Also, I join Senator WARNER in saying this is a very proud day for the Chafee family. They are proud of the accomplishments of Senator John H. Chafee and proud of the commitment to public service of Lincoln Chafee. I am pleased and proud to join my colleague from Virginia in this request. I yield the floor.

The PRESIDING OFFICER. The majority leader.

FINANCIAL SERVICES MODERNIZATION ACT OF 1999—CONFERENCE REPORT—Continued

Mr. LOTT. Mr. President, let me just take a moment at this time, if the Senator would allow me.

When the history is written of this session of Congress, it will probably identify this piece of legislation as the single biggest achievement. I have heard this financial services modernization issue discussed for my entire career in the Congress, which is now up to 27 years. It has been tried by Republicans, by Democrats in the Congress, House and Senate, administrations of both parties. It never quite occurred.

I think it is appropriate we commend all of those who have been involved in this process for bringing us to this moment. This legislation is going to pass overwhelmingly. It is going to bring us into the modern era of financial services. It is going to allow us to be more equally competitive around the world.

I think we should properly note what has happened. If today's papers are any indication, we passed major trade legislation yesterday and it didn't even make the first section of one of the papers in this city; it wound up in the business section. It was hardly noted, the effort that was put into passing that major free trade legislation. I hope that will not be the case with this major legislation.

So for all those involved—I won't begin at the top and go to the bottom—obviously Secretary Rubin was involved in earlier discussions; Alan Greenspan was involved; Secretary Summers has been involved. The administration did stay engaged when they could have said we are not going to talk anymore. Leaders in both the House and the Senate, the elected leadership, Democrats and Republicans on both sides of the aisle, on both sides of the Capitol worked to make this happen.

Let me say for the record—I know, because I watched it very carefully and had some meetings which, I think, helped give it some momentum, some impetus—it would not be where it is today, it would not have been achieved, without the leadership of the senior Senator from Texas, Mr. GRAMM. He has done a masterful job. Many people said: It won't happen. Many people said: He will kill it. I kept saying: No; you wait. He will make this happen through thick or thin. It will get done.

It is being done. To take nothing away from all those involved—including the ranking member of the committee, Senator SARBANES of Maryland, who was actively involved—I have to note, with a lot of appreciation and gratitude, the tremendous leadership of the Senator from Texas. I don't think he can probably ever replicate this effort again. So I think that at this time we should express our appreciation because it is a monumental achievement.

I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Texas.

Mr. GRAMM. Mr. President, I appreciate that. I know it is going to cost me something big, but I am very grateful for it. As I said last night, one of the reasons we were successful, one of the reasons this bill is as good as it is, is that I have had the very strong support of TRENT LOTT and our leadership. Having their support is like having a stone wall to your back in a gun fight: You can still get killed, but nobody is going to shoot you in the back. That has been very beneficial. TRENT LOTT's willingness to say we are going to follow this path, whether it leads us to success or failure, is really what has led us to success.

I appreciate those kind comments and yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, are we back on the bill?

The PRESIDING OFFICER. We are back on the bill.

Mr. SARBANES. I yield 10 minutes of my time to the distinguished Senator from North Carolina.

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

Mr. EDWARDS. Mr. President, I rise today in support of the Gramm-Leach-Bliley Act. This legislation is of critical importance to America and will benefit our nation's financial services companies and American consumers. Quite simply, I believe it helps pave the way to our continued economic prosperity.

This legislation will ensure stronger consumer protections in the rapidly changing and consolidating world of financial services. The legislation is important to consumers, because the industry is already changing dramatically, but through regulatory backdoors and without much-needed consumer protections. Banks, securities firms, and insurance companies—historically separated from one another—have already started engaging in each others' business, and there have been no affirmative protections in place for the nation's consumers. This law rectifies that situation.

I do have some concerns with certain sections regarding federal preemption of state laws that I hope to clarify. Throughout consideration of this legislation—S. 900, H.R. 10, and the chairmen's mark—I have worked with my colleagues to make sure that the final language of the bill does not adversely affect recently passed consumer protection legislation in my home state of North Carolina.

North Carolina is a leading state in the financial services world on several fronts. We are home to some of the largest banks in the country. We are home to some of the strongest and most innovative community development groups in the country. We see, every day, how well these players work with one another to provide convenient banking services to all North Carolinians.

North Carolina is also a leader in consumer protections. Our state General Assembly recently passed two important pieces of consumer legislation that had broad support. First, the General Assembly passed legislation that will require Blue Cross/Blue Shield of North Carolina—a non-profit—to create a public trust to help fund public health expenses in the event it converts to for-profit status. Its rationale was simple. A company should not be able to use its not-for-profit status—a government granted exemption from taxation—to build market dominance and then convert to for-profit status. In that situation, the not-for-profit status would have acted as a government subsidy, and conversion should not be allowed without some form of assessment for the subsidy. This legislation had bipartisan support and was agreed to by all parties.

Throughout consideration of financial modernization legislation, I have steadfastly supported language that will protect this law from possible federal preemption. The conference report accompanying the legislation indicates that this type of law is not of the sort for which federal preemption would come into play. Specifically, the report noted that ''[t]he House receded on its provision specifically addressing a North Carolina Blue Cross-Blue Shield organization, as the State laws governing those types of entities would not be preempted so long as the State laws do not discriminate . . .''. Because the North Carolina law places a requirement on Blue Cross/Blue Shield of North Carolina regardless of any possible affiliation, it treats identically all interested parties seeking to affiliate or acquire. A bank that might want to acquire Blue Cross/Blue Shield must comply with the law in the same way as a car dealership, or any other potential acquirer, would. Therefore, it is impossible to argue that the law is in any way discriminatory.

The other critical piece of legislation is a recently passed law that prohibits the financing of products like credit insurance in home mortgages. In recent years, including credit insurance costs in the mortgage was a favorite tactic of some predatory institutions—a tactic that ultimately cost consumers thousands of dollars. North Carolina is a leader in making sure its residents are protected from predatory lending and financing practice, predominant over what may be weaker federal standards or laws.

The State of North Carolina enacted this law on July 22, 1999. The law, among other things, regulates mortgage financing and what non-housing products may be included. For example, it bars the lump sum financing of credit insurance premiums in consumer home loans. The law was intended to regulate mortgages and to prevent a potentially misleading form of home lending. It does not prevent credit insurance from being provided for home loans on a monthly basis, but merely cuts off financing the premiums upfront since the state General Assembly determined that such financing is fundamentally unfair. Congress does not intend to preempt this law in the Gramm-Leach-Bliley Act.

I believe that this North Carolina law regulates mortgage financing and does not target the ability of an insured depository to sell insurance products. The focus of my state's legislature was on mortgages and efforts to shoehorn other products into the cost of the mortgage. The legislature would have acted the same way if mortgage lenders had been attempting to include lump sum financing of moving expenses or a new TV. However, if it were determined that the law concerns insurance sales activities, this Act still would not preempt the North Carolina provision. At most, the North Carolina law regulates how credit insurance is sold—the prohibition on financing credit insurance premiums cuts off one avenue of sale while leaving all other avenues open. As Section 104(d)(2) of the Act states, such laws are not preempted unless they ''prevent or significantly interfere with the activities of depository institutions or their affiliates.'' The North Carolina law does neither. Banks may still sell credit insurance in connection with mortgages, only one sale technique is foreclosed.

In addition to the two consumer protection matters I just mentioned, I wanted to say a few words about the privacy provisions in this legislation. A great deal of debate centered on personal financial information and the way banks, securities firms and insurance companies may use that information. Privacy in financial services is an extremely complex issue because what one person may view as an invasion of privacy, another might appreciate as a timely and appropriate offering of a much-needed service. I think it is important to realize that the issue of protecting personal privacy is not limited to the financial services world. In our meetings, we also spoke of privacy of medical information. The news is full of stories of other companies—grocery stores, toy makers, appliance stores, telephone companies and others—that are creating massive databases of customer information to be used for marketing products and services.

In this legislation, we have given customers the opportunity to decide whether or not they want to let their financial institution share their personal information with a third party. We require financial institutions to have a privacy policy—and we require that this policy is explained to all the institution's customers. We also included an important provision that makes it a Federal crime—punishable by up to 5 years in prison—to obtain customer information through fraudulent or deceptive means. I myself would have supported even more privacy protection. I am confident that in the next few years, we will be forced to deal with this problem more comprehensively.

Finally, I would like to say a few things about the Community Reinvestment Act. I struggled long and hard with the CRA provisions included in this law, because CRA is so important to North Carolina and to me personally. I wanted to be able to support this bill, but I would have refused to do so if I believed that CRA was undermined. I have seen first hand the amazing benefits—to banks and to consumers—that have resulted from CRA.

North Carolina banks represent some of the biggest and best CRA success stories, and I know from talking to bankers that they work well with community groups to make sure all neighborhoods are served. I spoke with several North Carolina community group leaders about the compromise we worked out, and while I know it wasn't their ideal, I believe that they recognize how much effort went into protecting CRA. Most importantly, I want to make sure that everyone knows that before a bank can even benefit from the new powers under this legislation, it must have at least a ''satisfactory'' CRA record. And, if it doesn't maintain at least a ''satisfactory'' rating, that bank can't buy any other financial firm until it gets its rating back up. What this means for CRA, and for those who actively support its goals, is that the commitments banks make to serving their communities will continue to be of paramount importance to their daily business.

However, I do worry about some of the reporting burdens being imposed on CRA groups by this measure. In the last few days, these reporting requirements have been the subject of numerous talks between committee members and the Treasury Department. Because these requirements are a new idea—the provision was added to S. 900 during floor debate—we have been careful to make sure that the language is clear that the provision will not impose undue burdens on community groups. I fear that unless provisions of this bill are narrowly interpreted, they could provoke a kind of regulatory witch hunt. But I am confident that the spirit of this bill is to diminish regulatory burdens and that all provisions in this law must be interpreted in that light.

And so we find ourselves at a truly historic moment. We are about to pass legislation that will modernize our nation's financial laws, increase competition, increase options for consumers, decrease costs, protect personal financial information and ensure the continued application of the Community Reinvestment Act. We have a good bill here, and I strongly support it.

To elaborate, this is a bill that has been long overdue. There are those who have been toiling in the vineyards with respect to this bill for a very long time.

Financial services modernization is well recognized throughout the Senate as something that is desperately needed. If done the right way, which I believe this bill accomplished, it is helpful to consumers. It will provide a more competitive market, greater competition, and one-stop shopping for consumers of financial services. It will also help provide a coherent legal framework for the operation of the financial services industry in this country.

A lot of the things we are doing officially and legally through this bill have been done through the back door for years because of the fact that the financial services industry has changed so much in this country over the last 20 to 30 years. The one position we, on my side, felt most strongly about was, while we believed in financial services modernization and supported it—and I wholeheartedly held that belief—it was critical that we be able to maintain the provisions of the Community Reinvestment Act, or CRA, because CRA has done so much good in this country. It has done so much good in my home State of North Carolina to help revitalize chronically economically disadvantaged areas, turned neighborhoods around that were crime infested. It has been an extraordinarily positive thing, something the banks in my State of North Carolina strongly support, always have supported, and continue to support.

The one other issue is that of privacy. We made some positive steps with respect to privacy. Since essentially there was very little regulation of people's personal privacy in existing law, we made a positive step in that direction. But there is probably still additional work to do in that area.

Let me talk, again, about the Community Reinvestment Act, which is the foundation for us being able to get a bill. The Community Reinvestment Act has had such an extraordinarily positive impact on areas of our country that desperately needed financial support. The bedrock principle in our negotiations on this legislation was that no bank should be allowed to take advantage of the expanded services available under this bill unless they had a satisfactory CRA rating. As a result of much discussion and negotiation between the parties involved in this bill, we have been able to accomplish that. I believe we have done what needed to be done to maintain the fundamental principle of CRA.

In addition, we have been able to provide that no bank can acquire or merge with another institution unless it has at least a satisfactory CRA rating. We worked very hard to make sure that principle remained in place. After much discussion and negotiation, after the bill passed the Senate over the objection of a number of us because we believed it weakened CRA, in the conference committee and in the discussions we were able to get this principle reinstated. We have done the most fundamental thing that had to be done in order to get a bill, which is to make sure CRA was in place, that it remained vibrant and strong, and that no bank could take advantage of the provisions of these expanded services available under this bill unless they had a satisfactory CRA rating.

I believe in CRA. I think it is an extraordinarily positive thing for the country. The banks in my State believe in it. They have done a wonderful job complying with the provisions of CRA. We have been able, through hard work and negotiation, to maintain those critical provisions of CRA in this bill.

This bill also contains some positive steps in the area of privacy. We had, as I indicated earlier, very little protection for people's personal financial records in banking and financial institutions prior to the enactment of this bill. Assuming we are able to pass this conference report today, there will be some positive steps in that direction. The reality is, though, there are a number of us, myself included, who believe we need to go further, that there is more that needs to be done to protect people's privacy.

Folks have a fundamental right to know what is happening with their personal financial information and to know it is not being used in inappropriate ways.

This bill takes a positive step in that direction. I think for that reason it makes sense to support the bill. However, I believe there is more work that needs to be done in this area. Many of us on our side, including the ranking member, Senator SARBANES, believe there is more to be done in this area.

Financial modernization, as contained in this bill, will also help ensure continued economic growth in this country. The reason for that is that now our banks, our financial institutions in this country, will be able to compete in the global marketplace because our financial institutions have operated for many years now under rules that were antiquated, which in this environment and marketplace made no sense, and with which foreign competitors, who also do business in the United States, didn't have to comply. With continued prosperity and growth so important in our country, it was important that we be able to have modernization in the financial services industry. This bill accomplishes that.

It will be good, as I indicated, not only for domestic competition, to allow banks to compete with one another and, as a result, lower costs for consumers, but it also allows our banks to compete internationally, which is critically important.

Finally, I thank those who worked so long and hard on this bill. There are many who worked long and tirelessly on this bill: First, Senator SARBANES, our ranking member, who has been one of my mentors in my 10 months here in the Senate, who is a remarkable leader; he has shown remarkable leadership and guidance on this bill. Also, Senator SARBANES' extraordinary staff, Steve Harris and Marty Gruenberg, who are both wonderful, have worked with us throughout this process. This could not have been done without their work and guidance. Also, my friends, Senator DODD, Senator SCHUMER, and Senator REID, who, along with Senator SARBANES, were in that small room with me late into the evening negotiating the provisions of the CRA, which eventually were contained in this legislation and without which there would be no bill. They all worked tirelessly—Senators DODD, SCHUMER, REID, and SARBANES—late into the evening, and we were able, finally, to reach a reasonable compromise. But it could not have been done without the leadership of all of those Senators.

Senators SHELBY and BRYAN worked very hard on the issue of privacy. Philosophically, and in my heart, I am with them on that issue. I think we have made positive steps in the area of privacy. Senators SHELBY and BRYAN are fundamentally right that the American people deserve and believe they deserve the right to have their personal financial information protected. They showed great leadership in that area. Senators JOHNSON, KERREY, and BAYH, throughout this process, have worked with us very long and hard, and without their support this legislation would not have been possible.

Finally, I mention our chairman, Senator GRAMM, beside whom I had occasion to sit for many hours on that Thursday night and Friday morning when we were able to finally reach agreement on this bill. Without his hard work and leadership and willingness to compromise and negotiate, ultimately, this bill would not exist. The majority leader is right in that respect. So I applaud him for his work on this bill, and I applaud him particularly for his willingness to compromise, to negotiate, and to have a back-and-forth discussion with those of us who had somewhat different views on issues such as CRA privacy.

Finally, to Chairmen LEACH and BLILEY and ranking members LAFALCE and DINGELL, who did great work throughout this process, including that late-evening meeting that went to 2:30 or 3 o'clock in the morning; and Secretary Summers and members of the Treasury Department who were in that room working tirelessly with us, particularly to iron out some of the details associated with the compromises that were reached that night.

I do believe this is a historic piece of legislation. I think it is a piece of legislation that benefits consumers; it will increase competition in this country; it will lower prices. I believe it will allow for one-stop shopping for folks who want to go to one place and have all their financial services provided, and it makes positive steps in the area of privacy, although there is still work left to be done.

Also, most fundamentally, it protects the critical principles of the Community Reinvestment Act, which has been such a positive law in this country and has had such an extraordinarily positive impact on my home State. I have seen neighborhoods that have literally been turned around by CRA, the Community Reinvestment Act. Because of the work and negotiation that went into this legislation, I believe we have satisfied the fundamental principles of CRA.

Mr. President, I urge colleagues to support and vote for this conference report. It is the result of a lot of hard work by a lot of people and a lot of compromises.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, before yielding to the Senator from Connecticut, I acknowledge and express my deep appreciation to the Senator from North Carolina for his very positive and constructive contributions throughout the process of developing this legislation. He really made a very important difference in helping to get us through some satisfactory resolutions of some difficult questions. I am very appreciative to him.

Mr. President, I yield 15 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank the Chair and I thank my colleague and ranking member of the Banking Committee.

I rise today, as well, in strong support of this very historic conference report accompanying S. 900, which I believe will receive strong bipartisan support by Members of this body as well as in the House and will be signed into law by President Clinton.

Nearly 70 years ago, the Glass-Steagall Act, which provided the foundation for separating domestic banking, securities, and insurance activities, was enacted into law. Advances in technology, the change in our Nation's capital markets, and the very fast-growing globalization of financial services have demanded that we as a legislative body examine and make some changes to our financial laws to accommodate and to take into consideration these dramatic changes that have occurred. Making these changes has not been easy. The task of creating a new regulatory framework that strengthens consumer protections and, at the same time, fosters market efficiencies and industry innovations has been extremely difficult. Endless hours, days, weeks, and years of negotiations have been spent to craft legislation to allow our Nation's financial services industries to remain leaders in the global marketplace.

I have been a member of the Senate Banking Committee since the first day I was sworn into the Senate, almost 19 years ago. I think this effort dates to about 1967 or 1968, more than 30 years ago. This has been an ongoing debate and issue on the part of the Banking Committees of the Senate and the House, the Commerce Committee, and numerous efforts at the executive branch level. But certainly over the last 20 years, on numerous occasions, this body has enacted reforms to financial services only to watch the legislation die either in conference or be unable to reach a final consideration on the floor of the Senate.

So I speak today on behalf of a lot of people who have come before us. I think of people such as Senator Don Riegle of Michigan, who worked very hard on this; Senator Jake Garn; William Proxmire, the first chairman I served under on the Banking Committee. They all labored hard to try to come up with a means by which we might modernize these services. Certainly, those who predated those Members I mentioned worked diligently over the years to try to see if they could modernize these financial services to accommodate the efficiencies and demands of the end of the 20th century. We begin, in about 60 days, a new millennium, where already the ability to transact financial business on a global basis can be done in nanoseconds around the globe—a far cry from where we were 3 years ago when this effort first began to try to address some of the realities that had overtaken the Glass-Steagall Act, as sound a piece of legislation as it was, which was adopted so many years ago.

So today I speak not only on behalf of the conference report that I think accomplishes the task so many who came before us labored to achieve, but this landmark legislation dramatically modernizes our financial laws to allow banks, securities firms, and insurance companies to affiliate and provide a rational process for these affiliations to take place—not one done by court decision or simply by regulation, but, as the legislative body in this country, we have now authorized regulation through the deliberate process of hearings, markup of bills, consideration on the floor of the Senate, and a conference report. While it is laborious, rather, to go through that, and difficult, it is far better, in my view, to establish these laws on that basis than to be relying strictly on the courts and regulators to do so.

I welcome this day as a day of success and triumph for the legislative body exercising its responsibilities to put its strong imprint on how this process ought to work.

As we enter the 21st century, S. 900 will help, in my view, to continue our Nation's financial services leadership in the global marketplace—that is a critical issue—remaining competitive abroad but helping to continue to create new jobs and new opportunities for literally millions of people here at home.

This legislation also provides significant benefits and protections to investors and financial services consumers who will not only benefit from the competition of these diversified firms, but who will also benefit from standardized and comprehensive protections for the sale of financial products.

There are a number of aspects of this conference report that I would like to touch upon very briefly.

Critical to my support—and I think many others—of any financial services modernization legislation was ensuring that banks continue to invest in the communities in which they serve.

I have often stated that if the price of modernizing our financial services industry would be to deny fair access of credit to those who need it the most, I was not willing to pay that price, nor do I think many others would.

This legislation before us not only preserves current investment in our communities, but it actually strengthens both the intent and the practical effect of the Community Reinvestment Act.

Under this legislation, CRA will continue to apply to all banks regardless of size or location, without exception.

Additionally, this legislation will guarantee that no bank with an unsatisfactory CRA rating can engage in any new financial activities of insurance or securities.

This is fundamentally an important change. For the first time, a bank's CRA rating will be a consideration if it attempts to engage in new financial activities. That is a major triumph.

Some legitimate concerns have been raised over the potential burden on community groups and banks imposed by reporting requirements. I have worked hard, as have others, to make sure that no undue burden is placed on community groups and that the appropriate Federal banking regulations will have adequate discretion to ensure that result.

We are going to need to watch this and see to it that it doesn't occur over the coming weeks and months. But I am confident that with the provisions in this bill any efforts to try to become punitive or overreaching when it comes to regulations will be met with responsible regulatory action. So we will be monitoring that action very carefully.

S. 900 reaffirms that the State regulation of insurance codified by McCarran-Ferguson remains intact, a very important provision. It further provides an orderly process for resolving differences between States and Federal regulators on bank insurance activities.

This legislation reinforces further the essential concept that investors need protection regardless of whether they purchase securities from a broker, bank, or other entity.

S. 900 ensures that in creating this new financial structure the integrity of our markets is maintained and that investor protections are enhanced.

With the rapid change in our financial markets, this legislation ensures that investors remain protected, which is fundamentally a critical area to all of us.

Another area that needs improvement is the protection of consumer privacy. We did not go far enough, in my view, in this bill in doing that. There were some steps made that are certainly an improvement over the status quo. But I believe far more action is necessary in this area than incorporated in this bill.

This legislation contains some important privacy protections. For the first time, financial institutions must disclose to consumers their intent to share or sell personal financial information to anyone. Although stronger provisions which I have supported along with many others were not approved by the conference, I believe that we have sent a strong signal to the industry about the use of sensitive consumer information. I happen to believe that consumers not only have the right to know, but also have a right to say no to the sharing of their personal financial information with anybody. This erosion of the privacy of our most personal, sensitive financial information can and must be stopped.

I hope the privacy provisions contained in this bill will be an important first step to ensuring and addressing this critically important issue.

I am a coauthor along with the ranking Democrat of this committee, Senator SARBANES, and others of the Financial Information Privacy Act, S. 187, that was introduced in this Congress. We welcome further cosponsors of this bill. This is a matter that people care about regardless of place in the country, ideology, or financial status.

It is unsettling to people to know that when a merger or acquisition occurs, while you shared certain financial information with those with whom you initially negotiated, all of a sudden there is a new entity involved, and somehow that information you shared with a company is going to become the product of another industry that you didn't anticipate when you shared the initial information.

Certainly, people are finding it unsettling. They know it goes on. The unsolicited inquiries they receive by telephone and mail certainly indicate that financial services information that people thought was being held private is becoming far too public.

This is an issue on which we have to spend more time. It needs to be addressed. I am aware of the concern of the industry. But consumer demands in this area are not going to go away.

Further, let me say it isn't just a question of banks. Customers would be given, under this proposal, the important opportunity to prevent banks and securities firms from disclosing or selling this information to affiliates before banks and security firms could disclose or sell information to a third party.

They would be required to give notice to the consumer and obtain the express written permission of the consumer before making any such disclosure.

I will continue to press for even greater privacy protections than are presently included in this bill.

This is a good bill, as I said at the outset. There are a lot of people who can rightfully claim credit for having been significant players in producing this product. No single individual was responsible for this result.

As I mentioned, there are the people who are no longer in public life, some of whom have even passed away, who can literally be called inheritors of this product and responsible in some ways for the success we are announcing today.

I mention the previous chairmen of the Banking Committee in the Senate, certainly previous banking chairs of the House side, former Secretaries of the Treasury, and different administrations must feel some sense of accomplishment today as we achieve this result. They were a part of that historic journey which began so many years ago.

There were 66 conferees, an unwieldy number. Twelve percent of the U.S. Congress were members of this conference. Certainly, each and every one of them were involved to one degree or another. Though the number was unwieldy, I think all of the members played an important and constructive role from time to time.

I commend Senator Al D'Amato, our former colleague from New York, who is no longer a member of this body but was chairman of this committee last year. He crafted a good bill, H.R. 10. It wasn't adopted into law. But a lot of what we have in front of us today was part of that bill last year. He did a good job. While we are of different parties and different political persuasions on many matters, Al D'Amato is a friend of mine. I have always thought of him to be such, and he deserves some recognition today as we talk about the accomplishments of this bill.

Senator PHIL GRAMM of Texas, who I have served with on the Banking Committee now for many years—I have worked with him on numerous pieces of legislation but nothing quite of the import of this bill—is a tough negotiator. He is knowledgeable and he is smart. He worked hard on this bill and deserves credit as chairman of the committee for the final result and for pulling the pieces together.

It has been mentioned by my good friend, Senator JOHN EDWARDS of North Carolina. I see my colleague from Rhode Island, JACK REED, who was there that evening. ROD GRAMS, who is on the floor at this moment, was in the room. That was quite an evening.

I suppose history books will expand the size of the number of people who were in that room that night as oftentimes happens. It wasn't that big a room. There were not that many people in the room. But I have said to the chairman of the committee that I admired his stamina that night. He was there pretty much taking arrows and glances from the Federal Reserve Board, the Treasury, House Democrats, and Senate Democrats. While we fought hard, I admired his stamina, his stick-to-itiveness, his willingness to stay in the room to get the job done.

I begin by commending Senator GRAMM for his fine work. Obviously, our ranking Democrat, Senator SARBANES, with whom I have sat next to on this committee for almost 20 years, without his leadership I don't believe we would have achieved the result we have today. I commend him for his fine work not only in this bill but over the years for the job he has done paying detailed attention to critical pieces of legislation, a sense of patience when others wanted to rush to a quick result.

