurs in an area, and Mr. Milosevic follows up the spark with ethnic cleansing, producing a calamity. We see the horrors inflicted on people, in some cases by their previous neighbors, that you would have thought unthinkable. Something is dreadfully wrong when the rest of the world allows a dictator like Mr. Milosevic to inflict ethnic cleansing and the kind of horror he has inflicted on the people of Kosovo.

That is why NATO and the United States have engaged in airstrikes. It is why all of us hope this conflict ends soon and that Kosovars are returned to their homes. Also, Mr. Milosevic, at least from my standpoint, should be brought before an international tribunal and tried even in absentia, if necessary, as a war criminal and convicted as a war criminal to send a signal to the world that this new world order will not allow this to go unpunished.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, May 9, 1999]

NON-NEGOTIABLE, WAR CRIMINALS BELONG IN THE DOCK, NOT AT THE TABLE

(By Mark S. Ellis)

Just a few weeks ago, I stood among a sea of 20,000 desperate people on a dirt airfield outside Skopje, Macedonia, listening to one harrowing story after another. I had come to the Stenkovec refugee camp to record those stories and to help set up a system for documenting atrocities in Kosovo.

As I collected their accounts of rape, torture and executions at the hands of Serbian troops, I was struck by the refugees' common yearning for justice. They wanted those

responsible for their suffering to be held accountable. Their anger was not only directed at the people they had watched committing such savagery, but at the Political leaders—and Yugoslav President Slobodan Milosevic in particular—who had orchestrated the misery and continue to act with impunity.

The means exist to hold Milosevic and his underlings accountable. In recent weeks, there have been calls from members of Congress for his indictment by the International Criminal Tribunal for the Former Yugoslavia, and Undersecretary of State Thomas Pickering has said that the United States is gathering evidence that could lead to his indictment. And there is plenty of evidence. In the Kosovo town of Djakovica, for example, residents carefully documented the Serbian barbarity for investigators, recording the details of each murder, each rape, each act of violence, before they fled the city. The time has come to act on the testimony of these and other witnesses.

To do so, of course, flies in the face of last week's much-ballyhooed optimism about reaching a negotiated settlement with Milosevic. However eager the Clinton administration might be to reach a political and diplomatic solution, we should remember that those who have recently suffered under Serbian attacks reject outright the notion that justice must sometimes be forfeited for the sake of diplomatic expediency. During the Bosnian conflict, accountability was sacrificed on the dubious premise that negotiating with someone who is widely regarded as a war criminal is a legitimate exercise in peace-making. We shouldn't make that mistake a second time around. Milosevic's broken promises still echo among the charred ruins and forsaken mass grave sites that defile the landscape of Bonsia.

If Milosevic had been indicted for the mass killings and summary executions that the Bosnian Serbs—with backing from Serbia—are accused of carrying out, would he have acted so brazenly to ''cleanse'' Kosovo of its ethnic Albanians? Nobody knows. At the very least an indictment would probably have deterred him; an apprehension and a trial would have stopped him. But there should be no uncertainty about what occurs when Milosevic is allowed to act unencumbered. The time has come for the international war crimes tribunal to help put an end to that.

Inaugurated by the United Nations on May 25, 1993, and based in The Hague, the Yugoslav war crimes tribunal has, to date, tried just 16 defendants. With a staff of more than 750 and an annual budget of more than $94 million, it has the resources—and the authority—to indict Milosevic. Indeed, failure to indict would reveal the tribunal's impotence in the face of political controversy, and prove that this institution of international law and justice is merely an expensive and irrelevant relic.

How difficult would it be to indict Milosevic? Not difficult at all. Under the tribunal's statute, the office of the prosecutor need only determine ''that a prima facie case exists.'' That's to say that the prosecutor must gather evidence sufficient to prove reasonable grounds that Milosevic committed a single crime under the tribunal's extensive jurisdiction.

With this in mind, the chances of Milosevic being held accountable increase with the arrival of each new group of refugees driven from their homes in Kosovo. Their remarkably consistent testimony is providing crucial information—now being gathered by representatives of the tribunal as well as by human rights organizations—about what has actually taken place in Kosovo. These first-hand accounts are indispensable in building a case against Milosevic—and the refugees I interviewed during the days I was there are willing to testify about what they saw.

But with refugees flooding out of Kosovo and some being relocated in distant countries, the prosecutor's office must ensure that testimony is taken swiftly, legally and professionally. The lack of access to Kosovo by independent journalists and human rights monitors and the extreme instability of refugee life heighten the importance of collecting these accounts while they are still fresh in people's minds. Yet the prosecutor's office was slow to act. A full five weeks went by before the tribunal sent a corps of investigators to the region.

What crimes should the Yugloslav president be indicted for? The tribunal's statute provides jurisdiction over ''serious violations of international humanitarian law'' including both ''crimes against humanity'' and ''genocide,'' the most abhorrent of all. Milosevic should be indicted for both.

Crimes against humanity are defined as ''systematic and widespread'' and directed at any civilian population; they include murder, extermination, imprisonment, rape and deportation. They are distinguished from other acts of communal violence because civilians are victimized according to a systematic plan that usually emanates from the highest levels of government.

In Kosovo, the forced deportation of ethnic Albanians by the Yugoslav army and the Serbian Interior Ministry police force is an obvious manifestation of such crimes. The refugees with whom I spoke described being robbed, beaten, herded together and forced to flee their villages with nothing but the clothes they were wearing. By confiscating all evidence of the ethnic Albanians' identity—passports, birth certificates, employment records, driver's licenses, marriage licenses—the Serbian forces also severed the refugees' links with their communities and land in Kosovo. This attempt to make each ethnic Albanian a non-person is itself a crime against humanity. Emerging evidence of mass killings, summary executions and gang rape lends further credence to the widespread and systematic nature of these crimes.

As to the crime of genocide, the tribunal's statute rests on the 1948 Convention on the Prevention and Punishment of Genocide, which defines genocide as ''acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.'' Arising as it did from the extermination of the Jews in Nazi Germany, the convention invites comparison with the Holocaust and is intended to prevent such heinous crimes from happening again. This tragedy has not reached that perverse level of brutality but, like the earlier efforts to eliminate an entire people—whether the Jews, the Armenians or the Tutsis—it should be prosecuted as a crime of genocide.

The convention addresses intent, and stipulates that acts designed to eliminate a people—in whole or in part—constitute genocide. Among other acts covered by the convention, crimes of genocide include ''(a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.''

In the former Yugoslavia, acts of genocide have been perpetrated through the abhorrent policy of ethnic cleansing—that is, making areas ethnically homogenous by expelling entire segments of the Kosovar population and destroying the very fabric of a people.

Ethnic cleansing does not require the elimination of all ethnic Albanians; it may target specific elements of the community that make the group—as a group—sustainable. The abduction and execution of the intelligentsia, including public officials, lawyers, doctors and political leaders, for example, is part of a pattern of ethnic cleansing and could constitute genocide, as could targeting a particular segment of the population such as young men. It is clear from the refugees who have been interviewed that these acts are being systematically committed in Kosovo.

An often overlooked but important element of the 1948 convention is that an individual can be indicted not only for committing genocide, but also for conspiring to commit genocide, inciting the public to commit genocide, attempting to commit genocide, or for complicity in genocide. The point is that criminal responsibility extends far beyond those who actually perform the physical acts resulting in genocide. In short, the political architects such as Milosevic are no less responsible than the forces that carry out this butchery. There is no immunity from genocide.

Prosecuting Milosevic will require relying on a legal strategy based on the concept of ''imputed command responsibility.'' Under this theory, Milosevic can be held responsible for crimes committed by his subordinates if he knew or had reason to know that crimes were about to be committed and he failed to take preventive measures or to punish those who had already committed crimes.

Since it is unlikely that Milosevic has allowed documentary evidence to be preserved that would link him to atrocities in Kosovo, the prosecutor's office will have to rely heavily on circumstantial evidence to build its case. This means identifying a consistent ''pattern of conduct'' that links Milosevic to similar illegal acts, to the officers and staff involved, or to the logistics involved in carrying out atrocities. The very fact that atrocities have been so widespread, flagrant, grotesque and similar in nature makes it near certain that Milosevic knew of them; despite his recent protestations to the contrary, it defies logic to suggest that he could be unaware of what his forces are doing.

What will the consequences be if the Yugoslav president is indicted? First, an indictment would send a clear message that the international community will not negotiate or have contact with a war criminal. It is current U.S. policy not to negotiate with indicted war crimes suspects. And so it should be. Milosevic would be stripped of international stature except as a fugitive from justice. This might, in turn, open an avenue for Serbians to once again distance themselves from their leader's regime. Second, an indictment would likely result in an ex parte hearing in which the prosecutor's office could present its case in open court—without Milosevic being there. By establishing a public record of Milosevic's role in the crimes committed, such a hearing would be cathartic for both victims and witnesses, and also for citizens long denied access to the truth. Finally, the tribunal would issue an international arrest warrant making it unlikely that Milosevic would venture outside his country's borders.

When I watched the bus loads of new arrivals enter the Stenkovec camp, I saw a small girl's face pressed against the window. Her hollow eyes seemed to stare at no one. History was being repeated. In his opening statement at the Nuremberg trials in 1945, U.S. chief prosecutor Robert H. Jackson said, ''The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating that civilization cannot tolerate their being ignored, because it cannot survive their being repeated.'' Jackson was expressing the hope that law would somehow redeem the next generation and that similar atrocities would never

again be allowed. Today, we must hold personally liable those individuals who commit atrocities in the former Yugoslavia. To negotiate with the perpetrators of these crimes not only demeans the suffering of countless civilian victims, it sends a clear message that justice is expendable, that war crimes can go unpunished. Inevitably, lasting peace will be linked to justice, and justice will depend on accountability. Failing to indict Milosevic in the hope that he can deliver a negotiated settlement makes a mockery of the words ''Never Again.''

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I ask unanimous consent to speak for 15 minutes.

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

RURAL HEALTH CARE

Mr. THOMAS. Mr. President, I wanted to come in this morning when we had a break in regular business to talk about something that is very important to me and to Wyoming. As a matter of fact, it is also important in States such as Kansas. I am speaking about promoting health in rural areas.

I am joining with several colleagues in introducing a bill promoting health in rural areas, a bill designed to increase access to quality health care services in rural areas. Rural health care has been a priority of mine since I have been in the House and Senate. As cochair of the Rural Health Care Caucus, I am pleased that health care in rural areas is an issue that we can address in a bipartisan way.

So I am very pleased to work with colleagues, including the Presiding Officer, Senator ROBERTS; Senator GRASSLEY; Senator HARKIN; Senator BAUCUS; Senator DASCHLE; Senator CONRAD, and Senator COLLINS, to craft this bill. It is always a pleasure to work with people who have similar issues, and certainly we do in rural areas.

This bill provides some incentives, regulatory relief and Medicare payment equity, needed to ensure rural families have access to quality health care, the kind of health care that they deserve. Those of us who come from low-population areas have unique problems. We talk about education, we talk about schools, and we talk about the delivery of health care. Quite frankly, it is different in Greybull, WY, than it is in Philadelphia. So when we have national programs such as Medicare, it is important that we recognize some of the problems that exist in rural areas are unique and, indeed, need to be dealt with differently—problems such as the lack of physicians and health care providers in rural areas, and the idea that Medicare reimbursement has actually been unfair and unequal and not uniform throughout the country.

I recall last year when we were talking about Medicare payments to HMOs, the payments that were available in some places in the east were $700 a month. In the Midwest, it was $250 a month under the same kind of program. So there is some unfairness there. Certainly, we have experienced limited access to mental health. I think this is particularly true for young people. In rural areas, you simply don't have the kinds of rural health care access that is necessary and should be provided.

One of the techniques that will be used increasingly, I am sure, in rural health care is telemedicine, where you can go from a family practitioner to a specialty on telemedicine and get at least many of the same quality kinds of health care advantages.

Many of these problems were explored last summer when we held a forum in Casper, WY. We brought in people interested in health care, not only providers and patients but others. Many ideas were talked about there, such as how we can strengthen health care in Wyoming. We came up with a consensus in a number of these areas, and this bill contains many of those recommendations. I am pleased about that.

Here are some of the solutions. One of the things we discovered in our health care seminar is that in big cities you have all the different kinds of specialists and different techniques for health care, but you don't have them in small towns. So it is necessary, then, to have a network so you can tie it in. Small towns aren't often able to have a fully qualified hospital that will receive payments for Medicare from HCFA. So we had to arrange to have what we call ''acute care hospitals'' that can provide a lesser but equally important service, so that people could have emergency care, for example, and then be transported to another place, or the full service hospital. So you need a network there.

We need assistance in recruiting physicians, as you can imagine. It is difficult sometimes to bring in doctors—particularly specialists—to low-population areas. So these are some of the problems that we talked about.

This bill ensures rural health care representation on the Medicare Payment Advisory Commission. There is an advisory commission that has oversight responsibilities, and there is no assurance that there would be anyone there with a background and experience in a rural area. These are the things we have done. Specifically, it increases the reimbursement rates for hospitals and clinics.

Medicare reimbursement rates have been unfair and inadequate. Health care costs have been undervalued. You should receive the same kind of value care there as somewhere else. The cost of living is somewhat less, perhaps, but not to the extent that the payments have been made different.

We think one of the results of that, of course, is the difficulty to get providers to come there. Their reimbursement is less than it is in Florida or other places for doing the same thing. So we revised the rates.

The bill increases payments to sole community hospitals and, of course, that is what we have. My first recollection in talking about this is when the Presiding Officer was in the House and we talked in Kansas about having a special program for small town hospitals, and that happened and has worked well. Recruiting and maintaining providers, of course, is a problem. In Wyoming, we have 22 underserved areas. That means there is less than one primary care physician for every 3,500 people living in those areas. It is also appropriate, of course, to advocate for other professionals, such as nurse practitioners and physician assistants. In many areas, those are the types of professionals that will be in small towns.

Telemedicine, of course, can be the salvation of rural America, and it is moving quickly.

This bill expands the number of telemedicine services reimbursed by Medicare, which will be very useful in establishing a well-coordinated network of physicians, midlevel practitioners, hospitals and clinics. This is especially important if you have a nurse practitioner or physician assistant, for instance, in a small town and they need advice from a specialist. They can do that using telemedicine.

Mental health. As you can imagine, access to mental health care is quite limited in rural areas. So this bill expands and ensures coverage by Medicare for mental health types of things. I mentioned the MEDPAC. Two years ago, Congress established the Medical Payment Advisory Commission, designed to make policy recommendations in part A and part B of Medicare. Unfortunately, on the current 15-member board, only one member is from a rural area. This bill requires that at least two be on the board to give adequate input.

In conclusion, I am very pleased with this bill to promote better health care in rural areas. It provides assistance to many rural communities that have trouble getting the quality health care that people receive in bigger cities. This is designed to do that. It is possible that we can debate it this year. The Rural Health Care Caucus will be working, and perhaps it will be part of a broader health care effort. This is a good start, and I am pleased to be a part of it.

ACCIDENTAL BOMBING OF THE CHINESE EMBASSY IN BELGRADE

Mr. THOMAS. Mr. President, as chairman of the Subcommittee on the East Asia and Pacific Affairs, I have been very much interested in the unfortunate bombing of the Chinese embassy in Belgrade over the weekend.

Clearly, in my opinion, this was a tragic mistake. It has been suggested by some that it was done on purpose. I don't believe that. I think it was a mistake—one for which there is no excuse.

It boggles the mind to think that someone could make such a mistake. It is my hope that the matter will be thoroughly investigated and that a proper explanation will be made.

It was a mistake for which both the President and the Secretary of State have apologized to People's Republic of China. I add my apology to theirs. There is no minimizing this unfortunate accident. But I also must say to the Chinese that it would be a mistake to inflame the situation, and to fail to adequately protect our embassies and our consulates in China.

The Government there has apparently organized busloads of students to travel to the Embassy in Beijing. By the way, I was there not long ago. This is one of the least protected embassies in our system. It is very old, and it is not satisfactory from a safety standpoint.

While public security officials in Beijing apparently prevent their citizens from storming the Embassy, they do nothing to prevent the throwing of stones and Molotov cocktails, and people have damaged the Embassy.

Our consulate in Chungdu was partially destroyed by fire. The Government has allowed citizens to effectively hold the Ambassador hostage in our Embassy for the past 3 days. The Chinese press has failed to mention, purposefully I suspect, that we and NATO have apologized for the bombing, nor has the media noted that the bombing was accidental rather than premeditated.

We have had and continue to have a strategic relationship with the People's Republic of China. Certainly we have not agreed on many things. Certainly we have been critical of many things. On the other hand, that relationship has grown over the last several years. China has changed substantially. We have a great number of things going on between our countries. Almost everyone would agree that, assuming we could get over the main obstacles, a relationship between that large country with 1.2 billion people and our country is something that is jointly advantageous. We have an economic relationship. We are working on and I think have been coming rather close to, an agreement on the World Trade Organization, which I favor. I think we would be much better off dealing with China within the WTO rather than having to do it unilaterally. If we are going to be in the world community, then these are things which I think are particularly important.

I suspect that some Chinese are using this incident as a way of responding to some of the criticisms of them and their practices that we have had over time. We have had it on espionage; we have had it on human rights, and properly so, I suspect. But they are using this, in my view, as a means of responding to some of the criticisms we have had.

I think it would be a mistake if we let this unfortunate incident interfere with the opportunity to have a stronger relationship. I think it would be a mistake if we let this be an opportunity for Milosevic to begin to do something with his image and come out with a better deal than he deserves. I hope that doesn't happen. We both have—a great deal at risk.

Mr. President, I hope, despite all the problems, that we can solve this. I think it would be wrong for either side to use this bombing and subsequent reaction of Chinese citizens to poison the bilateral relationship which we have an opportunity to develop in the future. As we know, there is a great deal at stake in all of our relationships throughout the world.

Mr. President, I thank you for the time.

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

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated on Thursday, May 6, 1999:

EC–2914. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards For Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks: Technical Amendment'' (FRL #63303), received on April 21, 1999; to the Committee on Environment and Public Works.

EC–2915. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Colorado; Removal and Replacement of Transportation Control Measure, Colorado Springs Element, Carbon Monoxide Section of the State Implementation Plan'' (FRL #6319-7), received on April 19, 1999; to the Committee on Environment and Public Works.

EC–2916. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulation: Contractor Performance Evaluations'' (FRL #6319-3), received on April 19, 1999; to the Committee on Environment and Public Works.

EC–2917. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, a report entitled ''Environmental Protection Agency Interim Guidance on Mercury''; to the Committee on Environment and Public Works.

EC–2918. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District (SMAQMD), Mojave Desert Air Quality Management District (MDAQMD), and the Ventura County Air Pollution Control District (VCAPCD) as Revisions to the California State Implementation Plan (SIP)'' (FRL #6324-8), received on April 14, 1999; to the Committee on Environment and Public Works.

EC–2919. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC RATC Determinations of Individual Sources'' (FRL #6323-6) and ''Authorization to Implement Section 111 and 112 Standards; State of Connecticut'' (FRL #6325-3), received on April 14, 1999; to the Committee on Environment and Public Works.

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated on Monday, May 10, 1999:

EC–2920. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Motor Vehicle Inspection and Maintenance (I/M) Program'' (FRL #6324-2), received on April 12, 1999; to the Committee on Environment and Public Works.

EC–2921. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Withdrawal of Final Rule'' (FRL #6323-5), received on April 9, 1999; to the Committee on Environment and Public Works.

EC–2922. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental

Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Colorado; Removal and Replacement of Transportation Control Measure, Colorado Springs Element, Carbon Monoxide Section of the State Implementation Plan'' (FRL #6319–7), received on April 2, 1999; to the Committee on Environment and Public Works.

EC–2923. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of State Operating Permit Rule Revision: New Jersey'' (FRL #6333–8), received on April 27, 1999; to the Committee on Environment and Public Works.

EC–2924. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled ''Land Disposal Restrictions Phase IV: Treatment Standards for Wood Preserving Wastes, Final Rule; and Land Disposal Restrictions Phase IV; Treatment for Metal Wastes, Final Rule; and Zinc Micronutrient Fertilizers, Final Rule; and Carbamate Treatment Standards, Final Rule; and K088 Treatment Standards, Final Rule'' (FRL #6335–7 and ''Uniform National Discharge Standards for Vessels of the Armed Forces'' (FRL #6335–5), received on April 29, 1999; to the Committee on Environment and Public Works.

EC–2925. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled ''Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances'' (FRL #6332–3) and ''Revised Allotment Formulas for Interstate Monies Appropriated under Section 106 of the Clean Water Act'' (FRL #6332–1), received on April 26, 1999; to the Committee on Environment and Public Works.

EC–2926. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of three rules entitled ''Approval and Promulgation of Implementation Plans for Arizona and California; General Conformity Rules'' (FRL #6233–1), ''National Emission Standards for Hazardous Air Pollutants Phosphoric Acid Manufacturing and Phosphate Fertilizer Production'' (FRL #6329–5) and ''Notice of Availability of Grants and Selection Criteria for PrintSTEP Pilots (FRL #6066–8), received on April 16, 1999; to the Committee on Environment and Public Works.

EC–2927. A communication from the Director, Office of Regulatory Management and Information, Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of five rules entitled ''Approval and Promulgation of Air Quality Implementation Plans: State of Delaware; Withdrawal of Final Rule for Transportation Conformity'' (FRL #6325–2), ''Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Memphis Ozone Maintenance Plan'' (FRL #6326–9, ''Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plans, Recalculation of 9 Percent Rate of Progress Plans and 1999 Transportation Conformity Budget Revisions'' (FRL #6328–8), ''Approval and Promulgation of Maintenance Plan Revisions; Ohio'' (FRL #6328–6) and ''Recission of the Conditional Section 182(f) Exemption to the Nitrogen Oxides (N)x) Control Requirements for the Dallas/Fort Worth Ozone Nonattainment Area; Texas'' (FRL #6329–2), received on April 15, 1999; to the Committee on Environment and Public Works.

EC–2928. A communication from the Director, Office of Regulatory Management and Information, Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of five rules entitled ''Approval and Promulgation of Air Quality Implementation Plans: Virginia; Reasonably Available Control Technology for Major Sources for Nitrogen Oxides'' (FRL #6318–5), ''Approval of the Clean Air Act Section 112(1), Delegation of Authority to Puget Sound Air Pollution Control Agency in Washington, Amendment'' (FRL #6326–2), ''Approval and Promulgation of State Plans for Designated facilities and Pollutants: Kentucky'' (FRL #6326–1), ''Hazardous Air Pollutants: Amendment to Regulations Governing Equivalent Emission Limitations by Permit'' (FRL #6326–4) and ''Revisions To Reference Method for the Determination of Fine Particulate Matter as PM2.5 in the Atmosphere'' (FRL #6326–5), received on April 13, 1999; to the Committee on Environment and Public Works.

EC–2929. A communication from the Director, Office of Regulatory Management and Information, Policy, Planning and Evaluation, United States Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled ''Incorporate Solicitation Notice for Agency Protests'' (FRL #6070–6) and ''Texas; Final Full Program Adequacy Determination of State Municipal Waste Program'' (FRL #6319–5), received on March 31, 1999; to the Committee on Environment and Public Works.

EC–2930. A communication from the Acting Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances, United States Environmental Protection Agency, transmitting a report relative to the 1996 Toxics Release Inventory Public Data Release; to the Committee on Environment and Public Works.

EC–2931. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Wastes from the Combustion of Fossil Fuels''; to the Committee on Environment and Public Works.

EC–2932. A communication from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation entitled ''Harbor Services Fund Act of 1999''; to the Committee on Environment and Public Works.

EC–2933. A communication from the Deputy Administrator, U.S. General Services Administration, transmitting, pursuant to law, a report entitled ''Report of Building Project Survey for American Samoa''; to the Committee on Environment and Public Works.

EC–2934. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report of a rule entitled ''Danger Zone, Chesapeake Bay, Point Lookout to Cedar Point, Maryland,'' received April 1, 1999; to the Committee on Environment and Public Works.

EC–2935. A communication from the Deputy Administrator, U.S. General Services Administration, transmitting, pursuant to law, a report relative to the Federal Campus, Oklahoma City, Oklahoma; to the Committee on Environment and Public Works.

EC–2936. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Codes and Standards: IEEE National Consensus Standard'' (RIN3150-AF96), received April 22, 1999; to the Committee on Environment and Public Works.

EC–2937. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Final Rule-Requirements for Initial Operator Licensing Examinations'' (RIN3150-AF62), received April 26, 1999; to the Committee on Environment and Public Works.

EC–2938. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Frequency of Reviews and Audits for Emergency Preparedness Programs, Safeguards Contingency Plans, and Security Programs for Nuclear Power Reactors'' (RIN3150-AF63), received April 6, 1999; to the Committee on Environment and Public Works.

EC–2939. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Conformance to National Policies for Access to and Protection of Classified Information'' (RIN3150-AF97), received April 6, 1999; to the Committee on Environment and Public Works.

EC–2940. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Radiological Criteria for License Termination of Uranium Recovery Facilities'' (RIN3150-AD65), received April 12, 1999; to the Committee on Environment and Public Works.

EC–2941. A communication from the Director, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Species: Threatened Status for Three Chinook Salmon Evolutionarily Significant Units (ESUs) in Washington and Oregon, and Endangered Status for One Chinook Salmon ESU in Washington'' (AM54), received April 1, 1999; to the Committee on Environment and Public Works.

EC–2942. A communication from the Director, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Species: Threatened Status for Two ESUs of Chum in Washington and Oregon'' (AK53), received April 1, 1999; to the Committee on Environment and Public Works.

EC–2943. A communication from the Director, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Species: Threatened Status for Two ESUs of Steelhead in Washington and Oregon'' (AK54), received April 1, 1999; to the Committee on Environment and Public Works.

EC–2944. A communication from the Director, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Species: Threatened Status for Ozette Lake Sockeye Salmon in Washington'' (AK52), received April 1, 1999; to the Committee on Environment and Public Works.

EC–2945. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law,

the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Emergency Rule to List the Sierra Nevada Distinct Population Segment of the California Bighorn Sheep as Endangered'' (RIN1018-AF59), received April 19, 1999; to the Committee on Environment and Public Works.

EC–2946. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Jarbidge River Population Segment of Bull Trout with a Special Rule'' (RIN1018-AB94), received April 19, 1999; to the Committee on Environment and Public Works.

EC–2947. A communication from the Assistant Secretary, for Fish and Wildlife and Parks, Office of Law Enforcement, U.S. Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Importation, Exportation, and Transportation of Wildlife (User Fee Exemptions for Qualified fur trappers)'' (RIN1018-AE08), received April 22, 1999; to the Committee on Environment and Public Works.

EC–2948. A communication from the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the denial of safeguards information for the period January 1, 1999 to March 31, 1999; to the Committee on Environment and Public Works.

EC–2949. A communication from the Acting Assistant Secretary for Environmental Management, Department of Energy, transmitting, pursuant to law, a report entitled ''Remediation Plans for the Radioactive Waste Management Complex at the Idaho National Engineering and Environmental Laboratory'', dated April, 1999; to the Committee on Armed Services.

EC–2950. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Elimination of Reporting Requirement and 30-day Hold in Loading Spent Fuel after Preoperational Testing or Independent Spent Fuel or Monitored Retrievable Storage Installations'' (RIN3150-AG02), received April 19, 1999; to the Committee on Environment and Public Works.

EC–2951. A communication from the Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''FinCEN Advisory: Enhanced Scrutiny for Transactions Involving Antigua and Barbuda'' (Advisory: Issue 11), received April 21, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–2952. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Exemption of the System of Records Under the Privacy Act'', received April 26, 1999; to the Committee on Governmental Affairs.

EC–2953. A communication from the Director, U.S. Trade and Development Agency, transmitting, pursuant to law, the annual report for fiscal year 1998; to the Committee on Governmental Affairs.