More often than not, when Senator SARBANES suggests we slow down, it is not for idle reasons. He is as knowledgeable as any individual I know, and he pays attention to the details. Too often we don't pay careful enough attention to the details and they can come back to haunt Members of Congress. I commend him for his terrific work.

Also, I commend Congressman LEACH, the chairman of the House Banking Committee, JOHN LAFALCE, Chairman BLILEY, and Chairman DINGELL, all with whom I have served over the years in the House. JOHN LAFALCE and I were elected to Congress on the same day: 25 years ago Tuesday night we were elected to Congress the first time. Today, he is the ranking Democrat on that committee. And JIM LEACH, Chairman BLILEY, and JOHN DINGELL all did a very fine job in working on this.

I thank the Banking Committee staff, both the minority and the majority, for the work they have done on this legislation. I begin with Alex Sternhell, who is my staff person who has worked so hard on this legislation. Again, like Alex who has worked hard going back 19 years, it began with Ed Silverman of my office, who was on the Banking Committee, along with a series of terrific staff members who have traveled this road on financial services modernization. Ed Silverman, Marti Cochran, Peter Kinzler, Michael Stein, Paul Hannah, Courtney Ward, and Andrew Lowenthal should be commended for all of their help. Alex did a great job on this. I thank him. Steve Harris, Marty Gruenberg and the wonderful job of working so many years, Patience Singleton, Dean Shahinian, and others on the minority side have been integral to this process, including Wayne Abernathy, Linda Lord, Geoff Gray, Dina Ellis, and others have made tremendously valuable contributions. I want the record to reflect my appreciation and admiration for their work.

The administration has remained firm in their commitment to passage of this legislation. John Podesta, Gene Sperling, and others have played critical roles during this process and were very involved on Thursday night and Friday morning working out the final version of the bill.

We should not forget that former Treasury Secretary Robert Rubin, who pushed very hard for the legislation, did a terrific job on it and played a pivotal role in drafting the legislation. Larry Summers, his successor, deserves great credit for his contributions as well, and the whole team at the Treasury—Alan Greenspan and his capable staff; Arthur Levitt, Chairman of the SEC, for his contribution to the financial services modernization, particularly the critical pieces that affect the securities industry and investor protections. This would not have been adopted if not for his fine work.

Lastly, of course, the members of our committee. JACK REED was there that night and did a terrific job. I want the record to reflect that the Boy Scouts of America, particularly, owe JACK REED a debt of gratitude. He discovered what could have been a very significant loophole in this bill and used the example that the Boy Scouts of America could be adversely affected. While it is not so named in the bill, that provision will be known by those in the room that night as the Jack Reed Boy Scout amendment. They got a good deal of support on behalf of the Senator from Rhode Island.

JOHN EDWARDS and CHUCK SCHUMER, new members of the committee, were there, along with JACK REED, and did a terrific job as new members of the committee, wading right in and making a significant contribution; also, JOHN KERRY and DICK BRYAN, who cared so much about privacy issues and fought hard. We did not get all we needed, but we had a tremendous voice in those efforts. EVAN BAYH and TIM JOHNSON played critical roles, as well.

I have often said over the years of trying to achieve financial modernization I am reminded of the mythical figure Sisyphus who rolled the rock up the hill only to have it roll back down the hill when he got near the top. I have a painting of Sisyphus that I cherish. Today, I can report that the rock is at the top of the hill and I think it will stay there.

To all who have been involved in this, my sincere thanks for their tremendous efforts. The industry people and outside groups who make valuable contributions deserve recognition.

I yield the floor.

Mr. SARBANES. Mr. President, I thank the able Senator from Connecticut for his very fine remarks and also acknowledge the very positive and constructive role he played throughout this process that helped the Senate get a product that we can bring back and recommend to our colleagues in the Senate, after having it initially in the Senate on a very divided vote. There were a number of very difficult issues to work out and the Senator from Connecticut was intimately involved with all or most of those issues. We are very appreciative of him for the instructive contribution that was made.

I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The senior Senator from Rhode Island.

Mr. REED. Mr. President, I thank Senator DODD for his kind words and his great leadership, along with Senator SARBANES.

I rise to support the conference report on S. 900, the Financial Services Modernization Act of 1999. We are on the verge of a historic transformation of the financial services industry that will take it from the Depression-era laws of Glass-Steagall and position it to meet the challenges of the next century.

Some may argue this legislation is a ratification of what the market has already done, but it is an important ratification because it will allow our financial institutions to be more efficient and more effective. I think it will accomplish two fundamental and very important goals. First, it will provide more efficient access to financial services which will directly benefit consumers in terms of better service and lower cost. Second, it will make our financial institutions much more competitive in a world of globalized financial transactions. These two goals have been achieved in this legislation. I am proud to support the legislation.

It is also incumbent upon us to understand and underscore some of the concerns that still remain after this legislation is passed. Again, let me emphasize this legislation will increase the efficiency and effectiveness of our financial services industry and will benefit the American consumer. As we tear down the walls between banks and insurance companies and securities firms and open up many possibilities, we also open many potential pitfalls. I think we should be concerned about those, also.

As we celebrate passage today, we should also underscore and point out areas that bear close watching. Fundamental changes as we are proposing today include consequences which may have adverse effects if they are not anticipated and watched carefully. Among those is the issue of the consolidation of our financial services industry. We are witnessing the megamergers that are transforming our financial services industry from small multiple providers to large providers that are very few in number. We run the risk of the doctrine ''too big to fail;'' that the financial institutions will become so large we will have to save them even if they are unwise and foolish in their policies. We have seen this before. We have to be very careful about this.

The legislation does not require any market policing requirements with regard to this issue. It does mandate the Federal Reserve, within 18 months of passage of this bill, will review the impact of potential mergers and consolidations in the financial services industry. I think that is appropriate, and I look forward to the report of the Federal Reserve. Again, this is another issue of which we have to be terribly conscious because with this legislation we are allowing a huge concentration across different functional areas of financial activities in the United States. Again, I believe it is justified and warranted by the changing conditions of our economy, but we should be careful as we go forward.

Another issue that has been mentioned several times before is the issue of privacy. The legislation before us is taking a first step in protecting the financial information of the consumers of America, but it is just a first step. There are many more steps we must and should take. They will be demanded of us by our constituents, the consumers of financial services throughout the United States. With the growth of computer technology and the ability to store and disseminate large volumes of information instantaneously, we will continue to wrestle with these issues of privacy, not just in financial services but in every area of endeavor throughout our economy.

We took a first step. We have instructed companies, if they wish to share a customer's private information, they must give that customer the option to say no to that activity. We have also tried to curtail some of the more egregious predatory activities we have witnessed in the last few years with respect to the abuse of consumer information by financial institutions. As I said before, we are moving ahead with this first step. We must not only contemplate but also be prepared to take other steps in the future to protect the privacy of the American people. This legislation has laid a foundation, but that foundation alone will not protect the privacy of the American people.

There is another issue I would like to comment upon, which has been commented upon by my colleagues also, and that is the issue of the Community Reinvestment Act. The Community Reinvestment Act is not just a device to allocate resources in poor neighborhoods; it is a commitment by this Government, through the banking industry, to ensure that all Americans have a fair opportunity to participate in the economy and do so in a way that they can benefit themselves and their families.

Community Reinvestment has been a powerful success over the decade since its passage because it has, for the first time, given many communities which before were ignored, which before were denied access to credit and financial services, those very financial services and credit. As a result, not only did they get the money but they got something else: They got a feeling of participation and connection to this economy and to this country. That perception, that feeling, is just as important as any of the specific programs funded by CRA.

What we have done in this legislation is protect the fundamental essence of what I think CRA should be about. We have said that if any financial institution wants to partake of these new, enhanced, expanded powers, they must by law have a satisfactory CRA rating. If they do not have a satisfactory CRA rating, they will not be able to take advantage of this legislation.

I believe the dynamics of the financial industry are such that the opportunity to participate in these new powers will be a positive force, ensuring through competition in the marketplace that CRA is not neglected, that CRA is still a strong, vital part of any financial institution. If that is not the case, then we have to be prepared to act once again because we cannot abandon the Community Reinvestment Act. To do so would be to abandon scores and scores of our fellow citizens. We cannot do that. We should not do that.

This legislation with respect to CRA has been improved immensely from the Senate version. As you recall, the original provisions sent forward by Chairman GRAMM had potentially severe effects on CRA. There was a total exemption of small banks from any CRA requirements. That would represent 38 percent of the banks in this country. They would be exempt totally from any recognition of CRA responsibility. That has been eliminated from this conference report.

What we have done is allowed small banks that have satisfactory or better CRA records to have a longer interval between their inspections. But we have also required and provided that the regulators at any time can conduct a CRA inspection if they have reasonable cause to believe the CRA program is not being followed by that financial institution. These are steps which have strengthened CRA, particularly in contrast to the legislation we considered on this floor several months ago.

There is another aspect I believe deserves comment, and that is the issue of functional regulation. I am very pleased that functional regulation has become the order of the day, that the Securities and Exchange Commission will look at securities activities, banking regulators look at banking activities, and the Federal Reserve will have enhanced powers to look at financial holding companies and other major financial institutions. But I believe we have to recognize we are giving these regulatory authorities new powers, some of which are somewhat novel. They have to have the capacity, both institutionally and financially, with resources, to be much more perceptive and much more thorough in their regulatory process— again hearkening back to the point of the huge potential concentration in these financial institutions.

We also understand with respect to this legislation that, in this arena of functional regulation, there might be some potential stalemates.

Mr. President, one of the potential roadblocks or stalemates is that State insurance commissioners still play an extremely important role. In some respects, unless they are fully integrated through this Federal financial regulatory structure, we might in fact have problems. That is another issue that bears close watching.

There is, I believe, something else we should comment upon, and that is the success we have had in allowing the financial services industry to choose the mode of operation which best suits their unique situation for an individual company. What I am specifically referring to is the language with respect to operating subsidiaries. I know my colleague, Senator SHELBY of Alabama, has worked long and hard on this. I, too, have worked long and hard on it. We now have a situation where national banks can choose to operate a certain limited spectrum of activities in a subsidiary or in the holding company. I believe this is sensible. It also gives the Treasury Department a significant role in the regulatory process since they, too, will be able to regulate some of these new activities. That is important also.

One last point I believe bears repeating. We are entering in some respects, a brave new world. The old walls have come down. We have new opportunities; new financial vistas have to be explored. It behooves us to be very watchful, very careful, and to insist on and ensure that the regulators are careful and also that they have the resources to do this job. We will all rue the day, this day, if years from now or months from now we discover that, because of this new flexibility, there are more complicated problems facing us. I think we should go forward but go forward with the notion that we, in fact, are going to regulate well and wisely these new powers we are giving financial institutions.

Let me conclude by saying this has been the work of many hands. I thank Chairman GRAMM for his persistent efforts. Our ranking member, Senator SARBANES, has done a remarkable job leading us carefully, thoroughly, and thoughtfully. Senator DODD has been especially important in this process, bringing us together in moments when we did not think we could come together for final resolution. Senator SCHUMER, my colleague from New York, was very active throughout this process; Senator EDWARDS, and many others—all of the conferees played critical roles. In the other body, Chairman LEACH and ranking member LAFALCE, Chairman DINGELL and Chairman BLILEY, all were very effective.

I reserve special words for two members of the administration with whom I have worked over the last several years: Bob Rubin, the former Secretary, and John Hawke, the former Comptroller of the Currency.

Finally, on my staff, I thank Jonathan Berger and Kevin Davis for their great work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. SARBANES. Will the Senator yield to me for a second?

Mr. GRAMS. I yield.

Mr. SARBANES. Mr. President, before the Senator leaves the floor, I thank the Senator from Rhode Island for his extraordinary contributions throughout the process of developing this conference report. He has made an extremely valuable contribution to a successful result. I am deeply appreciative.

Mr. GRAMS. Mr. President, I rise this afternoon in strong support of this very important legislation that balances the interests of individual consumers with the needs of America's financial services industries.

I know names have been mentioned and accolades have gone out, and very well-deserved, to those who need to be thanked for their hard work. I start the list with Senator PHIL GRAMM who worked very hard over this last year. By the way, it was a year ago today following the elections that we began consideration of getting this bill back on the floor again. Also, of course, I thank the ranking member, Senator SARBANES, who worked very hard as well over these years, and especially over the last 12 months, in crafting this bill and making sure of its success.

I also thank former Treasury Secretary Rubin and the latter contributions by Treasury Secretary Larry Summers. Chairman Greenspan of the Federal Reserve and SEC Chairman Arthur Levitt, of course, were very instrumental in this. I thank our colleagues on the House side, Chairman LEACH and Congressman BLILEY, for their work and efforts.

I could go on. When one does this, they always run the risk of not mentioning somebody. There were so many hands in this.

Alan Brubaker appears on the list to be commended. Alan is on my staff, and I have to compliment him as well on all the hours he has put in on this bill, working very hard staff to staff. Alan has done a tremendous job, and I compliment him on his efforts.

In testimony before the House Banking Committee, then-Secretary of the Treasury, Robert Rubin, testified that the administration estimated enactment of financial modernization legislation will result in annual savings of $15 billion. The important part of this is those savings will end up in the pockets of consumers because in a competitive world, people are going to find the cheapest way in an expanded array of financial services. The consumers, under this bill, are going to be the biggest benefactors—$15 billion in annual savings in financial modernization.

This package of reforms has been under consideration, as we heard, in one form or another for over two decades. I am proud to be a member of the committee and the Senate that has taken the handoff from those who came before us and carried the ball across the goal line. As Senator DODD mentioned, former Senator Alfonse D'Amato should also be recognized for the contributions he made over the years.

This has been a top priority for myself. I served on the Banking Committee in the House for the one term I was there, and the No. 1 priority when I reached the Senate was to be on the Banking Committee. I was never a banker, but I have sat across the table from many bankers. I thought it was very important to add the voice of a small businessman and an individual in banking legislation.

This legislation provides the appropriate regulatory framework for an event already occurring throughout the regulatory fiat, and that is the affiliation between commercial banks, securities firms, and insurance companies.

We protect consumers by establishing a system of functional regulation whereby institutions will be overseen by experts in their areas. In other words, the securities operations will continue to be supervised by security experts, banks by banking experts and, of course, insurance by State insurance commissioners.

In addition to ensuring a level playing field for business through consistent regulation, again, consumers also benefit because the institutions with which they are dealing will be regulated by the experts in those products. Thus, by authorizing properly regulated affiliations between financial companies, we ensure that our financial services companies will be able to compete worldwide and with appropriate regulation at home, they will not be forced to move offshore to remain competitive.

Although the estimated $15 billion in cost savings will certainly benefit our consumers, the provision which most immediately impacts the consumer, of course, is the establishment of a national floor of privacy protections.

A lot of people do not realize that without this bill, we would go back to almost zero, except for the fair credit reporting bills. This brings a tremendous number of new protections in privacy to our consumers. It is a major step forward in that area.

The consensus contained in this bill will now provide consumers with major areas of protection beyond current law. Specifically, the conference agreement, one, ensures consumers will have greater clarity of their financial institution's privacy policies by requiring the institution to disclose those policies on information sharing—to the affiliates and third parties of both current and former customers—at the time the institution establishes a relationship with that customer, as well as reviewing those regulations or those policies each and every year. The consumer will have major privacy protections.

Two, it provides consumers with the ability to take their names off the list, in other words, to opt out if they do not want their personal information shared with a nonaffiliated third party.

Three, it criminalizes the actions of bad actors who use false pretense or, in other words, lie to obtain a consumer's personal financial information.

Four, it preserves all existing and all future State privacy protections above and beyond the national floor established in this bill. It allows the States to set their levels as well.

Five, it authorizes a study to review whether further privacy measures are needed. That is very important because as we complete this bill—nobody has ever written a perfect bill, I do not think, out of Washington, and it is very important to review what we have done and look at what else needs to be done. But this review is going to be very important as well in the area of privacy.

Although the central purpose of the bill is to remove decades-old barriers to the integration of the financial services industry, by recognizing that privacy is both a very important issue to the consumer and a responsibility of the financial institution, the bill puts in place the framework to ensure the consumer is protected and allows the financial industry to expand services and products.

I recognize the debate over privacy has not been concluded with these changes. The enthusiasm these provisions have garnered, as well as the expressions of support Congress has received for recent actions to prevent implementation of the FDIC's ''Know Your Customer'' rule and to restrict the ability of States to sell driver's license information, demonstrates the public's concern over these privacy issues.

I look forward to further debate on these issues following the comprehensive hearings Chairman GRAMM has pledged to hold after we have received the findings of the report called for in this bill. After further study, we will all be better equipped to consider the issue of privacy. In the meantime, I firmly believe we have provided stronger protections for the consumer.

Mr. President, I thank all my colleagues for all their hard work. I strongly urge them to support this conference report.

I thank the Chair and yield the floor.

Mr. BRYAN addressed the Chair.

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

Mr. BRYAN. Mr. President, I believe the record will reflect that the Senator from Nevada, pursuant to a unanimous consent agreement, has 30 minutes to speak. If I am so informed, I would like to yield myself a part of the time at this point.

The PRESIDING OFFICER. That is correct.

Mr. BRYAN. I thank the Presiding Officer.

Mr. President, and my colleagues, when we are talking about the financial institutions and affiliates and nonaffiliates, and international banking transactions, those are concepts which most of my constituents, and I daresay most of the constituents of all of my colleagues, see as having very little relevance to their lives. There are not too many people in the country whose lives are intimately involved, on a day-to-day basis, with affiliate sharing of information or involved in major financial transactions.

Most of us have an insurance policy or two, and increasingly—about 50 percent—American families now have stock ownership in some form or another. Most of us have bank accounts, and that is probably the extent of the average American family in terms of financial information. So I think it may be instructive if I put some context into this debate we are having.

We have experienced, in the decade of the 1990s, an extraordinary rapidity of change, if you will, in the way in which financial services—banking, insurance, and stock securities—are handled in this country.

We have also seen an enormous number of mergers across the board in American business. To some extent, it is almost a sense of deja vu because at the end of the last century, in the 1890s, we saw a tremendous consolidation of industry in the country. Many will recall that was a period of time in which we had vast industrial cartels and trusts. So there was an enormous concentration of wealth and power in some of these large industrial concerns that were just taking shape in the latter part of the 19th century.

In a sense, as the 20th century is coming to a close, that pace has quickened. The critics would say we are experiencing a sense of merger mania or merger frenzy. So many of the major financial institutions in the country are participating in that.

Just a couple of examples: Citibank and Travelers have come together; NationsBank and Bank of America—and I could point out countless hundreds.

What impact does that have on the average citizen in this country? I think it is fair to say, none of us really know.

The advocates for these mergers and consolidations are saying: Look. We will provide new convenience to the American public, we will have one-stop shopping for insurance and banking and securities; that it will be less expensive; that more options will be provided. That may, in fact, be the case. I think none of us know for sure.

The critics raise the specter that this concentration of power, this enormous business combine that is taking place across the whole range of financial services, may not be good for the country; that that kind of concentration of wealth, as we learned a century ago, may be bad for the public. I have not reached a judgment on that.

I was fully prepared to support this legislation because I recognize another reality. Historically, from the 1930s, banking, insurance, and securities were separated in three discrete and separate categories: If you wanted to have a banking transaction, you went to the bank; if you wanted to get insurance coverage, you went to an insurance company; if you wanted to dabble in the stock market or wanted to buy stocks or bonds, you went to a stockbroker.

That is the way most Americans have historically dealt with the financial services industry. That was as a result of legislation enacted after the great financial collapse of the Great Depression to protect against this consolidation of power that many thought was a contributing factor to the collapse of the financial industry in America in 1929. It is called Glass-Steagall. So if that name comes up, that is what that means.

I think that reality and fairness would dictate that the model which regulates those industries as three separate and discrete industries has no longer relevance in America today. Whether it should, whether we wish that was still the case, in point of fact several things have occurred.

Court decisions, decisions by administrative agencies, have, in effect, torn down those walls of separation. Increasingly, we are having a lot of those services, the banking and the insurance and the securities functions, kind of merged together. As a result of that, I think it is fair to say—and the advocates have made this point—the financial regulatory structure that emerged as a consequence of the Great Depression, the Glass-Steagall Act, no longer comports with the reality of the marketplace. That is fair and that is true.

So we need a new regulatory model, a new framework. This legislation has much to commend it. And it provides that regulatory framework. Essentially, we are saying in this legislation: Look, if you are providing an insurance service, you ought to be regulated by the same regulator, whether you are a small independent insurance office in Winnemucca, NV, or whether you are operating in the ionosphere of some of the major Wall Street concerns in the financial center of our country in New York City. That is called functional regulation.

So that is the background.

As I said, I had hoped to be able to support this legislation. I recognize it has been worked on for many years. The reality of this also has to be tempered by another reality, and that is the right of privacy. For more than a century, we have recognized in America the right of privacy. That right of privacy, as we know it today, is threatened and endangered. It is threatened and endangered by some of the marvelous technologies of our time.

Let's talk about financial services for a moment in terms of that technology. It was not too long ago that when you went to a bank, if you were going to make a bank deposit, you saw a teller, and he or she, by hand, posted, entered—there was kind of a carbon sheet—the deposit in the record. If you were applying for insurance, you manually filled out papers; your insurance agent compiled all of this, and he kind of kept a carbon copy. Twenty years ago, when we got into Xerox capability, he had duplication capability. The same thing was essentially true for securities.

What has changed all of that? Some very positive and powerful forces: Computerization. As a result of some software programs, it is possible to gather data and profile it, whether you are a bank depositor, whether you are an individual who is an insurance customer, or whether you are a stock and bond owner and you have your account with a securities firm. Just a stroke of the key now can bring that data up. What does that mean?

It means that if I am a marketer and I want to get a profile of somebody who, say, has an average bank account balance of $50,000, no longer would it be necessary for some poor devil in a green eye shade laboring in some dimly lit corner of some financial company to go through and pull the records manually. Today, a sophisticated software program can simply, with a key stroke, bring up that information. That information is very valuable. It is very comprehensive. Today, most Americans have an enormous amount of their personal financial data, the kind of thing that is very personal—their bank account, what checks they are writing and to whom, what kind of insurance coverages they have, their application indicating any health problems they might have—as part of a database. It is on a computer disk drive. What kind of stocks and bonds they have, what kind of certificates of deposit they may own and when they may come up—that database is there.

I think most of us have this vague concept that when we are dealing with our bank, when we are dealing with our insurance company, when we are dealing with our stockbroker, that stuff is confidential. Isn't it? Isn't that similar to talking with your lawyer about a legal problem or your doctor about a medical problem or even sharing with your local pastor, your rabbi, your minister, your religious advisor? Isn't there a privilege there? It is kind of confidential. Certainly you, as an individual, think it is confidential. You certainly do not have the expectation that that information is going to be shared. If that was your expectation, I regret to tell you that you are wrong because today that information, even without this legislation—and I will talk about that—is freely exchanged.

It is big money. It is big money in the sense that individuals who share that information—financial companies—share that information because they make substantial amounts of money as a result of that.

Let me give an indication in terms of what the U.S. Comptroller of the Currency has said: Most large national banks—this is without this legislation—sell customer account information to marketing companies. Those are the lovely people who call you at home during the dinner hour frequently or who inundate your mailbox with some type of solicitation.

The U.S. Comptroller of the Currency says: Most large national banks sell customer account information to marketing companies, and the banks typically get 20 percent to 25 percent of the revenue generated by marketers. Some banks have generated millions of dollars in revenue by providing third parties with information on millions of customers, including name and address, Social Security number, credit card numbers—all of this according to a Ms. Julie Williams, chief counsel to the U.S. Comptroller of the Currency.

This enormous amount of financial information that is collected, which you give your bank, your insurance company, your security broker, is now being freely shared. It is valuable, and it is worth millions of dollars. That is the current law.

What about this piece of legislation makes the privacy concerns even more heightened? The advocates of this bill will say there are no privacy restrictions now, and that is largely true. Banks, insurance companies, security houses are free to share this information. So they say: Look, we have some privacy provisions in there. We are taking some important protections.

I will comment on that in a moment. But this bill tears down those walls of separation between banking, between insurance, and between securities functions, and it kind of merges them altogether.

The advocates will say that is going to make it convenient for everyone. What it means is that a bank will now be able to own an affiliate, a sister company, an insurance company, and so that information from the bank and its sister affiliate, an insurance company or a security company, can now be freely exchanged.

We are talking about the large brokerage houses in America. We are talking about the largest insurance companies in America. We are talking about the largest banks in America. In effect, that information the banks were selling and making substantial amounts of money on, as was pointed out by the Comptroller of the Currency that they were selling to marketers, now, as a result of this legislation, which will encourage the formation of these affiliate or sister banking, sister insurance, sister securities relationships, will expand exponentially. No question about that—cross-marketing, that is part of the intent. That is what drives this.

There are some realities of the marketplace we all acknowledge. So that information that is in your bank account now can move to an insurance company affiliate, can move to a securities affiliate, and the converse of that is true; it can move in the other direction. You have a stock account; that information can be shared with an affiliate that is an insurance company or a bank.

So this information that you would think—and I thought, until I became a member of this committee and became more familiar with the laws dealing with financial companies—is confidential is now going to be widely shared. And there are big dollars in this. That is why the privacy concerns are heightened, that more of this information is going to be shared with more people, the most personal and private kind of stuff in your financial history, your health record, as reflected by any information on your bank account.

Now, what is happening currently before this new law? Let us talk about a couple of examples I think will prove to be particularly egregious. This is the kind of abuse that occurs.

In one case, a 90-year-old woman who had been a customer of a bank for more than 50 years—that would be a trusted relationship; I cannot imagine this woman would believe this information would be shared with others, but it was—was billed by a telemarketer for a computer product. She didn't even own a computer. Before she died, it took her 11 months to get the telemarketer to remove the charges from her credit card account. Information which the bank had shared, her bank, a relationship of 50 years, one would have to think there was a trust relationship that the depositor had with that bank, but this information was shared.

Let me point out, as has occurred during the course of our discussion, a situation with respect to the San Fernando Valley Bank. They sold a convicted felon 90 percent of the credit card numbers that the convicted felon used to run up $45.7 million in bogus charges against those customers. The bank sold that information to a telemarketer.

That is what is occurring now, today, without this exponential expansion of the sharing of information. Let me talk about U.S. Bank. U.S. Bank was involved in sharing some information, as well. That, too, posed some major concerns because this information was being sold to a telemarketer that offered such things as travel and health care products. The bank received nearly $4 million in commissions for selling this information to nearly a million customers. These things are occurring.

Here is a typical example of what this reflects. This is a deposit record. It appears that the last deposit was $109,451. What we know is that the lady who made this deposit, perhaps in an off-guarded moment of candor, shares with the teller—she is banking the old-fashioned way, sharing with the teller—that she is not really sure what to do with this money. One can assume that this money was recently acquired, through an inheritance or some change of circumstance in her life, and she had a good bit of money that came in, this $109,000. She shares this information with the teller. The teller writes on the bottom: ''She came in today and wasn't sure what she could do with her money.'' Look up here. It says ''David.'' He is one of these affiliates who is involved with a securities company. It says: ''David, see what you can do. Thank you, teller 12''—whoever teller 12 is. That information is then being shared with a securities company, and, undoubtedly, this lady received a call. She has absolutely no idea that anybody other than perhaps the closest members of her family know she has just come into some money and deposited $109,000. That is the kind of stuff that is occurring now.

The point I am trying to make is that if those abuses are occurring now—and that is only the tip of the iceberg—imagine what is going to be happening with all of these fire walls having been taken down and the affiliates sharing information.

There is one thing I did not make clear. I did point out that banks will be able to assist their affiliate that is an insurance or securities company, but these affiliates also own other companies, commercial firms that may sell a whole range of products, such as sporting goods, travel packages, vacation homes, you name it. So that is part of their business currently. With the affiliation sharing, all of that information moves downstream within the sister affiliate, which is a major concern in terms of these marketing efforts.

Now, let's talk about what the bill purports to do. I inquire, how much time I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. BRYAN. OK. We will try to do this quickly.

Let's talk about the expectation of what people think in terms of their privacy. I think this is an interesting number. The Wall Street Journal did a poll on what our expectations are and what we fear will happen most. Which one or two concerns are you most concerned about in the next century? Loss of personal privacy, 29 percent. This is not done by some do-gooder, ultraliberal social think tank; this is done by the Wall Street Journal, which is the voice of American business. And 29 percent fear loss of personal privacy.

When you ask people, ''Would you mind if a company you did business with sold information about you to another company?'' 92 percent say yes. Yes, they mind. The American people care very much about that. They may not know the difference between an op-sub and an affiliate, or what a unitary thrift is, what a ''whoopie'' is. Those are all terms we have debated here. But they sure know what privacy is about.

''In the future, insurance companies and investment firms may be able to merge into a single company. If they do, would you support or oppose these newly merged companies internally sharing information?'' That is what this bill permits.

Eighty-one percent say no.

Here are some headlines across America: ''Banks Sell Your Secrets,'' USA Today. Los Angeles Times: ''Privacy? Don't bank on it.'' Los Angeles Times: ''Your Privacy Could Be a Thing of the Past.''

Let's talk about the bill because the bill provides minimal protection. First of all, it tells you the banks are required to post a policy of what their privacy policy is. Here is an existing web page with an existing bank in the country today:

> Question 4: If I request to be excluded from affiliate sharing of information, what information about me and my products and services with you will and will not be shared within your affiliated family of banks and companies?

That is the question. Here is the answer:

> Answer 4: Even if you request to be excluded from affiliate sharing of information, we will share this other information about you and your products and services with each other to the extent permitted by law.

This web page would be perfectly appropriate and legal under the new law. All that is required is a posting of the policy. Now, if anybody in America thinks that is an adequate protection for your privacy, I would like to talk about a little piece of property I have in New York called the Brooklyn Bridge, and we would like to talk about you buying it from me. Utterly absurd. That is what is happening.

Now, there is absolutely no provision—none, zippo, nada, zero, nothing—that prevents the sharing of information from affiliate to affiliate. No privacy at all. That is freely exchanged; it is freely exchanged.

With respect to the third party, the nonaffiliate, we are told, yes, there is an opt-out provision; that is, you can let people know you want that not to be done. OK, that sounds fine, except there are two major, glaring exceptions. Those are marketing agreements and joint marketing in which those provisions simply do not apply. So if the third party itself has a company that is involved in telemarketing, there is absolutely no prohibition against that information being shared. So in point of fact—and the USA Today, I think, has made a very telling commentary on that by pointing out that these provisions simply provide very little. I quote the October 28 edition:

> A consumer's right to opt out of data-swapping arrangements is severely restricted. Consumers would not, for instance, be able to stop banks from sharing information with third parties that market a bank's own products; nor could we block data-sharing deals that involve products sold under joint agreements.

Further, it goes on to point out there is no protection against banks sharing information with financial or insurance companies they own. In fact, since the law would encourage such cross-ownership, a consumer's chance of stopping widespread information sharing likely would be minimal.

I simply say for colleagues interested in privacy, receive no comfort, my friends—none—that these very transparent and illusory privacy provisions really provide much at all. They provide virtually nothing, no protection at all with respect to affiliate sharing.

I think the protection with respect to a transfer to a third party with those two gaping loopholes—gaping—any attorney who has taken a single course in any kind of securities would easily be able to craft a loophole for his client that would make that activity perfectly permissible.

The bottom line of all of this is that those of us on the committee who offered an amendment which would have simply said, look, you have to provide every customer with the right to opt out; that is, to be notified that: Look, you have a right to opt out if you don't want this to occur, we are told, no, that would destroy the dynamics, the synergy of the marketplace; it could not happen.

Let me tell you, these very American companies—and they are premier companies and wonderful companies and successful, and as Americans we are vicariously proud of them—do business in Europe. But in doing business in Europe, the European Union requires the opt-out provision. And the same companies that say American citizens should not have that privacy, that it would destroy their opportunities in the market and the synergies of the marketplace to provide those same protections that those of us in committee sought to add to the European counterparts—you will recall the U.S. bank situation. The attorney general of Minnesota took them to task. Guess what. As part of a settlement agreement that they entered into, they agreed as part of that settlement agreement to do what? To inform customers of the bank's privacy policy and to provide notice of customers' rights to opt out of the sharing of information with bank affiliates.

Think about that. U.S. banks as part of a settlement said they could do it and it would not compromise their ability to take advantage of the dynamics and the synergies of the marketplace. The largest and most successful financial companies in America that do business daily in Europe have agreed to be bound by those provisions, but they will not be bound by the provisions in this country.

So Americans have a very much depreciated right of privacy compared to their counterparts in Europe. I would simply say, Why? Why? I don't know what the answer is.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BRYAN. Will the Senator yield to me an additional 5 minutes?

Mr. SHELBY. Mr. President, I yield to the Senator from Nevada an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I will wind this up because the Senator from Alabama has shared this fight with the Senator from Nevada in committee and in conference. I thank him for his leadership and his support.

The point I was trying to make is this is not an unreasonable request. If one of the largest banks in America, as part of a settlement with the attorney general of Minnesota, can agree to the opt-out provisions which a number of us on the committee sought to add, every bank can live with those provisions.

If the major banks in America that do business in Europe every day of the week can live with those provisions, I think we have to ask ourselves why would these companies not be prepared to provide the same kinds of privacy protections that either they have agreed to in a consent decree when they have been taken to court by the attorney general—in this case the attorney general of Minnesota—not be willing to provide the same kinds of protections provided to Europeans to people in America?

There was some debate in the committee. ''We don't want to impose upon the American economy the European model.'' No; I don't either. None of us did. The question is not do we want to impose the European model. The question that has to be framed is, why should Americans be entitled to less protection as to their right to privacy from the same company that is doing business in Europe and providing those protections to their European customers?

I must say that it was because of these overarching concerns—we have seen the examples; I believe they are simply the iceberg of examples today—the potential for abuse in terms of violating your fundamental right of privacy and the most sensitive information about your personal life will be widely shared and disseminated. I think if you look at it very carefully, there is no protection at all in the affiliate area—none. A sister company can freely exchange that information with banks, insurance, stock brokerages, and the companies which those affiliates own.

With respect to third parties, the so-called nonaffiliate, if you look at those marketing and joint agreement exceptions, I have to tell you there is not much there. What you get, in fact, is the whole of the doughnut. That is not much protection.

My able colleague from Alabama and I and others, the distinguished ranking member of the committee, fought the good fight for this in the committee. We just believe those protections are inadequate.

I thank my colleague for yielding me the time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Fifty-five minutes.

Mr. SHELBY. I yield as much time as I shall consume.

Mr. President, I rise to voice my stringent objection to the conference report of the financial services modernization bill. While I believe we need to modernize the laws that govern this country's financial system, I do not believe we should do so at any price.

My colleagues in the Senate should know this legislation comes with a very high price to the American people. In my judgment, the price is simply too high. Let me explain.

First of all, I want to say that there are some very good things in this bill, not the least of which is the repeal of two sections of the Depression-era Glass-Steagall Act which allow banks, securities firms, and insurance companies to affiliate. Congress has worked on this for many years.

Under Senator GRAMM's leadership as chairman of our Committee on Banking, this much-needed change will soon become reality. I think that is very positive in this bill.

That being said, I think it should be perfectly clear that there remains Depression-era laws on the books, and I hope Chairman GRAMM would be interested in working with others on the Banking Committee to repeal those laws as well.

In particular, I am referring to the 1930s price control on business checking accounts. To the extent that we are modernizing this country's financial laws, one would think we would eliminate this price control and allow small businesses across this country to receive interest on their checking accounts and enjoy the full benefits of financial modernization.

Let me talk just a few minutes on CRA expansion.

I also feel compelled to set the record straight on the floor this afternoon on the Community Reinvestment Act provisions in this bill. Make no mistake about it. This bill expands—yes, Mr. President, expands—the Community Reinvestment Act. I know a great deal about this because I, along with Senator GRAMM, killed this very bill last year because we were both opposed to the dramatic expansion of CRA in the bill at that time.

I don't understand what is different this year. I don't understand why no one is willing to stand up and oppose the expansion of CRA when it is very clear that this bill does, indeed, expand CRA. Why else would the administration support the bill? Why else would Rev. Jesse Jackson support the bill? We all know why. The bill expands CRA.

On page 15 of the bill, my colleagues will see a provision entitled ''CRA Requirement.'' This provision says that ''the appropriate Federal banking agency shall prohibit a financial holding company, or any insured depository institution from'' commencing any new activity or directly or indirectly acquiring control of a company engaged in any new activity, if the institution has a less than satisfactory CRA record on its most recent exam.

That is a very crucial ''maintenance'' requirement, as we call it in this bill.

Last year, the legislation gave the regulators the discretion to impose restrictions for falling out of compliance with CRA. This year, we have inserted a statutory prohibition of conducting new activities.

If the institution that was CRA-compliant when elected to become a financial holding company then chooses to engage in a new activity, the regulator could then use the enforcement authority in section 8 of the Federal Deposit Insurance Act to impose civil money penalties on bank directors and officers. I am opposed to the maintenance requirement today just as much as I was opposed to the maintenance requirement last year. My position has not changed.

This expansion does not exist in current law today. If you have a certain bank charter, you can conduct all activities permissible to that charter whether you have a CRA-satisfactory record or not.

I believe we are making a grave mistake by expanding CRA. I am extremely disappointed because I know we have reached the point of no return. As conservatives, we will have no legs to stand on if and when we try to revisit this issue. My friends, we are, indeed, paying a very high price for this legislation.

Privacy is very important to all Americans. I pose a question to my colleagues: Does anyone know what issue brings together the American Civil Liberties Union, Consumers Union, and Ralph Nader of Public Citizen to Phyllis Schlafly of Eagle Forum and the Free Congress Foundation? It is the bill before the Senate, the financial privacy provisions. All of these groups have formed an unprecedented coalition to oppose this bill simply based on the lack of privacy protections. That is the price the American people are going to pay—their privacy—if we pass this bill for only a few large financial conglomerates.

In an article entitled ''Banks Sell Your Secrets,'' USA Today reported:

> Consumers across the USA have been shocked and upset to learn banks have been selling their private financial data, from account balances to Social Security numbers.

Phyllis Schlafly of the Eagle Forum is quoted:

> The checks you write and receive, the invoices you pay and the investments you make reveal as much about you as a personal diary, but instead of banks keeping your information under lock and key, it is being collected, repackaged and sold.

In September of this year, the Los Angeles Times reported that Charter Pacific Bank of San Fernando Valley, CA, sold 3.7 million credit card numbers to a felon who then allegedly ran up over $45 million worth of charges to the cardholders. It appears the felon also billed customers for access to X-rated web sites the customers never knew about. How do these people explain that to their families, their neighbors, or their church members?

The USA Today also ran an article on October 28, 1999, entitled ''Congress Passes Up Chance to Protect Your Financial Privacy.'' Reporting on this specific bill before the Senate today, the article read:

Technology already has made it far easier for disparate firms to collect, share and sell warehouses of sensitive data on individuals. And the banking bill would encourage banks, insurance companies, and investment firms to link arms, making data swapping from a wide range of sources much easier.

That, my friends, is the point. We are about to pass this afternoon a financial modernization bill that represents industry interests in a big way. However, we have forgotten the interests of the most crucial market participant of all in America—the consumer, the American citizen. Under this bill, the consumer has little, if any, ability to protect the transfer of his or her personal nonpublic financial information. Indeed, the so-called privacy protections in this bill are a far cry from the protection we give taxpayers on their tax returns. It is against the law for an unauthorized inspection or disclosure of an individual's tax return. Violation of this law is punishable by fines, imprisonment, or both. The Internal Revenue Code even prescribes civil damages for the unauthorized inspection or disclosure and the notification to the taxpayer if an unauthorized inspection or disclosure has occurred.

I can assure Members these large financial conglomerates will have more information on citizens than the IRS, but we have done virtually nothing to protect the sharing of such nonpublic personal financial information for the American people.

Proponents of financial modernization will say the bill includes the strongest privacy provisions ever enacted by Congress. While that sounds great, the reality is the provisions are porous and do not provide the consumer with sufficient information to make an informed decision or the true ability to opt out of information sharing.

First, the opt-out requirement does not apply to affiliate sharing. This is significant because the bill allows financial holding companies to affiliate with entities engaged in activities that are ''complementary,'' to financial activities, as well as grandfather commercial companies and those acquired from merchant banking.

As a result, the holding company can share a wealth of nonpublic personal financial information with affiliated telemarketers selling nonfinancial products such as travel services, dental plans, and so forth. Should an insurance company be allowed to affiliate with a grocery store chain in order to track an individual's diet? Nothing in this bill prohibits this relationship or sharing of that information.

Second, the bill includes an exception to the porous opt-out provision that allows two or more financial institutions to share their customers' nonpublic personal information with telemarketers to market financial products or services offered under a so-called joint agreement.

While the financial institution must notify its customers about the sharing of that information, it does not have to provide customers with the ability to opt out of such information sharing. Furthermore, under the joint agreement provision, the nonaffiliated third party could then share the nonpublic personal information with its own affiliate. As a result, the opt-out provision provides no privacy protection at all.

For example, a financial institution could endorse a for-profit investment tip sheet service or stock day trading service targeting senior citizens. The financial institution could share confidential information with that tip sheet service or day trading service without affording the customer the right to opt out of it. To be more specific, the institution can give the tip sheet or day trading service a list of wealthy senior citizens or, in the case of an insurance company, a list of recent widows or widowers who recently received a large insurance payment. Is this really what the Senate wants to encourage and endorse? I hope not.

The bill also allegedly includes an all-out prohibition against the sharing of customer account number information for marketing purposes. What about sharing account numbers for the purposes of verifying customers' credit card accounts? The bill allows that. It is a way to get around it. Charter Pacific Bank in California claims they sell customer data files to merchants for data verification purposes, not marketing purposes. Therefore, the privacy provisions in the bill allow Charter Pacific to sell the customer account information to anyone, much less a felon, all over again.

As if that were not enough, all of a sudden new language has appeared in the conference report telling the regulators to allow for the transfer of personal account numbers to nonaffiliated third party telemarketers if the information is encrypted. Nothing in this bill says financial institutions are prohibited from giving the third party the key to unlock the encrypted information. In fact, that is common practice. This exception completely eviscerates the prohibition of third party telemarketers in the bill. This means U.S. Bancorp in Minnesota could sell the account numbers to MemberWorks all over again. This bill would not prevent it.

I believe these privacy provisions are a sham. I have said it before. They are a joke on the American people, and I will not sit by and be a party to this. When the American people, and they will, become aware of what Congress has done, it will be too late. This bill lets the genie out of the bottle. I am sure, as soon as this bill passes, if not before, a lot of people will be running for cover and introducing privacy bills. I bet President Clinton will set up a Presidential commission or something such as that, or a study group, to study the issue. That sounds nice. Too bad the President is not willing to make financial privacy a priority when it really matters, right here and right now, when we are giving financial institutions the unprecedented ability to collect, profile, share, and sell personal nonpublic financial information.

Critics claim that requiring a consumer to provide his affirmative consent before sharing information would be a hindrance to the free flow of information and basically unworkable. If this is the case, why did Citibank agree to an opt-in requirement for nonaffiliated third parties to do business in Germany? You heard me right. The biggest and most vocal proponent of this bill signed an agreement with its German affiliates in 1995 that basically required Citibank to obtain consent on the application form before they could share personal data to third parties. Citibank agreed to give Germans more privacy protections than we are giving our own citizens in the United States today.

Does that bother anybody else in this Chamber besides me? It should. I think this is a tragedy. I think it is absurd. The banking industry has told us they would oppose this bill if we simply give the consumer the ability to object to the sharing of nonpublic personal information. First of all, I think it is hypocritical of them to threaten us with that position, seeing as how Citigroup voluntarily agreed to provide consumers the ability to opt out in Germany.

Second, I believe Congress should not be dictated to by the financial industry or any other industry as to what provisions we put in on behalf of the American consumer. They should not write laws, ever. But Congress should.

I have heard many Members talk about empowerment and how we must empower the individual. We spend a lot of time discussing empowerment zones. Why are we ignoring the empowerment principle on this piece of legislation? Why is Congress going to take a walk on this issue? Why is Congress not going to stand up for the American people and assure them the ability to stop a financial institution from profiling individuals based on their most personal behavioral patterns and then selling that information at will? The American people clearly believe this is too high a price to pay for this bill. If we are going to allow the huge financial conglomerates to affiliate to provide services—and we are—why must we also give them the ability to sell, profit, and exploit an individual's personal nonpublic profile?

This is not a partisan issue. It does not matter if you are a Democrat or Republican, conservative, liberal, rich or poor. An individual's financial matters are very private to that individual. Families will not discuss how much money other family members make at the dinner table. It is too private. It is too sensitive. They do not talk about it because they do not want to talk about it and they are in control of what information they share, even with their loved ones.

The bitter irony is that while the individual is practicing discretion in America, Congress is belligerently aiding and abetting complete strangers in accessing an individual's most private financial matters, including account balances, where they shop, and what they buy. We are aiding and abetting the felon in California who bought a list of account numbers and charged up to $45 million. We are aiding and abetting third party marketers such as MemberWorks, who bought a list from a bank and then automatically billed individuals' accounts.

I have said it before and I will say it again here, we are paying a very high price, a very dear price for this bill. The American people are paying a very dear price for this bill, and they will continue to pay it. It is very difficult for me this afternoon to celebrate this landmark achievement of financial modernization when I know we did so at the expense of every American.

I know this bill will pass with a lot of votes, but I urge my colleagues to vote against this bill mainly because of the lack of privacy provisions. Ask your mother, your father, your husband, or your wife about this. They will all tell you that one-stop shopping is not worth giving up their financial privacy. The price is too high—too high.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The Senate is considering S. 900 under controlled time.

Mr. LEAHY. How much time is remaining for the proponents of the conference report?

The PRESIDING OFFICER. Senator GRAMM has 28 minutes; Senator SARBANES, 23 minutes; Senator SHELBY, 44 minutes; and Senator DORGAN, 19 minutes.

Mr. SARBANES. Mr. President, I yield the Senator 5 minutes off the time.

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

Mr. LEAHY. Mr. President, I rise today to speak in support of the Conference Report on S. 900, the Financial Modernization Act of 1999. As we prepare to enter the 21st century, it is critical that our laws governing financial services reflect the reality of the current marketplace and establish a sound legal framework that will carry us well into the new millennium.

This legislation will repeal the Glass-Steagall Act, a Depression-era law that separates the banking, securities, and insurance industries. The Glass-Steagall Act was originally adopted in 1933 to stave off another Great Depression.

While it clearly served its purpose back then, the law regulating our financial service industries is now sorely out of date.

The face of financial services has changed dramatically in recent years. We are already witnessing a marketplace at work that is producing new services offered by financial institutions of all shapes and sizes. But under current law, the financial firms are often forced to work around existing prohibitions on the coupling of different services, often incurring unnecessary costs to the ultimate detriment of the consumer.

Modernizing current law will make the financial services industry more competitive, both at home and abroad. This legislation will make it easier for banking, securities, and insurance firms to consolidate their services, allowing them to cut expenses and offer more products at a lower cost to businesses and consumers.

The Treasury Department has estimated that increased competition in the securities, banking, and insurance industry could save consumers as much as $15 billion annually.

I want to praise the Clinton Administration and the Senate and House conferees for reaching a fair and equitable compromise regarding the application the Community Reinvestment Act (CRA). Since the enactment of the CRA in 1977, financial institutions have committed more than one trillion dollars to low and moderate income communities.

The continued strength of the CRA means that hundreds of billions of dollars worth of new home mortgage and small business loans will be made in low- and moderate-income urban and rural communities in the next century.

The compromise contained in the conference report prevents a bank from moving into a new line of business if it does not have a satisfactory lending record under the CRA, while limiting the frequency of reviews under the CRA for small banks with a satisfactory or excellent record.

I am pleased to report that in my home state of Vermont, no banks, large or small, have received less than a satisfactory CRA rating. It is my hope that this legislation will encourage banks in other states to improve their community lending records. Enforcement of the CRA is a win-win situation for banks and neighborhoods across the country.

In addition, this legislation allows states to continue to regulate insurance sales by banks and other new financial entities, keeping this authority where it properly belongs. The Vermont Department of Banking, Insurance and Securities has strongly supported its continued oversight of insurance sales by banks and other financial firms in my home state because of the agency's experience and expertise, and I agree.

I am also pleased that the conferees did not include the medical privacy language included in the House-passed bill in the conference report. Senators KENNEDY and JEFFORDS joined me in sending a letter on July 20 to the Chairman of the Senate Banking Committee requesting that this section be struck in conference.

This language had been inserted in the House bill under the guise of providing medical privacy protections, but it would do no such thing. The language actually would have created a laundry list of lawful uses of personally identifiable health information without any consent by the patient.

Moreover, the House-passed language would have wiped out the August deadline for Congressional action included in the Health Insurance Portability and Accountability Act of 1996. I strongly opposed this wrongheaded approach.

I still have significant concerns about how this bill may negatively impact the privacy of individuals medical records. However, I believe the recent steps by the Clinton Administration to establish federal regulations governing some medical records of Americans is an important step forward.

And I will reaffirm something I have said over, and over again—this Congress must act on its own and pass a comprehensive federal law that will govern all medical records and all those who could have access to them.

Mr. President, I must also express my deep disappointment with conference report's financial privacy provisions. Congress has missed an historic opportunity to provide fundamental privacy of every American's personal financial information.

Our right of privacy has become one of the most vulnerable rights in the Information Age. We must master new threats to our individual privacy and security, and in particular, to our ability to control the terms under which our personal information is acquired, disclosed and used.

But this conference report fails to give consumers the control over their personal financial information that every American deserves.

After this conference report becomes law, new conglomerates in the financial services industry will begin offering a widening variety of services, each of which requires a customer to provide financial, medical or other personal information. But nothing in the new law will prevent these new subsidiaries or affiliates of financial conglomerates from sharing this information for uses beyond those the customer thought he or she was providing it for.

For example, the conference report has no consumer consent requirements for these new financial subsidiaries or affiliates to sell, share, or publish savings account balances, certificates of deposit maturity dates and balances, stock and mutual fund purchases and sales, life insurance payouts or health insurance claims. That is wrong.

I am an enthusiast when it comes to the Internet and our burgeoning information technologies. These are exciting times, and the digitalization of information and the explosion in the growth of computing and electronic networking offer tremendous potential benefits to the way Americans live, work, conduct commerce, and interact with their government. But we must make sure that information technology remains our servant, instead of becoming our master.

Tuesday, I spoke with Treasury Secretary Summers about the need for additional legislation to provide real financial privacy safeguards. In the next session of the 106th Congress, I look forward to working with him and Senator SHELBY, Senator BRYAN, Senator SARBANES and others on the Senate Banking Committee to enact comprehensive legislation to update our laws to provide fundamental privacy protections of the personal financial information of all Americans.

The need for financial privacy protection will not go away, and Congress should address it without further delay.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, Senator DORGAN is here to speak, and I will yield the floor to allow him to speak, but I want to make it clear to anyone who has time that we are fast reaching the magic moment where we are going to conclude the debate and vote. It is only fair that Senator SARBANES and I as managers of the bill be allowed to speak last. I ask unanimous consent that we may hold our time until the end.

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

Mr. DORGAN. Mr. President, I come to the floor in a circumstance where I will not support the legislation that is before the Senate today. Before I describe the reasons for that, let me say I certainly admire the craftsmanship and the legislative skills of the Senator from Texas and the Senator from Maryland, the Senator from Connecticut, and so many others who have played a role in bringing this legislation to the floor. Frankly, I did not think they were going to get it done, but they did.