EC–2954. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transfer of Debts to Treasury for Collection'' (RIN1510-AA68), received April 20, 1999; to the Committee on Finance.

EC–2955. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Federal Government Participation in the Automated Clearing House'' (RIN1510-AA39), received April 7, 1999; to the Committee on Finance.

EC–2956. A communication from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting, pursuant to law, the annual report on ''Host Country Development and U.S. Effects'' for fiscal year 1998; to the Committee on Foreign Relations.

EC–2957. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, a report relative to Nonproliferation and Disarmament Fund activities; to the Committee on Foreign Relations.

EC–2958. A communication from the Chairman, Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the annual performance plan for fiscal year 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–2959. A communication from the Attorney General, transmitting, pursuant to law, a report relative to the Foreign Intelligence Surveillance Act of 1978; to the Committee on the Judiciary.

EC–2960. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Department's hydrogen program; to the Committee on Energy and Natural Resources.

EC–2961. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the violence in Indonesia during the May 1998 riots; to the Committee on Appropriations.

EC–2962. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Contracting Officer's Technical Representative (COTR) Training,'' received on April 26, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2963. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Cumulative Report on Rescissions and Referrals, dated April 1, 1999; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986; to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works and to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 992. A bill to provide technical amendments related to the Vaccine Injury Compensation Trust Fund; to the Committee on Finance.

By Mr. BIDEN:

S. 993. A bill to prevent juvenile crime, provide for certain punishment of juvenile delinquents, and incapacitate violent juvenile criminals, and for other purposes; to the Committee on the Judiciary.

By Mr. ASHCROFT:

S. 994. A bill entitled the ''Juvenile Misuse of Firearms Prevention Act''; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself and Mr. SMITH of Oregon):

S. Con. Res. 31. A concurrent resolution celebrating the 50th anniversary of the Geneva Conventions of 1949 and recognizing the humanitarian safeguards these treaties provide in times of armed conflict; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN:

S. 993. A bill to prevent juvenile crime, provide for certain punishment of juvenile delinquents, and incapacitate violent juvenile criminals, and for other purposes; to the Committee on the Judiciary.

THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1999

Mr. BIDEN. Mr. President, I rise to introduce legislation on a subject that we will be spending a great deal of time talking about on the floor this week—youth violence. At the outset, I would like to make clear that this bill is not a comprehensive one that addresses every aspect of this complex area. Other of my colleagues already have introduced legislation broadly addressing these issues with many good ideas that I support.

My bill today recognizes the need to get tough on juvenile crime and violence. But this bill goes farther. It also recognizes that the best thing the Federal Government can do in dealing with youth crime and violence is to focus on prevention. In other words, it ensures that what we do about juvenile crime and youth violence is a balanced approach. My colleagues and I have heard over and over again from law enforcement, prosecutors, and juvenile judges alike that the best way to deal on the front lines with juveniles who are committing or are at risk of committing crimes is to implement prevention as well as sanctions.

What the Federal Government does best in the area of fighting crime—and the significant drop in crime as a result of the 1994 crime bill is proof of this—is for it to provide local law enforcement, prosecutors, juvenile courts, schools, and community-based organizations funds for them to develop creative, comprehensive strategies on juvenile crime that are tailored for their community. It is important to hold kids accountable when they commit crimes. But it is equally—if not more—important to keep kids out of trouble, to keep kids out of the juvenile justice system in the first place.

Before I get to the specifics of what my bill does, I want to highlight the importance of early prevention in curbing youth violence.

To put the youth violence problem in some context, I would like to begin by outlining the specific—and different—

challenges we are facing when we discuss ''youth violence.'' Distinguishing among these different problems is important because each demands a different response.

To be specific—we are really facing three separate issues when we confront youth violence:

First, we have some number of children who are tragic cases—so violent that we really have no choice but to get them behind bars and keep them there, for a long time.

Second, we have kids who have already started down the crime path. They aren't committing violent crimes, but they are clearly getting into trouble. And, while the evidence is that most will never go on to commit violent crimes, it is clear that we have to reach these kids and turn them around.

Unlike the first category where public safety requires very severe, very long sentences, the key strategy for turning this second category of kids around appears to be certain, graduated punishments, as well as anything we can do which lessen the factors which may be pushing them deeper into the crime stream—keeping them away from drugs, away from guns and out of gangs.

Third, we have a category of children in what the demographers call the ''baby-boomerang.'' In a report I offered in December of 1995, I detailed what inevitably lies ahead—39 million children now younger than age 10. Each of these 39 million children—the children of the baby-boomers—stand on the edge of their teen years, exactly those years when they are most at-risk of turning to drugs and crime.

The implications of this demographic inevitability—even if we do everything right, and the rate at which kids commit crimes does not rise at all, we will have a 20% increase in juvenile murders by 2005, which will mean an increase in the overall murder toll of about 5%.

Clearly, most of these 39 million will never turn to drugs and crime. But, equally clear, we have a rising number of at-risk children—at-risk of turning to drugs, at-risk of being the victim of violence, and at-risk of turning to crime.

For this third category—the rising number of at-risk children—I believe we have to incorporate prevention as a key part of our strategy to combat youth crime and violence.

These three categories—lost, violent kids; kids just falling into the crime stream; and at-risk kids who may be nearing the edge of the crime stream—outline the targets of, and basic strategies for, a successful effort against youth violence.

As we begin to debate strategies for addressing youth violence, let's get at least some idea of the size, the magnitude, of each of these three segments of the youth violence question.

Starting in reverse order—with the third category of at-risk kids. Of course, all 39 million children in the ''baby-boomerang'' will not fall into this at-risk category. But, equally clear, that number of at-risk children will be at least a few million.

For the other two categories, the facts are that there are relatively few children in the ''lost'' category and while a significant number are in the ''falling into the crime stream'' category—both categories are much smaller than the few million in the ''at-risk'' category.

The facts for the youngest juveniles: In 1994, 379 juveniles younger than 15 years old were arrested for murder, 39,000 were arrested for a violent crime but more than 260,000 were arrested for a non-violent property crime.

For older teens, the pattern holds: 2,700 juveniles aged 15 to 17 were arrested for murder, 86,000 were arrested for a violent crime, but more than 350,000 were arrested for a non-violent property crime.

In sum: About 3,000 kids were arrested for murder—clearly ''lost'' children;

Another 115,000 kids were arrested for a violent crime—all are not irretrievable, but plainly all must be subject to serious punishment;

About 600,000 kids were arrested for a non-violent property crime—not lost to us yet, but clearly falling deeper into the crime stream; and

At least a few million children are in the at-risk category.

It is my hope that throughout the debate on youth violence that we will not lose sight of these fundamental facts about what we are talking about when we say ''Let's do something about youth violence.'' I believe that is the goal we all share, so let's be smart. Let's keep our eye on the ball.

In short, just as it would be foolish to spend all our efforts and money on the millions of at-risk kids and do nothing about the lost, violent kids—it would be equally foolish to spend all our efforts and money on the lost, violent kids and ignore the millions of at-risk kids.

Local officials throughout the country have looked at the facts, they have been smart, they have used their resources from the 1994 crime law—and guess what: adult violent crime has plummeted. We now have the lowest murder rate since 1971. That says one thing—if we are smart, we can make a difference on a problem everyone thought was unsolvable: violent crime. We ought to be able to do the same when that violent crime is committed by children.

We even have real world, working models of how to do so. Look to the experience in Boston—an experience that the judiciary committee recently heard about again in a hearing on juveniles and guns. In Boston, a combination of tough enforcement, cracking down on illegal gun dealers, focusing the forces of police, prosecutors and probation officers, and comprehensive community-based prevention efforts have slashed youth violence.

I have outlined the three basis elements of the youth violence problem. So let me turn to the specifics of what I believe we must do to address each of these three basic elements.

Tough punishment of the first group of kids—the ''Almost lost, already violent kids''—is necessary—for public safety purposes we really must look first to incapacitate very violent criminals, just getting them off the streets.

For the second group of kids—the ''just getting into trouble kids''—we must provide certain, graduated sanctions—so that instead of our current system of not punishing a kid until he has 10, 15 or 20 arrests, we give the kid at least some sanction from the very first offense.

And finally, for the third group—the ''baby bomberang kids''—who are not getting in trouble yet but are ''at-risk'', we must target the factors which push kids into—or deeper into—the crime stream:

Getting kids off drugs and alcohol through drug testing and follow-up with supervision and treatment;

Keeping kids out of gangs; and

Cracking down on the flow of guns to kids.

We must also keep as many at-risks kids as possible from turning to drugs and crime in the first place—in most practical terms, this means keeping kids busy and supervised during the 3:00 to dinnertime hours.

Those 3 hours represent about 12% of the day, about 20% of the hours when kids are awake—but at least 40% of juvenile crime occurs during those hours.

Here is what the bill I am introducing today would do:

It creates a block grant for use by States and local governments to develop strategies that are aimed at all three of the categories of kids I just described. That block grant does the following:

First, it gives resources to States and local governments to develop more effective ways to investigate, prosecute, and punish those kids in the first group I described, who are already committing violent crimes.

Second, it gives resources to States and local governments to develop more effective ways to ensure accountability through graduated sanctions and other means, and to address risk factors such as drug and alcohol abuse, truancy, or involvement with gangs.

And third, it gives resources to States and local governments to develop programs targeted for at-risk kids for prevention—to keep these kids out of trouble, out of the juvenile crime system, and diverted from going down the path to becoming a career criminal.

To do these three things, my bill authorizes $450 million. Of that amount—

25 percent—$112.5 million—must be spent on prevention and drug and alcohol treatment.

25 percent—$112.5 million—must be spent on prosecutors and courts.

The rest—$250 million—can be spent on a variety of uses, including graduated sanctions and prisons.

My bill also separately authorizes $50 million to hire, train, and fund programs run by prosecutors. We have heard over and over again that prosecutors, who are on the front lines in dealing with juvenile offenders, across the country are developing innovative, comprehensive approaches to juvenile crime that are resulting in significant drops in the juvenile crime rate.

For example, in Jacksonville, Florida, the state prosecutor there has developed a multi-tiered approach. Those programs provide schooling and counseling, they intervene with first time juvenile offenders to divert them from the system, they provide prevention programs for at-risk kids that include mentoring and talking to judges and kids already in jail, and they fight truancy.

It contains a ban on gun ownership by persons who, before their 18th birthday, adults who have been adjudicated to have committed a serious drug offense or violent felony. This provision, popularly known as ''Juvenile Brady'', is an important step towards keeping guns out of the hands of criminals. Violent juveniles who commit serious crimes should be stopped—early—from getting access to weapons to commit such crimes as adults.

Extending the Violent Crime Trust Fund to 2002. The Violent Crime Trust Fund—created in the 1994 crime bill—has been the key to our successful fight against crime over the past few years. It has been the vehicle for providing billions of dollars to State and local governments to implement a variety of law enforcement and crime-fighting—from the Cops Program to the Violence Against Women Act to youth violence initiatives. The Violent Crime Trust Fund is due to expire in fiscal year 2000—my bill extends it to 2002. Without the trust fund, we will fail in the future to replicate and to surpass our past successes in combating crime, including juvenile crime, in the future.

We must renew our efforts to save our Nation, our communities and our children from crime and violence. We must begin by ensuring that our children are safe—safe from both the temptation of crime and safe from those who commit crime and horrific acts of violence.

We must protect our children through meaningful prevention and intervention programs, a crackdown on drugs and the violence that accompanies them, and we must insure that meaningful, appropriate and swift punishment is imposed on all juvenile offenders. I believe that the bill I introduce today, while not a comprehensive answer to every part of the juvenile crime problem, will go far in addressing one of its key components—prevention.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 993

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 ''Juvenile Justice and Delinquency Prevention Act of 1999''.

SEC. 2. BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended to read as follows:

''PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

''SEC. 1801. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Attorney General shall make, subject to the availability of appropriations, grants to States for use by States and units of local government in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of graduated sanctions) of crimes or acts of delinquency committed by juveniles, programs to improve the administration of justice for and ensure accountability by juvenile offenders, and programs to reduce the risk factors (such as truancy, drug or alcohol use, and gang involvement) associated with juvenile crime or delinquency.

''(b) USE OF GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), grants under this section shall be used by States and units of local government for the following purposes:

''(A) Programs to enhance the identification, investigation, prosecution, and punishment of juvenile offenders, such as—

''(i) the utilization of graduated sanctions;

''(ii) the utilization of short-term confinement of juvenile offenders;

''(iii) the incarceration of violent juvenile offenders for extended periods of time;

''(iv) the hiring of juvenile prosecutors, juvenile public defenders, juvenile judges, juvenile probation officers, and juvenile correctional officers to implement policies to control juvenile crime and ensure accountability of juvenile offenders; and

''(v) the development and implementation of a coordinated, multiagency system for—

''(I) the comprehensive and coordinated booking, identification, and assessment of juveniles arrested or detained by law enforcement agencies, including the utilization of multiagency facilities such as juvenile assessment centers; and

''(II) the coordinated delivery of support services for juveniles who have had or are at risk for contact with the juvenile or criminal systems, including utilization of court-established local service delivery councils.

''(B) Programs that require juvenile offenders to make restitution to the victims of offenses committed by those juvenile offenders.

''(C) Programs that require juvenile offenders to attend and successfully complete school or vocational training as part of a sentence imposed by a court.

''(D) Programs that require juvenile offenders who are parents to demonstrate parental responsibility by working and paying child support.

''(E) Programs that seek to curb or punish truancy.

''(F) Programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of juvenile offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests.

''(G) The development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and treatment of the most serious juvenile offenses and offenders, popularly known as a 'SHOCAP Program' (Serious Habitual Offenders Comprehensive Action Program).

''(H) The development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and disruption of youth gangs.

''(I) The construction or remodeling of short- and long-term facilities for juvenile offenders.

''(J) The development and implementation of technology, equipment, and training programs for juvenile crime control, for law enforcement officers, judges, prosecutors, probation officers, and other court personnel who are employed by State and local governments, in furtherance of the purposes identified in this section.

''(K) Programs to seek to target, curb, and punish adults who knowingly and intentionally use a juvenile during the commission or attempted commission of a crime, including programs that specifically provide for additional punishments or sentence enhancements for adults who knowingly and intentionally use a juvenile during the commission or attempted commission of a crime.

''(L)(i) Hiring additional juvenile judges, probation officers, and court-appointed defenders, and funding pretrial services for juveniles, to ensure the smooth and expeditious administration of the juvenile justice system.

''(ii) Hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and backlogs reduced.

''(iii) Providing funding to enable prosecutors to address drug, gang, and youth violence problems more effectively.

''(iv) Providing funding for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders.

''(v) Providing funding to enable juvenile courts and juvenile probation offices to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism.

''(vi) The establishment of court-based juvenile justice programs that target young firearms offenders through the establishment of juvenile gun courts for the adjudication and prosecution of juvenile firearms offenders.

''(vii) The establishment of drug court programs for juveniles so as to provide continuing judicial supervision over juvenile offenders with substance abuse problems and to provide the integrated administration of other sanctions and services.

''(M) Juvenile prevention programs (such as curfews, youth organizations, antidrug programs, antigang programs, and after-school activities) that include a rigorous, comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies.

''(N) Juvenile drug treatment programs.

''(2) ALLOCATION.—Of the total amount made available to a State or unit of local government under this section for a fiscal year—

''(A) not less than 25 percent shall be used for the purposes set forth in subparagraphs (A) through (I) of paragraph (1);

''(B) not less than 25 percent shall be used for the purposes set forth in subparagraphs (J) and (L) of paragraph (1); and

''(C) not less than 25 percent shall be used for the purposes set forth in subparagraphs (M) and (N) of paragraph (1).

''(c) ALLOCATION AND DISTRIBUTION OF STATE GRANTS.—

''(1) IN GENERAL.—

''(A) STATE AND LOCAL DISTRIBUTION.—Subject to subparagraph (B), of amounts made available to the State, 30 percent may be retained by the State for use pursuant to paragraph (2) and 70 percent shall be reserved by the State for local distribution pursuant to paragraph (3).

''(B) SPECIAL RULE.—The Attorney General may waive the requirements of this paragraph with respect to any State in which the criminal and juvenile justice services for delinquent or other youths are organized primarily on a statewide basis, in which case not more than 50 percent of funds shall be made available to all units of local government in that State pursuant to paragraph (3).

''(2) LOCAL ELIGIBILITY AND DISTRIBUTION.—

''(A) COORDINATED LOCAL EFFORT.—Prior to receiving a grant under this section, a unit of local government shall certify that it has or will establish a coordinated enforcement plan for reducing juvenile crime within the jurisdiction of the unit of local government, developed by a juvenile crime enforcement coalition, such coalition consisting of individuals within the jurisdiction representing the police, sheriff, prosecutor, State or local probation services, juvenile court, schools, business, and religious affiliated, fraternal, nonprofit, or social service organizations involved in crime prevention.

''(B) SPECIAL RULE.—The requirement of subparagraph (A) shall apply to an eligible unit that receives funds from the Attorney General under subparagraph (H), except that the certification that would otherwise be made to the State shall be made to the Attorney General.

''(C) LOCAL DISTRIBUTION.—From amounts reserved for local distribution under paragraph (1), the State shall allocate to such units of local government an amount that bears the same ratio to the aggregate amount of such funds as—

''(i) the sum of—

''(I) the product of—

''(aa) two-thirds; multiplied by

''(bb) the average law enforcement expenditure for such unit of local government for the 3 most recent calendar years for which such data is available; plus

''(II) the product of—

''(aa) one-third; multiplied by

''(bb) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

''(ii) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

''(D) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (1) for a payment period shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.

''(E) REALLOCATION.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (2) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

''(F) UNAVAILABILITY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—If the State has reason to believe that the reported rate of part 1 violent crimes or law enforcement expenditure for a unit of local government is insufficient or inaccurate, the State shall—

''(i) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

''(ii) if necessary, use the best available comparable data regarding the number of violent crimes or law enforcement expenditure for the relevant years for the unit of local government.

''(G) LOCAL GOVERNMENT WITH ALLOCATIONS LESS THAN $5,000.—If, under this section, a unit of local government is allocated less than $5,000 for a payment period, the amount allocated shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this part.

''(H) DIRECT GRANTS TO ELIGIBLE UNITS.—

''(i) IN GENERAL.—If a State does not qualify or apply for a grant under this section, by the application deadline established by the Attorney General, the Attorney General shall reserve not more than 70 percent of the allocation that the State would have received for grants under this section under subsection (e) for such fiscal year to provide grants to eligible units that meet the requirements for funding under subparagraph (A).

''(ii) AWARD BASIS.—In addition to the qualification requirements for direct grants for eligible units the Attorney General may use the average amount allocated by the States to like governmental units as a basis for awarding grants under this section.

''(I) USE OF CONSTRUCTION AND REMODELING FUNDS BY UNITS OF LOCAL GOVERNMENT.—Of amounts made available under this section to a unit of local government for purposes of construction or remodeling of short- or long-term facilities pursuant to subsection (b)(9)—

''(i) the unit of local government shall coordinate such expenditures with similar State expenditures;

''(ii) Federal funds shall constitute not more than 50 percent of the estimated construction or remodeling cost; and

''(iii) no funds expended pursuant to this clause may be used for the incarceration of any offender who was more than 21 years of age at the time of the offense or for construction, renovation, or expansion of facilities for such offenders, except that funds may be used to construct juvenile facilities collocated with adult facilities, including separate buildings for juveniles and separate juvenile wings, cells, or areas collocated within an adult jail or lockup.

''(3) NONSUPPLANTATION.—Amounts made available under this section to the States (or units of local government in the State) shall not be used to supplant State or local funds (or in the case of Indian tribal governments, to supplant amounts provided by the Bureau of Indian Affairs) but shall be used to increase the amount of funds that would in the absence of amounts received under this section, be made available from a State or local source, or in the case of Indian tribal governments, from amounts provided by the Bureau of Indian Affairs.

''(e) ALLOCATION OF GRANTS AMONG QUALIFYING STATES; RESTRICTIONS ON USE.—

''(1) ALLOCATION.—Amounts made available under this section shall be allocated as follows:

''(A) 0.5 percent shall be allocated to each eligible State.

''(B) The amount remaining after the allocation under subparagraph (A) shall be allocated proportionately based on the population that is less than 18 years of age in the eligible States.

''(2) RESTRICTIONS ON USE.—Amounts made available under this section shall be subject to the restrictions of subsections (a) and (b) of section 292 of the Juvenile Justice and Delinquency Prevention Act of 1974, except that the penalties in section 292(c) of such Act do not apply.

''(f) GRANTS TO INDIAN TRIBES.—

''(1) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, from the amounts appropriated pursuant to section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974, for each fiscal year, the Attorney General shall reserve an amount equal to the amount to which all Indian tribes eligible to receive a grant under paragraph (3) would collectively be entitled, if such tribes were collectively treated as a State to carry out this subsection.

''(2) GRANTS TO INDIAN TRIBES.—From the amounts reserved under paragraph (1), the Attorney General shall make grants to Indian tribes for programs pursuant to the permissible purposes under section 1801.

''(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.''.

SEC. 3. AUTHORITY TO MAKE GRANTS TO PROSECUTORS' OFFICES TO COMBAT GANG CRIME AND YOUTH VIOLENCE.

Section 31702 of subtitle Q of title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(5) to allow the hiring of additional prosecutors, so that more cases can be prosecuted and backlogs reduced;

''(6) to provide funding to enable prosecutors to address drug, gang, and youth violence problems more effectively;

''(7) to provide funding to assist prosecutors with funding for technology, equipment, and training to assist prosecutors in reducing the incidence of, and increase the successful identification and speed of prosecution of young violent offenders; and

''(8) to provide funding to assist prosecutors in their efforts to engage in community prosecution, problem solving, and conflict resolution techniques through collaborative efforts with police, school officials, probation officers, social service agencies, and community organizations.''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended by striking subsections (a), (b), and (c) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $1,000,000,000 for each of fiscal years 2000 through 2004.

''(b) ALLOCATION OF APPROPRIATIONS.—Of the amount made available under subsection (a) for each fiscal year—

''(1) $450,000,000 is authorized to be expended for programs under section 1801 of part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.)—

''(2) $175,000,000 is authorized to be expended for State formula grants under part B of this title;

''(3) $175,000,000 is authorized to be expended for grants under title V of this Act;

''(4) $50,000,000 is authorized to be made available to the National Institute for Juvenile Justice and Delinquency Prevention for research, demonstration, and evaluation;

''(5) $100,000,000 is authorized to be expended to carry out the purposes of parts A, C, D, E, and G of this title; and

''(6) $50,000,000 is authorized to be expended for grants to prosecutors and courts under section 31702 of subtitle Q of title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862).

''(c) AVAILABILITY.—Amounts made available under this section shall remain available until expended.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5711 et seq.) is amended—

(1) in section 221(b)(2), in the second sentence, by striking ''described in section 299(c)(1)'' and inserting ''responsible for supervising the preparation and administration of the State plan submitted under section 223'';

(2) in section 222(a)(2)(B), by striking ''section 299(a) (1) and (3)'' and inserting ''section 299''; and

(3) in section 223(a)(1), by striking ''the State agency described in section 299(c)(1) as the sole agency'' and inserting ''the State agency responsible''.

SEC. 5. RUNAWAY AND HOMELESS YOUTH.

(a) IN GENERAL.—Section 372(a)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)(3)) is amended by striking ''unit of general local government'' and inserting ''unit of local government''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) TECHNICAL AMENDMENTS.—

(A) ERROR RESULTING FROM REDESIGNATION.—

(i) IN GENERAL.—Section 3(i) of Public Law 102–586 (106 Stat. 5026) is amended by striking ''Section 366'' and inserting ''Section 385''.

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by Public Law 102–586.

(B) ERROR RESULTING FROM REFERENCES TO NONEXISTENT PROVISIONS OF LAW.—

(i) IN GENERAL.—Section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922) is amended by striking ''is amended—'' and all that follows through ''after section 315'' and inserting the following: ''is amended by adding at the end''.

(ii) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1796 et seq.).

(2) REAUTHORIZATIONS.—

(A) IN GENERAL.—Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) (as amended by section 3(i) of Public Law 102–586 (106 Stat. 5026) (as amended by subsection (a)(1)(A) of this subsection)) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking ''1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996'' and inserting ''2000 and such sums as may be necessary for each of fiscal years 2001, 2002, 2003, and 2004''; and

(II) in paragraph (3), by striking subparagraphs (A) through (D) and inserting the following:

''(A) for fiscal year 2000, not less than $1,055,406;

''(B) for fiscal year 2001, not less than $1,108,177;

''(C) for fiscal year 2002, not less than $1,163,585; and

''(D) for fiscal year 2003, not less than $1,163,585.'';

(ii) in subsection (b), by striking ''1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996'' and inserting ''2000 and such sums as may be necessary for each of fiscal years 2001, 2002, 2003, and 2004''; and

(iii) in subsection (c), by striking ''1993, 1994, 1995, and 1996'' and inserting ''2000, 2001, 2002, 2003, and 2004''.

(B) ADDITIONAL REAUTHORIZATION.—Section 316 of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d) (as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by paragraph (1)(B) of this subsection)) is—

(i) redesignated as section 315 of part A of the Runaway and Homeless Youth Act; and

(ii) amended by striking subsection (c) and inserting the following:

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.''.

SEC. 6. GUN BAN FOR DANGEROUS JUVENILE OFFENDERS.

(a) DEFINITION.—Section 921(a)(20) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' after ''(20)'';

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by striking ''What constitutes'' and all that follows through the period at the end of the paragraph and inserting the following:

''(B) For purposes of subsections (d), (g), and (s) of section 922, the term 'act of juvenile delinquency' means an adjudication of delinquency based on a finding of the commission of an act by a person before the eighteenth birthday of that person that, if committed by an adult, would be a serious drug offense or violent felony (as defined in section 3559(c)(2)), on or after the date of enactment of this subparagraph.

''(C)(i) What constitutes a conviction of a crime described in subparagraph (A) or an adjudication of juvenile delinquency shall be determined in accordance with law of the jurisdiction in which the proceedings were held.

''(ii) Any State conviction or adjudication of delinquency that has been expunged or set aside for which a person has been pardoned or has had civil rights restored by the jurisdiction in which the conviction or adjudication of delinquency occurred shall nevertheless be considered a conviction or adjudication of delinquency unless—

''(I) the expunction, set-aside, pardon, or restoration of civil rights is directed to a specific person;

''(II) the State authority granting the expunction, set aside, pardon, or restoration of civil rights has expressly determined that the circumstances regarding the conviction and the person's record and reputation are such that the person will not act in a manner dangerous to public safety; and

''(III) the expunction, set aside, pardon, or restoration of civil rights expressly authorizes the person to ship, transport, receive, or possess firearms.

''(iii) The requirement of this subparagraph for an individualized restoration of rights shall apply whether or not, under State law, the person's civil rights were taken away by virtue of the conviction or adjudication.''.

(b) PROHIBITION.—Section 922 of title 18, United States Code is amended—

(1) in subsection (d)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; or''; and

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

''(10) who has committed an act of juvenile delinquency.'';

(2) in subsection (g)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; or'', and

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

''(10) who has committed an act of juvenile delinquency.''; and

(3) in subsection (s)(3)(B)—

(A) in clause (vi), by striking ''and'' at the end;

(B) in clause (vii), by adding ''and'' after the semicolon; and

(C) by inserting after clause (vii) the following:

''(viii) has not committed an act of juvenile delinquency.''.

SEC. 7. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) IN GENERAL.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(7) for fiscal year 2001, $4,400,000,000; and

''(8) for fiscal year 2002, $4,500,000,000.''.

(b) CONFORMING DISCRETIONARY SPENDING CAP REDUCTION.—Upon enactment of this Act, the discretionary spending limits for fiscal years 2001 and 2002 set forth in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)) are reduced as follows:

(1) For fiscal year 2001, $4,400,000,000 in new budget authority and $5,981,000,000 in outlays.