In the final hours of the Congress, they bring a piece of legislation to the floor—it is called financial services modernization. I know they feel passionately and strongly it is the right thing to do. For other reasons, I feel very strongly it is the wrong thing to do. I do not come to denigrate their work. We have a philosophical disagreement about this legislation, and I want to describe why.

This legislation repeals some of the major provisions of the Glass-Steagall Act named after Senator Carter Glass from Virginia, and Henry Steagall, a Congressman from Alabama, the primary authors. It will allow banks and security underwriters to affiliate with one another. It also repeals similar provisions in other banking laws to allow banks and insurance firms to marry up. It will permit many new kinds of financial services to be conducted within a financial holding company or a national bank subsidiary.

I want to describe why I think in many ways this effort is some legislative version of back to the future. I believe when this legislation is enacted—and it is expected it will be—we will see immediately even a greater level of concentration and merger activity in the financial services industries.

When there is this aggressive move toward even greater concentration—and the concentration we have seen recently ought to be alarming to all of us—but when this increased concentration occurs, we ought to ask the question: Will this be good for the consumer, or will it hurt the consumer? We know it will probably be good for those who are combining and merging. They do that because it is in their interest. But will it be in the public's interest? Will the consumer be better served by larger and larger companies? Bank mergers, in fact, last year held the top spot in the value of all mergers: More than $250 billion in bank mergers deals last year. That is $250 billion out of $1.6 trillion in merger deals. Of the banks in this country, 10 companies hold about 30 percent of all domestic deposits and are expected to hold more than 40 percent of all domestic assets should the pending bank mergers that now exist be approved.

After news that there was a compromise on this financial services modernization bill in the late hours, a compromise that there was going to be a bill passed by Congress, I noted the stock values of likely takeover targets jumped in some cases by more than $7 a share. That ought to tell us what is on the horizon.

Clearly this legislation is not concerned about the rapid rate of consolidation in our financial services industries. The conference report that is before us dropped even a minimal House bill provision that would have required an annual General Accounting Office report to Congress on market concentration in financial services over the next 5 years. Even that minimal step that was in the House bill was dropped in this conference report.

What does it mean if we have all this concentration and merger activity? The bigger they are, the less likely this Government can allow them to fail. That is why we have a doctrine in this country with some of our larger banks—and that ''some'' is a growing list—of something called ''too big to fail.'' A few years ago, we had only 11 banks in America that were considered by our regulators so big they would not be allowed to fail. Their failure would be catastrophic to our economy and so, therefore, they cannot fail.

The list of too big to fail banks has grown actually. Now it is 21 banks. There are 21 banks that are now too big to fail in this country.

We are also told by the Federal Reserve Board that the largest megabanks in this country, so-called LCBOs, the large complex banking organizations, need customized supervision because their complexity and size have reached a scale and diversity that would threaten the stability of financial markets around the world in the event of failure.

Let me read something from the Federal Reserve Bank president from Richmond. This is a Fed regional bank president saying this:

> Here's the risk: when a bank's balance sheet has been weakened by financial losses, the safety net creates adverse incentives that economists usually refer to as a ''moral hazard.'' Since the bank is insured, its depositors will not necessarily rush to withdraw deposits even if knowledge of the bank's problems begin to spread.

Because the bank is too big to fail.

> In these circumstances, the bank has an incentive to pursue relatively risky loans and investments in hope that higher returns will strengthen its balance sheets and ease the difficulty. If the gamble fails, the insurance fund and ultimately taxpayers are left to absorb the losses. I am sure you remember that not very long ago, the S&L bailout bilked taxpayers for well over $100 billion.

Again, quoting the president of the Richmond Federal Reserve Bank:

> The point I want to make in the context of bank mergers is that the failure of a large, merged banking organization could be very costly to resolve. Additionally, the existence of such organizations could exacerbate the so-called too-big-to-fail problem and the risks it prevents. Consequently, I believe the current merger wave has intensified the need for a fresh review of the safety net—specifically the breadth of the deposit insurance coverage—with an eye towards reform.

This bill addresses a lot of issues. But it does nothing, for example, to deal with megabanks engaged in risky derivatives trading. I do not know if many know it, but we have something like $33 trillion in value of derivatives held by U.S. commercial banks in this country.

Federally-insured banks in this country are trading in derivatives out of their own proprietary accounts. You could just as well put a roulette wheel in the bank lobby. That is what it is. I offered amendments on the floor of the Senate when this bill was originally here to stop bank speculation in derivatives in their own proprietary accounts and also to take a look at some sensible regulation of risky hedge funds, but those amendments were rejected. You think there is not risk here? There is dramatic risk, and it is increasing. This piece of legislation acts as if it does not exist. It ignores it.

A philosopher and author once said: Those who cannot remember the past are condemned to repeat it. We have a piece of legislation on the floor today that I hope very much, for the sake of not only those who vote for it and believe in it but for the American people who will eventually have to pick up the pieces—I hope this works.

Fusing together of the idea of banking, which requires not just safety and soundness to be successful but the perception of safety and soundness, with other inherently risky speculative activity is, in my judgment, unwise.

I do not usually quote William Safire. I guess I have done it a couple times on the floor of the Senate. I suppose we all look for things that are comforting to our point of view. But William Safire wrote a piece 3 days ago in the New York Times:

> Americans are unaware that Congress and the President have just agreed to put us all at extraordinary financial and personal risk.

Then he talks about the risk. The risk of allowing the coupling of inherently risky enterprises with our banking system, that requires the perception of safety and soundness, I personally think is unwise. I do not denigrate those who believe otherwise. There is room for disagreement. I may be dead wrong.

It may be that I am hopelessly old-fashioned. But I just do not think we should ignore the lessons learned in the 1930s, when we had this galloping behavior by people who believed nothing was ever going to go wrong and you could do banking and securities and all this together—just kind of put it in a tossed salad; it would be just fine—and then we saw, of course, massive failures across this country. And people understood that we did something wrong here: We allowed the financial institutions, and especially banks in this country, to be involved in circumstances that were inherently risky. It was a dumb thing to do.

The result was, we created barriers saying: Let's not let that happen again. Let's never let that happen again. And those barriers are now being torn down with a bill called financial services modernization.

I remember a couple of circumstances that existed more recently. I was not around during the bank failures of the 1930s. I was not around for the debate that persuaded a Congress to enact Glass-Steagall and a range of other protections. But I was here when, in the early 1980s, it was decided that we should expand the opportunities for savings and loans to do certain things. And they began to broker deposits and they took off. They would take a sleepy little savings and loan in some town, and they would take off like a Roman candle. Pretty soon they would have a multibillion-dollar organization, and they would decide they would use that organization to park junk bonds in. We had a savings and loan out in California that had over 50 percent of its assets in risky junk bonds.

Let me describe the ultimate perversion, the hood ornament on stupidity. The U.S. Government owned nonperforming junk bonds in the Taj Mahal Casino. Let me say that again. The U.S. Government ended up owning nonperforming junk bonds in the Taj Mahal Casino in Atlantic City. How did that happen? The savings and loans were able to buy junk bonds. The savings and loans went belly up. The junk bonds were not performing. And the U.S. Government ended up with those junk bonds.

Was that a perversion? Of course it was. But it is an example of what has happened when we decide, under a term called modernization, to forget the lessons of the past, to forget there are certain things that are inherently risky, and they ought not be fused or merged with the enterprise of banking that requires the perception and, of course, the reality—but especially the perception—of safety and soundness.

Last year, we had a failure of a firm called LTCM, Long-Term Capital Management. It was an organization run by some of the smartest people in the world, I guess, in the area of finance. They had Nobel laureates helping run this place. They had some of the smartest people on Wall Street. They put together a lot of money. They had this hedge fund, unregulated hedge fund. They had invested more than $1 trillion in derivatives in this fund—more than $1 trillion in derivatives value.

Then, with all of the smartest folks around, and all this money, and an enormous amount of leverage, when it looked as if this firm was going to go belly up, just flat out broke, guess what happened. On a Sunday, Mr. Greenspan and the Federal Reserve Board decided to convene a meeting of corresponding banks and others who had an interest in this, saying: You have to save Long-Term Capital Management. You have to save this hedge firm. If you don't, there will be catastrophic results in the economy. The hit will be too big.

You have this unregulated risky activity out there in the economy, and you have one firm that has $1 trillion in derivative values and enormous risk, and, with all their brains, it doesn't work. They are going to go belly up. Who bears the burden of that? The Federal Government, the Federal Reserve Board.

We have the GAO doing an investigation to find out the circumstances of all that. I am very interested in this no-fault capitalism that exists with respect to Long-Term Capital Management. Who decides what kind of capitalism is no-fault capitalism? And when and how and is there a conflict of interest here?

The reason I raise this point is, this will be replicated again and again and again, as long as we bring bills to the floor that talk about financial services modernization and refuse to deal with the issue of thoughtful and sensible regulation of things such as hedge funds and derivatives and as long as we bring bills to the floor that say we can connect and couple, we can actually hitch up, inherently risky enterprises with the core banking issues in this country.

I hear about fire walls and affiliates, all these issues. I probably know less about them than some others; I admit that. But I certainly know, having studied and read a great deal about the lessons of history, there are some things that are not old-fashioned; there are some notions that represent transcendental truths. One of those, in my judgment, is that we are, with this piece of legislation, moving towards greater risk. We are almost certainly moving towards substantial new concentration and mergers in the financial services industry that are almost certainly not in the interest of consumers. And we are deliberately and certainly, with this legislation, moving towards inheriting much greater risk in our financial services industries.

I regret I cannot support the legislation. But let me end where I began because this is not one of those issues where I don't respect those who have a different view. I said when I started—I say as I close—there was a great deal of legislative skill exhibited on the part of those who put this together. I didn't think they were going to get this done, frankly. I wish they hadn't, but they did. That is a testament to their skill.

I don't know whether I am right or wrong on this issue. I believe fervently that 2 years, 5 years, 10 years from now, we will look back at this moment and say: We modernized the financial services industry because the industry did it itself and we needed to move head and draw a ring around it and provide some guidance, some rules and regulations. I also think we will, in 10 years time, look back and say: We should not have done that because we forgot the lessons of the past; those lessons represent timeless truths that were as true in the year 2000 or 2010 as they were in the year 1930 or 1935.

Again, I cannot vote for this legislation. My hope is that history will prove me wrong and that this will not pose the kind of difficulties and risks I fear it will for the American people.

One final point: With respect to the regulation of risky hedge funds, and especially the issue dealing with the value of derivatives in this country—$33 trillion, a substantial amount of it held by the 25 largest banks in this country, a substantial amount being traded in proprietary accounts of those banks—we must do something to address those issues. That kind of risk overhanging the financial institutions of this country one day, with a thud, will wake everyone up and lead them to ask the question: Why didn't we understand that we had to do something about that? How on Earth could we have thought that would continue to exist without a massive problem for the American people and for its financial system?

I yield the floor.

Mr. FEINGOLD. Mr. President, after years of persistent lobbying and a flood of political donations, three industries may soon have a lot to celebrate—the insurance, banking and securities industries will have a huge victory if we pass this conference report today.

I do want to note that some of those Senators who helped to craft this legislation are among the very best Members of the Senate.

While I oppose this measure, I certainly commend them for their dedication and hard work on this bill.

Nevertheless, with this legislation, this Congress is declaring the ultimate bank holiday—giving banks, insurance companies and securities firms a permanent vacation from the Glass-Steagall Act and other Depression-era banking law reforms.

Advocates of this legislation will tell you that it is terrific for consumers, offering them one-stop shopping for all their financial and insurance needs.

But the reality is far more complicated and far less appealing—it is likely to cause a merger-mania in the industry that could severely limit consumer choice and spur a rise in banking fees.

This conference report also raises serious issues about consumer privacy. Privacy advocates worry that it will give bankers, insurers and securities firms virtually unlimited license to share account data and other sensitive information.

To top it all off, this legislation undermines the Community Reinvestment Act.

Higher bank fees, reduced consumer choice and fewer protections for low-income loan assistance—these don't sound very good to most consumers, Mr. President. But they sound good to the industries that will benefit from this legislation. This conference report is music to the ears of the industries that have been lobbying for these changes for decades.

And this lobbying campaign has left a trail of political contributions that is nothing short of stunning. A recent study by Common Cause put the political contributions of these special interests at $187.2 million in the last ten years.

That is why I am going to take this opportunity to Call the Bankroll. This lobbying effort for so-called financial services modernization is truly breathtaking, because it combines the clout of three industries that on their own are giants in the campaign finance system, particularly the soft money system.

Together the power of their combined pocketbooks were a powerful force propelling this legislation through Congress.

One of these industries, the securities and investment industry is a legendary soft money donor, and I will just highlight a few such firms that have lobbied on behalf of this legislation.

Merrill Lynch has long called for banking deregulation. The company, its subsidiaries and executives gave more than $310,000 in soft money during the 1998 election cycle.

Morgan Stanley Dean Witter, which gave more than $145,000 in soft money in 1997 and 1998, was also a key part of the lobbying team on this issue. In fact the Washington Post reported that the company's chairman, along with several other corporate heads, made calls to White House officials the very night the conference hammered out an agreement on this bill.

Lobbyists lined the halls outside the room where the conference met to reconcile the House and Senate version of the bill, and as we know, that is standard procedure on Capitol Hill.

As usual, corporate lobbyists lined the halls, while the consumers who will bear the impact—and consumer advocates agree it will be an adverse impact—of this bill, were left out in the cold.

The banking industry was also there that night, of course, since this legislation is a bonanza for them too, revolutionizing the kinds of services that banks can offer.

Citigroup was there, and so was the presence of the more than $720,000 that Citigroup and its executives and subsidiaries gave in soft money to the political parties in the 1998 election cycle.

That is a huge sum, Mr. President, especially for an election cycle in which there was not even a presidential election.

And in the current election cycle Citigroup is off to a running start with $293,000 in soft money from Citigroup, its executives and subsidiaries.

That is more than $1 million from Citigroup, it's executives and subsidiaries in just two and a half years.

The powerful banking interest BankAmerica, its executives and subsidiaries also weighed in with more than $347,000 in soft money in the 1998 election cycle, and more than $40,000 already in the current election cycle.

And let's not forget the insurance industry. They have a massive stake in this legislation as well, an interest that is well-reflected by the size of the industry's soft money contributions.

For instance, there is the Chubb Corp and its subsidiaries, which gave nearly $220,000 in soft money contributions in 1997 and 1998, and has given more than $60,000 already in 1999.

Then there is the industry lobby group, the American Council of Life Insurance, which also gave heavily to the parties with more than $315,000 in soft money contributions in 1997 and 1998, and more than $63,000 so far this year.

In the end, what do all these contributions add up to? They add up to tremendous access to legislators and broad influence over the process by which this legislation was crafted—access and influence that the average consumer can't even begin to imagine, let alone afford.

This is a serious problem, and I think everyone in this Chamber knows it.

The American people certainly know it.

They think our votes are on the auction block, and who can blame them.

Who can blame them, and more than that, who can show them why they should think otherwise?

That is a question I ask my colleagues, and I think we all know the answer.

Mr. MIKULSKI. Mr. President, I rise today to oppose the Financial Services Modernization Conference Report.

While I oppose this legislation, I strongly commend the work of my senior colleague Senator SARBANES. Because of his efforts, this bill is far better than previous versions. It does more to help low and moderate income and minority Americans to have access to capital, credit and financial services. Senator SARBANES also improved the privacy provisions of this bill.

Despite the significant improvements Senator SARBANES fought so hard for, there are still a number of what I call "yellow flashing lights" or warning signals that force me to oppose this legislation.

First, I am concerned that if we relax the laws about who can own and operate financial institutions, an unhealthy concentration of financial resources will be the inevitable result. The savings of the many will be controlled by the few. If we relax banking regulations in this country, Americans will know less about where their deposits are kept and about how they are being used.

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

With a globalization of financial resources, the local bank could be bought by a holding company based in Thailand. Instead of the friendly teller, consumers will be contacting a computer operator in a country half-way around the globe through an 800 number. Their account will be subject to financial risks that have nothing to do with their job, their community, or even the economy of the United States. I know impersonalized globalization is not what banking customers want when we talk about modernization of the financial services.

Second, I am concerned that complex financial and insurance products will now be sold in a cluttered market by untrained individuals. Investment and insurance planning for families is a very important process. These are some of the most important decisions that families make. They should be made with the assistance of certified professionals—whom the family can trust. By breaking down these fire walls and allowing various companies to offer insurance and complex investment products, we run the risk that consumers will be confused, defrauded, and treated like market segments and not individuals with unique needs and goals.

Third, I am concerned about the privacy provisions in this legislation. While the bill offers some privacy protections for consumers, such as requiring financial institutions to provide customers with notice of its privacy policies, it does not go far enough. There are several loopholes in the bill that will allow for the sharing of private information among private institutions. Customers cannot object to having that information shared in those circumstances and there are no restrictions on the kind of detailed personal information that can be shared. Imagine the problems that could arise if insurance providers could scrutinize your credit card purchases. Protecting personal information is one of the issues that matter most to the American people—and this bill does not speak to their concerns.

Finally, the bill does not have the safeguards we need against bank failures. Banks will now be venturing out to engage in new and risky industries. If a bank fails during one of those ventures, thousands of people and businesses who have worked hard and invested their money with that bank fail too. Let's not forget about the taxpayers who will be left to pick up the pieces. These failures could set off a chain reaction and threaten the stability of our entire economy.

Mr. President, I am not opposed to a necessary reform of our financial services laws. But I believe the American people need greater protection before a global financial plan is enacted.

Mr. HARKIN. Mr. President, I oppose this conference report. There are a number of important and positive elements in the measure that provide for improvements in the regulation of financial institutions that will better enable us to assure for the soundness of our financial institutions. More could have been done in that area. But, there are clear improvements. There are provisions which help small banks and small insurance companies acquire additional resources that are important to their ability to compete, to help their customers and useful to economy in their local areas. And, in a world marketplace, American institutions should have the resources needed to compete in that marketplace.

Unfortunately, these positive steps are outweighed by the negative impact the bill will have on the privacy rights of Americans. Under this legislation, banks, insurance firms, and credit card agencies that are owned by the same mega-corporation can share a consumer's personal information. What kind of stock do you own? What information can be acquired from your credit card statements? When do your CD's mature? And, I fear, that information about a customer's health might also become available to those in a company who might decide if a customer is to get a loan or not get a loan. Do we want any possibility that a loan officer might have access to information about the medical condition and other private medical matters of a loan applicant without the customer's permission? I believe that this bill should have clearly provided solid protections in these areas. Unfortunately, these are the kinds of things that could happen if this measure becomes law.

The measure does not even allow a customer to say No, I do not want any information picked up from my bank account or from records with the insurance company which is a part of a larger financial institution to be shared by any other part of a financial institution. If a customer wants information shared because that customer believes that he or she would be helped by one stop shopping for financial activities, fine. Let that customer waive rights to privacy by signing an appropriate form. But, the basic right to block information collected by a company from being shared by other parts of a company is not in this bill.

There is an ability to say that you do not want the financial entity to simply sell the information. But, I understand that under this bill, your financial institution can share information they have acquired from your various accounts with other companies that they have entered into certain types of marketing agreements.

Computers have great advantages. They increase the efficiency of our economy. But, they can store huge amounts of information about a person's private habits and circumstances. In this age where we have an explosion in the amount of information that is collected about people, I believe it is essential that we erect strong barriers that prevent the passage of personal information without a person's permission.

I am also concerned about the weakness in the bill concerning the Community Reinvestment Act. We need to keep the burdens of paperwork down, particularly for small banks. But, we also need to provide for effective teeth in the requirement that banks provide proper financial assistance to all parts of their service area. And, this bill falls short in that area.

Mrs. BOXER. Mr. President, although I am a longstanding supporter of financial services modernization, I will vote against S. 900—the Financial Services Modernization bill. I am concerned that this bill does far too little to ensure the privacy of individuals.

Over the past three or four years we have seen an explosion of mergers in the financial services industry. Citibank and the Travelers Group merged. And in my home state, BankAmerica—California's biggest bank—merged with NationsBank. All of these mergers, in my home state and elsewhere, will undoubtedly have a major impact on consumers. And while we do not know what that impact will ultimately be, I believe we do know it will impact our privacy. Why?

Although most Americans believe their financial data is private, they are wrong. In fact, current law allows banks to do basically whatever they want with the personal information they collect from their customers in the course of doing business. Banks can provide a consumer's name, address, account balance, payment history, even his account number and social security number to their affiliates. And they can sell that information to third parties without even notifying the customer whose information has been sold.

Given that banks already share and sell the personal information of their customers, why then do I oppose this bill? I oppose it because I believe the bill will heighten the existing problem.

Mr. President, S. 900 will heighten the problem because, as noted by Robert Scheer in a November 2 Los Angeles Times editorial, ''. . . [the bill] allows banks, insurance and brokerage firms to merge not only their equity but also the vast accumulation of computerized records on consumers' buying habits, health treatments, investments and credit history.''

The tearing down of walls that now exist between banks, insurance firms, and securities firms, in this highly technological and computerized era, means the information now being shared will expand exponentially. There will be more information to share, more comprehensive information to share, and more people with whom to share it and to whom to sell it.

Privacy rights are most vulnerable in the information age. And while I realize we cannot turn back the clock, I do believe we as policy makers can and should provide some parameters for the sharing and selling of personal information. Unfortunately, despite all of the talk of self regulation, financial institutions provide little if any privacy protections. The legislation before us does nothing to improve this situation.

Finally, I understand that many financial institutions have complained that stronger privacy protections in the context of financial services modernization are unworkable, too costly to implement, and will, in part, defeat the purpose of allowing banks, insurance companies, and brokerage firms to affiliate. I reject these arguments for two specific reasons.

First, at least one large U.S. financial institution offers its European customers the kinds of privacy protections it contends it cannot offer its U.S. customers. In 1995, that institution agreed to allow their German customers to ''opt-in'' to having their non-public financial information shared with other companies.

Second, it is the current policy of some U.S. financial institutions not share their customers' personal information without first getting the permission of those customers or allowing those customers to ''opt-out'' of such sharing. And those institutions, American Express and U.S. Bancorp among them, apparently have not found such policies overly burdensome or competitively disadvantageous.

In closing, proponents of this legislation suggest the privacy provisions included in the bill are sufficient. Indeed, some have suggested the privacy provisions contained in this bill are historic.

And although some small steps have been made, like the notice provision which requires financial institutions to tell customers about their policies for disclosing nonpublic personal data and the provision which prevents stronger state consumer privacy laws from being pre-empted, I believe the steps are far too small.

I wish I could support this bill. As I said at the outset, I am a longstanding supporter of financial services modernization. I do not believe, however, the privacy of consumers should be, or need be, sacrificed for such modernization.

Mr. BENNETT addressed the Chair.

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

Mr. BENNETT. Are we in a quorum call?

The PRESIDING OFFICER. No, we are not.

Mr. BENNETT. I seek recognition then.

Mr. GRAMM. Mr. President, I yield 5 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I thank the chairman of the committee.

I rise with my fellow members of the committee to express my delight at this particular piece of legislation and the fact that we have come to where we are.

I take note of the work of Geoff Gray, Linda Lord, Wayne Abernathy, and other members of the committee staff who have provided such tremendous support for this. They have been available not only to the chairman but to members of the committee as well in a way that has been tremendously helpful. I make that acknowledgment of their contribution.

I will focus for just a moment on the issues of privacy. Most of the other issues relating to this bill have already been aired and discussed. I don't need to add to that. But I have paid a lot of attention to the whole privacy issue for the last 3½, 4 years, primarily because of my interest in medical confidentiality. I am the prime sponsor of the bill relating to confidentiality of medical records and, frankly, have had quite an education in the whole privacy area as a result of that.

We are in a new world. That has become a cliche but, as with most cliches, it happens to be true. We are in a new world now where information is available at a level and a quantity that has never been the case before. Those who complain about this and want to go back to the anonymity of the pre-electronic age are wishing for something that is simply not going to happen. Those who call themselves ''privacy advocates,'' who have attacked certain portions of this bill, are wishing for a world that is long gone.

The only question now with respect to the information that is available to us is not will it be available but, rather, how will it be responsibly used. One of the things that many of the privacy advocates ignore is the reality of the marketplace. Having been a businessman prior to coming to the Congress, I want to talk about that for a minute. The privacy advocates think Government must intervene on behalf of the consumers against rapacious businesses that would somehow use the information available to them in a way to do damage to those consumers. I suppose there are some businesses that might be so foolish as to do that, but the vast majority of businesses recognize that the only way they survive is on repeat business, and the only way they get repeat business is to keep their customers happy.

I remember, during the hearings, Congressman MARKEY raised some specters and gave us examples of abuses that banks had made of credit card information of some of their customers. I made the comment there, and I will repeat it here: If a bank did to me what Congressman MARKEY accused a bank of doing to one of its customers, I would change banks. I can solve the problem on my own very quickly. I don't need the Government to step in in that situation to protect me.

Furthermore, the bankers I deal with, such as the retailers and others that want to sell me something, are very anxious not to offend me. They are very anxious to keep me happy. So if they start using this information that they have, as a result of the information age, in a way to service my needs better, they are going to keep me happy. If Government interferes with their ability to do that, Government will get in the way. On the other hand, if they—that is, the banks—use this information in a way I don't like, they jeopardize our relationship, and they jeopardize my business.

We must understand here in the Congress that customers are not the captives of the business and banking organizations that depend upon them for revenue. Customers are the reason for their existence, and customers, consequently, truly are king. That is another cliche that a lot of people who haven't been in business don't understand, but it is true. The customer is king. If you do anything that violates your trust with the customer, you are going to pay for it, and you are going to pay for it in real dollars.

So I believe the balance that has been struck in this bill to provide the right amount of privacy protection is the correct balance, and I think we must take some time and see how it works out in the real world of real commerce before we panic and say we must pass further Federal regulations.

With that, I record my approval of the work of the chairman and the ranking member with respect to the conference and all of the difficulties connected therewith, and say this is a historic day that we are finally reaching after many, many years of wrangling on this subject.