(2) For fiscal year 2002, $4,500,000,000 in new budget authority and $4,530,000,000 in outlays.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 9, a bill to combat violent and gang-related crime in schools and on the streets, to reform the juvenile justice system, target international crime, promote effective drug and other crime prevention programs, assist crime victims, and for other purposes.

S. 25

At the request of Ms. LANDRIEU, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 25, a bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

S. 537

At the request of Mr. LUGAR, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 537, a bill to amend the Internal Revenue Code of 1986 to adjust the exemption amounts used to calculate the individual alternative minimum tax for inflation since 1993.

S. 758

At the request of Mr. ASHCROFT, the name of the Senator from Idaho (Mr.

CRAIG) was added as a cosponsor of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 841

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 841, a bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under the medicare program.

S. 863

At the request of Mr. DASCHLE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 863, a bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists.

S. 866

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 866, a bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of participation for hospitals and ambulatory surgical centers under the medicare program relating to certified registered nurse anesthetists' services to make the regulations consistent with State supervision requirements.

S. 894

At the request of Mr. CLELAND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 894, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

S. 980

At the request of Mr. WELLSTONE, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 980, a bill to promote access to health care services in rural areas.

SENATE CONCURRENT RESOLUTION 31—CELEBRATING THE 50TH ANNIVERSARY OF THE GENEVA CONVENTIONS OF 1949 AND RECOGNIZING THE HUMANITARIAN SAFEGUARDS THESE TREATIES PROVIDE IN TIMES OF ARMED CONFLICT

By Mr. MCCAIN (for himself and Mr. SMITH of Oregon) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 31

Whereas the Geneva Conventions of 1949 set basic humane standards of behavior during armed conflict, and are the major written source of international humanitarian law;

Whereas these Conventions prescribe humane treatment for civilian populations, wounded, sick and shipwrecked military personnel, and prisoners of war during armed conflict;

Whereas these Conventions recognize the International Committee of the Red Cross as an independent and neutral organization whose humanitarian mission is to protect and assist civilians, prisoners of war, and other victims of armed conflict;

Whereas ''the red cross in a field of white'' is not an ordinary organizational symbol, but one to which the international community has granted the ability to impose restraint during war and to protect human life;

Whereas the American Red Cross and its sister national societies are members of a world-wide organization rooted in the provisions of international humanitarian law and dedicated to the promulgation of its principles, among which are the Geneva Conventions of 1949;

Whereas the international programs of the American Red Cross bring relief from natural and manmade disasters abroad, contribute to the development of nonprofit relief organizations abroad, and include the teaching of international humanitarian law throughout the United States;

Whereas many domestic programs of the Red Cross in health and safety, disaster, blood, youth, and service to the members of the Armed Forces of the United States grew out of a response to armed conflict;

Whereas, thanks to the efforts of Clara Barton and Frederick Douglass, the United States ratified in 1882 the first convention for the amelioration of the condition of wounded and sick members of the armed forces in the field;

Whereas in 1955 the United States ratified the Geneva Conventions of 1949; and

Whereas the Geneva Conventions of 1949 are among the most universally ratified treaties in the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS.

The Congress—

(1) recognizes the historic and humanitarian significance of the Geneva Conventions of 1949, and celebrates the 50th anniversary of the signing of these treaties;

(2) exhorts combatants everywhere to respect the red cross emblem in order to protect innocent and vulnerable populations on every side of conflicts;

(3) commends the International Committee of the Red Cross and the more than 175 national Red Cross and Red Crescent societies, including the American Red Cross, on their continuing work in providing relief and assistance to the victims of war as prescribed by these Conventions;

(4) applauds the Promise of Humanity gathering organized by the American Red Cross in 1999 in Washington, D.C., as an important reminder of our responsibilities to educate future generations about the principles of international humanitarian law;

(5) commends the efforts of the International Committee of the Red Cross and the more than 175 national Red Cross and Red Crescent societies, including the American Red Cross, for their work in educating the world's citizens about the humanitarian principles of international humanitarian law as embodied in the Geneva Conventions of 1949;

(6) invites the American Red Cross during this anniversary year to assist Congress in educating its Members and staff about the Geneva Conventions of 1949;

(7) supports the anniversary theme of the International Committee of the Red Cross that ''Even War Has Limits''; and

(8) calls upon the President to issue a proclamation recognizing the anniversary of the Geneva Conventions of 1949 and recognizing the Conventions themselves as critically important instruments for protecting human dignity in times of armed conflict and limiting the savagery of war.

SEC. 2. GENEVA CONVENTIONS OF 1949 DEFINED.

In this concurrent resolution, the term ''Geneva Conventions of 1949'' means the following conventions, done at Geneva in 1949:

(1) Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (6 UST 3114).

(2) Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea (6 UST 3217).

(3) Convention Relative to the Treatment of Prisoners of War (6 UST 3316).

(4) Convention Relative to the Protection of Civilian Persons in Time of War (6 UST 3516).

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator GORDON SMITH as I submit a concurrent resolution to commemorate the 50th Anniversary of the Geneva Conventions of 1949. Fifty years ago the United States joined 187 nations in establishing in international law the four articles of the modern Geneva Convention. These articles are the pillars of international law regarding the treatment of uniformed sick and wounded, prisoners of war, and civilians in times of armed conflict. Their existence serves to constantly remind us of our responsibility to treat all victims of war with the dignity each of us deserves.

These Conventions recognize the International Committee of the Red Cross as an independent and neutral organization whose humanitarian mission is to protest and assist the victims of armed conflict. The International Red Cross is supported, in turn, by national societies such as the American Red Cross and the many other Red Cross and Red Crescent national agencies. Through the years, these organizations have worked tirelessly to bring relief to the suffering around the world whether due to natural disaster or human conflict. Their dedication and compassion have touched the lives of millions of people in all countries and are today at work in the Balkans, Africa, South America, and, tragically, in our own state of Oklahoma in response to the recent massive tornado.

I ask your support for this resolution that commemorates mankind's first major step to codify into international law the respect and dignity that we must foster for each other. The four articles of the Geneva Convention and the formation of the organizations flying the Red Cross and Red Crescent stand as milestones in humanity's progress towards a more civilized world. With this resolution we recognize the historic and humanitarian significance of the Conventions and commend the Red Cross and Red Crescent agencies worldwide for their unflagging efforts to protect the principles of international humanitarian law.

NOTICES OF HEARINGS

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the Public that a hearing of the Senate Committee on Health, Education, Labor, and Pensions will be held on Wednesday, May 12, 1999, 9:30 a.m., in SD–628 of the Senate Dirksen Building. The subject of the hearing is ''ESEA: Title I: Evaluation and Reform.'' For further information, please call the committee, 202/224–5375.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the Public that a hearing of the Senate Committee on Health, Education, Labor, and Pensions will be held on Thursday, May 13, 1999, 10 a.m., in SD–628 of the Senate Dirksen Building. The subject of the hearing is the nomination of Richard McGahey. For further information, please call the committee, 202/224–5375.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION AND REGULATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy Research, Development, Production and Regulation.

The hearing will take place on Tuesday, May 18, 1999, at 2:30 p.m. in SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 924, the Federal Royalty Certainty Act, introduced April 29, 1999.

Because of limited time available for each hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, D.C. 20510–6150.

For further information, please contact Dan Kish at (202) 224–4971.

ADDITIONAL STATEMENTS

THE CLEAN MONEY/CLEAN ELECTIONS ACT

● Mr. KERRY. Mr. President, I want to speak before you today about a critical challenge before this Senate—the challenge of reforming the way in which elections are conducted in the United States; the challenge of ending the ''moneyocracy'' that has turned our elections into auctions where public office is sold to the highest bidder. I want to implore the Congress to take meaningful steps this year to ban soft money, strengthen the Federal Election Commission, provide candidates the opportunity to pay for their campaigns with clean money, end the growing trend of dangerous sham issue ads, and meet the ultimate goal of restoring the rights of average Americans to have a stake in their democracy. Today I am proud to join with my colleague from Minnesota, PAUL WELLSTONE, to introduce the ''Clean Money'' bill which I believe will help all of us entrusted to shape public policy to arrive at a point where we can truly say we are rebuilding Americans' faith in our democracy.

For the last 10 years, I have stood before you to push for comprehensive campaign reform. We have made nips and tucks at the edges of the system, but we have always found excuses to hold us back from making the system work. It's long past time that we act—in a comprehensive way—to curtail the way in which soft money and the big special interest dollars are crowding ordinary citizens out of this political system.

Today the political system is being corrupted because there is too much unregulated, misused money circulating in an environment where candidates will do anything to get elected and where, too often, the special interests set the tone of debate more than the political leaders or the American people. Just consider the facts for a moment. The rising cost of seeking political office is outrageous. In 1996, House and Senate candidates spent more than $765 million, a 76% increase since 1990 and a six fold increase since 1976. Since 1976, the average cost for a winning Senate race went from $600,000 to $3.3 million, and in the arms race for campaign dollars in 1996 many of us were forced to spend significantly more than that. In constant dollars, we have seen an increase of over 100 percent in the money spent for Senatorial races from 1980 to 1994. Today Senators often spend more time on the phone ''dialing for dollars'' than on the Senate floor. The average Senator must raise $12,000 a week for six years to pay for his or her re-election campaign.

But that's just the tip of the iceberg. The use of soft money has exploded. In 1988, Democrats and Republicans raised a combined $45 million in soft money. In 1992 that number doubled to reach $90 million and in 1995–96 that number tripled to $262 million. This trend continues in this cycle. What's the impact of all that soft money? It means that the special interests are being heard. They're the ones with the influence. But ordinary citizens can't compete. Fewer than one third of one percent of eligible voters donated more than $250 in the electoral cycle of 1996. They're on the sidelines in what is becoming a coin-operated political system.

The American people want us to act today to forge a better system. An NBC/Wall Street Journal poll shows that 77% of the public believes that campaign finance reform is needed ''because there is too much money being spent on political campaigns, which leads to excessive influence by special interests and wealthy individuals at the expense of average people.'' Last spring a New York Times found that an astonishing 91% of the public favor a fundamental transformation of this system.

Cynics say that the American people don't care about campaign finance. It's not true. Citizens just don't believe we'll have the courage to act—they're fed up with our defense of the status quo. They're disturbed by our fear of moving away from this status quo which is destroying our democracy. Soft money, political experts tell us, is good for incumbents, good for those of us within the system already. Well, nothing can be good for any elected official that hurts our democracy, that drives citizens out of the process, and which keeps politicians glued to the phone raising money when they ought to be doing the people's business. Let's put aside the status quo, and let's act today to restore our democracy, to make it once more all that the founders promised it could be.

Let us pass the Clean Money Bill to restore faith in our government in this age when it has been so badly eroded.

Let us recognize that the faith in government and in our political process which leads Americans to go to town hall meetings, or to attend local caucuses, or even to vote—that faith which makes political expression worthwhile for ordinary working Americans—is being threatened by a political system that appears to reward the special interests that can play the game and the politicians who can game the system.

Each time we have debated campaign finance reform in this Senate, too many of our colleagues have safeguarded the status quo under the guise of protecting the political speech of the Fortune 500. But today we must pass campaign finance reform to protect the political voice of the 250 million ordinary, working Americans without a fortune. It is their dwindling faith in our political system that must be restored.

Twenty five years ago, I sat before the Foreign Relations Committee, a young veteran having returned from Vietnam. Behind me sat hundreds of veterans committed to ending the war the Vietnam War. Even then we questioned whether ordinary Americans, battle scarred veterans, could have a voice in a political system where the costs of campaigns, the price of elected office seemed prohibitive. Young men who had put their life on the front lines for their country were worried that the wall of special interests between the people and their government might have been too thick even then for our voices to be heard in the corridors of power in Washington, D.C.

But we had a reserve of faith left, some belief in the promise and the influence of political expression for all Americans. That sliver of faith saved lives. Ordinary citizens stopped a war that had taken 59,000 American lives.

Every time in the history of this republic when we have faced a moral challenge, there has been enough faith in our democracy to stir the passions of ordinary Americans to act—to write to their Members of Congress; to come to Washington and speak with us one on one; to walk door to door on behalf of issues and candidates; and to vote on election day for people they believe will fight for them in Washington.

It's the activism of citizens in our democracy that has made the American experiment a success. Ordinary citizens—at the most critical moments in our history—were filled with a sense of efficacy. They believed they had influence in their government.

Today those same citizens are turning away from our political system. They believe the only kind of influence left in American politics is the kind you wield with a checkbook. The senior citizen living on a social security check knows her influence is inconsequential compared to the interest group that can saturate a media market with a million dollars in ads that play fast and loose with the facts. The mother struggling to find decent health care for her children knows her influence is trivial compared to the special interests on K Street that can deliver contributions to incumbent politicians struggling to stay in office.

But I would remind you that whenever our country faces a challenge, it is not the special interests, but rather the average citizen, who holds the responsibility to protect our nation. The next time our nation faces a crisis and the people's voice needs to be heard to turn the tide of history, will the average American believe enough in the process to give words to the feelings beyond the beltway, the currents of public opinion that run beneath the surface of our political dialogue?

In times of real challenge for our country in the years to come, will the young people speak up once again? Not if we continue to hand over control of our political system to the special interests who can infuse the system with soft money and with phony television ads that make a mockery of the issues.

The children of the generation that fought to lower the voting age to 18 are abandoning the voting booth themselves. Polls reveal they believe it is more likely that they'll be abducted by aliens than it is that their vote will make a real difference. For America's young people the MTV Voter Participation Challenge ''Choose or Lose'' has become a cynical joke. In their minds, the choice has already been lost—lost to the special interests. That is a loss this Senate should take very seriously. That is tremendous damage done to our democracy, damage we have a responsibility in this Senate to repair. Mr. President, with this legislation we are introducing today, we can begin that effort—we can repair and revitalize our political process, and we can guarantee ''clean elections'' funded by ''clean money,'' elections where our citizens are the ones who make the difference.●

TRIBUTE TO KEN WHEELER

● Mr. MCCONNELL. Mr. President, I rise today to recognize the career and civic contributions of Mr. Ken Wheeler, an industry leader and community builder in Paducah, Kentucky. Ken's recent retirement is the culmination of a forty-two year career in the maritime industry spanning shipbuilding to inland shipping.

Ken earned a degree in mechanical engineering at Southern Methodist University and worked for twenty-four years for Ingalls Shipbuilding in the company's nuclear-submarine division. By the time he left Ingalls Shipbuilding, he was the company's vice-president of submarine programs. Contributions from individuals such as Ken Wheeler helped make our nation's nuclear-submarine fleet the safest, quietest, and most effective in the world. In the early 1980's, Ken and his wife, Jean, relocated to Paducah following Ken's career move to Midland Enterprises, which operates tow boats on the nations inland riverways.

Since joining Midland Enterprises, Ken has held various positions including vice-president of repair and maintenance, Port Allen Marine; president, Walker Boat Yard; vice-president, Harley Marine Corp.; president, R & W Marine, Inc.; and vice-president, maintenance and repair for all the Midland Enterprise companies.

Ken has been a key player in establishing Paducah as a national hub for river trade. The city currently boasts about twenty towing companies, and more than 130 supporting businesses. The towing industry in Paducah accounts for approximately 1,300 jobs and a $35,000,000 annual payroll. Ken has used his position within the industry as a ''bully pulpit'' to advocate needed infrastructure improvements on the riverways, our nation's internal trade lifeline. From the new Olmsted Dam on the Ohio River, not far from its confluence with the mighty Mississippi, to the expanded lock facilities at Kentucky Dam on the Tennessee River, Ken has worked to make sure that the general public as well as those in government understand the importance of a strong and vital river-transportation network. A network which has a great, but often unrecognized impact on our American way of life. Ken's goal as we cross the threshold into a new millennia has simply been to make certain that America's riverways continue to supply the economical transportation which we have so long enjoyed. As other countries around the world improve their inland transportation networks, we must work to ensure that increased costs of transportation do not put our exports at a competitive disadvantage.

In other areas of civic concern, Ken has also worked to better Western Kentucky by serving on the boards of Paducah Community College, and West Kentucky Technical College. He is a past president of the Propeller Club of the United States. Additionally, he chairs the River Heritage Center, an exciting new development which will showcase the history of the inland rivers and their importance.

Mr. President, I commend Ken Wheeler for his outstanding service to Kentucky and the nation. Whether it be building systems that helped win the Cold War, or championing an industry vital to our national commerce, Ken Wheeler's contributions will have long-lasting effect. I ask that my fellow colleagues join me in recognizing the career of this outstanding Kentuckian.●

COMMUNITY REINVESTMENT ACT

● Mr. FEINGOLD. Mr. President, I want to offer a few comments about one of the most important issues we have considered as part of the so-called financial modernization debate, namely the Community Reinvestment Act or CRA. It gives me particular pleasure to discuss CRA because it was authored by the former Senator from Wisconsin and Senate Banking Committee Chair, William Proxmire. CRA is over twenty years old now, and by all accounts it has been a success.

Banks have a special role in our free market system; they are the rationers of capital. For this reason and others we grant banks a number of special privileges, such as public charters, taxpayer-backed deposit insurance, and access to the discount window at the Federal Reserve. CRA is grounded in the philosophy that we grant these privileges in part to assure that banks will serve the public—all of the public in all parts of our communities.

In the context of last week's debate over so-called financial services modernization, the concept that we should require banks to actively find lending opportunities in communities they serve is all the more appropriate. The globalization of financial services, and the new structures proposed for financial institutions, increasingly means local institutions have ever expanding and increasingly distant opportunities for their loan portfolios. CRA serves as a reminder that ultimately we grant rights and privileges to banks in part to ensure consumers and businesses in our communities have access to financial services.

I have been interested in CRA since the early 1980s when I became Chair of the Banking Committee in the Wisconsin State Senate, and while it is not perfect, CRA has clearly helped give under served communities increased access to financial services. And it has done a great deal to foster economic development, both for individual families, and for neighborhoods and communities through home ownership and community development financing.

As noted in a recent report by the Wisconsin Rural Development Center,

for many low-income and minority groups, home ownership is a way out of poverty. Equity built through home ownership can be used to finance a start-up business, pay for a college education, fund a secure retirement or consolidate high interest rate debt. The report went on to note that home ownership in low-income neighborhoods can provide stability, increase pride and property values, and attract new capital.

CRA has helped foster access to financial services in each of these areas. Commitments by banks to home ownership, small business, and community development has increased because of CRA. According to 1997 Home Mortgage Disclosure Act data, lending to minority and low income borrowers is increasing. Since 1993, the number of home mortgage loans to African Americans increased by 58 percent, to Hispanics by 62 percent, and to low and moderate income borrowers by 38 percent.

In 1997, financial institutions subject to CRA reporting requirements made 2.6 million small business loans for a total of $159 billion, two-thirds of small business loans made that year, and more than one-fifth of those loans were made to small businesses in low and moderate income communities.

And, in 1997, large commercial banks made $18.6 billion in community development investments.

Altogether, nonprofit community organizations estimate that since 1992 the private sector has pledged over $1 trillion in loans going forward for affordable home ownership and community development.

I have no doubt that CRA was responsible in great part for this record. And neither does Federal Reserve Board Chair Alan Greenspan. At a House Banking Committee hearing earlier this year, Chairman Greenspan testified that CRA has ''very significantly increased the amount of credit in these communities'' and that changes have been ''quite profound.''

It is important to note that CRA has succeeded in encouraging banks to serve those who have been financially under served without jeopardizing the safety and soundness of the institution. As Robert Kuttner has noted, in the decade after CRA, we learned that financial institutions often make costly mistakes, but lenders faltered in the 1980s not by being too kind to the inner city, but by making speculative loans in remote locations they knew little about, and by competing recklessly for market share. By comparison, the local Jimmy Stewart type loan looked pretty solid.

As Chairman Greenspan noted, ''there is little or no evidence that banks' safety and soundness have been compromised by (low- and moderate-income) lending and bankers often report sound business opportunities.''

In fact, CRA is a tool that can help banks. As former Federal Reserve Board Governor Lawrence Lindsey said, ''CRA-related activities can help develop new markets, potentially profitable business, and improve a bank's public image.''

Let me note that there have been some improvements to CRA. In response to the very real problems facing many smaller community banks, a streamlined CRA process was approved a few years ago, and I was proud to support those changes and I understand the paperwork burden on smaller banks has been reduced as a result. Over 80 percent of banks covered by CRA qualify for the streamlined performance standards for small banks and thrifts, and I understand that actual time spent in community banks on CRA examinations has been reduced by 30 percent.

CRA has helped improve financial services for under served communities, but there is still significant room for improvement. Many still have few financial options, and as the Wisconsin Rural Development Center has found, in the absence of adequate financial services from traditional lenders, there has been an increase in so-called subprime or predatory lending from lenders who target homeowners with less than perfect credit with high-cost, sometimes fraudulent, mortgage servicing products.

We owe a great deal to Senator Proxmire and his creation. As we consider legislation to change the structure of our financial institutions, we must not lose sight of the original goals of CRA, namely that those institutions which enjoy the special privileges and protections afforded by the government have an obligation to ensure that the entire community has access to financial services.●

THE VERY BAD DEBT BOXSCORE

● Mr. HELMS. Mr. President, at the close of business Friday, May 7, 1999, the Federal debt stood at $5,569,913,164,536.03.

One year ago, May 7, 1998, the Federal debt stood at $5,484,428,000,000.

Fifteen years ago, May 7, 1984, the Federal debt stood at $1,484,934,000,000.

Twenty-five years ago, May 7, 1974, the Federal debt stood at $468,096,000,000 which reflects a debt increase of more than $5 trillion—$5,101,817,164,536.03 during the past 25 years.●

SENATOR BIDEN'S 10,000TH VOTE

● Mr. HOLLINGS. Mr. President, I rise to congratulate my esteemed colleague, the Senator from Delaware, on his 10,000th vote in the Senate. This is a tremendous milestone which few Senators ever reach. For our colleague to reach it at the young age of 56 is even more impressive.

I am proud and fortunate to count Senator BIDEN as one of my best friends. Since he came into the Senate in 1972, we have worked together, learned from each other, and swapped stories. One story I recall in particular is that Senator BIDEN used to practice ''speechifying,'' as some of our predecessors in the Senate would have said, in front of his classmates to overcome a stuttering problem. Well, Mr. President, I think we all will agree that he has overcome that problem quite nicely and has learned to excel at speechifying.

One of the most amazing facts of Senator BIDEN's career is that he was elected to this body at the ripe old age of 29. His 27 year-old sister was his campaign manager, and he saved mailing costs by having volunteers hand-deliver campaign literature to every house in the state. Of course, Senator BIDEN's campaigns are run a little more professionally now, but he has not lost touch with the people of his state. In fact, the Senator from Delaware has told me stories about virtually every town in his state, no matter how small. He is as familiar with his constituents and as concerned with their needs as any Senator I have known.

Of course, his devotion to his constituents has not prevented Senator BIDEN from playing a sometimes crucial role on national stage. As we all know, Mr. President, he presided over two of the most controversial Judiciary Committee hearings for Supreme Court nominees in American history: those for Judge Robert Bork and Justice Clarence Thomas.

Senator BIDEN was one of the foremost proponents of expanding the North Atlantic Treaty Organization. Last year, he led the successful effort to expand NATO. In 1997, he led the successful effort to ratify the Chemical Weapons Convention. Today, the Senator from Delaware continues to take an active interest in events in the Balkans, the Middle East, and Asia, and as Ranking Member of the Foreign Relations Committee, he remains an outspoken voice on foreign policy matters.

Senator BIDEN has been a leader also in the fight to protect women from violence. He authored the Violent Crime Control and Law Enforcement Act, which was signed into law in September 1994. This act, which included the landmark Violence Against Women Act, was the first comprehensive law to address gender-based crimes. The desire to prevent crime and help crime's victims has long been one of the guiding lights of our esteemed colleague's career. In 1984, he co-authored the Victims of Crime Act, which provides hundreds of millions of dollars to crime victims each year, paid for by criminals.

Senator BIDEN was the lead sponsor of the Juvenile Justice Prevention Act of 1974 and the Juvenile Justice Prevention Amendments of 1992, which provided states with federal grants for a comprehensive approach to preventing juvenile crime and improving the juvenile justice system. And in 1996, Senator BIDEN led the floor fight to restore 1996 appropriations to fund

crime bill initiatives, most notably the Community Oriented Policing Services program to help local and state governments hire more police.

The Senator from Delaware has long been a leader on Women's Health issues. He sponsored the Medicare Mammography Screening Expansion Act, which became law as part of the Balanced Budget Act of 1998. For five years running now, he has authored the annual National Mammography Day. And, in 1998, the President signed into law a bill co-sponsored by Senator BIDEN, which required the creation of a breast cancer postage stamp, with proceeds from the stamp's sale going to breast cancer research.

Like many of his colleagues, the Senator from Delaware has had to triumph over adversity to attain his many professional achievements. The hardships faced and overcome by my dear friend and colleague include the injury of his sons and the death of his beloved first wife and infant daughter in an auto accident shortly after his election to the Senate in 1972, and his own recovery from two operations for a near-fatal brain aneurysm in 1988. Despite this tragedy and adversity, Senator BIDEN has never succumbed to pessimism or forgotten his role as a public servant. He has never ceased working to serve his state and his nation. He remains optimistic about America's future and his ability, working within the Senate, to improve his state and nation.

The Senator from Delaware has called serving in the Senate the greatest, most privileged post-graduate education in America. I think all of us will agree, Mr. President, that he has passed this education with flying colors. There is no more devoted, hard-working member of this body than Senator BIDEN. He is known for his integrity, bipartisan collegiality, and desire to serve the public good. These qualities will always be cherished in this body, as in all walks of life. For any young Americans seeking a public figure to emulate, I can think of no better role model than the Senator from Delaware. And that, Mr. President, is the greatest compliment I can think to pay my dear friend, Senator BIDEN. For 27 years, it has been my great honor and pleasure to serve with him and to count him as a friend. It gives me great pleasure to know that before he leaves this great institution, Senator BIDEN almost certainly will receive accolades on the casting of his 20,000th vote.●

COMMEMORATING CARLOS HATHCOCK II

● Mr. HUTCHINSON. Mr. President, I rise today to honor a man of extraordinary courage. A fellow Arkansan. A soldier and a hero. His name was Carlos N. Hathcock II.

Carlos was born on May 20, 1942, in Little Rock, Arkansas, the son of a welder. At the age of eight, Carlos saw his first Marine in full uniform. The sight left an indelible impression—a mark that would lead him to commit his life to the military. But in the meantime, he had some growing up to do. Carlos spent a great deal of time in the woods of North Little Rock, hunting squirrels and rabbits and bringing them home to eat. He had no problem filling the table. It seemed as if he was anticipating his future career.

Carlos could hardly wait to start his career in the military. In May 1959, at the age of seventeen, he signed up with the Marines with the permission of his father. The moment he turned eighteen, Carlos went into the Corps. He quickly realized his talent as an effective rifleman and began to carve out his niche in the Marines as a sniper. The intramurals of the Marine Shooting Team was his first official match, a match that he won handily. This victory would certainly not be the last. Carlos won many more shooting competitions and rose steadily through the ranks, with a only a few minor bumps along the way. Indeed, the months and years could be counted by championships and promotions, and marked by his marriage to his wife Jo and the birth of his son, ''Sonny'' Hathcock.

But soon enough, the skills of Sergeant Carlos Hathcock II were put to use and put to the test. In 1966, the Marines sent him to Vietnam. His tour of duty was no doubt difficult, but Carlos' amazing rifle skill made him a valuable asset to the Marines and an opponent to be dreaded by the North Vietnamese. For his great service, Carlos was presented with the Navy Commendation Medal with combat ''V.''

Carlos proved himself again on his fateful second tour of duty in Vietnam in 1969. By this time, Carlos knew the sweltering jungles of Vietnam. He could become one with his surroundings. With painstaking patience, he crawled and lay in wait—his hands controlled, resisting the urge to scratch or stretch, his body still as death—until that moment when he struck. Carlos was an expert. He even gained a reputation among the Viet Cong who dubbed him ''Long Tra'ng,'' or white feather, for the single white feather in his hat. But as precise and deadly as he was, Carlos did not enjoy killing people. In fact, he saved the lives of his comrades in the 7th Marines, 1st Marine Division.

On September 16, 1969, the amphibious assault vehicle Carlos was riding ran over a landmine and exploded. Carlos, sprayed with burning gasoline and his flesh melting away, focused only on helping his comrades. Carlos went back to the vehicle and dragged his companions away to safety. He was burned almost beyond recognition.

Fortunately, Carlos was able to recover. For his heroism in Vietnam, Carlos was awarded a Purple Heart and Gold Star. And with swift dedication, Carlos went back to the Marines, serving almost ten more years, retiring on March 1, 1975, after nineteen years, ten months, and five days of service. He had entered the Marines as a callow youth and left a Gunnery Sergeant, a veteran, and a hero.

He carried on his patriotism and service to America, speaking at military gatherings and teaching his sniper skills to the Virginia Beach Police Department. And in 1996, he was again awarded for his heroism in Vietnam, this time with a Silver Star.

Carlos Hathcock II passed away on February 23, 1999. But he lives on in the minds of many. His son, Carlos Hathcock III, is also a gunnery sergeant in the Marines. The Marines have a library in Carlos' name and an annual award presented to the best marksman in the Marine Corps. Marksmanship of legendary proportions will remain synonymous with the name Hathcock.●

AGRICULTURE MARKET FAILURE PROTECTION ACT OF 1999

● Mr. SARBANES. Mr. President, I rise today in support of S. 30, the Agricultural Market Failure Protection Act of 1999. The purpose of this bill, of which I am co-sponsor, is to protect farmers against income loss resulting from severe economic downturns and weather-related crop losses. In my view this legislation is very timely, considering the current status of our nation's agricultural economy.

We have been experiencing alarming economic conditions in the agricultural sector for over two years. A combination of declining crop prices, reduced yields, and unfavorable export markets have led to a substantial decrease in overall farm incomes. As a nation, we often forget how important it is to protect the vitality of our agricultural producers. We do not want to wait until farms disappear and our supermarkets can no longer stock their shelves to address this situation.

Farmers in my own state of Maryland are not immune to the effects of this crisis. Over the past two years, they have been hit hard by low commodity prices and a widespread drought that has destroyed a significant number of crops. The Maryland Agricultural Statistics Service reports that total farm income fell $8.2 million last year to $265.4 million overall. This was a 3 percent decline. Since 1996, farm incomes in Maryland have fallen 26 percent. Prices for grain, corn, soybeans, and hogs are all down, some at 20 to 30 year lows. A recently published article from The Baltimore Sun illustrates the impact of this crisis on the economy of Maryland.

In an effort to address this decline, the Agriculture Market Failure Protection Act would revise marketing assistance loan rates, authorize six-month loan extensions, and amend the Internal Revenue Code to temporarily increase the number of years permitted for the carry back of net operating losses for certain farmers. In short, it would help prevent future income loss by giving farmers a chance to run their operations without constantly being at

the mercy of the market. With these changes to the Agricultural Market Transition Act, farmers will be able to spread crop sales throughout the entire season, and subsequently allow them to take advantage of higher prices.

The legislation which Senator DASCHLE has introduced leaves commodities in the hands of farmers, thereby allowing them to make their own marketing decisions for the future. I commend him for introducing this legislation, and in light of the current state of the agricultural economy, I urge all of my colleagues to support S. 30, the Agricultural Market Failure Protection Act of 1999.

I ask to have printed in the RECORD the Baltimore Sun article.

The article follows.

MD. FARM INCOME DOWN 3% IN 1998; GRAIN GROWERS SUFFER BIG LOSSES, BUT POULTRY, DAIRY FARMERS DO WELL

(By Ted Shelsby)

The extra-fat paychecks of poultry farmers and dairymen last year were not enough to offset big losses by grain growers, and the state ended 1998 with a 3 percent decline in net farm income, according to preliminary estimates released yesterday by the Maryland Agricultural Statistics Service.

Total farm income in Maryland fell $8.2 million last year to $265.4 million.

It was the second consecutive year that Maryland farmers have been hurt by low commodity prices and drought. Farm income last year was 26 percent lower than in 1996.

''This is going to have a serious impact on our rural economy,'' Maryland Department of Agriculture Secretary Henry A. Virts said.

''The farm equipment dealers are going to suffer. The feed dealers are going to suffer. The truck dealers, restaurants and furniture stores are going to suffer, too. Anybody who serves the farm industry is going to feel the decline.''

The drop in farm profit last year was blamed primarily on low commodity prices and a summer drought that destroyed grain crops in Southern Maryland and the Eastern Shore.

''Grain prices were down, down, down last year,'' said Ray Garibay, head of statistics services for the Agriculture Department, in releasing his net income estimate. He added that the prospects for prices are no better for this year as a result of large supplies of grain in storage.

But not all segments of agriculture shared in the hard times.

Garibay said that 1998 will be remembered fondly by poultry and dairy farmers.

''Last year was our best in the past 10 or 12 years,'' said Lewis R. Riley, an Eastern Shore chicken grower and former state agriculture secretary.

''Poultry prices stayed healthy throughout 1998, and in most case farmers were paid a price bonus by the processors,'' Riley said.

He explained that the bonus, which totaled between $5,000 and $6,000 for his farm, is like a profit-sharing plan in which the chicken processors pay farmers above their contract price when wholesale poultry prices rise.

''It's a windfall for good prices,'' Riley said, ''and it made 1998 a very good year for poultry growers.''

State dairy farmers also benefited from record milk prices late last year due to a shortage of milk caused by weather problems in Southern California.

Ed Fry, who operates a dairy farm near Kennedyville, said farmers profited from a shortage of cheese and butter last year. ''High milk prices, coupled with low grain prices, made for a very good year for the dairy industry in general,'' he said.

Fry noted that the good times are coming to a halt. He said the basic formula price of milk set by the U.S. Department of Agriculture dropped 37 percent last week, and farmers will feel the bite in their milk checks beginning next month.

Grain farmers have been feeling a financial pinch for more than a year.

Melvin Baile Jr., past president of the Maryland Grain Producers Association, said corn and soybean growers were lucky to break even last year.

''Prices were off 20 percent for corn and the same for soybean,'' said Baile, who farms 700 acres outside New Windsor in Carroll County.

He said the double whammy of low prices and poor yields was particularly hard on Southern Maryland and Eastern Shore farms that experienced the brunt of last year's drought.●

TRIBUTE TO CAPTAIN ROBERT B. SHIELDS, JR., USN

● Mr. WARNER. Mr. President, I rise today to recognize and say farewell to an outstanding Naval Officer, Captain Robert B. Shields, Jr., as he prepares to retire upon completion of twenty-seven years of distinguished service. It is a privilege for me to honor his many outstanding achievements and commend him for his devotion to the Navy and our great Nation.

A native of Providence, Rhode Island, Captain Shields is a graduate of the United States Naval Academy. Upon graduation in 1972, his first sea tour was aboard the USS *Aylwin* (FF–1081) where he served as First Lieutenant and Anti-Submarine Warfare Officer. His second and third shipboard tours were served aboard USS *Nicholson* (DD–982) and USS *Richmond K. Turner* (CG–20). Captain Shields continued to demonstrate outstanding leadership abilities as the Executive Officer of USS *Sterett* (CG–31) and was rewarded with command of the destroyer USS *O'Bannon* (DD–987).

His most recent sea tour was as Commanding Officer of the cruiser USS *Vicksburg* (CG–69). During Captain Shield's tenure, his ship earned the Battle Efficiency ''E'' Award, the Ney award, and the Best Ship's Store Sales and Service Award. *Vicksburg* distinguished herself as Air Warfare Commander for the John F. Kennedy Battlegroup while deployed to the Mediterranean and Persian Gulf.

Captain Shields completed shore assignments at the Navy Postgraduate School where he earned a Masters of Science Degree in Engineering Acoustics; the Royal Navy Staff College in Greenwich, England; and in a variety of assignments in Washington, D.C. In Washington, he was assigned to the staff of the Chief of Naval Operations in the Research, Development and Acquisition Directorate and then completed a year as a Federal Executive Fellow at the American Enterprise Institute. Captain Shields first came in contact with our nation's lawmakers when he served as a Congressional Liaison Officer for surface ship programs in the Navy's Office of Legislative Affairs. With many successful at-sea and shore tours behind him, Captain Shields' was then handpicked to serve as Deputy Legislative Assistant to the Chairman of the Joint Chiefs of Staff. His current, and last, assignment has been with the Navy's Office of Legislative Affairs where he is Deputy Chief.

Captain Shields is a dynamic and resourceful naval officer who throughout his tenure has proven to be an indispensable asset. He is a passionate advocate of the Sea Services and has been tireless in supporting the needs of the Sailors in the Fleet and their families. He understands better than anyone that they are truly the backbone of our national defense. His superior contributions and distinguished service will have long-term benefits for both the Navy and the country he so proudly served. As Captain Shields enters into his new profession, we will certainly miss him. I am proud to thank him for his service and wish him ''fair winds and following seas'' as he concludes his distinguished Naval career.●

TRIBUTE TO HOWARD SCHNELLENBERGER

● Mr. MCCONNELL. Mr. President, I rise today to thank my good friend Howard Schnellenberger for making University of Louisville football the success that it is, and wish him the best in his latest endeavor to build a completely new football program at Florida Atlantic University.

Howard was the Cardinal's football coach for nine years and, when he left, had re-created the program to be unlike any the University of Louisville had ever seen. Howard didn't just talk about what he wanted to accomplish at U of L, he delivered. He recruited better players, he initiated plans for a brand new state-of-the-art stadium, and most importantly he inspired a kind of spirit in the Cardinals' faculty, fans and players that they had never experienced before. It was this winning spirit that helped Howard lead Cardinals football to its present glory.

Howard believed in his team and his school, and set no meager goals for them. He wanted nothing less than to transform them from a team that hadn't had a winning season in years, to a team that would be a legitimate bowl contender. While U of L may still have some progress to make, the Cards have played in, and won, several bowl games in recent years—and for that, Howard is largely responsible.

I have no doubt that Howard will have as significant an effect on Florida Atlantic University as he had on U of L. Howard will have a chance to build this program from the ground-up—as of yet, FAU doesn't even have a team. As FAU's Director of Football Operations, Howard will hand-pick the staff and the players and mold the football program in the likeness of his previous

success stories. With Howard's track record, FAU can expect an exciting program that will build steadily toward future success.

Thank you, Howard, for your nine years of dedicated service to the University of Louisville, which resulted in a winning team and a top-quality program. Five years after your departure, your spirit continues to drive the Cardinals football program toward victory. Best wishes at Florida Atlantic University, and may God bless you and Beverlee in this exciting adventure.

Mr. President, I ask to have printed in the RECORD a copy of a January 1999 article, ''The Louisville Prototype,'' which appeared in the FAU Sports Digest.

The article follows.

THE FLORIDA ATLANTIC FOOTBALL PROGRAM WILL LARGELY BE MODELED AFTER WHAT HOWARD SCHNELLENBERGER BUILT AT LOUISVILLE, A PROGRAM WHICH MIGHT AS WELL HAVE BEEN STARTED FROM SCRATCH

(By Ron Steiner)

LOUISVILLE—At Miami, Coach Howard Schnellenberger revived a collegiate football program that was on the verge of extinction and won a national championship. Writers called that effort the ''Miracle of Miami.''

At Louisville, his hometown, Schnellenberger was the last hope for a program headed for the scrap heap. He built a team that went on to crush Alabama in the 20th Anniversary Fiesta Bowl, and that inspired construction of the school's first true on-campus stadium, a $68 million structure financed almost entirely by the fans. In Kentucky they call that effort ''The Miracle on Floyd St.''

For Howard Schnellenberger, today it is his blueprint.

Now, the veteran coach is about to go for the hat trick by building a totally new collegiate football program at Florida Atlantic University in Boca Raton and much of what he does at FAU will be modeled after what was successful at Louisville, a program that might as well have been built from scratch.

Based on Schnellenberger's track record, it's a safe bet that he has at least one more miracle tucked away some-where in the pocket of his blazer.

Taking Miami to the title game and beating a legendary Nebraska team was improbable. But at least that school had played in big bowl games and had long-aspired to greatness.

Tackling the job at Louisville, where basketball had been the only local sports language for decades? That was a massive undertaking the size of which even Schnellenberger had underestimated.

After one of his first spring practices at Louisville, held long before the new freshmen could arrive, Schnellenberger called a staff member to his office. The coach was slumped in his chair. He looked tired, disturbed and suddenly very gray.

''Did you see that practice? Did you see that?'' he asked as if he were recounting a nightmare. ''What in the world have we gotten ourselves into here?''

There was no answer.

No one, not even a veteran coach like Schnellenberger, could have known how hard it was going to be, or how much work there was to be done or even what unexpected obstacles, both seen and unseen, would be thrown into the path of progress.

But he pressed on with the same confidence, singleness of purpose and unceasing energy that he's armed with at Florida Atlantic.

At Louisville, it was a dream of Top-25 rankings, national television appearances, home sellouts, bowl bids and a new stadium, that kept the Cardinal football family going during the early years.

Back in 1985, when the Cards opened their first season under Schnellenberger at West Virginia, the lineup was iffy to say the least.

One starting defensive back was a freshman who had played quarterback in high school, and the other corner was a freshman who had played middle guard as a prep player. One of the starting defensive tackles was a freshman who had never lined up in a three-point stance in his life. The Louisville Cardinals were simply outmanned and that was the way things were going to be for a while.

Today, thanks largely to Schnellenberger's efforts, the Cards are fresh off their third bowl game in the '90s, and their facilities draw raves from the likes of award-winning quarterback Cade McNown. In town recently to receive the Johnny Unitas Golden Arm Award as the nation's top senior quarterback, McNown raved about the new stadium and football complex.

''I only wish we had facilities like these at UCLA,'' McNown said.

It wasn't that way when Schnellenberger toiled to jump-start the program.

Back then, summer preseason practice sessions were held on the school's suburban campus where grass fields were watered by garden hoses and makeshift, homemade sprinklers. There weren't many players on the team to start with and when some got a close look at the new way of doing things, there were fewer.

During the season, seven huge linemen would meet with their assistant coaches in tiny 10-foot offices built for one. Back then, closets were cleaned out and transformed into offices. Walls were knocked down. Pictures and inspirational signs were nailed up. They cried out: ''Be Positive or Be Gone'' and ''It takes everyone to be No. 1'' and ''What have you done today to help Louisville win tomorrow?''

Back then, there were three phone lines for a 40-person staff. Coaches making recruiting calls and other staff members handling regular business would wait for a free line, like contestants on a game show. When one of the three lights on the phone set would go dark, they would battle to see who could punch it up first.

And back in '85, the foundation for a Top 25 contender was quietly being built in a small brick building on the property of the Kentucky Fairgrounds, among mules and jacks and the largest bulls you've ever seen.

The University of Louisville was trying to recruit its stars of the future in the middle of mobile home shows, gun shows, flea markets, ice shows, and appropriately, the circus.

As hard as it is to believe since Florida Atlantic doesn't even have a team yet, Schnellenberger will be dealing with a better hand in his role as Director of Football Operations.

He'll oversee the construction of on-campus facilities and develop a program with a tremendous population base for recruiting, a great climate and instant visibility in a football-crazy state. There will be tough sledding, nonetheless. But they will be experiences with a blend of familiarity. It goes with the territory of building something that will last.

At Louisville, there were plenty of times he would wonder. At times, he would go out on game day knowing as an expert that the other team would have to fumble four times and throw four interceptions if his team was to have a chance to even keep the score close.

But the next day he would always return to his office before dawn, whistling, and with a new idea, something that needed fixing, a new phone call to make, something—anything—that would bring progress that day. He hid his doubts very well. He had to. If the head coach didn't believe, then who else would?

Back then, like now, there was something else, too. There was something very special that few modern-day teams ever experience. Adventure.

There was a clear-cut goal of building a program that would some day challenge the nation's best and compete for a national title one day. And there was something new every day.

There was a pioneer spirit that caught on. Recruiting was based on that premise: ''Sure, you can go to the established programs and be just another one of a long list of players at that school. Or you can come with us and make a major difference. You can come with us and help create something. It won't be easy. In fact, we guarantee it will probably be the hardest thing you will ever do. But you will be part of something truly special. Something important. Something lasting.''

Back in the early days at Louisville, and it will likely be the same if he chooses to coach at Florida Atlantic, there was little early prestige. But inside themselves, the players and fans who became close to the program began to share a new spirit. The early years were crazy for those close to the Cards. They were frustrating and fulfilling all at the same time, tiring and exhilarating all at once. Breaking down historic walls of resistance and preconceptions took time. Building up the program took strength.

Together, new players, students, alumni, fans, staff and friends of the program, all who suffered and yet enjoyed those formative years, were drawn together at Louisville in a state known for basketball, in a stadium built for baseball, to create something new and special for collegiate football. Back then, they shared a dream. And they still do.

For example, NFL All Pro defensive tackle Ted Washington of the Buffalo Bills, a Tampa native, recently recalled his playing days at Louisville under Schnellenberger.

''It seemed like every day we would hear the coach say his favorite saying—'To Believe is to be Strong.' At the time I guess I didn't understand what it meant,'' Washington said. ''But I do now, and a day doesn't go by that I don't use the phrase myself in football, in charity work and in working in the community.''

Washington is just one of three NFL stars who played at Louisville who have been selected to this year's Pro Bowl. New Orleans defensive end Joe Johnson and the Atlantic Falcons' defensive back Ray Buchanan were Schnellenberger recruits who bought into the dream of building a tough-minded, top-quality program.

Perhaps the most dramatic example of the Schnellenberger magic is the sparkling new stadium that stands on the southernmost edge of the campus of the University of Louisville.

At first, the idea of building a proud football program at Louisville and then the absolute best stadium in the state was mocked by some local writers who called it simply a pipe dream. After all, the future of Cardinal football was a fragile thing in the late 1980s. Again, there had been talk of de-emphasizing the sport, possibly dropping back to Division I–AA or disbanding completely.

But then came Schnellenberger. And then came winning seasons, bowl victories and sellout crowds. If ever Louisville was going to fulfill its football destiny, if ever there was going to be a time to give the program

a solid foundation for the future, the time had come.

Schnellenberger's quiet belief was that once U of L and the Greater Louisville community committed to building a new stadium, and once that stadium was completed, there would be no turning back. Football would suddenly become more important than ever before, and have every possible chance to succeed as never before.

From that point on, he reasoned, there would be a financial imperative to aim high and provide fans with quality schedules and competitive teams. Recruiting of coaches and players would be enhanced immediately and for decades to come. And finally, the Louisville football program and its deserving fans would have a first-class home to call their own.

Today the stadium that Schnellenberger and his early recruits could only dream about is a reality. It is considered the finest, most fan-friendly college stadium in America today. It has a state-of-the-art playing surface, 42,000 chairback seats, a video replay board, corporate suites and a magnificent club level, all of which might make some NFL teams envious.

But there's something much more important about the stadium in Louisville they call Papa John's Cardinal Stadium. It's a testimony to the Schnellenberger way of doing things. It's all about vision, hard work, persistence, dreaming and determination.

Unlike many of the state of Kentucky's sports facilities, and many others around the nation, Louisville's new stadium is not a gift from the government.

Instead it is certainly one of the most remarkable collegiate projects ever built—by and for the people.

Schnellenberger had begun lobbying for a new stadium on Dec. 1, 1984, the day he took over the Cardinal program. But it took years to wade through administrative bureaucracies and to build a football team that would energize the community.

As the program improved, fan interest grew. New attendance records were set. Top teams like Texas, Texas A&M, Florida, Florida State, Arizona State and Tennessee were scheduled. Winning seasons turned into near-perfect seasons. And then came decision time.

When it became clear that a new stadium at Louisville would have to be built with private funds, skeptics chuckled. After all, no modern-day university had ever achieved such a feat.

But on June 2, 1993, the overall plan for fans to fund the new stadium was in place. But no one knew for sure how the fans would react.

That warm evening the U of L Athletic Department conducted its most amazing day of fund-raising ever. A kickoff party designed primarily as an information session, turned into a bonanza. Fans began writing checks. Big checks. And it was all the staff could do to keep up with the outpouring of support.

On that pivotal day, Cardinal loyalists pledge more than $1 million. And suddenly, the effort had the momentum it needed.

''What happened that day and throughout the stadium campaign, was unprecedented in college sports,'' said Dean Billick, now athletic director at Lamar University in Texas who served as a consultant to the stadium drive for four months.

''The passion the U of L fans had for their program and for that project was remarkable. People were taking out second mortgages on their homes to be able to buy lifetime seats. Some people were making commitments that were probably beyond what they could afford. But their commitment to making the stadium happen is something I will never forget. After years of discussions and studies, the Louisville fans finally got their chance at bat, and they stepped up to the plate and hit a home run. It was simply amazing to see.''

In only four months, thousands of Louisville fans came together to commit nearly $15 million to the stadium project. They gave it life.

Corporate and political leaders, knowing a winner when they saw one, jumped to the head of the victory parade and began to support the project. Others like Papa John's Pizza founder John Schnatter, saw it as a way for a hometown boy to give back to his community, and he pitched in $5 million.

But without the fans some of whom pledged as little as $25 per year, and some who donated up to $25,000 per seat, Louisville's dream would never have happened. Their passion for both the project and the program was founded in being part of the dream from the very beginning.

They had been there for those first practices and first games under their new coach. They had shared the tough times and later celebrated the good times together. And they had dared to dream together.

As Louisville fans prepared for their bowl trip this year, local country singer Mickey Clark recorded a song to commemorate the Cardinals' successful season. The title? The Dream Lives On. It sure does.

And that should be good news for Florida Atlantic fans who are about to embark on a dream of their own.

They'll be doing so alongside that fellow named Schnellenberger, who might just make this new story he's working on the best one yet.●

FINANCIAL SERVICES MODERNIZATION ACT OF 1999

S. 900, the Financial Services Modernization Act of 1999, as amended and passed by the Senate on May 6, 1999, is as follows:

S. 900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Services Modernization Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

conducted by the company acquired not later than 30 calendar days after commencing the activity or consummating the acquisition, as applicable.

''(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in subsection (j) with regard to the acquisition of a savings association, a bank holding company may commence any activity, or acquire any company, pursuant to paragraph (4) or any regulation prescribed or order issued under paragraph (5), without prior approval of the Board.

''(l) CONDITIONS FOR ENGAGING IN EXPANDED FINANCIAL ACTIVITIES.—

''(1) IN GENERAL.—Notwithstanding subsection (k), a bank holding company may not engage in any activity, or directly or indirectly acquire or retain shares of any company engaged in any activity, under subsection (k), other than activities permissible for a bank holding company under subsection (c)(8), unless—

''(A) all of the insured depository institution subsidiaries of the bank holding company are well capitalized;

''(B) all of the insured depository institution subsidiaries of the bank holding company are well managed; and

''(C) the bank holding company has filed with the Board—

''(i) a declaration that the company elects to engage in activities or acquire and retain shares of a company which were not permissible for a bank holding company to engage in or acquire before the enactment of the Financial Services Modernization Act of 1999; and

''(ii) a certification that the company meets the requirements of subparagraphs (A) and (B).

''(2) FOREIGN BANKS.—For purposes of paragraph (1), the Board shall apply comparable capital and management standards to a foreign bank that operates a branch or agency or owns or controls a commercial lending company in the United States, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act;

''(B) the term 'well managed' means—

''(i) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

''(I) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

''(II) at least a rating of 2 for management, if that rating is given;

''(ii) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory; and

''(iii) the terms 'appropriate Federal banking agency' and 'depository institution' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(m) PROVISIONS APPLICABLE TO BANK HOLDING COMPANIES THAT FAIL TO MEET CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—If the Board finds that—

''(A) a bank holding company is engaged, directly or indirectly, in any activity under subsection (k), other than activities that are permissible for a bank holding company under subsection (c)(8); and

''(B) such bank holding company is not in compliance with the requirements of subsection (l),

the Board shall give notice to the bank holding company to that effect, describing the conditions giving rise to the notice.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Not later than 45 days after the date of receipt by a bank holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the bank holding company shall execute an agreement with the Board to comply with the requirements applicable to a bank holding company under subsection (l).

''(3) BOARD MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a bank holding company under paragraph (1) are corrected, the Board may impose such limitations on the conduct or activities of that bank holding company or any affiliate of that company as the Board determines to be appropriate under the circumstances and consistent with the purposes of this Act.

''(4) FAILURE TO CORRECT.—If the conditions described in a notice to a bank holding company under paragraph (1) are not corrected within 180 days after the date of receipt by the bank holding company of a notice under paragraph (1), the Board may require such bank holding company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the discretion of the Board, either—

''(A) to divest control of any subsidiary insured depository institutions; or

''(B) to cease to engage in any activity conducted by such bank holding company or its subsidiaries (other than a depository institution or a subsidiary of a depository institution) that is not an activity that is permissible for a bank holding company under subsection (c)(8).

''(n) AUTHORITY TO RETAIN COMMODITY ACTIVITIES AND AFFILIATIONS.—Notwithstanding subsection (a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a bank holding company after the date of enactment of the Financial Services Modernization Act of 1999, may continue to engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of September 30, 1997, if—

''(1) the bank holding company, or any subsidiary of the bank holding company, lawfully was engaged, directly or indirectly, in any of such activities as of September 30, 1997, in the United States;

''(2) the attributed aggregate consolidated assets of the company held by the bank holding company pursuant to this subsection, and not otherwise permitted to be held by a bank holding company, are equal to not more than 5 percent of the total consolidated assets of the bank holding company, except that the Board may increase that percentage by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act; and

''(3) the bank holding company does not permit—

''(A) any company, the shares of which it owns or controls pursuant to this subsection, to offer or market any product or service of an affiliated insured depository institution; or

''(B) any affiliated insured depository institution to offer or market any product or service of any company, the shares of which are owned or controlled by such bank holding company pursuant to this subsection.''.

(b) FINANCIAL ACTIVITIES OF BANK HOLDING COMPANIES INELIGIBLE FOR SUBSECTION (k) POWERS.—

(1) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

''(8) shares of any company, the activities of which had been determined by the Board by regulation or order under this paragraph as of the day before the date of enactment of the Financial Services Modernization Act of 1999, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation, unless modified by the Board);''.

(2) CONFORMING CHANGES TO OTHER STATUTES.—

(A) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking '', to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,''.

(B) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by striking the period at the end and inserting the following: ''as of the day before the date of enactment of the Financial Services Modernization Act of 1999.''.

SEC. 103. CONFORMING AMENDMENTS.

Section 10(c)(2)(F)(i) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)(2)(F)(i))is amended—

(1) by inserting ''is permitted for bank holding companies under subsection (c) or (k) of section 4 of the Bank Holding Company Act of 1956, or which'' after ''(i) which''; and

(2) by striking ''section 4(c)'' and inserting ''subsection (c) or (k) of section 4''.

SEC. 104. OPERATION OF STATE LAW.

(a) STATE REGULATION OF THE BUSINESS OF INSURANCE.—The Act entitled ''An Act to express the intent of Congress with reference to the regulation of the business of insurance'' and approved March 9, 1945 (15 U.S.C. 1011 et seq.), commonly referred to as the ''McCarran-Ferguson Act'' remains the law of the United States.

(b) MANDATORY INSURANCE LICENSING REQUIREMENTS.—No person or entity shall provide insurance in a State as principal or agent unless such person or entity is licensed, as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance laws, subject to subsections (c), (d), and (e).

(c) AFFILIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict the affiliations authorized or permitted by this Act and the amendments made by this Act.