I yield the floor.

SECURITIES TRANSACTIONS

Mr. LEVIN. Mr. President, I thank Senator SARBANES for entering into this colloquy with me during consideration of the conference report to the financial services modernization bill, S. 900. This is an important bill which will bring our nation's regulatory structure up to date with the many changes that have taken place over the past several decades regarding the activities of banks, securities firms, and insurance companies.

Mr. SARBANES. I agree with my colleague. The regulatory structure for banks, securities firms, and insurance companies has not kept apace of the new activities in which these entities have been able to take part.

Mr. LEVIN. As I understand it, S. 900 will, among other things, make changes to the Glass-Steagall Act which separates banking and securities business so that banks and their affiliates will be able to take part in securities transactions from which they were previously prohibited.

Mr. SARBANES. The Senator is correct. This is one of the fundamental aspects of this legislation.

Mr. LEVIN. During Senate consideration of S. 900, I was concerned with the ability of banks, securities firms, and insurance companies to enter into these new activities, and how these new activities would be regulated and by whom. In particular, I was concerned with how the securities activities of banks would be regulated. In the original version of S. 900 there were loopholes which allowed the securities activities of banks to go unregulated by the Securities and Exchange Commission. I felt that these loopholes should be closed. I believe that it makes the most sense for the regulators who have the most experience in securities transactions, namely the SEC, to oversee these activities.

Mr. SARBANES. The Senator is correct. Under current law, banks are exempt from SEC regulation as brokers and dealers. The original version of S. 900 would have maintained this exemption and would have allowed banks to conduct a large range of securities transactions outside SEC regulation.

Mr. LEVIN. It is for this reason that I sponsored, with the support of Senator SCHUMER, an amendment to S. 900 which stated the following: ''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.'' This amendment was agreed to during Senate consideration of S. 900. Senator SARBANES, as ranking member of the Senate Banking Committee, is it your understanding that the conference report upholds the approach which I sought in my amendment?

Mr. SARBANES. Yes, the conference report does uphold your approach.

Mr. LEVIN. I thank the Senator. Meaningful oversight by the SEC of securities transactions by banks is critical to the financial health of our economy. Functional regulation will help to ensure that confidence in our financial system continues.

Mr. President, I have a copy of a letter from the Chairman of the Securities and Exchange Commission Arthur Levitt to Senate Banking Chairman PHIL GRAMM in which Chairman Levitt ''enthusiastically support(s) the securities provisions contained in the (chairman's) Mark'' which eventually became part of the conference report. I ask unanimous consent that a copy of this letter be printed in the RECORD following this colloquy.

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

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, October 14, 1999.

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

DEAR SENATOR GRAMM: As you know, the Securities and Exchange Commission has long supported financial modernization legislation that provides the protections of the securities laws to all investors. I believe that the changes to the securities laws contained in the proposed amendments to the Chairmen's Mark that we agreed upon today will significantly strengthen the investor protections of the bill.

With the approval of those amendments, which I understand you are distributing now, I enthusiastically support the securities provisions contained in the Mark.

I appreciate your willingness to work with us on these provisions to protect investors.

Sincerely,

ARTHUR LEVITT.

SECTION 711

Mr. DODD. Mr. President, I rise to engage in a colloquy with the chairman of the Banking Committee. As the Chairman is aware, some legitimate concerns have been raised over the potential burdens imposed by the reporting requirements contained in section 711.

Am I correct in stating that section 711(h)(2)(A) provides that Federal banking regulators shall ''ensure that the regulations prescribed by the agency do not impose any undue burden on the parties and the proprietary and confidential information is protected.''

Mr. GRAMM. Mr. President, the understanding of the Senator from Connecticut is correct.

Mr. DODD. Mr. President, I also inquire of the chairman of the Banking Committee whether I am also correct in stating that the statement of managers provides that ''the Federal banking agencies are directed, in implementing regulations under this provision, to minimize the regulatory burden on reporting parties. One way in which to accomplish this goal would be wherever possible and appropriate with the purposes of this section, to make use of existing reporting and auditing requirements and practices of reporting parties, and thus avoid unnecessary duplication of effort. The managers intend that, in issuing regulations under this section, the appropriate Federal supervisory agency may provide that the nongovernmental entity or person that is not an insured depository institution may, where appropriate and in keeping with the provisions of this section, fulfill the requirements of subsection (c) by the submission of its annual audited financial statement or its Federal income tax return.''

Mr. GRAMM. The understanding of the Senator from Connecticut is correct.

Mr. DODD. I thank the chairman for his cooperation in this matter.

EFFECTIVE DATE OF TITLE I

Mr. DODD. Mr. President, I rise to engage in a colloquy with the chairman of the Banking Committee. Mr. Chairman, the conference committee agreed to make the effective date of implementation of title I, except for section 104, 120 days from the date of enactment. We reached this decision to provide the regulators with an opportunity to implement this legislation effectively. Am I correct in stating that it is the intent of the conferees that title I become effective 120 days after enactment even if the agencies are not able to complete all of the rulemaking required under the act during that time.

Mr. GRAMM. Mr. President, the understanding of the Senator from Connecticut is correct. In addition, it should be noted that in some instances, no rule-writing is required. For example, new section 4(k)(4) of the Bank Holding Company Act, as added by section 103 of the bill, explicitly authorizes bank holding companies which file the necessary certifications to engage in a laundry list of financial activities. These activities are permissible upon the effective date of the act without further action by the regulators. The conferees recognize, however, that refinements in rulemaking may be necessary and desirable going forward, and for example, have specifically authorized the Federal Reserve and the Treasury Department to jointly issue rules on merchant banking activities. If regulators determine that any such rulemaking is necessary, the conferees encourage them to act expeditiously.

SECTION 731

Mr. GRAMS. Mr. President, I ask Senator GRAMM, in his capacity as chairman of the Senate Banking Committee and one of the chief authors of the Gramm-Leach-Bliley Act that is before us today, to clarify a point about section 731 of the act. Is it correct that section 731 is not intended to affect banks whose home office and authorized branch offices are not located in the State described?

Mr. GRAMM. Mr. President, that is correct.

Mr. GRAMS. Mr. President, I also inquire whether it is also Chairman GRAMM's understanding that, notwithstanding section 731, national banks with interstate offices are in all events authorized under section 85 of the National Bank Act, as confirmed by the United States Supreme Court case, *Marquette National Bank* v. *First of Omaha Service Corp.*, 439 U.S. 299 (1978), to export the interest rates of the State where their home office is located?

Mr. GRAMM. Mr. President, that is my understanding. I would add that national banks are also entitled to charge the rates of the host State of the interstate branch, as authorized by interpretations of the Comptroller of the Currency, where there is some nexus between the hose State and the loan.

SECTION 507

Mr. MACK. Mr. President, I rise to engage in a colloquy with my good friend Senator GRAMM, chairman of the Committee on Banking, on section 507 of the Financial Services Modernization Act of 1999. I want to confirm that section 507 is intended to apply only to the amendments made by subtitle A of title V of the bill, and that section 507 is not to be construed, under any circumstances, to apply to any provision of law other than the provisions of subtitle A. For instance, subtitle A of title V relates only to disclosure of nonpublic personal information to nonaffiliated third parties. This means that section 507 of the bill does not supersede, alter, or affect laws on the disclosure of information among affiliated entities. In particular, section 507 does not supersede, alter, or affect the provisions of the Federal Fair Credit Reporting Act (or FCRA) regarding the communication of information among persons related by common ownership or affiliated by corporate control, nor does section 507 supersede, alter, or affect the existing FCRA preemption of state laws with respect to the exchange of information among affiliated entities. I yield to my friend.

Mr. GRAMM. Mr. President, the understanding of the Senator from Florida is correct. Section 507 is intended to apply only to subtitle A of title V of the bill, and is not to be construed to apply to any provision of law other than the provisions of the subtitle. Thus, section 507 does not affect the existing FCRA provisions on that statute's relationship to state laws.

SECTION 502(b)

Mr. CRAPO. Mr. President, I respectfully request of the chairman that we engage in a colloquy regarding section 502(b), which describes the opt-out notice required by subtitle A.

I would like to clarify that a financial institutions' obligation to send an opt-out notice under this subtitle is satisfied when it has complied with notification requirements regarding privacy policies and practices under section 503, and the consumer is further given the right to direct that their non-public personal information not be disclosed to non-affiliated third parties. A separate opt-out notice need not be provided for each third party disclosure, provided that the consumer receives a prior clear and conspicuous opt-out opportunity covering third party disclosures generally.

Mr. GRAMM. Mr. President, the interpretation of the Senator from Idaho on this point is correct. The intent of section 502 is to assure that consumers receive clear and conspicuous notice of a financial institutions' privacy policies and practices, and to assure that consumers can direct that their nonpublic information not be disclosed to third parties. So long as consumers receive a notice that gives them a clear choice about whether or not that nonpublic personal information can be transferred to non-affiliated third parties, the opt-out choice need not be provided separately for each disclosure of such information.

INSURANCE COMPANY INVESTMENTS

Mr. BENNETT. Mr. President, I rise to engage the distinguished chairman of the Banking Committee in a colloquy on the ability of insurance companies to make investments that are treated as ''financial in nature'' under this legislation even though the investments are made in companies that are not engaged in financial activities.

Am I correct that overlap between board members and officers of a financial holding company and a portfolio company in which an insurance company has an investment is not intended to result necessarily in a determination that the holding company routinely manages or operates the portfolio company? Or to state this intention another way, the existence of routine holding company management or operation is to be based upon an assessment of actual holding company involvement in day-to-day management and operations of the portfolio company, rather than board member or officer overlaps.

Mr. GRAMM. Mr. President, the understanding of the Senator from Utah is correct.

Mr. BENNETT. Mr. President, I also inquire of the distinguished chairman of the Banking Committee whether I am also correct that the exception under which a holding company may routinely manage or operate a portfolio company when necessary or required to obtain a reasonable return on investment is intended to apply to an investment in a company that has been generating a below average rate of return on investment either at the time the holding company becomes a bank holding company or that generates a below average rate of return at a subsequent time?

Mr. GRAMM. Mr. President, the understanding of the Senator from Utah is also correct.

Mr. BENNETT. Mr. President, finally, I would inquire whether I am correct that, consistent with the principle of functional regulation applied throughout this legislation, the determination whether an investment made by an insurance company is made in the ordinary course of business in accordance with relevant state law should be made by the insurance authority of the state in which the insurance company is located.

Mr. GRAMM. Mr. President, yes, the Senator's understanding is correct.

Mr. BENNETT. Mr. President, I thank the Chairman.

SECTION 502(d)

Mr. HAGEL. Mr. President, will the chairman of the Banking committee yield for a few questions?

Mr. GRAMM. Mr. President, I yield to the vice chairman of the Financial Institutions Subcommittee.

Mr. HAGEL. Mr. President, I inquire of the chairman with respect to the provision in section 502(d) that prohibits the sharing of customer account numbers with non-affiliated third parties for marketing purposes, is it the intent that the third party be able to receive customer account number upon approval by the customer?

Mr. GRAMM. Mr. President, yes, that is correct.

Mr. HAGEL. Mr. President, I also inquire of the chairman whether, in fact, it is his expectation that the regulators will use their broad exemptive authority given in the legislation to allow for sharing encrypted account numbers if the customer has given his or her authorization?

Mr. GRAMM. Mr. President, yes, that is true.

Mr. BENNETT. Mr. President, would the chairman please yield to me for a question?

Mr. GRAMM. Mr. President, I would be happy to yield to the chairman of the financial Institutions Subcommittee.

Mr. BENNETT. Mr. President, I inquire of the distinguished chairman of the Banking Committee whether the managers felt so strongly that they chose to highlight this exemption for encrypted account numbers in report language. We would hope the regulators would use this exemptive authority. Isn't that true?

Mr. GRAMM. Mr. President, Yes.

Mr. HAGEL. This commonsense approach is consistent with consumer choice and with the customer privacy. We expect the regulators to use their exemptive authority to allow legitimate business practices that safeguard customer financial information to continue to operate and provide customers with greater choices of products and services.

SECTION 401

Mr. BENNETT. Mr. President, I rise to engage in a colloquy with the distinguished chairman of the Banking Committee. It is my understanding that section 401 of the Gramm-Leach-Bliley Act is intended to prohibit acquisitions of grandfathered unitary thrift holding companies by commercial companies. Section 401 is not intended to prohibit acquisitions of grandfathered unitary thrift holding companies by companies that, immediately prior to the acquisition, engage only in the activities permissible for financial holding companies. Is that correct?

Mr. GRAMM. Mr. President, the understanding of the gentleman from Utah is correct.

Mr. BENNETT. Mr. President, I also seek clarification of the chairman of the Banking Committee that section 401 of the Gramm-Leach-Bliley Act is not intended to limit or otherwise affect the powers and authorities of grandfathered unitary thrift holding companies after such companies are acquired by companies that, immediately prior to the acquisition, engage only in the activities permissible for financial holding companies. Is that correct?

Mr. GRAMM. Mr. President, the understanding of the gentleman from Utah is correct.

Mr. GORTON. Mr. President, will the chairman yield to me for a question?

Mr. GRAMM. Mr. President, I would be happy to do so.

Mr. GORTON. Mr. President, it is my understanding that, under section 401 of the Gramm-Leach-Bliley Act, the Office of Thrift Supervision has the authority to prevent evasions of the unitary thrift holding company grandfather provisions of the act. Will the chairman tell me if that is correct?

Mr. GRAMM. Mr. President, that is correct.

Mr. GORTON. Mr. President, there is a long-standing body of law that addresses the issue of when an acquisition or change in control of a savings association or thrift holding company occurs. Is it intended that the Office of Thrift Supervision would apply to existing body of law to determine if an evasion has occurred?

Mr. GRAMM. Mr. President, in response to my colleague, let me state that section 401 is intended to authorize the Office of Thrift Supervision to prevent evasions through actions that are consistent with the statutory, regulatory and interpretive provisions governing acquisitions or changes in control of savings associations and thrift holding companies that were in effect on the grandfather cut-off date, May 4, 1999.

TITLE V

Mr. ALLARD. Mr. President, I wish to engage my esteemed colleague, Senator GRAMM, in a brief colloquy to clarify two items pertaining to title V, subtitle A. First Mr. President, is it Chairman GRAMM's understanding that the term ''nonpublic personal information'' as that term is defined in section 509(4) of title V, subtitle A, applies to information that describes an individual's financial condition obtained from one of the three sources as set forth in the definition, and by example would include experiences with the account established in the initial transaction or other private financial information?

Mr. GRAMM. Mr. President, that is my understanding.

Mr. ALLARD. The second item relates to an amendment to the Fair Credit Reporting Act, ''FCRA'' in 506(b) of title V, subtitle A. Mr. President, it is my understanding that striking the FCRA's outright prohibition on various agencies drafting trade regulation rules or other regulations is intended to allow for these agencies to fulfill their mandate under this title to issue regulations. The deletion leaves the law silent on the issue of agencies issuing regulations outside of this title, and it should not be construed to mean that an agency now has a mandate to issue any such regulations. Mr. President, does the distinguished chairman of the Banking Committee, Mr. GRAMM, share this view of the provision?

Mr. GRAMM. Mr. President, I agree with Senator ALLARD's assessments on these points.

Mrs. FEINSTEIN. Mr. President, I rise to support the Financial Services Modernization Act. I would like to explain why I will vote in favor of this conference bill, but I also want to discuss one area where I feel this legislation falls significantly short—privacy. The financial modernization bill deserves the support of this body for several reasons:

(1) First, it reforms our antiquated financial services laws. By allowing a single organization to offer any type of financial product, the bill will stimulate competition and innovation in the banking, securities and insurance industry. It will increase choice and reduce costs for consumers, communities and businesses. According to Secretary Summers, Americans spend over $350 billion per year for fees and commissions for brokerage, insurance and banking services. If increased competition yielded savings to consumers of even 5 percent, they would save over $18 billion per year.

(2) By removing the barriers to competition, the act will also enhance the stability of our financial services system. Financial institutions will be able to diversify their product offerings—and therefore their sources of revenue. They will also be better able to compete in the global financial marketplace, which is rapidly changing. Though U.S. banks still maintain some of the highest numbers in assets, they no longer rank the highest among the world's top banks in profitability. The financial services modernization bill gives U.S. financial institutions the flexibility and expanded powers to stay competitive in the changing market.

(3) The conference bill benefits Americans communities by preserving the Community Reinvestment Act. I am pleased to see that the act requires that banks maintain a good track record in community reinvestment as a condition for expanding into newly authorized businesses. This is the first time that a bank's rating under the CRA will be considered when it expands outside of traditional banking activities. I am also happy to see that the act applies CRA to all banks without exception.

Despite these merits, there is one issue of great concern to many Californians and many Americans—the lack of privacy provisions in the legislation. As my colleagues know, financial institutions are currently permitted to document, profile, and sell our most personal financial information. Financial institutions share and sell social security numbers, addresses, information about what stocks we own, what checks we write, what we charge on our credit cards and how much money we have in the bank. All of this without the knowledge or permission of their clients. I believe Americans should have the opportunity to prohibit a financial institution from sharing or selling this personal financial information.

The bottom line is simple: Bank customers should have the final say in whether their bank sells or even shares their personal financial information. Regardless of whether that information is being shared with a financial institution within a bank's shareholding company or with a third party. The consumer should decide who has access to this personal information. According to an October 21st USA Today article, U.S. Bancorp sold customer information to a telemarketer membership program. U.S. Bancorp customers began complaining that they were billed for marketing services they never agreed to. According to the lawsuit against U.S. Bancorp, the bank's customers say they were never even contacted by the marketing service before the charges appeared on their statements.

In one case, the suit says, a 90-year-old woman who had been a customer of U.S. Bancorp for more than 50 years was billed for a program that offers discounts on computer products. The woman didn't own a computer. Before she died, she tried for 11 months to get the telemarketing firm to remove the charges from her credit card account. The legislation does not do enough to prevent this type of problem. In another example, the Los Angeles Times reports that a small San Fernando Valley bank unknowingly became the accessory to a huge credit card scam. The bank sold 3.7 million credit card numbers to a felon, who then allegedly bilked cardholders out of millions of dollars.

Under the act, people applying for a mortgage will have no say over who has access to their personal financial data. If a person has been treated for an illness and paid for their medical tests with their credit care or personal checks, that individual's bank and mortgage company will share this information, without the knowledge or consent of the client. Tax information, insurance information, and records of medical tests they have purchased will be fair game for financial institutions. This sensitive information should be kept private—not shared between banks, insurance companies, and securities firms.

For 66 years—since the Glass-Steagall Act was enacted after the Depression—a boundary has existed between banks, insurance companies, and securities firms. This bill breaks through that wall, by allowing financial entities to merge. This change, while beneficial to the industry, should not come at the expense of the consumer. Industry groups are opposed to privacy provisions—and go so far as to say that privacy provisions could make it tougher for them to fight fraud. It's no surprise they feel this way, considering banks typically get 20-to-25 percent of the revenue generated by the marketer. But a handful of financial companies already allow customers to restrict the use of private information—and it doesn't seem to be hurting them. American Express sends customers a notice once a year, asking customers if they want to receive product offers from American Express or outside merchants. Even if customers want the offers, the company never gives detailed information about a transaction history. If American Express can protect its customer's privacy, why can't all financial institutions?

The conference bill includes only a weak privacy provision allowing customers to say no to their bank's disclosure of information to third parties—such as telemarketers. I think this is a serious flaw in an otherwise very good bill. In fact, the language adopted by the conference authorizes financial institutions and third parties to enter into joint marketing agreements that would allow them to skirt the opt-out requirement. And the bill intentionally does not restrict the sharing of private financial information among a financial institution's affiliates. I hope my colleagues will work with me in the future to see that Americans' privacy is better protected.

The Financial Services Modernization Act makes the most important legislative changes to the structure of the U.S. financial system since the 1930s. I believe the bill is good for the U.S. economy as well as our ability to compete in global financial markets. Despite my reserves about the privacy provisions in the bill, I support S. 900, and urge its adoption by my colleagues.

Mr. KERRY. Mr. President, I express my genuine appreciation to all the members of the Senate Banking Committee for their hard work, commitment and dedication to resolving the tough and contentious issues surrounding the conference report that we are considering today. It is no exaggeration to suggest that this conference report represents more than 15 years of hard work and perseverance in tackling one of the most important issues in the new economy.

I support the conference report. However, I do so with some reservations about the way the final product was developed and because it does not include a number of important consumer protection provisions. For example, the legislation will pre-empt important state legislation prohibiting certain predatory lending practices that result in poor, vulnerable, elderly homeowners being bilked out of thousands of dollars or, in some cases, losing their homes.

However, I believe enactment of financial modernization is a critical first step toward breaking down barriers to allow financial services companies to provide better services at lower costs to consumers and to help insure American dominance of global finance in the 21st Century.

As we all know, breaking down the walls that separate commercial banking from the insurance and securities industries is of enormous importance to the future of the financial services industry, which has undergone an immense transformation in recent years. Dramatic changes in technology along with historic mergers, consolidations, and acquisitions have reordered the structure of the financial services industry and made the statutory distinctions that have existed in the law until today less and less relevant in the real world.

As a result of these changes, large corporations have begun bypassing traditional financial institutions and accessing capital markets directly. Many large corporations now meet their funding needs by issuing commercial paper, rather than by borrowing from banks. Banks and thrifts are also experiencing increased competition from non-banking institutions that offer a range of financial products and services. During this time, commercial banks have been unable to provide consumers with a number of important financial products and services.

The conference report that the Senate is considering today repeals the Glass-Steagall Act, which has separated banks from securities firms since the 1930s. It also repeals a similar provision that has separated banking and insurance. It will permit the creation of new financial holding companies that could offer banking, insurance, securities and other financial products.

I am very pleased that the Treasury Secretary Summers and Federal Reserve Bank Chairman Alan Greenspan have come to an agreement on the operating subsidiary issue that was included in the conference report. Banks will now be able to choose the corporate structure under which to conduct new non-banking activities—either through an operating subsidiary or through an affiliate. The bill would allow operating subsidiaries to engage in merchant banking activities, but only if the Federal Reserve and the Treasury jointly agree that the activity is permissible. A bank would have to be well capitalized and well managed after deducting its equity investment in an operating subsidiary from its capital in order to take advantage of these new activities. I believe that this compromise will let banks choose their own operating structure and will help maintain safety and soundness in our financial system.

The operating subsidiary provisions also include language that would retain state authority over state chartered bank subsidiaries. Section 121(d)(1) of the final bill provides that nothing in Section 46(d) supersedes the current authority of the FDIC over bank subsidiary activities under Section 24 of the Act. The provision recognizes that, consistent with current and proposed rules of the FDIC, investment authorities of state-chartered bank subsidiaries are not to be restricted to any greater extent that those authorized for a state bank itself. More particularly, in several states, including Massachusetts, state banks have a long history of exercising limited authority to invest in common stocks either directly or through wholly-owned subsidiaries. The FDIC has acknowledged and approved such investment authority through so-called investment subsidiaries. It is my understanding that the newly added Section 46(d) acknowledges and preserves that authority and does not contemplate imposition of additional regulatory requirements or impediments.

I am also glad that the conference report will permit financial institutions to engage in merchant banking activities. This will allow banks to invest in small companies for the purpose of appreciating and ultimately reselling the investment. The merchant banking provisions limit the day-to-day management of companies by financial institutions and the duration of the investment. I am hopeful that these new powers will allow banks to provide more capital for small businesses, which have been leading contributors to the economic growth of our country.

The conference report includes an important limitation on banking and commerce which eliminates the ability of commercial firms to form new unitary thrifts unless they had owned or had applied to own a unitary thrift by May 4, 1999. Under the conference report, current unitary thrift holding companies and their savings association subsidiaries would be able to continue their normal activities. However, future sales of unitary thrift holding companies would not be allowed to commercial firms. Sales would be limited only to financial holding companies.

Building this fence around financial firms to keep them largely isolated from joint ownership with commerce and industry is an extremely important safeguard in this legislation. My first priority as member of the Senate Banking Committee is to maintain the safety and soundness of our financial system to insure that American taxpayer funds are not necessary to bail out our financial institutions. However, we are now in an era in which banks and other firms are becoming ‘‘too big to fail’’ where the government will intervene if its collapse would cause a major harm to the economy. With the enactment of this legislation, banks, insurance and securities conglomerates will grow even larger and more intertwined. The failure of any one of these new conglomerates could disrupt our financial system and risk a taxpayer-funded bailout that would dwarf the savings and loan payout. For example, recently the Federal Reserve Bank felt compelled to rescue the Long Term Capital, a hedge fund, even though it was not a federally insured bank.

That is why I strongly supported including a provision that would have required large banks to back some portion of their assets with subordinated debt. Holders of this type of debt would have a strong incentive to monitor each financial institution’s level of risk to protect their investment. This approach could also serve as an early warning signal for regulators of banks that are engaged in risky activities. Unfortunately, this requirement was reduced to only a study. I will be working with my colleagues and with federal regulators to address this problem in the future.

I am also very disappointed that the conference report does not include acceptable language regarding mutual insurance companies. Many States currently have laws that restrict the hostile take over of a mutual insurance company that has recently converted to a stock insurer. However, the conference report allows these state laws to be preempted ‘‘so long as such restriction does not have the effect of discriminating, intentionally or unintentionally, against an insured depository institution or an affiliate thereof * * *.’’ I believe that this language, as currently written, would allow only banks whose takeover attempts were denied by a state insurance commissioner to litigate. The ability to litigate would not be extended to any other potential acquisitor.

This law means that any state restriction of a banking organization’s attempts to takeover a demutualizing insurance company could be construed by a court as discrimination against the bank. I believe that this could lead to costly and time consuming litigation for every insurance company that attempts demutualization. Further, if a court were to fail to interpret the word ‘‘discrimination’’ narrowly, this new language could essentially end the important state preemption provision only in cases where a bank is the proposed acquisitor. It would not allow other potential acquisitors to litigate.