(2) INSURANCE.—With respect to affiliations between insured depository institutions, or any subsidiary or affiliate thereof, and persons or entities engaged in the business of insurance, paragraph (1) does not prohibit any State from collecting, reviewing, and taking actions on required applications and other documents or reports as may be necessary concerning proposed acquisitions, changes, or continuations of control of any entity engaged in the business of insurance and domiciled in that State, if the State actions do not have the practical effect of discriminating, either intentionally or unintentionally, against an insured depository institution or a subsidiary or affiliate thereof, or against any person or entity based upon affiliation with an insured depository institution.

(d) ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (3), and except with respect to insurance sales, solicitation, and cross marketing activities, which shall be governed by paragraph (2), no State may, by statute, regulation, order, interpretation or other action, prevent or restrict an insured depository institution or subsidiary or affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other entity or person, in any activity authorized or permitted under this Act and the amendments made by this Act.

(2) INSURANCE SALES.—

(A) IN GENERAL.—In accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in Barnett Bank of Marion County N.A. v. Nelson, 116 S. Ct. 1103 (1996), no State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of an insured depository institution, or a subsidiary or affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other party, in any insurance sales, solicitation, or cross-marketing activity.

(B) CERTAIN STATE LAWS PRESERVED.—Notwithstanding subparagraph (A), a State may impose any of the following restrictions, or restrictions that are substantially the same as but no more burdensome or restrictive than those in each of the following clauses:

(i) Restrictions prohibiting the rejection of an insurance policy solely because the policy has been issued or underwritten by any person not associated with such insured depository institution, or any subsidiary or affiliate thereof, when such insurance is required in connection with a loan or extension of credit.

(ii) Restrictions prohibiting a requirement for any debtor, insurer, or insurance agent or broker to pay a separate charge in connection with the handling of insurance that is required in connection with a loan or other extension of credit or the provision of another traditional banking product, unless such charge would be required when the insured depository institution, or any subsidiary or affiliate thereof, is the licensed insurance agent or broker providing the insurance.

(iii) Restrictions prohibiting the use of any advertisement or other insurance promotional material by an insured depository institution, or any subsidiary or affiliate thereof, that would cause a reasonable person to believe mistakenly that—

(I) a State or the Federal Government is responsible for the insurance sales activities of, or stands behind the credit of, the institution, affiliate, or subsidiary; or

(II) a State, or the Federal Government guarantees any returns on insurance products, or is a source of payment on any insurance obligation of or sold by the institution, affiliate, or subsidiary.

(iv) Restrictions prohibiting the payment or receipt of any commission or brokerage fee or other valuable consideration for services as an insurance agent or broker to or by any person, unless such person holds a valid State license regarding the applicable class of insurance at the time at which the services are performed, except that, in this clause, the term ''services as an insurance agent or broker'' does not include a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.

(v) Restrictions prohibiting any compensation paid to or received by any individual who is not licensed to sell insurance for the referral of a customer that seeks to purchase, or seeks an opinion or advice on, any insurance product to a person that sells or provides opinions or advice on such product, based on the purchase of insurance by the customer.

(vi) Restrictions prohibiting the release of the insurance information of a customer (defined as information concerning the premiums, terms, and conditions of insurance coverage, including expiration dates and rates, and insurance claims of a customer contained in the records of the insured depository institution, or a subsidiary or affiliate thereof) to any person or entity other than an officer, director, employee, agent, subsidiary, or affiliate of an insured depository institution, for the purpose of soliciting or selling insurance, without the express consent of the customer, other than a provision that prohibits—

(I) a transfer of insurance information to an unaffiliated insurance company, agent, or broker in connection with transferring insurance in force on existing insureds of the insured depository institution, or subsidiary or affiliate thereof, or in connection with a merger with or acquisition of an unaffiliated insurance company, agent, or broker; or

(II) the release of information as otherwise authorized by Federal or State law.

(vii) Restrictions prohibiting the use of health information obtained from the insurance records of a customer for any purpose, other than for its activities as a licensed agent or broker, without the express consent of the customer.

(viii) Restrictions prohibiting the extension of credit (or any product or service that is equivalent to an extension of credit), lease or sale of property of any kind, or furnishing of any services or fixing or varying the consideration for any of the foregoing, on the condition or requirement that the customer obtain insurance from the insured depository institution, a subsidiary or affiliate thereof, or a particular insurer, agent, or broker, other than a prohibition that would prevent any insured depository institution, or any subsidiary or affiliate thereof—

(I) from engaging in any activity that would not violate section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System; or

(II) from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the insured depository institution, or any subsidiary or affiliate thereof.

(ix) Restrictions requiring, when an application by a customer for a loan or other extension of credit from an insured depository institution is pending, and insurance is offered or sold to the customer or is required in connection with the loan or extension of credit by the insured depository institution or any subsidiary or affiliate thereof, that a written disclosure be provided to the customer or prospective customer indicating that his or her choice of an insurance provider will not affect the credit decision or credit terms in any way, except that the insured depository institution may impose reasonable requirements concerning the creditworthiness of the insurance provider and scope of coverage chosen.

(x) Restrictions, requiring clear and conspicuous disclosure, in writing where practicable, to the customer prior to the sale of any insurance policy that such policy—

(I) is not a deposit;

(II) is not insured by the Federal Deposit Insurance Corporation;

(III) is not guaranteed by the insured depository institution or, if appropriate, its subsidiaries or affiliates or any person soliciting the purchase of or selling insurance on the premises thereof; and

(IV) where appropriate, involves investment risk, including potential loss of principal.

(xi) Restrictions requiring that, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, the credit and insurance transactions be completed through separate documents.

(xii) Restrictions prohibiting, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, inclusion of the expense of insurance premiums in the primary credit transaction without the express written consent of the customer.

(xiii) Restrictions requiring—

(I) maintenance of separate and distinct books and records relating to insurance transactions, including all files relating to and reflecting customer complaints; and

(II) that such insurance books and records be made available to the appropriate State insurance regulator for inspection upon reasonable notice.

(C) LIMITATIONS.—

(i) OCC DEFERENCE.—Section 203(e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(ii) NONDISCRIMINATION.—Subsection (e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed—

(I) to limit the applicability of the decision of the Supreme Court in Barnett Bank of Marion County N.A. v. Nelson, 116 S. Ct. 1103 (1996) with respect to any State statute, regulation, order, interpretation, or other action that is not referred to or described in this paragraph; or

(II) to create any inference with respect to any State statute, regulation, order, interpretation, or other action that is not referred to in this paragraph.

(3) INSURANCE ACTIVITIES OTHER THAN SALES.—State statutes, regulations, interpretations, orders, and other actions shall not be preempted under paragraph (1) to the extent that they—

(A) relate to, or are issued, adopted, or enacted for the purpose of regulating the business of insurance in accordance with the Act of March 9, 1945 (commonly known as the ''McCarran-Ferguson Act'');

(B) apply only to persons or entities that are not insured depository institutions, but that are directly engaged in the business of insurance (except that they may apply to depository institutions engaged in providing savings bank life insurance as principal to the extent of regulating such insurance);

(C) do not relate to or directly or indirectly regulate insurance sales, solicitations, or cross marketing activities; and

(D) are not prohibited under subsection (e).

(4) FINANCIAL ACTIVITIES OTHER THAN INSURANCE.—No State statute, regulation, interpretation, order, or other action shall be preempted under paragraph (1) to the extent that—

(A) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, insurance sales, solicitations, or cross marketing activities covered under paragraph (2);

(B) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, the business of insurance activities other than sales, solicitations, or cross marketing activities, covered under paragraph (3);

(C) it does not relate to securities investigations or enforcement actions referred to in subsection (f); and

(D) it is not prohibited under subsection (e).

(e) NONDISCRIMINATION.—Except as provided in any restriction described in subsection (d)(2)(B), no State may, by statute, regulation, order, interpretation, or other action, regulate the activities authorized or permitted under this Act and the amendments made by this Act, or any other provision of Federal law, of an insured depository institution, or subsidiary or affiliate thereof, to the extent that such statute, regulation, order, interpretation, or other action—

(1) distinguishes by its terms between insured depository institutions, or subsidiaries or affiliates thereof, and other persons or entities engaged in such activities, in a manner that is in any way adverse to any such insured depository institution, or subsidiary or affiliate thereof;

(2) as interpreted or applied, has or will have an impact on insured depository institutions, or subsidiaries or affiliates thereof, that is substantially more adverse than its impact on other persons or entities providing the same products or services or engaged in the same activities that are not insured depository institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(3) effectively prevents an insured depository institution, or subsidiary or affiliate thereof, from engaging in activities authorized or permitted by this Act and the amendments made by this Act, or any other provision of Federal law; or

(4) conflicts with the intent of this Act and the amendments made by this Act generally to permit affiliations that are authorized or permitted by Federal law.

(f) LIMITATION.—Subsections (c) and (d) shall not be construed to affect—

(1) the jurisdiction of the securities commission (or any agency or office performing like functions) of any State, under the laws of that State, to investigate and bring enforcement actions, consistent with section 18(c) of the Securities Act of 1933, with respect to fraud or deceit or unlawful conduct by any person, in connection with securities or securities transactions; or

(2) State laws, regulations, orders, interpretations, or other actions of general applicability relating to the governance of corporations, partnerships, limited liability companies, or other business associations incorporated or formed under the laws of that State or domiciled in that State, or the applicability of the antitrust laws of any State or any State law that is similar to the antitrust laws if such laws, regulations, interpretations, orders, or other actions are not inconsistent with the purposes of this Act to authorize or permit certain affiliations and to remove barriers to such affiliations.

(g) CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.—Except as provided in subsection (c)(2), no State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or restrict the ability of any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), to become a bank holding company, or to acquire control of an insured depository institution, where the practical effect of such State action would be to discriminate, intentionally or unintentionally, against an insurer, or any affiliate of an insurer, based upon its affiliation with an insured depository institution;

(2) limit the amount of the assets of an insurer that may be invested in the voting securities of an insured depository institution (or any company that controls such institution), except that the laws of the State of domicile of the insurer may limit the amount of such investment to an amount that is not less than 5 percent of the admitted assets of the insurer; or

(3) prevent, restrict, or have the authority to review, approve, or disapprove a plan of reorganization by which an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise), unless the State is the State of domicile of the insurer, except that the appropriate regulatory authority of the State of domicile of the insurer shall consult with the appropriate regulatory authority in other States in which the insurer conducts business, regarding issues affecting the best interests of policyholders.

(h) MOTOR VEHICLE RENTAL AGENCY ACTIVITIES.—

(1) FINDINGS.—Congress finds that—

(A) in many States, the insurance laws are unclear as to whether personal insurance sales in connection with the short-term rental or leasing of motor vehicles should be licensed by the State as an insurance activity; and

(B) in those States that have not yet implemented regulations governing the offer or sale of insurance in connection with the short-term lease or rental of a motor vehicle, a presumption should exist that no insurance license is required in connection with such sales.

(2) EXCEPTION FOR CERTAIN INSURANCE PRODUCTS.—Subsection (b) does not apply to any person or entity who offers or provides insurance ancillary to a short-term lease or rental transaction of a motor vehicle in a State that does not, by statute, rule, or regulation, impose any licensing, appointment, personal or corporate qualifications, or education requirements on such persons or entities.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to alter the validity or effect of any State law, or the prospective application of any final State statute, rule, or regulation which, by its specific terms, expressly regulates or exempts from regulation any person or entity who offers or provides insurance ancillary to a short-term lease or rental transaction of a motor vehicle.

(4) LEASE PERIOD.—For purposes of this subsection, a person shall be considered to be providing insurance ancillary to a short-term lease or rental transaction of a motor vehicle if the lease or rental transaction is for 60 days or less, and the insurance is provided for a period of consecutive days not exceeding the length of the lease or rental.

(5) EFFECT.—This subsection shall remain in effect during the period beginning on the date of enactment of this Act and ending 5 years after that date of enactment.

(i) DEFINITIONS.—For purposes of this section—

(1) the term ''antitrust laws'' has the same meaning as in subsection (a) of the first section of the Clayton Act, and includes section 5 of the Federal Trade Commission Act (to the extent that such section 5 relates to unfair methods of competition);

(2) the term ''insured depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

(3) the term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

Subtitle B—Streamlining Supervision of Bank Holding Companies

SEC. 111. STREAMLINING BANK HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

''(c) REPORTS AND EXAMINATIONS.—

''(1) REPORTS.—

''(A) IN GENERAL.—The Board, from time to time, may require a bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) the financial condition of the bank holding company or subsidiary, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the bank holding company; and

''(ii) compliance by the company or subsidiary with applicable provisions of this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—For purposes of compliance with this paragraph, the Board shall, to the fullest extent possible, accept—

''(I) reports that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal or State supervisors or to appropriate self-regulatory organizations;

''(II) information that is otherwise required to be reported publicly; and

''(III) externally audited financial statements.

''(ii) REPORTS FILED WITH OTHER AGENCIES.—In the event that the Board requires a report under this subsection from a functionally regulated subsidiary of a bank holding company of a kind that is not required by another Federal or State regulatory authority or an appropriate self-regulatory organization, the Board shall request that the appropriate regulatory authority or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or any of its depository institution subsidiaries or compliance with this Act, the Board may require such functionally regulated subsidiary to provide such a report to the Board.

''(2) EXAMINATIONS.—

''(A) EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (B), the Board may make examinations of each bank holding company and each subsidiary of such holding company in order—

''(i) to inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

''(ii) to inform the Board of—

''(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any depository institution subsidiary of such holding company; and

''(II) the systems for monitoring and controlling such risks; and

''(iii) to monitor compliance with the provisions of this Act and those governing

transactions and relationships between any depository institution subsidiary and its affiliates.

''(B) FUNCTIONALLY REGULATED SUBSIDIARIES.—Notwithstanding subparagraph (A), the Board may make examinations of a functionally regulated subsidiary of a bank holding company only if—

''(i) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution; or

''(ii) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution, and the Board cannot make such determination through examination of the affiliated depository institution or the bank holding company.

''(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

''(i) the bank holding company; and

''(ii) any subsidiary of the bank holding company that could have a materially adverse effect on the safety and soundness of any depository institution subsidiary of the holding company due to—

''(I) the size, condition, or activities of the subsidiary; or

''(II) the nature or size of transactions between the subsidiary and any depository institution that is also a subsidiary of the bank holding company.

''(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, for the purposes of this paragraph, use the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

''(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, forego an examination by the Board under this paragraph and instead review the reports of examination made of—

''(i) any registered broker or dealer by or on behalf of the Securities and Exchange Commission;

''(ii) any registered investment adviser properly registered by or on behalf of either the Securities and Exchange Commission or any State;

''(iii) any licensed insurance company by or on behalf of any State regulatory authority responsible for the supervision of insurance companies; and

''(iv) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

''(3) CAPITAL.—

''(A) IN GENERAL.—The Board may not, by regulation, guideline, order, or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a bank holding company that—

''(i) is not an insured depository institution; and

''(ii) is—

''(I) in compliance with the applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority; or

''(II) properly registered as an investment adviser under the Investment Advisers Act of 1940, or with any State.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than with respect to investment advisory activities or activities incidental to investment advisory activities.

''(C) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing bank holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board may not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, if the investment company is not—

''(i) a bank holding company; or

''(ii) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, where the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(4) TRANSFER OF BOARD AUTHORITY TO APPROPRIATE FEDERAL BANKING AGENCY.—

''(A) IN GENERAL.—In the case of any bank holding company that is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

''(B) AUTHORITY TRANSFERRED.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act—

''(i) to examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under this section;

''(ii) to approve or disapprove applications or transactions under section 3;

''(iii) to take actions and impose penalties under subsections (e) and (f) of this section and under section 8; and

''(iv) to take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute that the Board may designate.

''(C) AGENCY ORDERS.—Section 9 of this Act and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner as such sections apply to orders issued by the Board.

''(5) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—

''(A) SECURITIES ACTIVITIES.—Securities activities conducted in a functionally regulated subsidiary of a bank shall be subject to regulation by the Securities and Exchange Commission, and by relevant State securities authorities, as appropriate, subject to section 104 of the Financial Services Modernization Act of 1999, to the same extent as if they were conducted in a nondepository institution subsidiary of a bank holding company.

''(B) INSURANCE ACTIVITIES.—Subject to section 104 of the Financial Services Modernization Act of 1999, insurance agency and brokerage activities and activities as principal conducted in a functionally regulated subsidiary of a bank shall be subject to regulation by a State insurance authority to the same extent as if they were conducted in a nondepository institution subsidiary of a bank holding company.

''(6) DEFINITION.—For purposes of this subsection, the term 'functionally regulated subsidiary' means any company—

''(A) that is not a bank holding company; and

''(B) that is—

''(i) a broker or dealer that is registered under the Securities Exchange Act of 1934;

''(ii) a registered investment adviser, properly registered by or on behalf of either the Securities and Exchange Commission or any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(iii) an investment company that is registered under the Investment Company Act of 1940;

''(iv) an insurance company or insurance agency that is subject to supervision by a State insurance commission, agency, or similar authority; or

''(v) an entity that is subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.''.

SEC. 112. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board that requires a bank holding company to provide funds or other assets to an insured depository institution subsidiary shall not be effective nor enforceable, if—

''(A) such funds or assets are to be provided by—

''(i) a bank holding company that is an insurance company or that is a broker or dealer registered under the Securities Exchange Act of 1934; or

''(ii) an affiliate of the insured depository institution that is an insurance company or a broker or dealer registered under the Securities Exchange Act of 1934; and

''(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, as the case may be, determines in a written notice sent to the bank holding company and to the Board that the bank holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker or dealer, as the case may be.

''(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, that is an insurance company or a broker or dealer, as described in paragraph (1)(A), to provide funds or assets to an insured depository institution subsidiary of the bank holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company or the Securities and Exchange Commission, as the case may be, of such requirement.

''(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in that paragraph, the Board may order the bank holding company to divest the insured depository institution subsidiary not later than 180 days after receiving the notice, or such longer period as the Board determines to be consistent with the safe and sound operation of the insured depository institution.

''(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date on which an order to divest is issued by the

Board under paragraph (3) to a bank holding company and ending on the date on which the divestiture is completed, the Board may impose any conditions or restrictions on ownership or operation by the bank holding company of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.

''(5) RULE OF CONSTRUCTION.—No provision of this subsection may be construed to limit or otherwise affect the regulatory authority, including the scope of the authority, of any Federal agency or department with regard to any entity that is within the jurisdiction of such agency or department.''.

SEC. 113. ROLE OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

''SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

''(a) LIMITATION ON DIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a functionally regulated subsidiary of a bank holding company unless—

''(1) the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

''(A) the financial safety, soundness, or stability of an affiliated insured depository institution; or

''(B) the domestic or international payment system; and

''(2) the Board finds that it is not reasonably possible to protect effectively against the material risk at issue through action directed at or against the affiliated insured depository institution or against insured depository institutions generally.

''(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a bank holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a functionally regulated subsidiary of a bank holding company that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

''(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a functionally regulated subsidiary of a bank holding company with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

''(d) 'FUNCTIONALLY REGULATED SUBSIDIARY' DEFINED.—For purposes of this section, the term 'functionally regulated subsidiary' has the same meaning as in section 5(c)(6).''.

SEC. 114. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—Except as provided in subsection (c), a Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) CERTAIN EXAMINATIONS AUTHORIZED.—Nothing in this section shall prevent the Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the insured depository institution and the affiliate, and the effect of such relationship on the insured depository institution.

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

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

(2) CORPORATION.—The term ''Corporation'' means the Federal Deposit Insurance Corporation.

(3) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(4) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the same meaning as in section 3(z) of the Federal Deposit Insurance Act.

(5) REGISTERED INVESTMENT COMPANY.—The term ''registered investment company'' means an investment company that is registered with the Commission under the Investment Company Act of 1940.

(6) SAVINGS AND LOAN HOLDING COMPANY.—The term ''savings and loan holding company'' has the same meaning as in section 10(a)(1)(D) of the Home Owners' Loan Act.

SEC. 115. EQUIVALENT REGULATION AND SUPERVISION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of—

(1) section 5(c) of the Bank Holding Company Act of 1956 (as amended by this Act) that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on holding companies and their functionally regulated subsidiaries or that require deference to other regulators;

(2) section 5(g) of the Bank Holding Company Act of 1956 (as added by this Act) that limit the authority of the Board to require capital from a functionally regulated subsidiary of a holding company to an insured depository institution subsidiary of the holding company and to take certain actions including requiring divestiture of the insured depository institution; and

(3) section 10A of the Bank Holding Company Act of 1956 (as added by this Act) that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to holding companies and their functionally regulated subsidiaries,

shall also limit whatever authority that a Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) might otherwise have under applicable Federal law to require reports, make examinations, impose capital requirements, or take any other direct or indirect action with respect to any functionally regulated subsidiary of an insured depository institution, subject to the same standards and requirements as are applicable to the Board under those provisions.

(b) CERTAIN EXEMPTION AUTHORIZED.—Nothing in this section shall prevent the Federal Deposit Insurance Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

(c) ''FUNCTIONALLY REGULATED SUBSIDIARY'' DEFINED.—For purposes of this section, the term ''functionally regulated subsidiary'' has the same meaning as in section 5(c)(6) of the Bank Holding Company Act of 1956, as amended by this Act.

SEC. 116. INTERAGENCY CONSULTATION.

(a) EXAMINATION RESULTS AND OTHER INFORMATION.—

(1) INFORMATION OF THE BOARD.—Upon the request of the appropriate insurance regulator of any State, the Board may provide to that regulator any information of the Board regarding the financial condition, risk management policies, and operations of any bank holding company that controls a company that is engaged in insurance activities and is regulated by that State insurance regulator, and regarding any transaction or relationship between such an insurance company and any affiliated depository institution. The Board may provide any other information to the appropriate State insurance regulator that the Board believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(2) BANKING AGENCY INFORMATION.—Upon the request of the appropriate insurance regulator of any State, the appropriate Federal banking agency may provide to that regulator any information of the agency regarding any transaction or relationship between a depository institution supervised by that Federal banking agency and any affiliated company that is engaged in insurance activities regulated by the State insurance regulator. The appropriate Federal banking agency may provide any other information to the appropriate State insurance regulator that the agency believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(3) STATE INSURANCE REGULATOR INFORMATION.—Upon the request of the appropriate Federal banking agency, a State insurance regulator may provide any examination or other reports, records, or other information to which the State insurance regulator may have access with respect to a company that—

(A) is engaged in insurance activities and is regulated by that insurance regulator; and

(B) is an affiliate of an insured depository institution or a bank holding company.

(b) CONSULTATION.—Before making any determination relating to the initial affiliation of, or the continuing affiliation of, an insured depository institution or bank holding company with a company engaged in insurance activities, the appropriate Federal banking agency shall consult with the appropriate State insurance regulator of such company and take the views of such insurance regulator into account in making such determination.

(c) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to an insured depository institution or bank holding company or any affiliate thereof under any provision of law.

(d) CONFIDENTIALITY AND PRIVILEGE.—

(1) CONFIDENTIALITY.—The appropriate Federal banking agency may not provide any information or material that is entitled to confidential treatment under applicable Federal banking agency regulations, or other applicable law, to a State insurance regulator, unless such regulator agrees to maintain the information or material in confidence and to take all reasonable steps to oppose any effort to secure disclosure of the information or material by the regulator. The appropriate Federal banking agency shall treat as confidential any information or material obtained from a State insurance regulator that is entitled to confidential treatment under applicable State regulations, or other applicable law, and take all reasonable steps to oppose any effort to secure disclosure of the information or material by the Federal banking agency.

(2) PRIVILEGE.—The provision pursuant to this section of information or material by a Federal banking agency or a State insurance regulator shall not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

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

(1) APPROPRIATE FEDERAL BANKING AGENCY; INSURED DEPOSITORY INSTITUTION.—The terms ''appropriate Federal banking agency'' and ''insured depository institution'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD; BANK HOLDING COMPANY.—The terms ''Board'' and ''bank holding company'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 117. PRESERVING THE INTEGRITY OF FDIC RESOURCES.

Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking ''to benefit any shareholder of'' and inserting ''to benefit any shareholder, affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act), or subsidiary of''.

Subtitle C—Activities of National Banks

SEC. 121. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE MUNICIPAL REVENUE BONDS.

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following:

''The limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account do not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national banking association is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).''.

SEC. 122. SUBSIDIARIES OF NATIONAL BANKS.

(a) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

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

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

''(a) AUTHORIZATION TO CONDUCT IN OPERATING SUBSIDIARIES CERTAIN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) IN GENERAL.—Subject to paragraph (2), a national bank may control a financial subsidiary, or hold an interest in a financial subsidiary, only if—

''(A) the consolidated total assets of the national bank do not exceed $1,000,000,000;

''(B) the national bank is not an affiliate of a bank holding company;

''(C) the subject activities are not real estate development or real estate investment activities, unless otherwise expressly authorized by law;

''(D) the national bank and each insured depository institution affiliate of the national bank is well capitalized and well managed; and

''(E) the national bank has received the approval of the Comptroller of the Currency to engage in such activities, which approval shall be based solely upon the factors set forth in subparagraph (D) and factors set forth in subsection (c).

''(2) REGULATIONS REQUIRED.—The Comptroller of the Currency shall, by regulation, prescribe procedures for the enforcement of this section.

''(b) SAFETY AND SOUNDNESS FIRE WALLS.—

''(1) CAPITAL REDUCTION REQUIRED.—In determining compliance with applicable capital standards for purposes of subsection (a)(1)(D)—

''(A) the aggregate amount of outstanding equity investments by a national bank in a financial subsidiary shall be deducted from the assets and tangible equity of the national bank; and

''(B) the assets and liabilities of the financial subsidiary shall not be consolidated with those of the national bank.

''(2) INVESTMENT LIMITATION.—A national bank may not, without the prior approval of the Comptroller of the Currency, make any equity investment in a financial subsidiary of the bank if that investment would, when made, exceed the amount that the national bank could pay as a dividend without obtaining prior regulatory approval.

''(c) SAFEGUARDS FOR THE BANK.—A national bank that establishes or maintains a financial subsidiary shall assure that—

''(1) the procedures of the national bank for identifying and managing financial and operational risks within the national bank and financial subsidiary adequately protect the national bank from such risks;

''(2) the bank has, for the protection of the national bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the national bank and the financial subsidiaries of the national bank; and

''(3) the national bank is in compliance with this section.

''(d) STREAMLINING REGULATION AND SUPERVISION AND ENCOURAGING CONSULTATION AMONG FEDERAL AND STATE REGULATORS.—

''(1) IN GENERAL.—To the extent that a national bank engages in activities that are authorized by subsection (a) through a functionally regulated financial subsidiary, the regulation and supervision of such subsidiary by the Comptroller of the Currency, including its ability to require a contribution of capital or assets to the national bank from that functionally regulated financial subsidiary, shall be limited, as set forth under section 115 of the Financial Services Modernization Act of 1999.

''(2) INTERAGENCY CONSULTATION.—The provisions of section 116 of the Financial Services Modernization Act of 1999, relating to interagency consultation, shall apply to the Comptroller of the Currency and the appropriate State regulators of functionally regulated financial subsidiaries of a national bank.

''(e) PRESERVATION OF EXISTING OPERATING SUBSIDIARY AUTHORITY.—Notwithstanding any other provision of this section—

''(1) a national bank may retain control of a company, or retain an interest in a company, and conduct through such company any activities lawfully conducted therein as of the date of enactment of the Financial Services Modernization Act of 1999; and

''(2) a national bank may own shares of or any other interest in any company that is engaged only in activities that are permissible for the national bank to engage in directly, if such activities are engaged in under the same terms and conditions that would govern the conduct if conducted by a national bank directly.

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

''(1) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company that—

''(A) is a subsidiary of a national bank; and

''(B) is engaged as principal in any activity that is permissible for a bank holding company under section 4(k) of the Bank Holding Company Act of 1956 and is not permissible for national banks to engage in directly.

''(2) FUNCTIONALLY REGULATED.—The term 'functionally regulated financial subsidiary' means a financial subsidiary that is—

''(A) a broker or dealer that is registered under the Securities Exchange Act of 1934;

''(B) an investment adviser that is registered under the Investment Advisers Act of 1940, or with any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(C) an insurance company that is subject to supervision by a State insurance commission, agency, or similar authority; and

''(D) an entity that is subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

''(3) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

''(4) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.

''(5) WELL MANAGED.—The term 'well managed' means—

''(A) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

''(i) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

''(ii) at least a rating of 2 for management, if such rating is given; or

''(B) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

''(6) INCORPORATED DEFINITIONS.—The terms 'appropriate Federal banking agency', 'depository institution', and 'insured depository institution', have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

(b) LIMITING THE CREDIT EXPOSURE OF A NATIONAL BANK TO A FINANCIAL SUBSIDIARY TO THE AMOUNT OF PERMISSIBLE CREDIT EXPOSURE TO AN AFFILIATE.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

''(e) RULES RELATING TO NATIONAL BANKS WITH FINANCIAL SUBSIDIARIES.—

''(1) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section and section 23B, the term 'financial subsidiary' has the same meaning as in section 5136A(f) of the Revised Statutes of the United States.

''(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A NATIONAL BANK AND THE NATIONAL BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a national bank and the national bank (or between such financial subsidiary and any other subsidiary of the national bank that is not a financial subsidiary), and notwithstanding subsection (b)(2) of this section or section 23B(d)(1)—

''(A) the financial subsidiary of the national bank—

''(i) shall be deemed to be an affiliate of the national bank and of any other subsidiary of the bank that is not a financial subsidiary; and

''(ii) shall not be deemed to be a subsidiary of the national bank; and

''(B) a purchase of or investment in equity securities issued by the financial subsidiary shall not be deemed to be a covered transaction.

''(3) APPLICATION TO TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES.—

''(A) IN GENERAL.—A transaction between a financial subsidiary and an affiliate of the financial subsidiary (that is not a subsidiary of a national bank) shall not be deemed to be a transaction between a subsidiary of a national bank and an affiliate of that bank for purposes of section 23A or section 23B.

''(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of this paragraph, the term 'affiliate' does not include a national bank, or a subsidiary of a national bank that is engaged exclusively in activities permissible for a national bank to engage in directly or agency activities permitted under section 123 of the Financial Services Modernization Act of 1999.''.

(c) ANTITYING.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971) is amended by adding at the end the following: ''For purposes of this section, a financial subsidiary of a national bank engaging in activities pursuant to section 5136A(a) of the Revised Statutes of the United States shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''.

(d) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as relating to section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

''5136A. Subsidiaries of national banks.''.

SEC. 123. AGENCY ACTIVITIES.

A national bank may control a company, or hold an interest in a company that engages in agency activities that have been determined by the Comptroller of the Currency to be permissible for national banks or to be financial in nature or incidental to such financial activities (as determined pursuant to section 4(k) of the Bank Holding Company Act of 1956) if the company engages in such activities solely as agent and not directly or indirectly as principal.

SEC. 124. PROHIBITING FRAUDULENT REPRESENTATIONS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following new section:

''SEC. 1008. MISREPRESENTATIONS REGARDING FINANCIAL INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES.

''(a) PROHIBITION.—It shall be unlawful for an institution-affiliated party of an insured depository institution or institution-affiliated party of a subsidiary or affiliate of an insured depository institution to fraudulently represent that the institution is or will be liable for any obligation of a subsidiary or other affiliate of the institution.

''(b) PENALTIES.—Whoever violates subsection (a) shall be fined under this title, imprisoned not more than 1 year, or both.

''(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that references to an insured depository institution shall be deemed to include references to a subsidiary or affiliate of an insured depository institution.

''(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'affiliate', 'insured depository institution', and 'subsidiary' have same meanings as in section 3 of the Federal Deposit Insurance Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1007 the following new item:

''1008. Misrepresentations regarding financial institution liability for obligations of affiliates.''.

SEC. 125. INSURANCE UNDERWRITING BY NATIONAL BANKS.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), a national bank and the subsidiaries of a national bank may only provide insurance in a State as principal in accordance with section 5136A(a) of the Revised Statutes of the United States, as added by this Act.

(2) EXCEPTION.—A national bank and the subsidiaries of a national bank may provide authorized insurance products as principal without regard to section 5136A(a) of the Revised Statutes of the United States, as added by this Act.

(b) AUTHORIZED INSURANCE PRODUCTS.—For purposes of this section, a product is an ''authorized insurance product'' if—

(1) as of January 1, 1999, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not an annuity contract, the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) DEFINITION.—For purposes of this section, the term ''insurance'' means—

(1) any product regulated as insurance as of January 1, 1999, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1999, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, if the bank were subject to tax as an insurance company under section 831 of that Code; and

(3) any annuity contract, the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

Subtitle D—National Treatment of Foreign Financial Institutions

SEC. 151. NATIONAL TREATMENT OF FOREIGN FINANCIAL INSTITUTIONS.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

''(3) TERMINATION OF GRANDFATHERED RIGHTS.—

''(A) IN GENERAL.—If any foreign bank or foreign company files a declaration under section 4() of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity that the Board has determined to be permissible for bank holding companies under section 4(k) of that Act shall terminate immediately.

''(B) RESTRICTIONS AND REQUIREMENTS AUTHORIZED.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity that the Board determines to be permissible for bank holding companies under section 4(k) of the Bank Holding Company Act of 1956, has not filed a declaration with the Board of its status as a bank holding company under section 4(l) of that Act by the end of the 2-year period beginning on the date of enactment of the Financial Services Modernization Act of 1999, the Board, giving due regard to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a bank holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 10A of the Bank Holding Company Act of 1956.''.

SEC. 152. REPRESENTATIVE OFFICES.

(a) DEFINITION OF ''REPRESENTATIVE OFFICE''.—Section 1(b)(15) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by striking ''State agency, or subsidiary of a foreign bank'' and inserting ''or State agency''.

(b) EXAMINATIONS.—Section 10(c) of the International Banking Act of 1978 (12 U.S.C.

3107(c)) is amended by adding at the end the following: ''The Board may also make examinations of any affiliate of a foreign bank conducting business in any State, if the Board deems it necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or other applicable Federal banking law.''.

TITLE II—INSURANCE CUSTOMER PROTECTIONS

SEC. 201. FUNCTIONAL REGULATION OF INSURANCE.

The insurance activity of any person or entity shall be functionally regulated by the States, subject to subsections (c), (d), and (e) of section 104.

SEC. 202. INSURANCE CUSTOMER PROTECTIONS.

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

''SEC. 45. INSURANCE CUSTOMER PROTECTIONS.

''(a) REGULATIONS REQUIRED.—

''(1) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of enactment of the Financial Services Modernization Act of 1999, customer protection regulations (which the agencies jointly determine to be appropriate) that—

''(A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any insured depository institution or any person that is engaged in such activities at an office of the institution or on behalf of the institution; and

''(B) are consistent with the requirements of this Act and provide such additional protections for customers to whom such sales, solicitations, advertising, or offers are directed.

''(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiaries of an insured depository institution as deemed appropriate by the Federal banking agencies, where such extension is determined to be necessary to ensure the customer protections provided by this section.

''(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

''(b) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall include antitying and anticoercion rules applicable to the sale of insurance products that prohibit an insured depository institution from engaging in any practice that would lead a customer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

''(1) the purchase of an insurance product from the institution or any of its affiliates or subsidiaries; or

''(2) an agreement by the customer not to obtain, or a prohibition on the customer from obtaining, an insurance product from an unaffiliated entity.

''(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

''(1) DISCLOSURES.—

''(A) IN GENERAL.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clauses (iii) and (iv), at the time of application for an extension of credit:

''(i) UNINSURED STATUS.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the insured depository institution.

''(ii) INVESTMENT RISK.—In the case of a variable annuity or insurance product that involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

''(iii) ANTITYING; ANTICOERCION.—The approval of an extension of credit may not be conditioned on—

''(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of its affiliates or subsidiaries; or

''(II) an agreement by the customer not to obtain, or a prohibition on the customer from obtaining, an insurance product from an unaffiliated entity.

''(iv) PROHIBITION ON ENHANCED TREATMENT DUE TO OTHER PURCHASES OR SERVICES.—The processing of an extension of credit or the delivery of any other financial product or service will not be expedited depending upon the purchase by the customer of any additional product or service from an affiliated person or entity of the insured depository institution.

''(B) MAKING DISCLOSURE READILY UNDERSTANDABLE.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

''(i) 'NOT FDIC–INSURED'.

''(ii) 'NOT GUARANTEED BY THE BANK'.

''(iii) 'MAY GO DOWN IN VALUE'.

''(C) LIMITATION.—Nothing in this paragraph requires the inclusion of the foregoing disclosures in advertisements of a general nature describing or listing the services or products offered by an institution.

''(D) MEANINGFUL DISCLOSURES.—Disclosures shall not be considered to be meaningfully provided under this paragraph if the institution or its representative states that disclosures required by this subsection were available to the customer in printed material available for distribution, where such printed material is not provided and such information is not orally disclosed to the customer.

''(E) ADJUSTMENTS FOR ALTERNATIVE METHODS OF PURCHASE.—In prescribing the requirements under subparagraphs (A) and (F), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

''(F) CUSTOMER ACKNOWLEDGMENT.—A requirement that an insured depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time at which a customer receives the disclosures required under this paragraph or at the time of the initial purchase by the customer of such product, an acknowledgment by such customer of the receipt of the disclosure required under this paragraph with respect to such product.

''(2) PROHIBITION ON MISREPRESENTATIONS.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the insured depository institution, or any subsidiary, as appropriate, that could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

''(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

''(B) in the case of a variable annuity or insurance product that involves an investment risk, the investment risk associated with any such product.

''(d) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

''(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits is kept, to the extent practicable, physically segregated from insurance product activity.

''(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following requirements:

''(A) SEPARATE SETTING.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

''(B) REFERRALS.—Standards that permit any person accepting deposits from the public in an area where such transactions are routinely conducted in an insured depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

''(C) QUALIFICATION AND LICENSING REQUIREMENTS.—Standards prohibiting any insured depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

''(e) EFFECT ON OTHER AUTHORITY.—

''(1) IN GENERAL.—No provision of this section shall be construed as granting, limiting, or otherwise affecting—

''(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

''(B) except as provided in paragraph (2), any authority of any State insurance commission (or any agency or office performing like functions), or of any State securities commission (or any agency or office performing like functions), or other State authority under any State law.

''(2) COORDINATION WITH STATE LAW.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), insurance customer protection regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

''(B) PREEMPTION.—

''(i) IN GENERAL.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Corporation determine jointly that the protection afforded by such provision for customers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, the appropriate State regulatory authority shall be notified of such determination in writing.

''(ii) CONSIDERATIONS.—Before making a final determination under clause (i), the Federal agencies referred to in clause (i) shall

give appropriate consideration to comments submitted by the appropriate State regulatory authorities relating to the level of protection afforded to consumers under State law.

''(iii) FEDERAL PREEMPTION AND ABILITY OF STATES TO OVERRIDE FEDERAL PREEMPTION.—If the Federal agencies referred to in clause (i) jointly determine that any provision of the regulations prescribed under this section affords greater protections than a comparable State law, rule, regulation, order, or interpretation, those agencies shall send a written preemption notice to the appropriate State regulatory authority to notify the State that the Federal provision will preempt the State provision and will become applicable unless, not later than 3 years after the date of such notice, the State adopts legislation to override such preemption.

''(f) NON-DISCRIMINATION AGAINST NON-AFFILIATED AGENTS.—The Federal banking agencies shall ensure that the regulations prescribed pursuant to subsection (a) shall not have the practical effect of discriminating, either intentionally or unintentionally, against any person engaged in insurance sales or solicitations that is not affiliated with an insured depository institution.''.

SEC. 203. FEDERAL AND STATE DISPUTE RESOLUTION.

(a) FILING IN COURT OF APPEALS.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator regarding insurance issues, including whether a State law, rule, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, either regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) EXPEDITED REVIEW.—The United States Court of Appeals in which a petition for review if filed in accordance with subsection (a) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date on which such petition is filed, unless all parties to such proceedings agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiorari to the Supreme Court of the United States of any judgment of a United States Court of Appeals with respect to a petition for review under this section shall be filed with the Supreme Court of the United States as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No action may be filed under this section challenging an order, ruling, determination, or other action of a Federal regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date on which the first public notice is made of such order, ruling, determination or other action in its final form; or

(2) the end of the 6-month period beginning on the date on which such order, ruling, determination, or other action takes effect.

(e) STANDARD OF REVIEW.—The court shall decide an action filed under subsection (a) based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, according equal deference to the Federal regulator and the State insurance regulator.

TITLE III—REGULATORY IMPROVEMENTS

SEC. 301. ELIMINATION OF SAIF AND DIF SPECIAL RESERVES.

(a) SAIF SPECIAL RESERVE.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (L).

(b) DIF SPECIAL RESERVE.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is amended—

(1) by striking subsection (b); and

(2) in subsection (d)—

(A) by striking paragraph (4);

(B) in paragraph (6)(C)(i), by striking ''(6) and (7)'' and inserting ''(5), (6), and (7)''; and

(C) in paragraph (6)(C), by striking clause (ii) and inserting the following:

''(ii) by redesignating paragraph (8) as paragraph (5).''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 302. EXPANDED SMALL BANK ACCESS TO S CORPORATION TREATMENT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of—

(1) possible revisions to the rules governing S corporations, including—

(A) increasing the permissible number of shareholders in such corporations;

(B) permitting shares of such corporations to be held in individual retirement accounts;

(C) clarifying that interest on investments held for safety, soundness, and liquidity purposes should not be considered to be passive income;

(D) discontinuation of the treatment of stock held by bank directors as a disqualifying personal class of stock for such corporations; and

(E) improving Federal tax treatment of bad debt and interest deductions; and

(2) what impact such revisions might have on community banks.

(b) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on the results of the study conducted under subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''S corporation'' has the same meaning as in section 1361(a)(1) of the Internal Revenue Code of 1986.

SEC. 303. MEANINGFUL CRA EXAMINATIONS.

(a) COMPLIANCE.—Notwithstanding any other provision of law, an insured depository institution rated as ''satisfactory'' or better in its most recent examination under the Community Reinvestment Act of 1977, and in each such examination during the immediately preceding 36-month period shall be deemed to be in compliance with the requirements of that Act until the completion of a subsequent regularly scheduled examination under that Act, unless substantial verifiable information arising since the time of its most recent examination under that Act demonstrating noncompliance is filed with the appropriate Federal banking agency.

(b) OBJECTIONS.—

(1) AGENCY DETERMINATION.—The appropriate Federal banking agency shall determine, on a timely basis, whether the information filed by any person under subsection (a) provides sufficient proof that the subject insured depository institution is no longer in compliance with the requirements of the Community Reinvestment Act of 1977, as provided in subsection (a).

(2) BURDEN OF PROOF.—A person filing information under subsection (a) shall bear the burden of proving to the satisfaction of the appropriate Federal banking agency, the substantial verifiable nature of that information.

(c) DEFINITIONS.—In this section, the terms ''insured depository institution'' and ''appropriate Federal banking agency'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 304. FINANCIAL INFORMATION PRIVACY PROTECTION.

(a) FINANCIAL INFORMATION ANTI-FRAUD.—The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

''TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION

''SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This title may be cited as the 'Financial Information Anti-Fraud Act of 1999'.

''(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

''SEC. 1002. DEFINITIONS.

''For purposes of this title, the following definitions shall apply:

''(1) CUSTOMER.—The term 'customer' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

''(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term 'customer information of a financial institution' means any information maintained by a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

''(3) DOCUMENT.—The term 'document' means any information in any form.

''(4) FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'financial institution' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

''(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term 'financial institution' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

''(C) FURTHER DEFINITION BY REGULATION.—The Board of Governors of the Federal Reserve System may prescribe regulations further defining the term 'financial institution', in accordance with subparagraph (A), for purposes of this title.

''SEC. 1003. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

''(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this title for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

''(1) by knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the customer information;

''(2) by knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution with the intent to deceive the customer into relying on that statement or representation for purposes of releasing the customer information or authorizing the release of such information; or

''(3) by knowingly providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent into relying on that document for purposes of releasing the customer information.

''(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this title to request a person to obtain customer information of a financial institution, knowing or consciously avoiding knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

''(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

''(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

''(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

''(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

''(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

''(e) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

''SEC. 1004. ADMINISTRATIVE ENFORCEMENT.

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Except as provided in subsection (b), compliance with this title shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the Fair Debt Collection Practices Act to enforce compliance with that title.

''(b) ENFORCEMENT BY OTHER AGENCIES IN CERTAIN CASES.—

''(1) IN GENERAL.—Compliance with this title shall be enforced under—

''(A) section 8 of the Federal Deposit Insurance Act, in the case of—

''(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

''(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;

''(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and national nonmember banks) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

''(iv) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

''(B) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

''(2) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF OTHER LAWS.—For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with this title, any other authority conferred on such agency by law.

''(c) STATE ACTION FOR VIOLATIONS.—

''(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

''(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

''(B) may bring an action on behalf of the residents of the State to recover damages of not more than $1,000 for each violation; and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(2) RIGHTS OF FEDERAL REGULATORS.—

''(A) PRIOR NOTICE.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission and, in the case of an action which involves a financial institution described in section 1004(b)(1), the agency referred to in such section with respect to such institution and provide the Federal Trade Commission and any such agency with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

''(B) RIGHT TO INTERVENE.—The Federal Trade Commission or an agency described in subsection (b) shall have the right—

''(i) to intervene in an action under paragraph (1);

''(ii) upon so intervening, to be heard on all matters arising therein;

''(iii) to remove the action to the appropriate United States district court; and

''(iv) to file petitions for appeal.

''(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, no provision of this subsection shall be construed as preventing the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission or any agency described in subsection (b) has instituted a civil action for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Federal Trade Commission or such agency for any violation of this title that is alleged in that complaint.

''SEC. 1005. CIVIL LIABILITY.

''Any person, other than a financial institution, who fails to comply with any provision of this title with respect to any financial institution or any customer information of a financial institution shall be liable to such financial institution or the customer to whom such information relates in an amount equal to the sum of the amounts determined under each of the following paragraphs:

''(1) ACTUAL DAMAGES.—The greater of—

''(A) the amount of any actual damage sustained by the financial institution or customer as a result of such failure; or

''(B) any amount received by the person who failed to comply with this title, including an amount equal to the value of any nonmonetary consideration, as a result of the action which constitutes such failure.

''(2) ADDITIONAL DAMAGES.—Such additional amount as the court may allow.

''(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

''SEC. 1006. CRIMINAL PENALTY.

''(a) IN GENERAL.—Whoever violates, or attempts to violate, section 1003 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 1003 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

''SEC. 1007. RELATION TO STATE LAWS.

''(a) IN GENERAL.—This title shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

''(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this title.

''SEC. 1008. AGENCY GUIDANCE.

''In furtherance of the objectives of this title, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) shall issue advisories to depository institutions under the jurisdiction

of the agency, in order to assist such depository institutions in deterring and detecting activities proscribed under section 1003.''.

(b) REPORT TO CONGRESS ON FINANCIAL PRIVACY.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Federal Trade Commission, the Federal banking agencies, and other appropriate Federal law enforcement agencies, shall submit to the Congress a report on—

(1) the efficacy and adequacy of the remedies provided in the amendments made by subsection (a) in addressing attempts to obtain financial information by fraudulent means or by false pretenses; and

(2) any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(c) REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.—With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit to the Congress an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, at the conclusion of each stage of such study and a final report at the conclusion of the study.

(d) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under section 45 of the Federal Deposit Insurance Act (as added by section 202 of this Act), which mechanism shall—

(1) establish a group within each Federal banking agency to receive such complaints; and

(2) develop procedures for—

(A) investigating such complaints;

(B) informing consumers of rights they may have in connection with such complaints; and

(C) addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses, to the extent appropriate.

SEC. 305. CROSS MARKETING RESTRICTION; LIMITED PURPOSE BANK RELIEF; DIVESTITURE.

(a) CROSS MARKETING RESTRICTION.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by striking paragraph (3).

(b) DAYLIGHT OVERDRAFTS.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by inserting after paragraph (2) the following new paragraph:

''(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(C), an overdraft is described in this paragraph if—

''(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate;

''(B) such overdraft—

''(i) is permitted or incurred on behalf of an affiliate that is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

''(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations that are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system; or

''(C) such overdraft—

''(i) is permitted or incurred by, or on behalf of, an affiliate that is engaged in activities that are so closely related to banking, or managing or controlling banks, as to be a proper incident thereto; and

''(ii) does not cause the bank to violate any provision of section 23A or 23B of the Federal Reserve Act, either directly, in the case of a bank that is a member of the Federal Reserve System, or by virtue of section 18(j) of the Federal Deposit Insurance Act, in the case of a bank that is not a member of the Federal Reserve System.''.

(c) INDUSTRIAL LOAN COMPANIES; AFFILIATE OVERDRAFTS.—Section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)) is amended by inserting before the period at the end '', or that is otherwise permissible for a bank controlled by a company described in section 4(f)(1)''.

(d) ACTIVITIES LIMITATIONS.—Section 4(f)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)) is amended—

(1) by striking ''Paragraph (1) shall cease to apply to any company described in such paragraph if—'' and inserting ''Subject to paragraph (3), a company described in paragraph (1) shall no longer qualify for the exemption provided under that paragraph if—'';

(2) in subparagraph (A)—

(A) in clause (ii)(IX), by striking ''and'' at the end;

(B) in clause (ii)(X), by inserting ''and'' after the semicolon;

(C) in clause (ii), by inserting after subclause (X) the following:

''(XI) assets that are derived from, or incidental to, activities in which institutions described in section 2(c)(2)(F) or section 2(c)(2)(H) are permitted to engage;''; and

(D) by striking ''or'' at the end; and

(3) by striking subparagraph (B) and inserting the following:

''(B) any bank subsidiary of such company—

''(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

''(ii) engages in the business of making commercial loans (except that, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

''(C) after the date of enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in the account of the bank at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).''.

(e) DIVESTITURE REQUIREMENT.—Section 4(f)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(4)) is amended to read as follows:

''(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under paragraph (1) by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date on which the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless, before the end of such 180-day period, the company has—

''(A) either—

''(i) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; or

''(ii) submitted a plan to the Board for approval to cease the activity or correct the condition in a timely manner (which shall not exceed 1 year); and

''(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.''.

SEC. 306. "PLAIN LANGUAGE" REQUIREMENT FOR FEDERAL BANKING AGENCY RULES.

(a) IN GENERAL.—Each Federal banking agency shall use plain language in all proposed and final rulemakings published by the agency in the Federal Register after January 1, 2000.

(b) REPORT.—Not later than March 1, 2001, each Federal banking agency shall submit to the Congress a report that describes how the agency has complied with subsection (a).

(c) DEFINITIONS.—For purposes of this section, the terms ''Federal banking agency'' and ''State bank supervisor'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 307. RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled ''An Act to enable national banking associations to increase their capital stock and to change their names or locations'', approved May 1, 1886 (12 U.S.C. 30), is amended by adding at the end the following new subsection:

''(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution, the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of enactment of the Financial Services Modernization Act of 1999 may retain the term 'Federal' in the name of such institution if such institution remains an insured depository institution.

''(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

SEC. 308. COMMUNITY REINVESTMENT ACT EXEMPTION.

(a) IN GENERAL.—No community financial institution shall be subject to the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.).

(b) DEFINITION OF COMMUNITY FINANCIAL INSTITUTION.—As used in this section, the term ''community financial institution'' means an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), that has aggregate assets of not more than $100,000,000, and that is located in a non-metropolitan area.

(c) ADJUSTMENTS.—The dollar amount referred to in subsection (b) shall be adjusted annually after December 31, 1999, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

(d) DEFINITION.—For purposes of this section, the term ''non-metropolitan area'' means any area, no part of which is within an area designated as a metropolitan statistical area by the Office of Management and Budget.

SEC. 309. BANK OFFICERS AND DIRECTORS AS OFFICERS AND DIRECTORS OF PUBLIC UTILITIES.

Section 305(b) of the Federal Power Act (16 U.S.C. 825d(b)) is amended—

(1) by striking ''(b) After six'' and inserting the following:

''(b) INTERLOCKING DIRECTORATES.—

''(1) IN GENERAL.—After 6''; and

(2) by adding at the end the following:

''(2) APPLICABILITY.—

''(A) IN GENERAL.—In the circumstances described in subparagraph (B), paragraph (1) shall not apply to a person that holds or proposes to hold the positions of—

''(i) officer or director of a public utility; and

''(ii) officer or director of a bank, trust company, banking association, or firm authorized by law to underwrite or participate in the marketing of securities of a public utility.

''(B) CIRCUMSTANCES.—The circumstances described in this subparagraph are that—

''(i) a person described in subparagraph (A) does not participate in any deliberations or decisions of the public utility regarding the selection of a bank, trust company, banking association, or firm to underwrite or participate in the marketing of securities of the public utility, if the person serves as an officer or director of a bank, trust company, banking association, or firm that is under consideration in the deliberation process;

''(ii) the bank, trust company, banking association, or firm of which the person is an officer or director does not engage in the underwriting of, or participate in the marketing of, securities of the public utility of which the person holds the position of officer or director;

''(iii) the public utility for which the person serves or proposes to serve as an officer or director selects underwriters by competitive procedures; or

''(iv) the issuance of securities the public utility for which the person serves or proposes to serve as an officer or director has been approved by all Federal and State regulatory agencies having jurisdiction over the issuance.''.

SEC. 310. CONTROL OF BANKERS' BANKS.

Section 2(a)(5)(E)(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E)(i)) is amended by inserting ''one or more'' before ''thrift institutions''.

SEC. 311. MULTISTATE LICENSING AND INTERSTATE INSURANCE SALES ACTIVITIES.

(a) FINDINGS.—Congress finds that—

(1) the States regulate the business of insurance, including the licensing of insurance agents and brokers;

(2) the current State insurance licensing system requires insurance agents and brokers to obtain licenses on a line-by-line, class-by-class, producer-by-producer, State-by-State basis;

(3) in the commercial and industrial insurance arena, this State-based system usually requires a single agent or broker to hold scores of licenses if that agent or broker intends to sell or broker insurance on a nationwide basis;

(4) because of the duplicative licensing requirements both within States and from State to State, a single insurance agent or broker must satisfy literally hundreds of administrative filing requirements to become fully licensed to engage in the sale of a full range of insurance products on a nationwide basis;

(5) these administrative requirements appear to be essentially unrelated to any requisite standards of professionalism;

(6) many States impose certain requirements on insurance agents and brokers that pose an undue, discriminatory burden on nonresident agents, including some States that ban solicitation of insurance clients by nonresident agents and brokers;

(7) many States impose anticompetitive post-licensure requirements on nonresident agents and brokers, including countersignature laws that require an agent or broker servicing the needs of an out-of-State client to have any insurance policy that is sold ''countersigned'' by a resident agent;

(8) in some cases, such countersignature laws also require a nonresident agent or broker to pay at least half of any commission earned in a State in which the agent or broker is not a resident to a resident agent or broker; and

(9) such duplicative and onerous filing requirements and anticompetitive burdens inhibit interstate commerce, constitute unjustifiable trade barriers, greatly undermine the competition that this Act seeks to foster.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) by the end of the 36-month period beginning on the date of enactment of this Act, the States should—

(A) implement uniform insurance agent and broker licensing application and qualification requirements that result in a fully reciprocal licensing system; and

(B) eliminate any pre- or post-licensure requirements that have the practical effect of discriminating, directly or indirectly, against nonresident insurance agents or brokers;

(2) if such actions are not taken, Congress should take steps to directly rectify the problems identified in subsection (a); and

(3) any entity established by the Congress to so rectify the problems should be under the supervision and oversight of the National Association of Insurance Commissioners.