I am also very concerned about the provision included in the conference report that will allow mutual insurance companies to redomesticate to another state and reorganize into a mutual holding companies or stock companies. I believe that this provision will allow some mutual insurance companies to move to states without adequate consumer protections and could endanger policyholders during a conversion from mutual to stock form.

I am pleased, however, that the conference report includes the PRIME Act, which will provide an opportunity to lend a helping hand to those in need of financial aid and technical assistance so that they can fulfill their personal, family, and community responsibilities. Microenterprise development has given many a chance to break the cycle of poverty and welfare and move toward individual responsibility and financial independence.

Specifically, the PRIME Act authorizes funding for technical assistance to give microentrepreneurs access to information on developing a business plan, record-keeping, planning, financing and marketing, which are crucial to small business development.

For example, PRIME would augment funds for valuable programs run by Working Capital, located in Massachusetts and a recipient of a Presidential Award for Excellence in Microenterprise Development in 1997. Working Capital currently offers a number of valuable programs to its microenterprise customers which could be augmented by additional funding under PRIME such as providing business credit to microentrepreneurs and providing business education and training on how to draw up business plans and prepare financial projections. These programs instruct microentrepreneurs on how to use these tools in managing their businesses. This type of assistance is crucial to the development of our low-income communities and throughout the United States.

I very much appreciate that the conference report includes a provision to repeal the Savings Bank Provisions in the Bank Holding Company Act. Section 3(f) was added to the Bank Holding Company Act in 1987 to provide a special grant of authority to savings banks, but court decisions and Federal Reserve Board interpretations now make it restrictive for many Massachusetts banks. Repeal of this provision will bring the treatment of Massachusetts savings banks in line with that of other financial institutions.

Mr. President, I also want to emphasize that although I strongly believe that we have to take this first step to toward modernizing our banking industry and although I will support this conference report, I remain committed to strengthening and improving consumer privacy protections and to encouraging greater community investment by financial institutions.

I believe that we can and must do more to safeguard the financial privacy of every American. Every American deserves to control his or her personal financial information. I am concerned that the changes in technology and in the marketplace have diminished every American's ability to safeguard his or her personal financial privacy. The conference report gives customers of financial services companies only limited control over their personal financial information. Customers will now have the right to object to their institutions' sharing their financial data with third parties and will require these institutions to provide notice to customers when they disclose financial information within an affiliate. Fortunately, the conference report does not preempt stronger state privacy laws.

I want to note for the RECORD that I supported stronger privacy protections that would have given every customer the right to see what financial information would be shared with affiliates or third parties. I also supported an opt-in standard for consumers whose financial institution provides their personal financial information to unaffiliated third parties. This provision was supported by 26 state Attorneys General and many others. I will be working with my distinguished colleagues including the Senator from Maryland Mr. SARBANES, as well as Senators BRYAN, SHELBY and others to work on strengthening safeguards to protect the privacy of every American.

All throughout the consideration of this legislation, from the very first meetings of the Banking Committee, through floor consideration and the conference negotiations, Congressional Democrats and the Administration have insisted that the Community Reinvestment Act must be allowed to grow and adapt to the new circumstances being created for the financial industry. Despite the most aggressive, uninformed, and sustained attack on that important law I have ever witnessed, I am happy to say that the new law will reflect this important goal.

The new law established that, as a precondition for any bank to exercise any of the new powers authorized by this legislation, either de novo or through a merger or acquisition, a bank must have a satisfactory CRA rating. This test will be applied each time a bank seeks to take engage in a new activity, so that a bank will have to, as a practical matter, both have and maintain a satisfactory CRA rating to take advantage of the new law. Prior to this agreement, a bank could start up a securities affiliate without any regard to its CRA rating, so this new law is clearly a step forward. That is why Reverend Jesse Jackson and the Local Initiatives Support Corporation (LISC) support the CRA provisions in the bill.

I understand and share the concerns of some of my colleagues who believe that the conference report does not go far enough. Certainly, the alternative that and my fellow Democrats supported would have been more acceptable. However, I believe that this legislation clearly meets the objective of ensuring that CRA remains a central part of every financial institution's operations into the next century.

The conference report would also require certain agreements between a bank and community groups made in connection with CRA to be fully disclosed and would reduce the frequency of CRA compliance exams for certain banks with less than $250 million in assets.

I am concerned that further attempts to weaken the Community Reinvestment Act will occur during the 106th Congress. Let me be absolutely clear: I will strongly oppose any attempts to weaken CRA in any manner whatsoever. CRA is a fundamental tool to insure that all creditworthy Americans, regardless of the neighborhood they live in, regardless of their race or circumstances, have access to the bank loans that are needed to buy a home or start a business. It is a law that breathes life into the rhetoric we all use extolling the virtues of equal opportunity. We cannot and must not return to the days of poverty and desperation borne of bank redlining in too many communities across the nation.

This conference report is far from perfect, but few compromises ever are. A product that represents more than 15 years of hard work and the debates of literally hundreds of individuals and disparate constituencies could hardly represent a perfect product to every side. This report is no different. But I will tell you, and I think almost all of us would agree that in the American system of free enterprise the interests of consumers and industry are best served if we permit competition as long as that competition is fair and does not give any industry or player an advantage over another. I believe that this legislation is an important step in facilitating that competition and it meets that test by allowing every American access to a broader group of financial services at a lower cost. We have a historic chance to provide meaningful financial services reform. I will support the conference report and I urge my colleagues to support it as well. And, remembering as I think we all should, that this legislation represents not an endpoint but a starting point, I would respectfully suggest that we all focus in the months and years ahead on the potential role this Senate can play in helping to create the environment in which financial services work to the best advantage of every American. Our goal should be nothing less.

Mr. GORTON. Mr. President, I expect the financial services modernization conference report will pass both the Senate and House with large majorities. I certainly understand the strong support for this sweeping legislation, though I must register my strong displeasure and firm opposition to the punitive unitary thrift charter provisions included in this measure. The language approved by the conference committee and favored by the Clinton-Gore administration unfairly, unnecessarily and without compelling reason eliminates and restricts existing authorities and powers of the unitary thrift charter.

I am proud to represent a state where the thrift industry is thriving. Washington state thrifts manage over $200 billion in assets. It may surprise some to learn that the largest unitary thrift in the nation, Washington Mutual, is headquartered in Washington state. One does not expect a financial institution of this size to be based in Washington. Though, knowing this fact, one should not be surprised to learn of my significant interest in how this legislation affects my largest financial institution constituent and a major Washington state employer.

I support virtually all of the conference report's modernization provisions: eliminating the 1933 barrier to the affiliation of banks, insurance companies and securities firms that will allow consumers greater choice at reduced costs; the compromise agreement reached between the Federal Reserve Board and Treasury Department on the regulation of operating subsidiaries; improving the Community Reinvestment Act; expending Federal Home Loan Bank provisions that will allow greater access for small business and farm loans; and the inclusion of privacy protections for consumers.

These provisions do contribute to the modernization of our nation's financial services industry from the Great Depression era laws under which they have been operating. These changes represent positive advances for the future. Such is not the case with the unitary thrift charter provisions. The unitary thrift language is regressive and punitive—a step backwards for financial modernization and a black-mark on an otherwise favorable bill. I sincerely regret that delusional fears about the non-existent and impossible mixing of banking and commerce under a unitary thrift charter have prevailed over fact and reason. Neither the FDIC or the primary regulator have identified any safety and soundness concerns during the three decade existence of unitary thrifts. Not one.

It is clear that this legislation unfairly treats Washington Mutual and other unitary thrifts, and for this specific reason I seriously considered voting against the conference report to protest the injustice of the unitary thrift provisions. After listening to and speaking with Chairman GRAMM to clarify the impact of the unitary thrift charter provisions, however, I concluded that I will support passage of the conference report. The unitary thrift provisions are completely contradictory to this legislation's goal of modernization, yet I find the clarifying statements of Chairman GRAMM to be of sufficient reassurance that I will not vote against this conference report.

Mr. MACK. Mr. President, I rise today in strong support of the conference report accompanying S. 900, the Gramm-Leach-Bliley Act of 1999. And I want to begin my remarks today by congratulating Senator GRAMM, my friend and the chairman of the committee. We would not be here without his hard work, dedication, and skillful negotiation and he deserves the lion's share of credit for the fine bill we have before us today.

We are making history here. It has been 66 years since Congress passed the Glass-Steagall banking act in the depths of the Great Depression. It has been at least twenty years since determined efforts began in the Congress to repeal this outdated law and modernize the country's banking code. Today—finally—we have come to the end of the road.

As we stand on the verge of passing this bill, we have a great view both backward and forward. We can see a past in which the country's financial services industry led the world despite an archaic code recognized by everyone to be insufficient. And we can look ahead into a future that offers the American financial consumer: New and innovative products, better choices, information and service, and workable regulations that allow our financial firms to compete in the global marketplace to an even greater extent than today.

This much-needed legislation modernizing our nation's banking laws is happening none too soon. I want to spend some time talking about the two reasons I believe we're here. The first is the transformation of our economy over the past 20 years, and by extension the remarkable changes in our financial services sector. And the second is the tremendous impact of the technological revolution on the banking industry.

We are currently in the eighth year of the longest peacetime economic expansion in our history. When you look at the data, there is only one conclusion to draw: we are now reaping the economic benefits of the hard decisions on economic fundamentals we made back in the 1980s. Under the leadership of President Reagan, we dramatically lowered marginal tax rates, began the rollback of burdensome and overlapping regulations, promoted openness to trade and investment around the world, lowered interest rates, and defeated the inflation menace that crippled our economic competitiveness. In the 1990s, Congress finally completed the job by producing the first balanced federal budgets in a generation.

You cannot overestimate the impact of these fundamental economic victories on the prosperity the nation is enjoying today. One of my biggest concerns, as I think about the history of this era, is people will be left with the impression that President Clinton's 1993 tax increases created this economic expansion. Nothing could be further from the truth. We must not forget the hard—and ultimately correct—decisions made on fundamental questions like taxes, regulation, interest rates, and inflation in the 1980s that freed up the marketplace and allowed American businesses to capitalize on their inherent advantages.

The country's financial sector has certainly shared in this prosperity. We have witnessed a revolution in the delivery of financial services during the 1990s as the traditional barriers between banking, insurance and securities began to come down. Freedom and our free enterprise system ensured that new financial products and alliance emanated from America to service the demands of the global economy. These products and alliance provide American businesses, investors, and consumers with the ability to secure more easily the capital they need to finance their hopes and dreams. As this new economic and financial dynamic became more clear, it was also apparent our existing banking code was outdated and in need of change.

As part of the new economy, it is hard to overstate the impact of the technological revolution on the financial marketplace. Earlier this year, during hearings on the bill before us, Chairman Greenspan noted the financial sector:

> . . . is undergoing major and fundamental change driven by a revolution in technology, by dramatic innovations in the capital markets, and by the globalization of the financial markets and the financial services industry.

Indeed, the financial marketplace is changing with lightning speed. In September, we held a high-technology summit at the Joint Economic Committee. One of those who testified before our committee was a twenty-nine-year-old entrepreneur who created an electronic stock trading network. Nine of these electronic trading networks make up about twenty percent of the NASDAQ market and are posing a serious challenge to more traditional stock exchanges and markets. Mortgages and traditional banking services are available over the internet. And anybody who watches television advertisements knows a new generation od web-based businesses are transforming the traditional image—and, incidentally, the fee structure—of stock brokers and stock trading. These businesses and the many others who have gone online to challenge the existing orthodoxy are prompting sweeping changes in the financial marketplace. And they are creating yet another imperative for this bill.

As the American financial industry seized on technological advances to lead the world into new financial markets and new financial products, they awoke from their long slumber of lobbying wars and turf protection and realized it was in everybody's best interest to pass this bill. If our financial firms are to lead and compete in the world marketplace, they must be able to compete from a position of strength. And they must compete from the foundation of banking laws that reflect the new realities of the world marketplace.

The end game on this legislation was by no means easy. During the eleven months we spent writing this bill, we had to continually strike careful balances between the broad, over-arching goals of the bill and the temptation to tinker with the marketplace and predetermine the shape of future financial products and services. The fast pace of change presents a difficult choice for policymakers. We are often too cumbersome in the Congress to lead, we can be irrelevant if we follow, and some among us believe it could be risky to get out of the way. In the face of this dilemma, some of our colleagues wanted us to anticipate every possible side-effect of this financial transformation and write the laws accordingly. This is just not possible, and the resultant regulatory burdens would have stopped this financial revolution in its tracks.

In the bill before us today, we tried to embrace the following principles:

First, banks, insurance companies and securities firms should be able to enter one another's business and create a financial dynamic for the next century;

Second, new banking products should be regulated by the regulator that knows them best.

Third, institutions should disclose to customers what they are doing with their sensitive personal information—both within and outside the financial firm. And customers should be able to stop these companies from sharing their information with third parties.

Next, new financial activities conducted through subsidiaries of banks should be conducted so as to ensure taxpayer guaranteed deposits are not threatened.

And finally, the burdensome regulations on banks with respect to community lending should not be increased as a result of what we're doing in this bill.

There are sensible guidelines and I'm satisfied we've created the basis here for a safe, sound and flexible financial industry that will serve the interests of American consumers, investors and businesses well into the future.

As I said at the beginning of my remarks, we are making history here. A hundred years from today, I believe the primary thing people will remember about this Congress is that we finally did the right thing and passed this bill.

Mr. President, I would like to conclude my remarks on a personal note. As I begin to recognize the reality that my service in the United States Senate will end in slightly more than a year, I find I am engaging in the occasional reflection.

During the last 12 years of my 18 years in the Congress, I served on the Senate Banking Committee—the committee responsible for writing and overseeing the laws of the land that regulate the banking and financial industry. This has been special to me because I spent the first sixteen years of my career in the banking business. It was work I enjoyed as the years went by. It was also work I found increasingly frustrating because of the stifling regulatory burden placed on banks by the federal government. It was for these and other reasons I left my position as President and LEO of my bank in Cape Coral, Florida and ran for the Congress.

I will not stand here today and claim the credit for the far-reaching and far-sighted bill before us today. My friend and colleague Senator GRAMM deserves the credit on the Senate side. I nonetheless feel a strong sense of pride and institutional accomplishment for the legacy we are leaving to the United States in passing this bill. It will benefit the people, the industry, and the economy as a whole and it is truly a document we can all be very proud of. I urge my colleagues to support the conference report

Mr. WYDEN. Mr. President, I have always been supportive of modernizing the outdated laws and regulations governing the financial services industry. It doesn't make sense to me to slap a regulatory straight-jacket on American financial companies and drive up costs for consumers while companies around the globe are able to compete unhindered by unnecessary barriers. It seems to me that you can't compete in a 21st century global financial market using a playbook that was written during the Great Depression.

But I have also believed that financial services modernization shouldn't come at the expense of consumer and community interests. In fact, back in May, I voted against the Senate version of this bill, as did 43 of my colleagues here in the Senate, because it would have devastated lending in rural and low income communities, and because it didn't adequately address the issue of consumer financial privacy.

Fortunately, this conference report is leaps and bounds better than the bill that passed along party lines here in the Senate several months ago. It won't allow financial institutions to participate in the new and improved financial market unless they maintain a good community lending record. And, while far from perfect, it also begins to address the issue of consumer financial privacy, which was virtually non-existent in the previous bill.

This bill requires financial institutions to disclose their privacy and information sharing policies to their customers. And in some instances—but not enough—it allows consumers to block these companies from sharing their private customer information with other companies. This is an improvement over the original Senate bill, and even an improvement over current law.

This is a good start on financial privacy, but it doesn't close the deal. The privacy provisions in the conference report do not provide the level of protection that the American people deserve.

There is a long way to go with respect to protecting the financial privacy of all Americans. While I am disappointed that the privacy protections in the bill are not as strong as I would like, I share the beliefs of several of my distinguished colleagues, such as Senator SARBANES and Senator LEAHY, that these protections can be and must be further strengthened by legislation next year, and I intend to work closely with my colleagues to make sure this happens.

On balance, the conference report should be adopted, and I hope that the same forces that worked so hard to move legislative mountains and align political stars to make this legislation possible will work equally as hard with me and other Senators next year to give Americans the privacy protection they demand and deserve.

Mr. LIEBERMAN. Mr. President, I rise today to express my support for the Financial Services Modernization Act of 1999. The Financial Services Modernization Act of 1999 is landmark legislation that provides for a historic modernization of our financial services system. This legislation is the culmination of years of effort on the part of several Congresses, several administrations, and federal financial regulators. Passing this legislation will eliminate inefficiencies and unnecessary barriers in our economy that were created by the Glass-Steagall Act of 1933 and other laws passed generations ago.

With this legislation, the Congress recognizes the significant transformations taking place in our economy and its financial services sector. Through this Act, Congress makes the necessary and critical leaps for our financial services sector to catch up with the realities of a marketplace and economy driven by an information technology revolution. The changes created through this legislation are inevitable. They overhaul laws implemented decades ago that have not withstood the test of time and that have increasingly been bypassed through more and more regulatory loopholes. Passing the Financial Services Modernization Act of 1999 will create a rational financial structure in the U.S., the world's largest economy, that will be competitive in the global economy. I strongly urge my colleagues to support this legislation.

By updating laws separating banks, securities firms, and insurance companies, this Act will result in a broader array of financial services and products for consumers. It will spur innovation in the financial services industry and create a more competitive marketplace where powerful new products come to market more quickly and at a lower cost to consumers. It will lead to the creation of an array of new products for consumers and at the same time will help them to make their choices more intelligently and efficiently by allowing for one-stop shopping for a multitude of financial services.

Specifically, by overriding sections of the Glass-Steagall Act and other federal and state laws, this legislation will allow banks, insurance companies, and security firms to more easily merge or otherwise enter one another's businesses.

While allowing the industry greater flexibility to provide services, this legislation also protects consumer privacy by requiring financial institutions to create privacy policies and spell them out to consumers. Financial institutions will have to provide notice of how they share the financial information of their customers and with certain exceptions they would be prohibited from disclosing personally identifiable financial information to non-affiliated third parties without first giving consumers the opportunity to ''opt out''. The legislation gives regulatory agencies the authority to enforce those privacy protections.

Importantly, this legislation also retains key parts of the 1977 Community Reinvestment Act. Any financial services company that is out of compliance with that Act would not be allowed to take advantage of mergers and other benefits outlined under this legislation. It is right that the Administration and others held fast to keeping a strong CRA component in this legislation. The CRA has been critically important to many communities and community-based organizations in Connecticut and across the country. The CRA, like the Individual Development Accounts (IDAs) that I strongly support, helps more Americans to actively participate in our economy by providing them the ability to build assets and to access financial services.

This legislation is not perfect. Its implementation will need to be monitored over time. I will be paying particular attention to how this legislation affects both consumer privacy and CRA implementation. However, this legislation is good and long overdue. It provides balanced and strong protections for consumers and communities without diluting its intended financial services benefits.

Finally, I would like to thank those who have worked so tirelessly to do what so many others have tried and failed to do for the last 20 years. Through the hard work of the Senate Banking Committee members, including Senator DODD of Connecticut and Chairman GRAMM, their House counterparts, in conjunction with the Administration, particularly Secretary Summers and his staff, the financial services industry, and those representing the interests of consumers and communities, we now have legislation with compromise language that achieves a broad public purpose. We are now able to achieve the improvements to our financial services sector that have been needed for decades and that will effectively bring us into the next century.

Mrs. LINCOLN. Mr. President, I rise today in support of the Financial Modernization Bill. After decades of unsuccessful tries, it appears that financial modernization legislation may finally become a reality. As we move into the next millennium, I believe it is important that the financial service structure in this country is up to par with the rest of the world so that American finance can continue to lead internationally.

The thing that impresses me the most about this bill, Mr. President, is not the way it will strengthen American financial markets and allow this important sector of our economy to grow with the technology of the age. It's not even that we will close the Unitary Thrift Loophole, or that we will maintain the Community Reinvestment Act to ensure that low income and minority communities in my home state of Arkansas will continue to have access to the capital needed to create jobs and increase incomes. What impresses me most, Mr. President, is the way we are going about passing it. When I vote for this bill later today, I feel like I will have weighed all the issues and had the opportunity to actually work to make it better for the people of my state. We deliberated, discussed, and fought over the merits of the legislation—not just parliamentary tactics. This bill was scrutinized by Senator SARBANES and Senator GRAMM and all of my colleagues on the Senate Banking Committee before it ever got to the floor. Before it was even put on the calendar, it was subject to the judgement and the intellect of these men, whose esteem I hold in the highest regard.

After this bill came out of committee and to the floor, we were able to offer and vote on amendments to adjust and strengthen the bill. I supported some amendments that passed, and I supported some that failed, but what is important is that my votes and the votes of my colleagues were registered and the conferees were able to gauge the Senate's support for these provisions. This allowed for compromise, Mr. President, and at the end of the day it allowed for a bill that a majority of the Senate can and, I predict, will support.

Mr. BURNS. Mr. President, I rise today to express my concern over the lack of adequate privacy protections in the financial modernization bill under consideration. While I feel that the current laws governing our financial services industry are out-of-date and in need of modernization, I do have strong concerns over the inadequate and weak privacy provisions included in this bill.

Paramount to our freedom is the right to privacy; to be left alone and to be secure in the belief that our business is just that, ours and no one else's. When we do share our personal business information with others it is with the real and reasonable expectation that it remains our property. When dealing with our doctor or lawyer we know that the communication is privileged. Traditionally, when providing information to our banker or insurance agent or our stockbroker, we similarly believed that the information provided was specific to that transaction.

We choose to compromise our privacy to the extent necessary to conduct business and with the belief that the information is ours and does not become the property of the person with whom we are dealing. No one has the right and no one should have the right to market our personal information without our prior approval. To do so violates our privacy and compromises the trust relationship that is vital to commerce.

Regrettably, we now know that those we trusted with one of our most prized possessions, our privacy, have violated that trust in the interests of profit. In the course of deliberations of this bill, we have heard that the sharing of information is essential to efficiency in the market place and to better provide customer benefits and services. However, the fact remains that these benefits come at the expense of personal privacy and that creates an atmosphere of distrust and invites abuse by the very people we must trust to conduct our business. Technology must be tempered with caution. Efficiency cannot be at the expense of personal privacy. Institutions should not have the license to exploit our information unless they allow us to opt out. Individuals should have the right to allow institutions to share their information by opting in. Customers should be given sufficient notice and choice to deny financial institutions from sharing or selling their nonpublic, personally identifiable, sensitive financial information. Americans must have the ability to say ''no.''

This bill remembers the big financial institutions in this country, however, seems to forget the most important variable in the equation—the individual. This bill protects banks' rights, but fails to consider an individual's rights to privacy. We need to establish rules to protect the privacy of a customer's confidential information. No longer should we rely upon or expect the financial institutions themselves to do this, as they are the very ones profiting from the sale of customer information. We must find a balanced system that protects consumers.

I assure my colleagues that we will very soon be revisiting this issue and that these deliberations will be prompted by constituents abused as a result of the loopholes contained in this bill. Bottom line, financial institutions should not be allowed to share and sell confidential, personal customer information without consent. Americans need provisions which truly protect their privacy. Americans deserve this right, no less.

Mr. LUGAR. Mr. President, I raise today in support of passage of the Conference Report to accompany S. 900, the Financial Services Modernization Act of 1999.

During my first term in the Senate, I served as a member of the Senate Banking Committee. It was a busy time for the Committee: we passed the Foreign Corrupt Practices Act, permitted for the first time interest bearing checking accounts, and agreed to the Community Reinvestment Act. During those years, the Committee also undertook the difficult tasks of restructuring the finances for New York City and Chrysler Corporation. I am proud of the work we did on the Committee with these initiatives, and we made sure that the American taxpayers did not have to foot the bill for the restructuring of the debt.

I am pleased that after all these years, we are on the verge of passing comprehensive reform that has bipartisan and Administration support. This bill will finally break down inefficient barriers between insurance, banking, and securities and allow United States financial services corporations to compete on an even basis with their European and Asian counterparts.

Over the years, through regulation, court cases, and the development of new financial products, the line separating banking, insurance, and securities has been blurred. In recent years, banks have been selling insurance and mutual funds; brokerage firms have been offering customers money market accounts with check writing privileges. The market was dictating that the laws needed to be rewritten. I have always believed that the laws should be written by Congress, not bureaucrats. It has taken time to fine tune these changes and reach this bipartisan consensus; but Congress has finally met this challenge.

Mr. President, over the course of the last five years, a lot of work and hundreds of hours have gone into perfecting this monumental legislation. I want to commend the Members of the Conference Committee, representatives from the Administration and the Federal Reserve, and the financial community for crafting a consensus piece of legislation. It will open competition, while establishing proper safeguards to protect consumer privacy and maintaining safety and soundness standards for federally insured financial institutions.

In a free market society, competition lowers prices and raises the level of customer service. I believe consumers will benefit from this landmark bill by giving them the choice of products and services offered by more market participants. I am pleased to have this opportunity to speak in support of the passage of this long overdue legislation.

I yield the floor.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement before the Senate today. There are few bills Congress has completed in my time here which will have a more profound impact on our economy than this legislation to modernize and harmonize the various segments of our financial services industry.

I think this historic legislation will result in lower costs of financial services for American consumers, and enhance the competitiveness of United States companies in the global financial marketplace.

At the outset, I want to congratulate Chairman GRAMM and the members of the Senate Banking Committee for all of their hard work on this issue. As Chairman GRAMM knows, it has been no easy task to get the banking, securities and insurance industries, as well as the Administration, the regulators and community groups to agree on what shape this law should take. It is a testament to Senator GRAMM's tenacity that he was able finally to hammer out this agreement.

As we move into the 21st century, the United States continues to maintain capital markets which are the envy of the world. Bank consolidations and rapid expansion of new global markets have meant phenomenal growth in our financial services sector in recent years. The wave of bank mergers in the late 1990's has led to a situation where the assets held by the five largest banks in the United States now total $2.1 trillion. Five years ago, the top five only had $753 billion in assets.