SEC. 312. CRA SUNSHINE REQUIREMENTS.

(a) DISCLOSURE AND REPORTING.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), is amended by adding at the end thereof the following new section:

''SEC. 46. CRA SUNSHINE REQUIREMENTS.

''(a) PUBLIC DISCLOSURE OF AGREEMENTS.—Any agreement entered into by an insured depository institution or affiliate with a nongovernmental entity or person made pursuant to or in connection with the Community Reinvestment Act involving funds or other resources of such insured depository institution or affiliate shall be in its entirety fully disclosed, and the full text thereof made available to the appropriate Federal banking agency with supervisory responsibility over the insured depository institution and to the public and shall obligate each party to comply with the provisions of this section.

''(b) ANNUAL REPORT OF ACTIVITY.—Each party to the agreement shall report, as applicable, to the appropriate Federal banking agency with supervisory responsibility over the insured depository institution, no less frequently than once each year, such information as the Federal banking agency may by rule require relating to the following actions taken by the party pursuant to an agreement described in subsection (a) during the previous 12-month period—

''(1) payments, fees or loans made to any party to the agreement or received from any party to the agreement and the terms and conditions of the same; and

''(2) aggregate data on loans, investments and services provided by each party in its community or communities pursuant to the agreement; and

''(3) such other pertinent matters as determined by rule by the appropriate Federal banking agency with supervisory responsibility over the insured depository institution.

The Federal banking agency shall ensure that the regulations implementing this section do not impose an undue burden on the parties and that proprietary and confidential information is protected.

''(c) EXISTING AGREEMENTS.—The requirements of subsection (b) (1), (2), and (3) shall be deemed to be fulfilled with respect to any agreement made prior to May 5, 1999.

''(d) SECONDARY AGREEMENTS.—Any agreement made on or after May 5, 1999 pursuant to an agreement described in subsection (a) also is subject to the requirements of subsections (a) and (b).

''(e) DEFINITIONS.—

''(1) AGREEMENT.—As used in this section, the term 'agreement' refers to any written contract, written arrangement, or other written understanding with a value in excess of $10,000 annually, or a group of substantively related contracts with an aggregate value of $10,000 annually, made pursuant to or in connection with the Community Reinvestment Act of 1977, at least one party to which is an insured depository institution or affiliate thereof, or entity owned or controlled by an insured depository institution or affiliate, whether organized on a profit or not-for-profit basis. The term 'agreement' shall not include any specific contract or commitment for a loan or extension of credit to individuals, businesses, farms, or other entities, where the purpose of the loan or extension of credit does not include any relending of the borrowed funds to other parties.

''(2) APPROPRIATE FEDERAL BANKING AGENCY AND INSURED DEPOSITORY INSTITUTION.—As used in this section, the terms 'appropriate Federal banking agency' and 'insured depository institution' have the same meanings as defined in section 3 of this Act.

''(d) VIOLATIONS.—Any violation of the provisions of this section shall be considered a violation of this Act. If the party to the agreement that is not an insured depository institution or affiliate fails to comply with this section, the agreement shall not be enforceable after being given notice and a reasonable period of time to perform or comply.

''(e) LIMITATION.—Nothing in this section is intended to provide any authority upon any appropriate Federal banking agency to enforce the provisions of the agreements that are subject to the requirements of subsection (a).

''(f) REGULATIONS.—Each appropriate Federal banking agency shall prescribe regulations requiring procedures reasonably designed to assure and monitor compliance with the requirements of this section.''.

SEC. 313. INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.

Section 5 of the International Banking Act of 1978, as amended (12 U.S.C. 3103), is amended by striking subsection (a)(7) and substituting the following:

''(7) Additional authority for interstate branches and agencies of foreign banks; upgrades of certain foreign bank agencies and branches

''Notwithstanding paragraphs (1) and (2), a foreign bank may—

''(A) with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

''(i) the establishment and operation of such branch or agency is permitted by the State in which the branch or agency is to be established; and

''(ii) in the case of a Federal or State branch, the branch receives only such deposits as would be permitted for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.); or

''(B) with the approval of the Board and the relevant licensing authority (the Comptroller in the case of a Federal branch or the appropriate State supervisor in the case of a State branch), upgrade an agency, or a branch of the type referred to in subsection (a)(7)(A)(ii), located in a State outside the foreign bank's home State, into a Federal or State branch if the establishment and operation of such branch is permitted by such State and—

''(i) such agency or branch was in operation in such State on the day before September 29, 1994, or

''(ii) such agency or branch has been in operation in such State for a period of time that meets the State's minimum age requirement permitted under section 1831u(a)(5) of title 12, United States Code.''.

SEC. 314. DISCLOSURES TO CONSUMERS UNDER THE TRUTH IN LENDING ACT.

(a) DISCLOSURE OF LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(12) If a charge is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the date that payment is due or, if different, the date on which a late payment fee will be charged, shall be stated prominently in a conspicuous location on the billing statement, together with the amount of the charge to be imposed if payment is made after such date.''.

(b) DISCLOSURES RELATED TO ''TEASER RATES''.—Section 127(c) (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5) (as so redesignated by section 4 of this Act) the following:

''(6) ADDITIONAL NOTICE CONCERNING 'TEASER RATES'.—

''(A) IN GENERAL.—An application or solicitation for a credit card for which a disclosure is required under this subsection shall contain the disclosure contained in subparagraph (B) or (C), as appropriate, if the application or solicitation offers, for an introductory period of less than 1 year, an annual percentage rate of interest that—

''(i) is less than the annual percentage rate of interest that will apply after the end of the introductory period; or

''(ii) in the case of an annual percentage rate that varies in accordance with an index, is less than the current annual percentage rate under the index that will apply after the end of such period.

''(B) FIXED ANNUAL PERCENTAGE RATE.—If the annual percentage rate that will apply after the end of the introductory period will be a fixed rate, the application or solicitation shall include the following disclosure: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate that will apply after the end of the introductory period. The permanent annual percentage rate will apply after [insert applicable date] and will be [insert applicable percentage rate].'.

''(C) VARIABLE ANNUAL PERCENTAGE RATE.—If the annual percentage rate that will apply after the end of the introductory period will vary in accordance with an index, the application or solicitation shall include the following disclosure: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate that will apply after the end of the introductory period. The permanent annual percentage rate will be determined by an index, and will apply after [insert applicable date]. If the index that will apply after such date were applied to your account today, the annual percentage rate would be [insert applicable percentage rate].'.

''(D) CONDITIONS FOR INTRODUCTORY RATES.—If the annual percentage rate of interest that will apply during the introductory period described in subparagraph (A) is revocable or otherwise conditioned upon any action by the obligor, including any failure by the obligor to pay the minimum payment amount or finance charge or to make any payment by the stated monthly payment due date, the application or solicitation shall include disclosure of—

''(i) the conditions that the obligor must meet to retain the annual percentage rate of interest during the introductory period; and

''(ii) the annual percentage rate of interest that will apply as a result of the failure of the obligor to meet such conditions.

''(E) FORM OF DISCLOSURE.—The disclosures required under this paragraph shall be made in a clear and conspicuous manner, in a prominent fashion.''.

SEC. 315. APPROVAL FOR PURCHASES OF SECURITIES.

Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c–1) is amended to read as follows:

''Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank based on a determination that the purchase is a sound investment for the bank irrespective of the fact that an affiliate of the bank is a principal underwriter of the securities.''.

SEC. 316. PROVISION OF TECHNICAL ASSISTANCE TO MICROENTERPRISES.

(a) IN GENERAL.—Title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following:

''Subtitle C—Microenterprise Technical Assistance and Capacity Building Program

''SEC. 171. SHORT TITLE.

''This subtitle may be cited as the 'Program for Investment in Microentrepreneurs Act of 1999', also referred to as the 'PRIME Act'.

''SEC. 172. DEFINITIONS.

''For purposes of this subtitle—

''(1) the term 'Administrator' has the same meaning as in section 103;

''(2) the term 'capacity building services' means services provided to an organization that is, or is in the process of becoming a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs;

''(3) the term 'collaborative' means 2 or more nonprofit entities that agree to act jointly as a qualified organization under this subtitle;

''(4) the term 'disadvantaged entrepreneur' means a microentrepreneur that is—

''(A) a low-income person;

''(B) a very low-income person; or

''(C) an entrepreneur that lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as determined by the Administrator;

''(5) the term 'Fund' has the same meaning as in section 103;

''(6) the term 'Indian tribe' has the same meaning as in section 103;

''(7) the term 'intermediary' means a private, nonprofit entity that seeks to serve microenterprise development organizations and programs as authorized under section 175;

''(8) the term 'low-income person' has the same meaning as in section 103;

''(9) the term 'microentrepreneur' means the owner or developer of a microenterprise;

''(10) the term 'microenterprise' means a sole proprietorship, partnership, or corporation that—

''(A) has fewer than 5 employees; and

''(B) generally lacks access to conventional loans, equity, or other banking services;

''(11) the term 'microenterprise development organization or program' means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs or prospective entrepreneurs;

''(12) the term 'training and technical assistance' means services and support provided to disadvantaged entrepreneurs or prospective entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services; and

''(13) the term 'very low-income person' means having an income, adjusted for family size, of not more than 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section).

''SEC. 173. ESTABLISHMENT OF PROGRAM.

''The Administrator shall establish a microenterprise technical assistance and capacity building grant program to provide assistance from the Fund in the form of grants to qualified organizations in accordance with this subtitle.

''SEC. 174. USES OF ASSISTANCE.

''A qualified organization shall use grants made under this subtitle—

''(1) to provide training and technical assistance to disadvantaged entrepreneurs;

''(2) to provide training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist such organizations and programs in developing microenterprise training and services;

''(3) to aid in researching and developing the best practices in the field of microenterprise and technical assistance programs for disadvantaged entrepreneurs; and

''(4) for such other activities as the Administrator determines are consistent with the purposes of this subtitle.

''SEC. 175. QUALIFIED ORGANIZATIONS.

''For purposes of eligibility for assistance under this subtitle, a qualified organization shall be—

''(1) a nonprofit microenterprise development organization or program (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs;

''(2) an intermediary;

''(3) a microenterprise development organization or program that is accountable to a local community, working in conjunction with a State or local government or Indian tribe; or

''(4) an Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

''SEC. 176. ALLOCATION OF ASSISTANCE; SUBGRANTS.

''(a) ALLOCATION OF ASSISTANCE.—

''(1) IN GENERAL.—The Administrator shall allocate assistance from the Fund under this subtitle to ensure that—

''(A) activities described in section 174(1) are funded using not less than 75 percent of amounts made available for such assistance; and

''(B) activities described in section 174(2) are funded using not less than 15 percent of amounts made available for such assistance.

''(2) LIMIT ON INDIVIDUAL ASSISTANCE.—No single organization or entity may receive more than 10 percent of the total funds appropriated under this subtitle in a single fiscal year.

''(b) TARGETED ASSISTANCE.—The Administrator shall ensure that not less than 50 percent of the grants made under this subtitle are used to benefit very low-income persons, including those residing on Indian reservations.

''(c) SUBGRANTS AUTHORIZED.—

''(1) IN GENERAL.—A qualified organization receiving assistance under this subtitle may

provide grants using that assistance to qualified small and emerging microenterprise organizations and programs, subject to such rules and regulations as the Administrator determines to be appropriate.

''(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of assistance received by a qualified organization under this subtitle may be used for administrative expenses in connection with the making of subgrants under paragraph (1).

''(d) DIVERSITY.—In making grants under this subtitle, the Administrator shall ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural, and Indian tribal communities and racially and ethnically diverse populations.

''SEC. 177. MATCHING REQUIREMENTS.

''(a) IN GENERAL.—Financial assistance under this subtitle shall be matched with funds from sources other than the Federal Government on the basis of not less than 50 percent of each dollar provided by the Fund.

''(b) SOURCES OF MATCHING FUNDS.—Fees, grants, gifts, funds from loan sources, and in-kind resources of a grant recipient from public or private sources may be used to comply with the matching requirement in subsection (a).

''(c) EXCEPTION.—

''(1) IN GENERAL.—In the case of an applicant for assistance under this subtitle with severe constraints on available sources of matching funds, the Administrator may reduce or eliminate the matching requirements of subsection (a).

''(2) LIMITATION.—Not more than 10 percent of the total funds made available from the Fund in any fiscal year to carry out this subtitle may be excepted from the matching requirements of subsection (a), as authorized by paragraph (1) of this subsection.

''SEC. 178. APPLICATIONS FOR ASSISTANCE.

''An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

''SEC. 179. RECORDKEEPING.

''The requirements of section 115 shall apply to a qualified organization receiving assistance from the Fund under this subtitle as if it were a community development financial institution receiving assistance from the Fund under subtitle A.

''SEC. 180. AUTHORIZATION.

''In addition to funds otherwise authorized to be appropriated to the Fund to carry out this title, there are authorized to be appropriated to the Fund to carry out this subtitle—

''(1) $15,000,000 for fiscal year 2000;

''(2) $15,000,000 for fiscal year 2001;

''(3) $15,000,000 for fiscal year 2002; and

''(4) $15,000,000 for fiscal year 2003.

''SEC. 181. IMPLEMENTATION.

''The Administrator shall, by regulation, establish such requirements as may be necessary to carry out this subtitle.''.

(b) ADMINISTRATIVE EXPENSES.—Section 121(a)(2)(A) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4718(a)(2)(A)) is amended—

(1) by striking ''$5,550,000'' and inserting ''$6,100,000''; and

(2) in the first sentence, by inserting before the period '', including costs and expenses associated with carrying out subtitle C''.

(c) CONFORMING AMENDMENTS.—Section 104(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703(d)) is amended—

(1) in paragraph (2)—

(A) by striking ''15'' and inserting ''17'';

(B) in subparagraph (G)—

(i) by striking ''9'' and inserting ''11'';

(ii) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(iii) by inserting after clause (iii) the following:

''(iv) 2 individuals who have expertise in microenterprises and microenterprise development;''; and

(2) in paragraph (4), in the first sentence, by inserting before the period ''and subtitle C''.

SEC. 317. FEDERAL RESERVE AUDITS.

(a) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 11A the following:

''SEC. 11B. ANNUAL INDEPENDENT AUDITS OF FEDERAL RESERVE BANKS.

''(a) AUDIT REQUIRED.—Each Federal reserve bank shall annually obtain an audit of the financial statements of each Federal reserve bank (which shall have been prepared in accordance with generally accepted accounting principles) using generally accepted auditing standards from an independent auditor that meets the requirements of subsection (b).

''(b) AUDITOR'S QUALIFICATIONS.—The independent auditor referred to in subsection (a) shall—

''(1) be a certified public accountant who is independent of the Federal Reserve System; and

''(2) meet any other qualifications that the Board may establish.

''(c) CERTIFICATION REQUIRED.—In each audit required under subsection (a), the auditor shall certify to the Federal reserve bank and to the Board that the auditor—

''(1) is a certified public accountant and is independent of the Federal Reserve System; and

''(2) conducted the audit using generally accepted auditing standards.

''(d) CERTIFICATION BY FEDERAL RESERVE BANK.—Not later than 30 days after the completion of each audit required under subsection (a), the Federal reserve bank shall provide to the Comptroller General of the United States—

''(1) a certification that—

''(A) the Federal reserve bank has obtained the audit required under subsection (a);

''(B) the Federal reserve bank has received the certifications of the auditor required under subsection (c); and

''(C) the audit fully complies with subsection (a).

''(e) DETECTION OF ILLEGAL ACTS.—

''(1) AUDIT PROCEDURES.—Each audit required by this section shall include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.

''(2) REPORTING POSSIBLE ILLEGALITIES.—If, in the course of conducting an audit required by this section, the independent auditor detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have an effect on the financial statements of the Federal reserve bank) has or may have occurred, the auditor—

''(A) shall determine whether it is likely that the illegal act has occurred; and

''(B) shall, if the auditor determines that the illegal act is likely to have occurred—

''(i) determine and consider the possible effect of the illegal act on the financial statements of the Federal reserve bank; and

''(ii) as soon as practicable, inform the Board that the illegal act is likely to have occurred.

''(3) REPORT TO CONGRESS.—The independent auditor under this section shall, as soon as practicable, directly report its conclusions to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives with regard to any possible illegal act that has been detected or has otherwise come to the attention of the auditor during the course of the audit required by this section, if, after determining that the Board is adequately informed with respect to such possible illegal act, the auditor concludes that—

''(A) the possible illegal act has a direct and material effect on the financial statements of the Federal reserve bank;

''(B) the Board has not taken timely and appropriate remedial actions with respect to the possible illegal act; and

''(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor when made, or warrant resignation from the audit engagement.

''(4) RESIGNATION OF AUDITOR.—If an independent auditor resigns from its engagement to audit a Federal reserve bank under paragraph (3), the auditor shall furnish to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, not later than 1 business day after such resignation, a copy of the report of the auditor (or documentation of any oral report given).

''(f) RECORDKEEPING.—To facilitate compliance with this section, each Federal reserve bank shall—

''(1) ensure that the books, records, and accounts of the Federal reserve bank are maintained and kept in sufficient detail to accurately and fairly reflect the transactions and dispositions of the assets of the bank;

''(2) devise and maintain a system of internal controls sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets;

''(3) ensure that access to assets of the Federal reserve bank is permitted only in accordance with the general or specific authorization of the Board; and

''(4) ensure that—

''(A) the recorded accountability for assets is compared with the existing assets at reasonable intervals; and

''(B) appropriate action is taken with respect to any differences.

''(g) REPORTS TO BOARD, CONGRESS.—Not later than April 30 of each year, each Federal reserve bank shall submit a copy of each audit conducted under this section to the Board, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''SEC. 11C. INDEPENDENT AUDITS OF FEDERAL RESERVE SYSTEM AND FEDERAL RESERVE BOARD.

''(a) AUDIT OF RESERVE SYSTEM.—The Board shall annually obtain an audit of the consolidated financial statements of the Federal Reserve System (which shall have been prepared in accordance with generally accepted accounting principles) from an independent auditor, using generally accepted auditing standards, based on reports of audits of Federal reserve banks submitted to the Board under section 11B(g) and the audit of the Board under subsection (b) of this section.

''(b) AUDIT OF BOARD.—

''(1) IN GENERAL.—The Board shall annually obtain an audit of the financial statements of the Board (which shall have been prepared in accordance with generally accepted accounting principles) from an independent auditor, using generally accepted auditing standards.

''(2) PRICED SERVICES AUDIT.—

''(A) IN GENERAL.—As part of each audit of the Board required by this subsection, the auditor shall—

''(i) audit the calculation of the private sector adjustment factor established by the Board pursuant to section 11A(c)(3) for the year that is the subject of the audit; and

''(ii) audit the pro forma balance sheet and income statement for the services described in section 11A(b), including the determination of revenue, expenses, and income before income taxes for each service listed in that section (in accordance with the criteria specified in section 11A(c)(3)).

''(B) REPORT TO THE BOARD.—The auditor shall report the results of the audit under subparagraph (A)(ii) to the Board in written form.

''(3) LIMITATION.—The evaluations and audits required by this subsection shall not include deliberations, decisions, or actions on monetary policy matters, including discount authority under section 13, reserves of national banks, securities credit, interest on deposits, and open market operations.

''(c) AUDITOR'S QUALIFICATIONS.—An independent auditor referred to in this section shall—

''(1) be a certified public accountant and be independent of the Federal Reserve System; and

''(2) meet any other qualifications that the Board may establish.

''(d) CERTIFICATION REQUIRED.—In each audit required under this section, the auditor shall certify to the Board that the auditor—

''(1) is a certified public accountant and is independent of the Federal Reserve System; and

''(2) conducted the audit using generally accepted auditing standards.

''(e) DETECTION OF ILLEGAL ACTS.—

''(1) AUDIT PROCEDURES.—Each audit required by this section shall include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material affect on the determination of financial statement amounts.

''(2) REPORTING POSSIBLE ILLEGALITIES.—If, in the course of conducting an audit of the Federal Reserve System or the Board as required by this section, the independent auditor detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have an effect on the financial statements of the Federal reserve bank) has or may have occurred, the auditor—

''(A) shall determine whether it is likely that the illegal act has occurred; and

''(B) shall, if the auditor determines that the illegal act is likely to have occurred—

''(i) determine and consider the possible effect of the illegal act on the financial statements of the Federal Reserve System or the Board, as applicable; and

''(ii) as soon as practicable, inform the Board that the illegal act is likely to have occurred.

''(3) REPORT TO CONGRESS.—An independent auditor under this section shall directly report, as soon as practicable, its conclusions to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, with regard to any possible illegal act that has been detected or has otherwise come to the attention of the auditor during the course of an audit of the Federal Reserve System or the Board required by this section, if, after determining that the Board is adequately informed with respect to such possible illegal act, the auditor concludes that—

''(A) the possible illegal act has a direct and material effect on the financial statements of the Federal Reserve System or the Board, as applicable;

''(B) the Board has not taken timely and appropriate remedial actions with respect to the possible illegal act; and

''(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor when made, or warrant resignation from the audits engagement.

''(4) RESIGNATION OF AUDITOR.—If an independent auditor resigns from its engagement to audit the Federal Reserve System or the Board under paragraph (3), the auditor shall furnish to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, not later than 1 business day after such resignation, a copy of the report of the auditor (or documentation of any oral report given).

''(f) RECORDKEEPING.—To facilitate compliance with this section, the Board shall—

''(1) ensure that the books, records, and accounts of the Board are maintained and kept in sufficient detail to accurately and fairly reflect the transactions and dispositions of assets;

''(2) devise and maintain a system of internal controls sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets;

''(3) ensure that access to assets of the Board is permitted only in accordance with general or specific authorization of the Board; and

''(4) ensure that—

''(A) the recorded accountability for assets is compared with the existing assets at reasonable intervals; and

''(B) appropriate action is taken with respect to any differences.

''(g) REPORTS TO CONGRESS.—Not later than May 31 of each year, the Board shall make available all audits and reports required by this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.''.

(b) FEDERAL RESERVE REQUIREMENTS.—

(1) CLARIFICATION OF FEE SCHEDULE REQUIREMENTS.—

(A) IN GENERAL.—Section 11A(b) of the Federal Reserve Act (12 U.S.C. 248a(b)) is amended—

(i) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(ii) by inserting after paragraph (6) the following:

''(7) transportation of paper checks in the clearing process;''.

(B) PUBLICATION OF REVISED SCHEDULE.—Not later than 60 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish a revision of the schedule of fees required under section 11A of the Federal Reserve Act that reflects the changes made in the schedule in accordance with the amendments made by subparagraph (A) of this paragraph.

(2) CLARIFICATION OF APPLICABLE PRICING CRITERIA.—Section 11A(c) of the Federal Reserve Act (12 U.S.C. 248a(c)) is amended by striking paragraph (3) and inserting the following:

''(3)(A) In each fiscal year, fees shall be established for each service provided by the Federal reserve banks on the basis of all direct and indirect costs actually incurred (excluding the effect of any pension cost credit) in providing each of the services, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs, which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been provided by a private business firm.

''(B) The pricing principles referred to in subparagraph (A) shall be carried out with due regard to competitive factors and the provision of an adequate level of such services nationwide.

''(C)(i) Not later than 1 year after the date of enactment of the Financial Services Modernization Act of 1999, and not less frequently than once every 3 years thereafter, the Board shall conduct a comprehensive review of the methodology used to calculate the private sector adjustment factor pursuant to section 11A(c)(3), including a public notice and comment period.

''(ii) In conducting the review under clause (i), the Board shall publish in the Federal Register all elements of the methodology in use by the Board in the calculation of the private sector adjustment factor pursuant to section 11A(c)(3) provide notice and solicit public comment on the methodology, requesting commentators to identify areas of the methodology that are outdated, inappropriate, unnecessary, or that contribute to an inaccurate result in the calculation of the private sector adjustment factor.

''(iii) The Board shall—

''(I) publish in the Federal Register a summary of the comments received under this subparagraph, identifying significant issues raised; and

''(II) provide comment on such issues and make changes to the methodology to the extent that the Board considers to be appropriate.

''(iv) Not later than 30 days after the completion of each review under clause (i), the Board shall submit to Congress a report which shall include—

''(I) a summary of any significant issues raised by public comments received by the Board under this subparagraph and the relative merits of such issues; and

''(II) an analysis of whether the Board is able to address the concerns raised, or whether such concerns should be addressed by legislation.''.

SEC. 318. STUDY AND REPORT ON ADVERTISING PRACTICES OF ONLINE BROKERAGE SERVICES.

(a) STUDY.—The Securities and Exchange Commission (hereafter in this section referred to as the ''Commission''), in consultation with the National Association of Securities Dealers and other interested parties, shall conduct a study of—

(1) the nature and content of advertising by online brokerage services in all media, including television, on the Internet, radio, and in print;

(2) if such advertising influences investors and potential investors to make investment decisions, and if such advertising improperly influences those investors and potential investors to make inappropriate investment decisions;

(3) whether such advertising properly discloses the risks associated with trading and investing in the capital markets; and

(4) whether—

(A) there are appropriate regulatory mechanisms in place to prevent any improper or deceptive advertising; and

(B) the Commission has or needs additional resources or authority to actively participate in such regulation.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for changes that it considers necessary to protect investors and potential investors from improper or deceptive advertising.

SEC. 319. ELIGIBILITY OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION TO BORROW FROM THE FEDERAL HOME LOAN BANK SYSTEM.

Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in subsection (a) by striking the second sentence and inserting the following two sentences: ''Such mortgagees must be (i) chartered institutions having succession and (ii) subject to the inspection and supervision of some governmental agency or a community development financial institution (other than an insured depository institution or a subsidiary thereof) that, at the time the advance is made, is certified under the Community Development Banking and Financial Institutions Act of 1994. The principal activity of such mortgagees in the mortgage field must consist of lending their own funds and any advances may be subject to the same collateralization requirements as applied to other nonmember borrowers.'';

(2) in the last sentence of subsection (a) by replacing the word ''such'' with ''the same'' and by replacing the phrase ''shall be determined by the board'' with the phrase ''are comparable extensions of credit to members''; and

(3) in subsection (b) by inserting in the first sentence between the words ''agency'' and ''for'' the following phrase: ''or a certified community development financial institution''.

TITLE IV—FEDERAL HOME LOAN BANK SYSTEM MODERNIZATION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Federal Home Loan Bank System Modernization Act of 1999''.

SEC. 402. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) in paragraph (1), by striking ''term 'Board' means'' and inserting ''terms 'Finance Board' and 'Board' mean'';

(2) by striking paragraph (3) and inserting the following:

''(3) STATE.—The term 'State', in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

(3) by adding at the end the following new paragraph:

''(13) COMMUNITY FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'community financial institution' means a member—

''(i) the deposits of which are insured under the Federal Deposit Insurance Act; and

''(ii) that has, as of the date of the transaction at issue, less than $500,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

''(B) ADJUSTMENTS.—The $500,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.''.

SEC. 403. SAVINGS ASSOCIATION MEMBERSHIP.

(a) FEDERAL HOME LOAN BANK MEMBERSHIP.—Section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1464(f)) is amended to read as follows:

''(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—On and after June 1, 2000, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act.''.

(b) WITHDRAWAL.—Section 6(e) of the Federal Home Loan Bank Act (12 U.S.C. 1426(e)) is amended by striking ''Any member other than a Federal savings and loan association may withdraw'' and inserting ''Any member may withdraw if, on the date of withdrawal there is in effect a certification by the Finance Board that the withdrawal will not cause the Federal Home Loan Bank System to fail to meet its obligation under section 21B(f)(2)(C) to contribute to the debt service for the obligations issued by the Resolution Funding Corporation''.

SEC. 404. ADVANCES TO MEMBERS; COLLATERAL.

(a) IN GENERAL.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(2) by striking ''(a) Each'' and inserting the following:

''(a) IN GENERAL.—

''(1) ALL ADVANCES.—Each'';

(3) by striking the second sentence and inserting the following:

''(2) PURPOSES OF ADVANCES.—A long-term advance may only be made for the purposes of—

''(A) providing funds to any member for residential housing finance; and

''(B) providing funds to any community financial institution for small businesses, small farms, and small agri-businesses.'';

(4) by striking ''A Bank'' and inserting the following:

''(3) COLLATERAL.—A Bank'';

(5) in paragraph (3) (as so designated by paragraph (4) of this subsection)—

(A) in subparagraph (C) (as so redesignated by paragraph (1) of this subsection) by striking ''Deposits'' and inserting ''Cash or deposits'';

(B) in subparagraph (D) (as so redesignated by paragraph (1) of this subsection), by striking the second sentence; and

(C) by inserting after subparagraph (D) (as so redesignated by paragraph (1) of this subsection) the following new subparagraph:

''(E) Secured loans for small business, agriculture, or securities representing a whole interest in such secured loans, in the case of any community financial institution.'';

(6) in paragraph (5)—

(A) in the second sentence, by striking ''and the Board'';

(B) in the third sentence, by striking ''Board'' and inserting ''Federal Home Loan Bank''; and

(C) by striking ''(5) Paragraphs (1) through (4)'' and inserting the following:

''(4) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3)''; and

(7) by adding at the end the following:

''(5) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Board may review the collateral standards applicable to each Federal Home Loan Bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

''(6) DEFINITIONS.—For purposes of this subsection, the terms 'small business', 'agriculture', 'small farm', and 'small agri-business' shall have the meanings given those terms by rule or regulation of the Finance Board.''.

(b) CLERICAL AMENDMENT.—The section heading for section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended to read as follows:

''SEC. 10. ADVANCES TO MEMBERS.''.

SEC. 405. ELIGIBILITY CRITERIA.

Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) in paragraph (2)(A), by inserting, ''(other than a community financial institution)'' after ''institution'';

(2) in the matter immediately following paragraph (2)(C)—

(A) by striking ''An insured'' and inserting the following:

''(3) CERTAIN INSTITUTIONS.—An insured''; and

(B) by striking ''preceding sentence'' and inserting ''paragraph (2)''; and

(3) by adding at the end the following new paragraph:

''(4) LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).''.

SEC. 406. MANAGEMENT OF BANKS.

(a) BOARD OF DIRECTORS.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) by striking ''(d) The term'' and inserting the following:

''(d) TERMS OF OFFICE.—The term''; and

(2) by striking ''shall be two years''.

(b) COMPENSATION.—Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended by striking ''subject to the approval of the board''.

(c) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(d) SECTION 12.—Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended—

(1) in subsection (a)—

(A) by striking '', but, except'' and all that follows through ''ten years'';

(B) by striking ''subject to the approval of the Board'' each place that term appears;

(C) by striking ''and, by its Board of directors,'' and all that follows through ''agent of such bank,'' and inserting ''and, by the board of directors of the Bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal Home Loan Bank''; and

(D) by striking ''Board of directors'' each place that term appears and inserting ''board of directors''; and

(2) in subsection (b), by striking ''loans banks'' and inserting ''loan banks''.

(e) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) ISSUANCE OF NOTICES OF VIOLATIONS.—Section 2B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)) is amended by adding at the end the following new paragraphs:

''(5) To issue and serve a notice of charges upon a Federal Home Loan Bank or upon any executive officer or director of a Federal Home Loan Bank if, in the determination of the Finance Board, the Bank, executive officer, or director is engaging or has engaged in, or the Finance Board has reasonable cause to believe that the Bank, executive officer, or director is about to engage in, any conduct that violates any provision of this Act or any law, order, rule, or regulation or any condition imposed in writing by the Finance Board in connection with the granting of any application or other request by the Bank, or any written agreement entered into by the Bank with the agency, in accordance with the procedures provided in section 1371(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Such authority includes the same authority to take affirmative action to correct conditions resulting from violations or practices

or to limit activities of a Bank or any executive officer or director of a Bank as appropriate Federal banking agencies have to take with respect to insured depository institutions under paragraphs (6) and (7) of section 8(b) of the Federal Deposit Insurance Act, and to have all other powers, rights, and duties to enforce this Act with respect to the Federal Home Loan Banks and their executive officers and directors as the Office of Federal Housing Enterprise Oversight has to enforce the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act with respect to the Federal housing enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(6) To sue and be sued, by and through its own attorneys.''.

(2) TECHNICAL AMENDMENT.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting ''Federal Housing Finance Board,'' after ''Director of the Office of Thrift Supervision,''.

(f) ELIGIBILITY TO SECURE ADVANCES.—

(1) SECTION 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the second sentence, by striking ''with the approval of the Board''; and

(B) in the third sentence, by striking '', subject to the approval of the Board,''.

(2) SECTION 10.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(A) in subsection (c)—

(i) in the first sentence, by striking ''Board'' and inserting ''Federal Home Loan Bank''; and

(ii) in the second sentence, by striking ''held by'' and all that follows before the period; and

(B) in subsection (d)—

(i) in the first sentence, by striking ''and the approval of the Board''; and

(ii) by striking ''Subject to the approval of the Board, any'' and inserting ''Any''.

(g) SECTION 16.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) in the third sentence—

(A) by striking ''net earnings'' and inserting ''previously retained earnings or current net earnings''; and

(B) by striking '', and then only with the approval of the Federal Housing Finance Board''; and

(2) by striking the fourth sentence.

(h) SECTION 18.—Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)) is amended by striking paragraph (4).

SEC. 407. RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

''(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—

''(i) IN GENERAL.—To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal Home Loan Bank shall pay to the Funding Corporation in each calendar year, 20.75 percent of the net earnings of that Bank (after deducting expenses relating to section 10(j) and operating expenses).

''(ii) ANNUAL DETERMINATION.—The Board annually shall determine the extent to which the value of the aggregate amounts paid by the Federal Home Loan Banks exceeds or falls short of the value of an annuity of $300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations.

''(iii) PAYMENT TERM ALTERATIONS.—The Board shall extend or shorten the term of the payment obligations of a Federal Home Loan Bank under this subparagraph as necessary to ensure that the value of all payments made by the Banks is equivalent to the value of an annuity referred to in clause (ii).

''(iv) TERM BEYOND MATURITY.—If the Board extends the term of payment obligations beyond the final scheduled maturity date for the obligations, each Federal Home Loan Bank shall continue to pay 20.75 percent of its net earnings (after deducting expenses relating to section 10(j) and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal Home Loan Banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal Home Loan Banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.75 percent of the net earnings of the Federal Home Loan Banks exceeds the remaining obligation of the Banks to the Treasury, the Finance Board shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on June 1, 2000. Payments made by a Federal Home Loan Bank before that effective date shall be counted toward the total obligation of that Bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act, as amended by this section.

SEC. 408. GAO STUDY ON FEDERAL HOME LOAN BANK SYSTEM CAPITAL.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of—

(1) possible revisions to the capital structure of the Federal Home Loan Bank System, including the need for—

(A) more permanent capital;

(B) a statutory leverage ratio; and

(C) a risk-based capital structure; and

(2) what impact such revisions might have on the operations of the Federal Home Loan Bank System, including the obligation of the Federal Home Loan Bank System under section 21B(f)(2)(C) of the Federal Home Loan Bank Act.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on the results of the study conducted under subsection (a).

TITLE V—FUNCTIONAL REGULATION OF BROKERS AND DEALERS

SEC. 501. DEFINITION OF BROKER.

(a) It is the intention of this Act subject to carefully defined exceptions which do not undermine the dominant principle of functional regulation to ensure that securities transactions effected by a bank are regulated by securities regulators, notwithstanding any other provision of this Act.

(b) Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

''(4) BROKER.—

''(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

''(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any of the following activities under the conditions described:

''(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank, if—

''(I) such broker or dealer is clearly identified as the person performing the brokerage services;

''(II) the broker or dealer performs brokerage services in an area of the bank that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

''(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

''(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement are in compliance with the Federal securities laws before distribution;

''(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the range of investment vehicles available from the bank and the broker or dealer under the contractual or other arrangement;

''(VI) bank employees do not directly receive incentive compensation for any brokerage transaction, unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

''(VII) such services are provided by the broker or dealer on a basis in which all customers that receive any services are fully disclosed to the broker or dealer;

''(VIII) the bank does not carry a securities account of the customer, except in a customary custodian or trustee capacity; and

''(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank, and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

''(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards, and does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

''(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian Government obligations, as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such

foreign government to retire outstanding commercial bank loans.

''(iv) CERTAIN STOCK PURCHASE PLANS.—

''(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its subsidiaries, if the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan.

''(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of that issuer's dividend reinvestment plan, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan; and

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission.

''(III) ISSUER PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of a plan or program for the purchase or sale of that issuer's shares, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program; and

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission.

''(IV) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by delivery of written or electronic plan materials by a bank to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

''(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Modernization Act of 1999; or

''(bb) otherwise permitted by the Commission.

''(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

''(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate of the bank (as defined in section 2 of the Bank Holding Company Act of 1956) other than—

''(I) a registered broker or dealer; or

''(II) an affiliate that is engaged in merchant banking, as described in section 4(k)(4)(H) of the Bank Holding Company Act of 1956.

''(vii) PRIVATE SECURITIES OFFERINGS.—The bank effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933, or the rules and regulations issued thereunder.

''(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

''(I) IN GENERAL.—The bank, as part of customary banking activities—

''(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

''(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

''(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions; or

''(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law.

''(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

''(ix) BANKING PRODUCTS.—The bank effects transactions in traditional banking products, as defined in section 503(a) of the Financial Services Modernization Act of 1999.

''(x) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (ix), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

''(C) EXECUTION BY BROKER OR DEALER.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

''(i) the bank directs such trade to a registered broker or dealer for execution;

''(ii) the trade is a cross trade or other substantially similar trade of a security that—

''(I) is made by the bank or between the bank and an affiliated fiduciary; and

''(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

''(iii) the trade is conducted in some other manner permitted under such rules, regulations, or orders as the Commission may prescribe or issue.

''(D) NO EFFECT OF BANK EXEMPTIONS ON OTHER COMMISSION AUTHORITY.—The exception to being considered a broker for a bank engaged in activities described in subparagraphs (B) and (C) shall not affect the authority of the Commission under any other provision of this title or any other securities law.

''(E) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii) of this paragraph and paragraph (5)(C), the term 'fiduciary capacity' means—

''(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian, either under a uniform gift to minor act or for an individual retirement account, or as an investment adviser if the bank receives a fee for its investment advice or services, or as a service provider to any pension, retirement, profit sharing, bonus, thrift, savings, incentive, or other similar benefit plan;

''(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

''(iii) in any other similar capacity.

''(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

''(i) was, on the day before the date of enactment of the Financial Services Modernization Act of 1999, subject to section 15(e); and

''(ii) is subject to such restrictions and requirements as the Commission considers appropriate.''.

SEC. 502. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

''(5) DEALER.—

''(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

''(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

''(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

''(I) for the bank; or

''(II) for accounts for which the bank acts in a trustee capacity or fiduciary capacity.

''(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or otherwise, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations predominantly originated by the bank, or a syndicate of banks of which the bank is a member, or an affiliate of any such bank other than a broker or dealer.

''(iv) BANKING PRODUCTS.—The bank buys or sells traditional banking products, as defined in section 503(a) of the Financial Services Modernization Act of 1999.''.

SEC. 503. DEFINITION AND TREATMENT OF BANKING PRODUCTS.

(a) DEFINITION OF TRADITIONAL BANKING PRODUCT.—For purposes of this title and paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5)), as amended by this title, the term ''traditional banking product'' means—

(1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(2) a banker's acceptance;

(3) a letter of credit issued or loan made by a bank;

(4) a debit account at a bank arising from a credit card or similar arrangement;

(5) a participation in a loan which the bank or an affiliate of the bank (other than a

broker or dealer) funds, participates in, or owns that is sold—

(A) to qualified investors; or

(B) to other persons that—

(i) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

(ii) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines; and

(6) any swap agreement (as defined in section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act), including credit swaps and equity swaps, unless the appropriate Federal banking agency determines that credit swaps and equity swaps shall not be included in the definition of such term.

(b) TRANSACTIONS INVOLVING HYBRID PRODUCTS.—

(1) COMMISSION AUTHORITY.—The Commission may, with the concurrence of the Board, determine, by regulation published in the Federal Register, that a bank that effects transactions in, or buys or sells, a new product should be subject to the registration requirements of this section.

(2) LIMITATION.—The Commission may not impose the registration requirements of this section on any bank that effects transactions in, or buys or sells, a product under this subsection unless the Commission, with the concurrence of the Board, determines in the regulations described in paragraph (1) that—

(A) the subject product is a new product;

(B) the subject product is a security; and

(C) imposing the registration requirements of this section is necessary or appropriate in the public interest and for the protection of investors.

(c) CLASSIFICATION LIMITED.—Classification of a particular product or instrument as a traditional banking product pursuant to this section shall not be construed as finding or implying that such product or instrument is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(d) NO LIMITATION ON OTHER AUTHORITY TO CHALLENGE.—Nothing in this section shall affect the right or authority of the Board, any appropriate Federal banking agency, or any interested party under any other provision of law to object to or seek judicial review as to whether a product or instrument is or is not appropriately classified as a traditional banking product under subsection (a).

(e) OTHER DEFINITIONS.—For purposes of this section—

(1) the term ''appropriate Federal banking agency'' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(2) the term ''bank'' has the same meaning as in section 3(a)(6) of the Securities Exchange Act of 1934;

(3) the term ''Board'' means the Board of Governors of the Federal Reserve System;

(4) the term ''Commission'' means the Securities and Exchange Commission;

(5) the term ''government securities'' has the same meaning as in section 3(a)(42) of the Securities Exchange Act of 1934, and, for purposes of this subsection, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities;

(6) the term ''new product'' means a product or instrument offered or provided by a bank that—

(i) was not subject to regulation by the Commission as a security under the Federal securities laws before the date of enactment of this Act; and

(ii) is not a traditional banking product; and

(7) the term ''qualified investor'' has the same meaning as in section 3(a)(54) of the Securities Exchange Act of 1934, as added by this title.

SEC. 504. QUALIFIED INVESTOR DEFINED.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraphs:

''(54) QUALIFIED INVESTOR.—

''(A) DEFINITION.—The term 'qualified investor' means—

''(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

''(ii) any issuer eligible for an exclusion from the definition of 'investment company' pursuant to section 3(c)(7) of the Investment Company Act of 1940;

''(iii) any bank (as defined in paragraph (6)), savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

''(iv) any small business investment company licensed by the Small Business Administration under subsection (c) or (d) of section 301 of the Small Business Investment Act of 1958;

''(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

''(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

''(vii) any market intermediary that is exempt under section 3(c)(2) of the Investment Company Act of 1940;

''(viii) any associated person of a broker or dealer, other than a natural person;

''(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

''(x) the government of any foreign country;

''(xi) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xiii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis, not less than $50,000,000 in investments; or

''(xiv) any multinational or supranational entity or any agency or instrumentality thereof.

''(B) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person not described in subparagraph (A), taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters.''.

SEC. 505. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(E) for purposes of section 15C, as applied to a bank, a qualified Canadian Government obligation, as defined in section 5136 of the Revised Statutes of the United States.''.

SEC. 506. EFFECTIVE DATE.

This title shall become effective at the end of the 1-year period beginning on the date of enactment of this Act.

SEC. 507. RULE OF CONSTRUCTION.

Nothing in this title shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

TITLE VI—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

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

(a) IN GENERAL.—Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 602. OPTIONAL CONVERSION OF FEDERAL SAVINGS ASSOCIATIONS.

Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended by adding at the end the following new paragraph:

''(5) CONVERSION TO NATIONAL BANK.—Notwithstanding any other provision of law, any Federal savings association chartered and in operation prior to the date of enactment of the Financial Services Modernization Act of 1999, with branches in one or more States, may convert, at its option, with the approval of the Comptroller of the Currency, into one or more National banks, each of which may encompass one or more of the branches of the Federal savings association in one or more States; but only if the resulting National bank or banks will meet any and all financial, management, and capital requirements applicable to National banks.''.

TITLE VII—ATM FEE REFORM

SEC. 701. SHORT TITLE.

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

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

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

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

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

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

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

''(B) NOTICE REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 704. FEASIBILITY STUDY.

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

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

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

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

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

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

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

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

(1) The availability of appropriate technology.

(2) Implementation and operating costs.

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

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

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

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

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

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

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

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

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

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

ORDERS FOR TUESDAY, MAY 11, 1999

Mr. ROBERTS. 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 Tuesday, May 11. I further ask consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to S. 254, the juvenile justice bill, for debate only until 12 noon.

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

Mr. ROBERTS. I ask consent the Senate stand in recess from the hour of 12:30 p.m. until 2:15 p.m. for the weekly policy conferences to meet.

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

Mr. ROBERTS. I ask unanimous consent that Members have until 2 p.m. today in order to introduce legislation and submit statements for the RECORD.

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

PROGRAM

Mr. ROBERTS. For the information of all Senators, the Senate will begin debate on the juvenile justice bill at 9:30. Amendments are expected to that legislation, and therefore rollcall votes can be expected during tomorrow afternoon's session of the Senate. As always, Members will be notified accordingly as any votes are ordered with respect to this legislation.

Members who intend to offer amendments to the juvenile justice bill are encouraged to work with the chairman and the ranking member to schedule a time to come to the floor to debate those amendments.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROBERTS. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator CONRAD.

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

Mr. ROBERTS. 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. CONRAD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

CONTINUING AGRICULTURE CRISIS

Mr. CONRAD. Mr. President, I rise today to again talk about the continuing agriculture crisis that is facing America's farmers. I spent this weekend in North Dakota. I spoke at the annual graduation of the North Dakota State School of Science and then at North Dakota State University's graduation on Saturday morning. On Friday, I went to an event we call Marketplace For Kids, which we hold every year, in which children from a large part of North Dakota come in and show the things they have been working on—inventions, creative ideas that they have had.

In these three sets of events I ran into literally hundreds of North Dakota farm families. Without exception they told me, Senator, unless there is a Federal response and unless it comes quickly, literally thousands of us are going to be forced off the land this spring.

This is a crisis as deep and as serious as any I have seen in my 13 years now representing North Dakota in the Senate. We have had quite a string of crises: in 1988–1989, the worst drought since the 1930s; in 1997, the worst flood in 500 years that devastated the town of Grand Forks, ND; and now this continuing agriculture crisis, as a result of, really, three factors. One is the collapse of farm prices. The second is incredibly bad weather over the last 5 years—overly wet conditions. In fact, as I flew over North Dakota, it looked like Lake Agassiz, which existed thousands of years ago, was reforming, because everywhere I looked, as I flew in a light plane over half of North Dakota, flying from east to west, all I saw was water everywhere. It was really stunning to see it. Then, of course, we have been hit by bad policy: A farm bill that has reductions in support from Government no matter what happens to farm prices, very steep reductions that are included in that policy; and, of course, a trade policy that left us vulnerable to incredible increases in imports from Canada traded on an unfair basis.

This stew that is being cooked is increasingly hard to choke down for our farmers. This is a recent headline, April 4, in the Bismarck Tribune, my hometown newspaper. The headline is: ''Farm Families Forced To Cancel Health Insurance.'' In the story they talk about Clint Jacobs, a 30-year-old farmer, who raises 200 head of cattle near Amidon, ND. That is out in western North Dakota. He and his wife and their 1½-year-old daughter were paying $550 every 3 months for health insurance and they had $1,000 deductible. They had to drop their health insurance.

This is a story that is repeated every day across North Dakota, and I am sure in other farm belt States as well, as we cope with the lowest prices in 52 years—the lowest prices in 52 years. These farm families, with incredibly hard-working, decent, honest people, are having to dump their health insurance in a bid to survive financially. This really is not right.

As I traveled across my State this weekend, farm families came to me, bankers came to me with a very consistent message: You have to respond and you have to respond quickly, because this is a set of facts that is going to suck thousands of us down.

This article I was referring to says that 26 out of 82 farmers and ranchers who were surveyed had dropped health insurance to make ends meet. The survey was done by the Lutheran Disaster Response of Lutheran Social Services in North Dakota. As one person said, if you have four or five bad years and you tighten the belt every time, health insurance gets to be one of the things that is cut.

That is what is happening today in my State. Patients are skipping preventive care, such as checkups and mammograms. Some doctors and other health care providers are not getting paid.

In a sidebar story by the Associated Press, their farm writer says: Facing a dim agriculture forecast this year, farmers can now prepare for financial cutbacks. A Purdue University extension specialist who offers financial advice to struggling farmers in Indiana said families must determine what they can do without.

That is exactly what is happening in North Dakota. Maybe there are some who are listening and saying that we have had to do that in our life, we have had to cut back when times are tough, we have had to consider what you can do without; so what.

This is not a typical downturn. This goes far beyond what somebody can fairly plan for—the lowest prices in 52 years; 5 years of the worst weather on record; as a result, an outbreak of disease unprecedented in our State's history.

In over 100 years, we have never seen an outbreak of disease like we are coping with now. Scab, a fungus that breaks out when there are overly wet conditions, dramatically reduced production, with prices, as I indicated, the lowest they have been in 52 years. What a double whammy. On top of it, to have a farm bill passed—and it does not matter what farm prices are—that is slashing Government support for producers at the very time our chief competitors are spending more.

The Europeans, who are our chief competitors and who we were supposed to be convincing to cut their subsidies by cutting ours, did they decide to follow suit? Absolutely not. They have decided to spend more, and they are already spending $50 billion a year to support their farmers. We are spending $5 billion. That is not a fair fight.

Our farmers are ready to take on anybody anytime anywhere. They are ready to compete. They are ready to take on the farmers of France and Germany and England, and all the rest, but they are not prepared to take on, in addition to the farmers from those countries, the governments of those countries. They are not prepared to take on the French Government, the German Government, and the British Government, as well as the farmers from those countries. That is not a fair fight.

Yet, that is what we have said to our farmers: You go out there and you take on the French farmers and, while you are at it, take on the French Government as well. You go out there and compete against the German farmer, and while you are at it, take on the German Government as well.

That is not a fair fight. We have to put tools in the hands of our farmers so they have a chance to fight back. If we do not, we will wake up sometime soon and find that tens of thousands of farm families have been forced off the land and have been destroyed financially. That is what is happening in my State each and every day. Good people, honest people are being destroyed. The question is, Are we going to stand and

help them or are we going to stand by and do nothing? That is the choice that is before us. I hope we respond, and I hope we respond quickly.

We need to immediately pass the emergency supplemental that is in the conference committee between the House and the Senate tomorrow. We need to pass that legislation because it provides an expansion of credit to get farmers into the fields, and we need to add to that package. We need to add $1.5 billion to keep the promise that we made last year in the disaster bill. We now know the farmers have signed up for the program that we have promised. We found we are $1.5 billion short of funding what we promised. We ought to keep the promise, and we ought to do it in this bill.

In addition, we ought to provide the same supplemental benefit we provided last year to offset this dramatic decline in prices. That would be an AMTA supplemental, transition payments that were provided for in the last farm bill that are going down each and every year. Last year, because of the crisis, we provided a 50-percent supplement. We need to do that again this year. It will cost $2.8 billion.

That is a total package approaching $5 billion. Last year, we passed a package of $6 billion. I would like to have that amount again this year, but the reality is that we are going to have to make do with the package like the one I have described, at least for now. But it needs to happen now. We should not wait because while we are waiting, literally thousands of people are being forced off the land and being financially destroyed, through no fault of their own, by being caught up in a circumstance of bad weather, bad prices, and bad policy. There is not much we can do about the prices, there is not much we can do about the weather, but we can do something about the policy. That is our responsibility. I hope we meet that responsibility and meet it this week.

I want to show, before I leave this subject, some charts that appeared in the newspapers back home while I was there. It showed the net return per acre of wheat in North Dakota going back to 1986. You can see the kinds of returns that farmers were seeing per acre for planting wheat. Our State is a major wheat State, really one of the key breadbasket States in the Nation.

As you can see, there were positive returns of over $30 an acre in 1986 and 1987. Then we saw pretty tough times in 1988, 1989, and 1990, the drought years. We saw a substantial improvement in 1991, 1992, and 1993. In 1994, we saw a steep slide; 1995, further erosion; 1996 was about the same as 1995, and then the bottom fell out in 1997, negative returns per acre approaching a $20 loss per acre. The more you planted, the worse off you were, and the same pattern was repeated in 1998.

If we do not act, 1999 is going to be a whole lot worse and, literally, as I have indicated, thousands of farm families are going to be facing auction. I showed a cartoon that was in the biggest paper in my State several weeks ago. It showed a pole, and it had auction signs, 9 or 10 different auction signs all pointing in different directions. Sitting on top of the pole was a buzzard. That is kind of the feeling in my State right now. The buzzards are swooping overhead waiting for another farm failure, waiting for another auction, waiting to see another farm family sold out, because that is what is happening all too frequently in my State these days.

If it was not enough to have the dominant crop in negative return territory the last year, this is the pattern of raising cattle. You can see very much a similar pattern, only returns went negative earlier for cattle. In 1995 and 1996, they were negative, and they were barely in the black for 1997 and 1998.

Two-thirds of the income in my State is crop income. So when crops are giving negative returns, and then you face on top of that livestock giving negative returns, it is impossible to make money—impossible to make money—again, not through any fault of these farm families. These are the hardest working, most honest people I know, but they are being devastated by events beyond their control.

The financial collapse in Asia cost them their biggest customer. The financial collapse in Russia cost them a very big customer. Those events, working together, have created a nightmare for these farm families. Then on top of that, after you stack these natural disasters, you put the final coup de grace—the bad policy coming out of Washington—and it is pretty hard for a farm family to make it.

It is pretty hard for them to take on the Europeans when those countries have decided that they are going to spend $50 billion a year to support their producers and we are spending $5 billion. We are being outspent, outgunned, 10-to-1. And why? Because the Europeans decided some time ago that it made sense to their countries to have people out across the land. They did not want to see everybody forced into the city. They did not think that made sense for their society.

I hope very soon we will come to a similar conclusion in this country and will decide that it makes sense to have people out across the land, because if we do not respond, there will be precious few people out there; they will all be headed to the cities. The last thing we need in the Washington metroplex is more people: More crowding, more pollution, more hassle. That is exactly what is going to happen unless we respond.

This is a good country, a generous country, and one that responds when people are in crisis. We are going to respond to the disasters in Oklahoma, in Kansas, in Tennessee, and the other States that have been affected. I believe we are going to respond in this crisis, as well, in the farm States of America, because they are on the brink of a total financial collapse. That is the seriousness of what is happening.

Now is the time; this week is the time; on this supplemental is the time to respond, and to respond strongly, to give people the help they desperately need.

I thank the Chair and yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. If there is no further business to come before the Senate, the Senate stands in adjournment under the previous order.

Thereupon, the Senate, at 1:32 p.m., adjourned until Tuesday, May 11, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 10, 1999:

DEPARTMENT OF STATE

M. MICHAEL EINIK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA.

MARK WYLEA ERWIN, OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MAURITIUS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL ISLAMIC REPUBLIC OF THE COMOROS AND AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

CHRISTOPHER E. GOLDTHWAIT, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHAD.

UNITED STATES INFORMATION AGENCY

EDWARD E. KAUFMAN, OF DELAWARE, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2000. (REAPPOINTMENT)

DEPARTMENT OF STATE

LARRY C. NAPPER, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR RANK OF AMBASSADOR DURING TENURE OF SERVICE AS COORDINATOR OF THE SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

DONALD LEE PRESSLEY, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE THOMAS A. DINE, RESIGNED.