In 1998, for the first time in many years, a U.S. bank is one of the top 10 largest in the world based on assets. From 1997 to 1998, U.S. banks in the top 100 in the world saw their assets grow by 23 percent, their capital base grow by 48 percent and their revenues increase by 36 percent. The United States has 8 of the top 10 securities firms in the world and 4 of the top 20 insurance companies.

With all of this financial strength consolidated in the United States, some may wonder why we need this historic new law. With the advent of the European Monetary Union, the combined gross domestic product of the nations in the Union is already equal to that of the United States. When the U.K. joins the Union, the combined GDP will be 10 percent greater than the GDP of the United States. United States firms need to be more flexible, more efficient, and able to offer more products if they are to compete successfully in these new markets.

Currently, European laws are much more flexible, allowing financial services firms across the Atlantic to be better integrated than United States firms. Our laws need to keep pace. This conference report will allow our various banking, insurance and securities firms to combine through financial holding companies so that they may be even stronger competitors in the increasingly international financial services marketplace.

This enhanced efficiency is not only good for the United States' competitiveness in the international market, it is good for consumers. The Treasury Department estimates that every 1 percentage point decline in the cost of financial intermediation could save U.S. consumers $3.5 billion a year.

This new law will allow consumers to enjoy cheaper access to capital and one-stop shopping at financial services superstores. Americans who want to borrow to buy a new car or a home, purchase insurance to protect that car or home, or invest in securities for the future, will for the first time under this new law be able to do all of that at one time, in one place and at a lower cost.

I want to commend the chairman and conferees for the way in which they have resolved two major issues which concerned me when we debated this bill in the Senate. Those issues are whether the Federal Reserve or Treasury Department should be the primary regulator of the new financial holding companies, and what to do about abuses of the Community Reinvestment Act of CRA.

First, I have great respect for Treasury Secretary Summers and his predecessor, Robert Rubin. They are two of the finest economic and financial minds in the world. But I simply believe that it is more appropriate for the Federal Reserve, a nonpolitical entity also headed by a pretty good economic and financial mind in Alan Greenspan, to serve as the primary regulator in this new age. Regulation of our financial system should not be subject to the ups and downs of the political process, as would be the case if a political appointee, in this case the Secretary of the Treasury, had control.

I believe that this bill makes the proper policy decision by designating the Federal Reserve as the umbrella regulator of financial holding companies. The bill provides a mechanism for coordination between the Fed and the Treasury in approving new financial activities for financial holding company subsidiaries. The Treasury Department, through the Office of the Comptroller of the Currency will maintain its functional regulatory authority over the banking activities of affiliates and subsidiaries of national banks. This is a good compromise and I salute the chairman for his work.

Second, I commend the chairman for his diligence in attempting to address the abusers related to the CRA. This bill does not go as far as I know the chairman would like, but it is a good start. And for those concerned community groups out there who have not abused the CRA, let there be no confusion: when this law is signed by the President, there will still be a CRA and there will still be robust community lending across the United States. In fact, the law itself states that nothing in the conference agreement repeals any existing provision of the CRA.

What the bill does is provide regulatory relief to small banks which demonstrate that they have achieved at least a satisfactory CRA rating in their most recent audit. This will reduce the burdens related to CRA exams for 82 percent of all banks. And for the larger institutions in cities like Albuquerque, the CRA will continue to apply in the same manner as it does today. That is an eminently reasonable approach.

Finally, the bill allows a little sunlight to be shed on all CRA agreements between banks and community groups. Over the next ten years, banks have promised $350 billion in loans and payments to community groups under the CRA. This law will require full public disclosure of those agreements, and an annual accounting of how the money and other resources promised in the agreement were utilized. The public has a right to examine the costs and benefits associated with CRA agreements, and this will provide that public accountability.

Mr. President, I want to commend all of those who have worked so hard to finally get Congress to the point where this bill can become law. I am happy to support this bill, and look forward to the President signing it into law.

Mr. MOYNIHAN. Mr. President, we have been debating the subject of banking in the Senate since the 18th century. We began to ask ourselves a question, could we have a national bank, which Mr. Hamilton, of New York, thought we could do and should do. We created one. It had a very brief tenure. It went out of existence just in time that the Federal Government had no financial resources for the War of 1812. So it was reinstituted, in 1816 for 20 years, and went out of existence just in time for the panic of 1837. We went through greenbacks. There must have been a wampum period. We went to gold coinage. Then a free coinage of silver dominated our politics for almost two decades, as farmers sought liquidity and availability of credit. Finally, at the end of the century of exhaustive debate, we more or less gave up and adopted what we now call the Federal Reserve System.

To say we debated this matter for a century is certainly true. For the last quarter century, we have turned our focus to the nonbank bank. You are really reaching for obscurity when you define an issue as we have done, and yet that seems to be the term with which we have to deal.

The issue of the nonbank banks, were banks will be allowed to expand into newly authorized businesses such as securities and insurance underwriting, could finally be resolved in the Senate today. As we consider the conference report on financial modernization and prepare to pass the most significant piece of banking legislation since the 1933 Glass-Steagall Act, I would like to make two points, followed by a coda. The first being that we need financial modernization, that Depression-era banking laws need to be repealed. A May 4, 1999, Washington Post editorial reads:

Since the Depression, Federal law has sought to keep banking, insurance and securities industries separate. The idea, in part, was to make sure that Federally insured bank deposits didn't wind up somewhere risky and unregulated. But in recent years, even without a change in the law, that separation has eroded. Banks have found ways to offer mutual funds to their customers; investment firms function like deposit institutions; etc. It makes sense now to bring legislation—and regulation—in line with reality.

It strikes me as odd that most corporations are free to engage in any lawful business. Banks, by contrast, are limited to the business of banking. It is generally agreed that the Glass-Steagall Act of 1933 and the Bank Holding Company Act of 1956 need to be amended. Banks, security firms, and insurance companies should be allowed to offer each other's services. They already do by finding loopholes in the law. Congress must catch up, and pass a law that condones this activity. London does it. Tokyo too. Why not New York, which, if I may say, is one of the world's banking capitals?

This is a real problem for existing banks, who find themselves under the serious constraints of Depression-era banking laws. Suddenly, they find that their activities are encroached upon and they are not able to do things that they ought to do—that they are going to need to do—in order to survive in a competitive world economy.

With this bill, we have the opportunity to modernize our financial institutions and allow banks to do the things they ought to do, that they are going to need to do, to survive and grow. We must seize this opportunity, pass this bill, and give our banks the opportunity to compete in the world economy.

Now to the second point. When this bill came up for a vote last May, I could not support it because the provisions concerning the Community Reinvestment Act were unacceptable. The CRA, enacted in 1977, has played a critical role in revitalizing low-and-medium-income communities. New York has benefitted from this. A March 17, 1999 New York Times editorial states:

In New York City's South Bronx neighborhood, the money has turned burned-out areas into havens for affordable homes and a new middle class. The banks earn less on community-based loans than on corporate business. But the most civic-minded banks have accepted this reduced revenue as a cost of doing business—and as a reasonable sacrifice for keeping the surrounding communities strong.

I am told that an acceptable—albeit not perfect—compromise has been worked out on this matter. With this agreement in hand, I can now support the bill. However, I urge the regulators to keep a close eye on the CRA provision and make sure that banks make loans where they are required to and keep investing in those communities that need it most.

I conclude on the question of privacy. No small matter. Consumers, rightly so, are concerned that their personal information will be shared among the newly affiliated companies. The bill places no restrictions on the kinds of detailed personal information—such as customer bank balances, credit card account numbers, income and investments, insurance records, purchases made by check or credit card—that can be swapped among them. A November 3, 1999, Times editorial addresses this matter:

In an electronic world where businesses can effortlessly collect, compile, and mine personal data for marketing and other purposes, consumers should have the right to control the spread of their financial information. Under current Federal law, consumers have almost no rights in this area. The bill adds some limited protections, but it does not go far enough, particularly since conglomeration will greatly accelerate the sharing of private information in the financial sector.

As we move ahead with this bill and make substantial changes to the banking laws, we must make sure that privacy laws keep pace. this is much too important of an issue to be overlooked.

I ask unanimous consent that the Times March 17th and November 3rd editorials, and the Post March 4th editorial be printed in the RECORD.

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

[From the New York Times, Mar. 17, 1999]

MISCHIEF FROM MR. GRAMM

Cities that were in drastic decline 20 years ago are experiencing rebirth, thanks to new homeowners who are transforming neighborhoods of transients into places where families have a stake in what happens. The renaissance is due in part to the Federal Community Reinvestment Act, which requires banks to reinvest actively in depressed and minority areas that were historically written off. Senator Phil Gramm of Texas now wants to weaken the reinvestment Act, encouraging a return to the bad old days, when banks took everyone's deposits but lent them only to the affluent. Sensible members of Congress need to keep the measure intact.

The act was passed in 1977. Until then, prospective home or business owners in many communities had little chance of landing loans even from banks where they keep money on deposit. But according to the National Community reinvestment coalition, banks have committed more than $1 trillion to once neglected neighborhoods since the act was passed, the vast majority of it in the last six years.

In New York City's south Bronx neighborhood, the money has turned burned-out areas into havens for affordable homes and a new middle class. The banks earn less on community-based loans than on corporate business. But the most civic-minded banks have accepted this reduced revenue as a cost of doing business—and as a reasonably sacrifice for keeping the surrounding communities strong.

Federal bank examiners can block mergers or expansions for banks that fail to achieve a satisfactory Community Reinvestment Act rating. The Senate proposal that Mr. Gramm supports would exempt banks with assets of less than $100 million from their obligations under the act. That would include 65 percent of all banks. The Senate bill would also dramatically curtail the community's right to expose what it considers unfair practices. Without Federal pressure, however, the amount of money flowing to poorer neighborhoods would drop substantially, undermining the urban recovery.

Mr. Gramm argues that community groups are ''extorting'' money from banks in return for approval, and describes the required paperwork as odious. But community organizations that build affordable housing in Mr. Gramm's home state heartily disagree. Mayor Ron Kirk of Dallas disagrees as well, and told the Dallas Morning News that he welcomed the opportunity to explain to Mr. Gramm that ''there is no downside to investing in all parts of our community.''

In a perfect world, lending practices would be fair and the reinvestment Act would be unnecessary. But without Federal pressure the country would return to the era of redlining, when communities cut off from capital withered and died.

[From the New York Times, Nov. 3, 1999]

PRIVACY IN FINANCIAL DEALINGS

The financial services bill that will overhaul the nation's banking laws is a good deal for financial institutions but a bad deal for consumer privacy. The bill would allow banks, brokerage houses and insurance companies to merge into financial conglomerates, a long-overdue reform. The banking industry stands to gain from the right to expand into other businesses, and consumers could benefit from the case of one-stop shopping and the creation of new financial services. But protecting consumers' financial privacy should also be central to financial modernization. This bill is weak on that score.

In an electronic world where businesses can effortlessly collect, compile and mine personal data for marketing and other purposes, consumers should have the right to control the spread of their financial information. Under current federal law, consumers have almost no rights in this area. The bill adds some limited protection, but it does not go far enough, particularly since conglomeration will greatly accelerate the sharing of private information to the financial sector.

The bill would require that a financial institution provide customers with general notice about its privacy and disclosure policy. But the institution would remain free to share a customer's personal information with affiliates of the company and with unaffiliated companies that sign marketing agreements, without the customer's consent and without giving the customer the right to object to having that information transferred.

The bill places no restrictions on the kind of detailed personal information—such as customer bank balances, credit card account numbers,income and investments, insurance records, purchases made by check or credit card—that can be swapped among affiliated companies. New regulations proposed by the Clinton administration on medical privacy would prohibit a health insurance company from disclosing medical records to a bank. But nothing in this bill would stop a bank or life insurance company, for example, from sharing equally personal information about customers.

The bill allows consumers to ''opt out'' of disclosure of private information to unaffiliated companies. But that provision contains a big loophole. It would not apply if a financial institution enters into a joint agreement with an unrelated financial institution to market products or services. That means even corporate entities that have no business relationship with a customer could get private information without the customer's consent.

Privacy advocates have argued that financial institutions should be required to get a customer's consent before they transfer or sell personal information. But the banking lobby contends that getting affirmative authorization is too costly. At the very least, consumers who want to keep their records private should be allowed to opt out of having that information disclosed to others.

President Clinton has supported a strong opt-out provision, but in final negotiations in Congress the administration acceded to the loopholes that narrow the opportunities to opt out. Most consumers do not want their banks to share or sell personal information to other businesses, whether under one corporate umbrella or not. Their concerns about privacy will only grow as the new conglomerates begin to cross-market their products. If President Clinton signs the bill, as expected, he must push for separate privacy legislation that actually gives consumers the right to personal data.

[From the Washington Post, May 4, 1998]

BANKING ON REFORM

The Senate today is scheduled to begin considering a bill that would remake the financial services industry, allowing banks and insurance companies and investment banks and insurance companies and investment firms to merge and compete. Similar legislation is making its way through the House. The thrust of both bills is sound. But while the industries have lobbied hard to shape a law satisfactory to them, the current legislation doesn't adequately protect low-income communities or consumers' privacy. Financial modernization should apply to them, too.

Since the Depression, federal law has sought to keep the banking, insurance and securities industries separate. The idea, in part, was to make sure that federally insured bank deposits didn't wind up somewhere risky and unregulated. But in recent years, even without a change in the law, that separation has eroded. Banks have found ways to offer mutual funds to their customers; investment firms function like deposit institutions; etc. It makes sense now to bring legislation—and regulation—in line with reality.

Congress has been trying to do so, and failing, for more than a decade, and may again. But on the major issues, the administration, the Federal Reserve and Congress have pretty well agreed. They would let the financial services industries meld while for the most part keeping them out of other businesses, a wise decision. They've come up with fire walls and regulatory schemes that, while still not entirely agreed upon, have satisfied most concerns about protecting federally insured deposits.

But there is no consensus yet on safeguarding the interests of underserved communities. Since 1977 federally insured banks have been subject to the Community Reinvestment Act, requiring them to seek business opportunities in poor areas as well as middle-class and wealthy neighborhoods. The law, a response originally to clear evidence of bias in lending, has worked well. It doesn't force banks to make unprofitable loans, but it encourages them to look beyond traditional customers, and it's had a beneficial effect on home ownership and small-business lending.

Sen. Phil Gramm, chairman of the Banking Committee, now wants to scale the law way back. He argues that community groups use it to extort money from banks; there's scant evidence for that. The real danger is that, with financial modernization, banks will gradually escape their community obligations by transferring capital to affiliates that aren't covered by the law. The law should be extended and modernized to keep pace with a changing industry.

Consumer privacy also could be in danger as barriers among industries break down. An example: Should your life insurance medical records be shipped over, without your knowledge, to the loan officer considering your mortgage application? Sen. Paul Sarbanes of Maryland and Rep. Ed Markey of Massachusetts, among others, would give consumers more control over the sale and sharing of personal data. As the financial industry moves into a new era, privacy laws should also keep pace.

Mr. SARBANES. Mr. President, I yield 10 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Thank you, Mr. President. I thank Senator SARBANES.

Mr. President, I rise to express my strong support in favor of the Financial Services Modernization Act. I do so because of my heartfelt conviction that it will be good for the American economy, it will be good for the financial services sector of the economy, and it will also be good for consumers and the American people for many years to come.

I will begin by expressing my gratitude and respect for the leaders who have brought us here today after so many years. Senator GRAMM has performed admirably in getting this accomplished after so many years in the past it has failed. I salute him and commend him for his efforts.

Quite frankly, there were some questions about the new chairman when he assumed this position: Would he be willing to make reasonable compromises necessary to get the bill passed? Would he take a broader view or be the captive of narrow parochial interests? Would he be flexible? All these questions, I am proud to say, have been answered in the affirmative.

I wish to salute my colleague, Senator GRAMM, for this historic accomplishment. Without his leadership, we would not be here today. It is a masterful bit of work. And I am proud of his accomplishment in this regard.

I also wish to salute my colleague, Senator SARBANES. Also, we would not be here today without his leadership. He has proven to be a tireless advocate and effective spokesperson for those who are less fortunate. He has proven to be a tireless worker in favor of the rights of privacy of America's consumers. We would not have a bill before the Senate today that could pass this body, that the President would sign, or, frankly, one that enjoyed wide support were it not for the tireless efforts of Senator SARBANES. I compliment him as well. He has been a copartner in this historic accomplishment which we recognize today.

This legislation is good for the American economy. The era of global competitiveness in the financial services sector is unquestionably an area in which our Nation is preeminent. The world looks to the United States to lead the way in areas such as banking, insurance, securities, and investment banking.

Financial services contribute annually to a trade surplus for the United States of America at a time when our trade deficit is running into the hundreds of billions of dollars. But we cannot take our current preeminence for granted. I have had some experience in this regard.

My colleagues may not know that Indiana was one of the very last States to adopt not interstate banking but across-State-line banking in the mid-1980s. As a result of the fact we didn't modernize our laws, once the walls came tumbling down, as they inevitably do, almost all of Indiana's financial institutions in the banking sector were gobbled up by institutions from other States.

If we were similarly to hamstring America's financial institutions—banking, insurance, and securities—with antiquated laws that kept them from having the flexibility needed to compete with our foreign competitors, the day might not be too far removed when those from Germany, Japan, Switzerland, and other nations would be gobbling up our financial institutions because they were too weak or incapable of competing. We shouldn't let that happen to our country.

Hundreds of thousands of jobs across our country and tens of thousands of jobs in Indiana depend upon us getting this done. I am proud to say that we will. It is good for America's economy. It is also good for the broader economy.

Manufacturing, agriculture, and other sectors depend upon access to a vital growing financial services sector. Access to capital is one of the key ingredients for financial success today. Because of this bill, greater efficiency in providing funds for expansion will exist, leading to greater investment, greater productivity, and a rising standard of living for America's working men and women. Access to capital is one of the key ingredients to success in the economy today. This legislation will ensure that the funds keep flowing from America's economy, making it more productive and more efficient for American workers and American shareholders alike.

This legislation is good for consumers. Not only will it be convenient, providing one-stop shopping for working men and women across our country, where they go to a single place and meet their banking needs, insurance needs, security investment needs, and others, but it will also lead to greater efficiency, lower interest rates, and greater access to credit. It will also lead to greater innovation in the new marketplace with greater competition.

I foresee a day not too far removed when services that we can barely imagine today will be provided more conveniently and efficiently to Americans across our country.

Frankly, I approach this bill with some reservations as well. Some issues needed to be resolved or I would not be standing here today to express my strong support for this legislation. Foremost among these was the Community Reinvestment Act, an act that is necessary to guaranteeing access to capital for Americans of every walk of life, regardless of race, creed, or color.

As I said when I previously took the floor to speak on this issue, access to capital today is as important as access to electricity was in the 1930s or access to a telephone was in the 1950s or 1960s. I recognize that issue has been positively resolved in the course of our negotiations.

Second, the emerging issue of privacy is very important. I share the concerns of many Americans about what will happen to their most sensitive information in the new global marketplace.

I am pleased to say that we have taken the first steps in this legislation to guarantee greater privacy for American consumers by requiring clear and plain disclosure about what information will be used within a company, and also allowing American consumers the right to opt out and prohibit companies that they do business with from sharing their financial information with third parties.

This is an issue we have only begun to recognize. We must continue to follow it in the days to come. If it should be the case that greater protections are necessary, I will be one of those who will help to lead the way and look forward to leading the way to ensuring that. For the time being, I am pleased with the provisions currently in the bill and am proud to say we are taking a significant step forward.

In conclusion, for 20 years, we have been laboring to modernize the law that governs financial services that was first enacted in the 1930s. A long string of people who have preceded us in this body have attempted this and have not been successful. But thanks to the leadership of Senator GRAMM and the leadership of Senator SARBANES, the ability of all involved to come together and compromise for the well being of the American economy, the American consumer, and the future of our country, today we celebrate the historic accomplishment.

I intend to vote for this legislation. I urge my colleagues to do the same.

Again, I congratulate all who have brought us to this important accomplishment.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, Senator SARBANES and I have decided, giving people an opportunity to get here, that I will speak, and then Senator SARBANES will speak. Then I will close out.

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

Mr. GRAMM. I am very happy to yield.

Mr. SARBANES. Both sides have tried very hard to canvas their members to see if anyone wishes to speak on this bill. At the moment, we have reached the point where we don't think there is anyone left to speak. The time for voting has been set for reasons of people having been drawn to other responsibilities. But if there is someone out there who wants a few minutes to speak on this legislation, now is the time. Otherwise, it is going to be closed out. We have tried very hard to offer all Members an opportunity to speak, if they wish to do so, on this conference report.

Mr. GRAMM. Mr. President, let me agree with my ranking member to say that we have waited 40 years for this bill. We are not waiting any longer than 3:30. If someone wants to get over here and speak, they had better do it. It is always a little bit risky to try to sum up on a bill such as this that has been in the making for 40 years, a bill that overturns a piece of legislation that Franklin Roosevelt said was the most important bill ever passed by an American Congress.

Having listened to the debate, I have a few points in conclusion. First, there is often such a difference between reality and perception. I listened to some of my colleagues, especially those who oppose the bill, talk about special interests and what this special interest or that special interest got in this bill. In my period of service in Congress, I have never participated in the writing of a bill with less special interests involved than this bill. When Republicans on the committee started in January a series of meetings to talk about why we wanted to modernize the financial laws of the country, why we wanted to repeal Glass-Steagall, why we wanted to restructure the economy in terms of benefit, we set out a theory of financial services modernization and we set out a plan to try to achieve it.

As I listened to all the talk about special interests, I remember Texas bankers and Texas insurance agents both sending a letter which arrived on the same day telling my constituents I had betrayed their particular interests to the other. The insurance agents sent out a letter saying I had sold out to the bankers; the bankers sent out a letter saying I had sold out to the insurance agents.

The bottom line is nobody was sold out in this bill. We started a negotiation to try to deal with a legitimate concern. The concern was this: If someone is going to a bank for a loan, should that bank, while they are in the process of making that loan, have the right to try to sell an individual insurance? We tried to sit down with everybody knowledgeable and come up with a real solution. In the end, I am happy to say, both of these interest groups concluded nobody had sold their interests out and we had put together a good bill.

However, there is a simple test on this bill. If anybody wants to set a marker today to determine whether in 20, 40, or 60 years from now we are going to compare this bill to Glass-Steagall, whether this bill is a success, there is a simple test. That test is, Will this bill generate more diverse products for the American consumer? Will those products better meet the needs of the American consumer? And will they be cheaper? If those things don't happen, this bill fails.

That is what this bill is about. There is nothing in this bill that sets out to benefit big banks in New York. I don't represent New York. I don't have any huge banks in my State. Long ago, other people bought out the big banks in my State. I have sought in this bill, and I believe the vast majority of all of our Members, have sought to promote the interests of the consumer.

This bill is about people who go to work every day and who borrow money on their homes. If someone can improve on their mortgage rate and bring down the interest they pay by even one-quarter of 1 percent, that means thousands of dollars in their pockets over a 30-year period. That is what this bill is about. This bill is about people who want checking accounts and who want services, and they want those services provided on a competitive basis where they are as cheap as can be produced and sold. That is what this bill is about.

This bill is about people who want the ability to do their banking, their insurance, their securities, their retirement on a competitive basis. It is about bringing together those forces.

We have been living with a system that was established during the Great Depression. I don't think there is any reason now to go back and rehash why it happened. But one can make a strong case that the Depression was produced by a failure of the Federal Reserve. Milton Friedman made that case in the ''Monetary History of the United States'' and won the Nobel prize principally for that work.

Congress was frightened. They didn't know what to do. It was an age of demagoguery. Probably the most demagogic statement that has ever been made in American history was made by the President of the United States, Franklin Roosevelt, when during the debate on Glass-Steagall he said:

> The money changers have fled from the high seats in the temple of our civilization.

That statement is reminiscent of statements being made in Central Europe at the same time.

Congress didn't know what caused the Depression. They were frightened. They didn't know what to do so they passed a bill that I think one can argue historically was as punitive as it was prescriptive. It was aimed at one man, in some ways—J.P. Morgan—probably the greatest American of the early 20th century. We don't know a lot about him because he never held public office, but he was probably the greatest American of the early part of this century.

In this era, we had a bill passed that basically forced an artificial separation of the financial sector of our economy. That bill, despite the fact its author within a year had concluded it was a mistake, has been the law of the land. In fact, Time magazine calls it the defining financial legislation of the 20th century.

We came here today to change the defining legislation of the 20th century. We came to bring logic back to the financial sector. We didn't come here today to bring it back to benefit banks or to benefit insurance companies or to benefit securities companies. We came to overturn the most significant financial legislation of the 20th century because it is in the interests of the American consumer that it be overturned.

Let me touch on areas that will be much benefited by this that have had no discussion. The first point, one of the biggest problems we have, is the inability of small businesses to raise capital. Probably the most concentrated part of the American financial sector is securities underwriting.

If a little business in Mexia or College Station, TX, or Cambridge or Easton, MD, or any other of thousands of small or medium-sized towns across America, has a good idea, they will have a hard time raising capital because it is hard to get Wall Street interested in a small business in a little town unless you have one of the great ideas of the century—and even then it takes a long time to prove it.

By letting banks participate in underwriting securities now, every banker in every small town will have the ability to identify a good small business and give them access to capital that has never existed before in the history of this country. That is a benefit which will accrue to literally hundreds of thousands of small businesses over the decades to come as a result of this bill because we will vastly expand the number of securities underwriters, we will make every bank in every city in America a potential underwriter for small business. That is a dramatic and positive change in law.

We dominate the world's financial markets, and we have done it with one hand tied behind us, because we have the greatest economic system in the history of the world.

But we can untie that hand that we have had tied behind us, and we do it in this bill by repealing Glass-Steagall. This bill is going to make America more competitive on the world market, and that is important because it means thousands of jobs, high-paying jobs—not just on Wall Street in New York City, but for every business and every consumer in America. I believe we are too quick to say something benefits Wall Street instead of Main Street. The reality is, Wall Street is the foundation on which Main Street is built. When America is more competitive, every American benefits.

There has been a lot of talk that what we are trying to do is already happening to some degree. And it is because almost immediately after the passage of Glass-Steagall, we had an effort by regulators to begin to bore holes in these walls between insurance and banking, and between securities and banking. We have seen, through regulatory innovation, a successful effort in some areas to get around the law. This has allowed some competition to occur. The problem is, what regulators give, they can take back. So we have created a situation where we have given virtual police power to regulators because they have allowed these innovations to occur and they can take them back at any moment. That creates too much power to be focused in the hands of a very small number of people.

We change that by tearing down the walls, and in the process taking that discretionary power away from the regulators so people are guaranteed in law the right to be engaged in these activities.

My dear colleague from Maryland mentioned yesterday the issue of ''too big to fail.'' That is a real issue. In this bill we start the process of dealing with the issue of too big to fail. We establish a principle, as part of the compromise that was worked out between Treasury and the Federal Reserve, which is not well understood. It is a complicated kind of issue. But what it does is profoundly important because for the first time in American financial law, we require big banks to have subordinated debt. That is debt that only gets paid once the depositors are paid, the creditors are paid, and everything else is paid off. That subordinated debt is a real live thermometer that is constantly telling us how well this financial institution is. It is constantly telling us how safe and how sound these institutions are. It represents, in my opinion, the beginning of our effort to deal with a very real problem that Senator SARBANES talked about, and that problem is the problem of being too big to fail. We don't let banks do anything within the bank unless they have an incredibly high rating on that subordinated debt; that is, that it be rated AAA, AA, or A.

There has been a lot of talk about CRA. The bottom line is we have done several very positive things. First, sunshine is the best disinfectant. How can people be held accountable if we don't know what they have been given money to do, how much money they have been given, and how they spend it. In this legislation, we have set out an ironclad process to guarantee us that information.

Second, there is a regulatory burden problem. Small banks end up being heavily burdened by regulations that often have a relatively nominal effect on big banks. We have dealt with that by giving smaller banks some needed regulatory relief. In terms of privacy, we have heard a lot of discussion, but we need to remember two things: No. 1, we require in this bill, in a provision that was adopted in the conference, offered by Members of the Senate conference, a disclosure in detail of what a bank's privacy policies are. That gives consumers the most powerful tool that exists in a free society in protecting privacy, and that is if you do not like the bank's policy, you can take your business somewhere else.

Second, we give consumers the power to opt out.

So these are important provisions. I thought, as we waited to be sure everyone is here for this vote, that these points needed to be made.

I reserve the remainder of my time.

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

Mr. SARBANES. Mr. President, as we come to the closing moments of this discussion of the conference report, I want to recapitulate a few points.

First of all, I think it must be understood that changes are taking place in the financial landscape at the moment. They have been taking place over the last 20 years. In some respects, this legislation is an effort to create a statutory framework which will encompass the changes that have been happening and which it is reasonable to assume will continue to happen, even if we do not have legislation.

So many of the connections and the relationships about which some have expressed concern in the course of the debate—because they see this legislation as permitting them—are happening right now and will continue to happen. But they are happening without a rational legislative framework, without the Congress, in effect, having made judgments as to what the structure of the system is going to be, without the actors within the system knowing exactly what the rules are, and having the security that comes from knowing they are operating within a defined environment.

I stress that because some have raised it in the course of the debate. Let me say in that respect I think we have had a very good debate on this conference report, if I may say so. I thank those of our colleagues who have spoken because of the depth of the perceptions and understanding they have brought to this debate. I think what transpired last night and today has been in the better traditions of the Senate.

The marketplace in many respects has influenced the need for this legislation. Securities firms have been offering bank-like products. Banks have been offering insurance-like products. Both have been engaged in significant securities activities. This has been taking place out in the marketplace but without a statutory framework within which it clearly functions. These developments have now been going on for more than two decades. We have been wrestling in the Congress for approximately that length of time to see how to revise our laws concerning financial services in order to update them. We are about to accomplish that today.

This will enable the regulators—and of course this bill is very strong on functional regulation—to maintain appropriate oversight as we deal with this evolving marketplace. At the same time, it will enable financial service firms to respond to the needs of their customers. Many assert the customers will receive very significant savings. Others say, no, no, it is going to result in greater costs. In a sense, we will have to see how it plays out.

The administration sent a letter to us from the Secretary of the Treasury. I ask unanimous consent that letter be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. SARBANES. The administration says the following:

By allowing a single organization to offer any type of financial product, the bill will stimulate competition, thereby increasing choice and reducing costs for consumers, communities, and businesses. Americans spend over $350 billion per year on fees and commissions for brokerage, insurance and banking services. If increased competition yielded savings to consumers of even 5 percent, they would save over $18 billion per year.

They go on to say:

Removal of barriers to competition will also enhance the stability of our financial services system. Financial services firms will be able to diversify their product offerings and thus their sources of revenue.

Financial firms will be able to diversify their product offerings and thus their sources of revenue. They also will be better able to compete in global financial markets.

Which, of course, has become an increasingly relevant consideration as we consider our position vis-a-vis those of financial institutions headquartered in countries overseas.

From the very beginning, many of us made it very clear there were important principles we thought had to be addressed with respect to this legislation if we were to support it. We had to face questions, of course, of the safety and soundness of our financial system. We had important questions of CRA, important questions of consumer protection, important questions of the line between banking and commerce, which has been an important principle in the American system.

In the end, we have been able to work these issues in a way that we have addressed those concerns—not entirely in some instances.

People have talked about privacy today. It is my expectation that issue will continue to remain on our agenda because we have not yet fully disposed of it, although I do note this bill put in some privacy protections where none now exists. People should bear that in mind. Those who look at these provisions and say: We want more—and I am essentially with them; I introduced a bill earlier in this session that had more such provisions, and I continue to support those concepts—for those who say they want more, they need to understand we have nothing at the moment. The privacy provisions that are in this bill represent an important step forward.

I also have indicated that the too-big-to-fail issue—and the chairman has also commented on that—is an important matter that still remains before us. It is imperative this study the Federal Reserve and the Treasury are to do jointly come back with recommendations that enable us to address that issue.

This is a risk that is present in the situation. We have confronted it in the past with respect to various financial institutions. We get the moral hazard question: Institutions which assume they have reached the size that they then become too big to fail have less of a constraint upon them in terms of their activities than smaller institutions because they begin to operate on the assumption that no one is going to require them to bear the consequences of their imprudence.

There have been occasions, of course, in the past when regulators have said we simply cannot allow this institution to bear the full consequences of its bad judgments because if we do that, it will have an impact upon the financial system as an entirety; therefore, we need to work out ways in which we can address that question with respect to these large financial mergers and acquisitions which, of course, are going to happen under this legislation. Of course, they were already happening.

What the legislation does is put a framework around this activity which will enable the regulators to exercise much more careful oversight. It is preferable to have a framework developed by the Congress, not on an ad hoc basis by one regulator or another regulator, not in situations where some perceive that regulators are being competitive with one another in terms of how they deal with the financial services sector. If we can have a responsible statutory framework established by the Congress which is contained in this legislation that is now before us, it will contribute to the safety and soundness of the financial system. This legislation better enables us to maintain the separation of banking and commerce.

There are important consumer protections, including some protections about which the Securities and Exchange Commission was concerned, and the legislation that has been developed has the very clear support of the Securities and Exchange Commission.

We have preserved the relevancy of the Community Reinvestment Act, and we have given banks the choice to conduct their expanded activities either through a holding company or, to a limited extent, through a subsidiary. That was the issue that had the Federal Reserve and the Treasury in deep discussions with one another, and in the end I believe they resolved that satisfactorily.

Let me also observe that this rational legislative framework we are putting into place provides for the future evolution of the financial services industry. People will have the security of knowing what the playing field is, something they do not know today with assurance. Nowadays, they go to a regulator and get permission to engage in an activity. The next thing they know, they are in court, and then the case has to wind its way through the court system. They may either be upheld or turned down.

No one is quite sure what they are permitted to do and what they are not permitted to do. People are constantly testing the edges of this. The regulators are in some confusion. In some instances we have overlap, and in other instances we seem to have no overlapping at all—in fact, a vacuum—in terms of overseeing these activities.

With this conference report and this legislation which represents a major change—there is no doubt about that—these are far-reaching and difficult public policy issues. They have not been solved for so long because they are far-reaching and difficult. We have had to address balancing the needs and concerns of the consumers—which, after all, ought to be one of our prime objectives—with a necessity of accommodating to new technology and new ways of doing business and the nature of the competition we are facing from abroad.

In the course of working through this, it has been an extremely interesting process. I take considerable satisfaction from the fact that in working with the chairman and with many others, we have been able to go from a position where we had a bill that, when it left the Senate, was vehemently contested to where we now come back with a conference report that most of us, if not all, can join in supporting and commending to our colleagues.

I recognize some of the points that were made here by some who were apprehensive about the future. I think those are reasonable arguments. They are arguments we considered. They were factors with which we had to wrestle. But I am hopeful that what we are doing here will represent a very important step forward in the workings of the financial services industry, in the protections for our consumers, in giving us a rational statutory framework, and in enabling the regulators to do their job.

It sustains the relevancy of the Community Investment Act, which has been so important for some of the movement of capital into low- and moderate-income communities in this country. It has made such a difference. It is a very important first step, an important first step on the privacy issue. We have tried to safeguard the ability of State regulators to participate. On privacy, States can continue to enact legislation of a higher standard than the Federal standard. State insurance regulators will continue to play the role they have traditionally played with respect to State regulation of insurance.

So I think, all in all, we have put together a good and balanced package. I commend it to my colleagues as we move to final passage. I thank the chairman of the committee.

I yield the floor.

EXHIBIT 1

DEPARTMENT OF THE TREASURY,
Washington, DC, November 3, 1999.

Hon. TOM DASCHLE,
U.S. Senate,
Washington, DC.

DEAR TOM: The Administration strongly supports passage of S. 900, the Gramm-Leach-Bliley Act of 1999. This legislation will modernize our financial services laws to better enable American companies to compete in the new economy.

The bill makes the most important legislative changes to the structure of the U.S. financial system since the 1930s. By allowing a single organization to offer any type of financial product, the bill will stimulate competition, thereby increasing choice and reducing costs for consumers, communities and businesses. Americans spent over $350 billion per year on fees and commissions for brokerage, insurance, and banking services. If increased competition yielded savings to consumers of even 5 percent, they would have over $18 billion per year.

Removal of barriers to competition will also enhance the stability of our financial services system. Financial services firms will be able to diversify their product offerings and thus their sources of revenue. They also will be better able to compete in global financial markets.

The President has strongly supported the elimination of barriers to financial services competition. He has made clear, however, that any financial modernization bill must also preserve the vitality of the Community Reinvestment Act, enhance consumer protection in the privacy and other areas, allow financial services firms to choose the corporate structure that best serves their customers, and continue the traditional separation of banking and commerce. As approved by the Conference Committee, S. 900 accomplishes each of these goals.

With respect to CRA, S. 900 establishes an important, prospective principle: banking organizations seeking to take advantage of new, non-banking authority must demonstrate a satisfactory record of meeting the credit needs of all the communities they serve, including low and moderate income communities. Thus, S. 900 for the first time prohibits a bank or holding company from expanding into newly authorized businesses such as securities and insurance underwriting unless all of its insured depository institutions have a satisfactory or better CRA rating. Furthermore, CRA will continue to apply to all banks, and existing procedures for public comment on, and CRA review of, any application to acquire or merge with a bank will be preserved. The bill offers further support for community development in the form of a new program to provide technical help to low- and moderate-income micro-entrepreneurs.

The bill includes other measures affecting CRA that have been narrowed significantly from their earlier Senate form. The bill includes a limited extension of the CRA examination cycle for small banks with outstanding or satisfactory CRA records, but expressly preserves the ability of regulators to examine a bank any time for reasonable cause, and does not affect regulators ability to inquire in connection with an application. Finally, the bill includes a requirement for disclosure and reporting of CRA agreements. We believe that the legislation and its legislative history have been constructed to prevent undue burdens from being imposed on banks and those working to stimulate investment in underserved communities.

In May, the President stressed the importance of adopting strong and enforceable privacy protections for consumers financial information. S. 900 provides protections for consumers that extend far beyond existing law. For the first time, consumers will have an absolute right to know if their financial institution intends to share or sell their personal financial data, and will have the right to block sharing or sale outside the financial institutions' corporate family. Of equal importance, these restrictions have teeth. S. 900 gives regulatory agencies full authority to enforce privacy protections, as well as new rulemaking authority under the existing Fair Credit Reporting Act. The bill also expressly preserves the ability of states to provide stronger privacy protections. In addition, it establishes new safeguards to prevent pretext calling, by which unscrupulous operators seek to discover the financial assets of consumers. In sum, we believe that this reflects a real improvement over the status quo; but, we will not rest. We will continue to press for even greater protections—especially effective choice about whether personal financial information can be shared with affiliates.

We are pleased that the bill promotes innovation and competition in the financial sector, by allowing banks to choose whether to conduct most new non-banking activities, including securities underwriting and dealing, in either a financial subsidiary or an affiliate of a bank.

The bill also promotes the safety and soundness of the financial system by enhancing the traditional separation of banking and commerce. The bill strictly limits the ability of thrift institutions to affiliate with commercial companies, closing a gap in existing law. The bill also includes restrictions on control of commercial companies through merchant banking.

Although the Administration strongly supports S. 900, there are provisions of the bill that concern us. The bill's redomestication provisions could allow mutual insurance companies to avoid state law protecting policyholders, enriching insiders at the expense of consumers. The Administration intends to monitor any redomestications and state law changes closely, and return to the Congress if necessary. The bill's Federal Home Loan Bank provisions fail to focus the System more on lending to community banks and less on arbitrage activities short-term lending that do not advance its public purpose.

The Administration strongly supports S. 900, and urges its adoption by the Congress.

Sincerely,

LAWRENCE H. SUMMERS,
Secretary of the Treasury.

Mr. GRAMM. Mr. President, it would be my objective to speak and end by 3:30 and we would have the vote.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, success is claimed by a thousand parents. And today there are a lot of people who can claim parenthood. I am very happy to have played a part in delivering the bill before the Senate today.

I think it represents the American legislative process at its best. It has resulted more from an effort to reach a logical conclusion than to satisfy various special interest groups. In that way, it is not unique but it is different.

But the question is not how proud we are of this bill today. The question is, How will it look 50 years from now when it has gone from infancy to maturity?

Obviously, after setting out a dramatic change in public policy, it is fair to set out a test for determining its success. How will people judge whether we were successful in passing this bill today? My test is, What are we trying to do in the bill? Are we trying to benefit banks or insurance companies or securities companies, or are we trying to benefit consumers and workers? The test that I believe we should use—the test I will use, the test I hope people looking at this bill years in the future will use—is, Did it produce a greater diversity of products and services for American consumers? Were those products better? And did they sell at a lower price? I think if the answer to those three questions is yes, then this bill will have succeeded.

The world changes, and we have to change with it. Abraham Lincoln used to tell the story about how Government had to change all outmoded laws because they did not fit anymore, much as it would be unreasonable to expect a man to wear the same clothes he wore as a boy; that there is a nature to things and to society, and as they change, Government has to change to recognize the new reality.

I believe today we are changing financial services in America to reflect that we do have a new century coming and we have an opportunity to dominate that century the way America dominated the last century.

Ultimately, the final judge of the bill is history. Ultimately, as you look at the bill, you have to ask yourself, Will people in the future be trying to repeal it, as we are here today trying to repeal—and hopefully repealing—Glass-Steagall? I think the answer will be no. I think it will be no because we are doing something very different from Glass-Steagall. Glass-Steagall, in the midst of the Great Depression, thought Government was the answer. In this period of economic growth and prosperity, we believe freedom is the answer.

This is a deregulatory bill. I believe that is going to be the wave of the future. Although this bill will be changed many times, and changed dramatically as we expand freedom and opportunity, I do not believe it will be repealed. It sets the foundation for the future, and that will be the test.

So I am proud to have been part of this. I am proud to have worked with everybody as part of the process. It has been interesting and Government at its best. I think one of the reasons we run for public office is to get a chance to do things such as this. I am glad to have had an opportunity to play a part and urge all of my colleagues to support this dramatic move into the future.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. SARBANES. Mr. President, is there time remaining? I yield the Senator 2 minutes if there is.

The PRESIDING OFFICER. There is time until 3:30.

Mr. KERREY. Mr. President, I will be done by 3:30.

I intend to vote for this legislation. I congratulate the parents of the bill: Senator GRAMM, Senator SARBANES, and others, who worked very hard. This was not easy to do.

I agree, it is Government at its best. I believe this is very much proconsumer. There is nothing more frustrating than trying to do a financial transaction and being told: I would like to be able to do it, but I can't. We have been limiting our individual capacity to develop our economy, to pursue the American dream, and do all other sorts of things that make America such a great country.

I appreciate very much the effort made to make certain there is still good regulatory oversight. I have no doubt that safety and soundness considerations will be taken into account. I think the concerns that we are going to have a meltdown such as we had in 1929 are concerns that are dramatically overblown, given the strength both of the Treasury and the Federal Reserve in this legislation.

So I appreciate very much the hard work and diligence of the chairman and the ranking member because I believe our economy and our people will benefit from it.

I am grateful as well—I do not know if the Senator from Texas is—that the unitary thrift provision is limited in this legislation. The Johnson-Kerrey amendment that passed on the floor might have been a bit difficult, but I think it is an important provision. I like the provisions for community reinvestment. I think it is a terrific compromise. My small banks have been asking for regulatory relief that provides it. I think the sunshine provisions are quite exciting. I look forward to seeing where this money and how this money is being spent.

On the issue of privacy, you have improved current privacy protections, better than what we have under existing law. I must say, I had my own interest in privacy, and my concern about privacy increased as a consequence of examining this bill. I hope to participate in a bipartisan effort to give the American people the kind of privacy protections that American citizens both expect and deserve.

Again, I congratulate and thank very much the chairman and ranking member. It is a very important piece of legislation. People were predicting you were not going to be able to get the job done. I hope you enjoyed the pizza that night when you stayed up very late to finish your work. I am grateful you went the extra mile. There is no doubt in my mind there is going to be a positive cause and effect between this bill being law and the health of the U.S. economy.

Mr. DASCHLE. Mr. President, this legislation has been a long time coming. Many, including this Senator, consider it long overdue. It is historic in magnitude.

It has been described, appropriately, as a new ''Constitution'' for financial services for the 21st Century. Because of its importance, it has been hard fought. But we can be proud of the final product. It will foster a continuation of the extraordinary economic growth this nation has seen in the last several years.

Most importantly, it offers new opportunities and benefits for American consumers. It allows for ''one-stop shopping'' for an array of financial services. Americans will be able to conduct their banking, insurance and investment activities under one roof, with all the convenience that entails.

By allowing a single company to offer an array of financial products, this bill will stimulate competition, leading to greater choices and reduced fees for consumers and businesses alike. New companies will create innovative new products for consumers.

It is important to remember how far we have come to reach this historic moment. Congress has been trying to pass a bill along these lines for 20 years. We came extremely close in the last Congress, but it fell apart in its waning moments over disagreements about the Community Reinvestment Act.

Again in this Congress, the bill saw some tough moments. In the Senate, it passed by party-line votes both in committee and on the floor.

Because of the deep commitment of Democrats to enactment of this legislation, we did not give up. We introduced an alternative bill that could garner bipartisan support. And I am proud to say that this conference agreement embodies all of the principles that we advocated in our alternative bill.

We do not need to surrender our beliefs to support of this bill, because it adopts our positions on every major issue. Best of all, these victories mean that the President can sign this bill into a law, so it can improve the delivery of financial services for many years to come.

Our positions prevailed right down the line.

Our position prevailed on banking and commerce: this bill strictly limits the ability of thrifts to affiliate with commercial companies, closing a loophole in current law.

Our position prevailed on operating subsidiaries: the bill allows banks to choose whether to conduct new activities in either a financial subsidiary or an affiliate. They can choose whatever form best suits their customers' needs.

Our position prevailed on consumer protections: the SEC retains the ability to protect consumers when banks sell securities products, which was a major concern of SEC Chairman Levitt. The agreement also preserves important state consumer protection laws governing insurance sales, and prohibits coercive sales practices.

Our position prevailed on the Community Reinvestment Act: CRA is preserved under this bill. The agreement addresses our greatest concern by requiring that banks have a good track record on lending within their own communities before they can expand into newly authorized businesses.

We can be proud of these achievements, and proud to support this bill.

At the same time, we can be disappointed the bill does not go further to protect consumers' financial privacy. The bill does contains some important provisions requiring financial institutions to give customers notice about their privacy policies. But these companies retain extraordinary latitude in sharing a customer's most sensitive, personal information without the customer's consent and without even giving the customer the right to object. We have to do better. This issue is far from over, and we will have to revisit it next year.

Despite these shortcomings, which also exist in current law, this legislation will benefit consumers, businesses and the economy, and deserves our support. Through this bill, Congress is finally reforming our outdated financial services laws to recognize new realities in the marketplace.

I would like to commend our many colleagues, administration officials, and outside institutions that have worked so long and so hard to bring us to this point. We must especially recognize the leadership of the ranking member of the Banking Committee, Senator SARBANES, for his dogged determination to ensure that this final product upheld the public's best interests. The Secretary of the Treasury, Larry Summers, and his predecessor, former Secretary Rubin, also played key roles in ensuring that this legislation protected the interests of American consumers.

I must also commend the Chairman of the Banking Committee, Senator GRAMM, for his recognition of the need for compromise and bipartisanship in producing a bill that deserves the signature of the President of the United States.

Mr. President, this legislation deserves the support of an overwhelming bipartisan majority of our colleagues, and I urge them to vote for it today.

The PRESIDING OFFICER. The hour of 3:30 having arrived, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

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

The result was announced—yeas 90, nays 8, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—90

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

NAYS—8

Boxer	Feingold	Shelby
Bryan	Harkin	Wellstone
Dorgan	Mikulski	

ANSWERED "PRESENT"—1

Fitzgerald

NOT VOTING—1

McCain

The conference report was agreed to.

Mr. SARBANES. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. SANTORUM. I ask unanimous consent there be a period of 30 minutes for morning business, with the first 10 minutes allocated to the Senator from Washington and the second 5 minutes to the Senator from Mississippi.

Mr. GRAHAM. Mr. President, I ask unanimous consent the third period be allocated to the Senator from Florida.

Mr. SANTORUM. Fifteen minutes for the Senator from Florida.

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

WASHINGTON STATE TRAGEDY

Mrs. MURRAY. Mr. President, this is a difficult day for the people of my home State of Washington. I spent a lot of time last night talking with my neighbors, my family members, and local officials in Seattle. Like me, they are all trying to make sense out of something that makes no sense—yesterday's act of violence which killed two people, injured two more, and brought fear to my own neighborhood.

I wasn't sure if I should come to the floor today because I kept asking myself, What is there left to say? That once again, Americans are mourning after yet another deadly shooting? That once again, our families and our neighbors are gripped with fear because someone with a gun has decided to act violently? That once again, these outbreaks of violence aren't going away—they are just becoming too common?

I decided I should come to the floor to offer first my condolences to the families who have been involved and to talk to the people of my State and to thank the law enforcement officials who have responded and to talk to my colleagues about what we can do. My heart goes out to everyone who walks along the Burke-Gilman Trail, a trail I have walked on so many times. My heart goes out to every child who was held in school until they got home safely last night and into their parents' arms. My heart goes out to everyone who works and lives and knows this neighborhood. On Tuesday, it was safe. Today, it is gripped with fear.

Do we see what is happening? Or have these crazy acts become so common that we think we just cannot do anything about them? Can't we see it was someone else's neighborhood yesterday? It was my neighborhood today. Tomorrow it could be your neighborhood. What can we do? Why haven't we done something already? Are we too gripped with partisanship? Are we too tied to special interests to act? Are we too afraid to change the status quo or to even question our own rhetoric? Are we asking the right questions? Are we really posing the right answers?

I know it is in our spirit as Americans to hope for the best and to believe things will get better. That is usually the way it is. But how many shootings will it take before we realize things aren't getting better on their own? They are getting worse, and it is up to us to take action.

It seems to me we, as a nation, have not dealt with the mentally ill. We don't want to pay for costly services. But don't we all end up paying later at a far higher cost? It seems to me, as a nation, we have not spoken out against violence in a strong and consistent manner. Can't we find a way to speak out without violating our freedom of speech? Can we have this conversation without falling into the traps of the far right and the far left?

Every time we turn on the news and we are gripped by fear, guns are involved. What tragedy will it take before we act? How many people have to die? How many shootings is it going to take? How close to home do they have to strike?

We had a shooting here in the Capitol, in the heart of democracy, and we still have not acted. Can't we make commonsense rules about keeping guns away from those who shouldn't have them?

I personally am tired of the old rhetoric. From the far left they say: Take all the guns away. From the far right they say: It is not the guns, it is lax law enforcement.

Give me a break. We are the greatest nation in this world; can't we come up with some commonsense ideas about how to protect our own people? I think we can.

This Congress has failed miserably. Here we are, in the same year as the Columbine tragedy, with no juvenile justice bill, no background checks for guns sold at gun shows, no resources for our communities to help those who are mentally ill, and no afterschool activities for our kids. That is shameful.

I hope my colleagues will stop and think for a minute and realize this is not happening to someone else. It is happening to all of us. It was Hawaii on Tuesday. It was Washington on Wednesday. It could be your State today. Those are just the mass shootings that get a lot of media attention. We should not forget, on the average, 12 children a day die from gunfire.

I say to my colleagues, I would love to work with anyone from either side of the aisle who wants to take the time to really talk about what our country is facing. There are many factors. People are overstressed; violence is pervasive; weapons are easy to get. It is a flammable combination that has exploded too often.

Our country is looking for leaders who will work together on this. I say it is time to try. I invite anyone who wants to work with me to let me know.