Mr. FORD. I announce that the Senator from California (Mrs. BOXER) and the Senator from Arkansas (Mr. BUMPERS) are necessarily absent.

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

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—90

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

NAYS—1

Kyl

NOT VOTING—9

| | | |
|---|---|---|
| Bennett | Burns | Kempthorne |
| Boxer | Enzi | McCain |
| Bumpers | Helms | Stevens |

The bill (S. 2307), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. GRAMS). Under the previous order, the Chair appoints the following Senators to serve as conferees on the transportation appropriations bill.

The Presiding Officer appointed Mr. SHELBY, Mr. DOMENICI, Mr. SPECTER, Mr. BOND, Mr. GORTON, Mr. BENNETT, Mr. FAIRCLOTH, Mr. STEVENS, Mr. LAUTENBERG, Mr. BYRD, Ms. MIKULSKI, Mr. REID of Nevada, Mr. KOHL, Mrs. MURRAY, and Mr. INOUYE conferees on the part of the Senate.

## CREDIT UNION MEMBERSHIP ACCESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 1151, which the clerk will report.

A bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

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

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the ''Credit Union Membership Access Act''.*

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

*Sec. 1. Short title; table of contents.*
*Sec. 2. Findings.*
*Sec. 3. Definitions.*

*TITLE I—CREDIT UNION MEMBERSHIP*

*Sec. 101. Fields of membership.*
*Sec. 102. Criteria for approval of expansion of membership of multiple common-bond credit unions.*
*Sec. 103. Geographical guidelines for community credit unions.*

*TITLE II—REGULATION OF CREDIT UNIONS*

*Sec. 201. Financial statement and audit requirements.*
*Sec. 202. Conversion of insured credit unions.*
*Sec. 203. Limitation on member business loans.*
*Sec. 204. Serving persons of modest means within the field of membership of credit unions.*
*Sec. 205. National Credit Union Administration Board membership.*
*Sec. 206. Report and congressional review requirement for certain regulations.*

*TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS*

*Sec. 301. Prompt corrective action.*
*Sec. 302. National credit union share insurance fund equity ratio, available assets ratio, and standby premium charge.*
*Sec. 303. Access to liquidity.*

*TITLE IV—MISCELLANEOUS PROVISIONS*

*Sec. 401. Study and report on differing regulatory treatment.*
*Sec. 402. Review of regulations and paperwork reduction.*
*Sec. 403. Treasury report on reduced taxation and viability of small banks.*

***SEC. 2. FINDINGS.***

*The Congress finds the following:*

*(1) The American credit union movement began as a cooperative effort to serve the productive and provident credit needs of individuals of modest means.*

*(2) Credit unions continue to fulfill this public purpose, and current members and membership groups should not face divestiture from the financial services institution of their choice as a result of recent court action.*

*(3) To promote thrift and credit extension, a meaningful affinity and bond among members, manifested by a commonality of routine interaction, shared and related work experiences, interests, or activities, or the maintenance of an otherwise well-understood sense of cohesion or identity is essential to the fulfillment of the public mission of credit unions.*

*(4) Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means.*

*(5) Improved credit union safety and soundness provisions will enhance the public benefit that citizens receive from these cooperative financial services institutions.*

***SEC. 3. DEFINITIONS.***

*As used in this Act—*

*(1) the term ''Administration'' means the National Credit Union Administration;*

*(2) the term ''Board'' means the National Credit Union Administration Board;*

*(3) the term ''Federal banking agencies'' has the same meaning as in section 3 of the Federal Deposit Insurance Act;*

*(4) the terms ''insured credit union'' and ''State-chartered insured credit union'' have the same meanings as in section 101 of the Federal Credit Union Act; and*

*(5) the term ''Secretary'' means the Secretary of the Treasury.*

***TITLE I—CREDIT UNION MEMBERSHIP***

***SEC. 101. FIELDS OF MEMBERSHIP.***

*Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended—*

*(1) in the first sentence—*

*(A) by striking ''Federal credit union membership shall consist of'' and inserting ''(a) IN GENERAL.—Subject to subsection (b), Federal credit union membership shall consist of''; and*

*(B) by striking '', except that'' and all that follows through ''rural district''; and*

*(2) by adding at the end the following new subsections:*

*''(b) MEMBERSHIP FIELD.—Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in 1 of the following categories:*

*''(1) SINGLE COMMON-BOND CREDIT UNION.—1 group that has a common bond of occupation or association.*

*''(2) MULTIPLE COMMON-BOND CREDIT UNION.—More than 1 group—*

*''(A) each of which has (within the group) a common bond of occupation or association; and*

*''(B) the number of members of each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d).*

*''(3) COMMUNITY CREDIT UNION.—Persons or organizations within a well-defined local community, neighborhood, or rural district.*

*''(c) EXCEPTIONS.—*

*''(1) GRANDFATHERED MEMBERS AND GROUPS.—*

*''(A) IN GENERAL.—Notwithstanding subsection (b)—*

*''(i) any person or organization that is a member of any Federal credit union as of the date of enactment of the Credit Union Membership Access Act may remain a member of the credit union after that date of enactment; and*

*''(ii) a member of any group whose members constituted a portion of the membership of any Federal credit union as of that date of enactment shall continue to be eligible to become a member of that credit union, by virtue of membership in that group, after that date of enactment.*

*''(B) SUCCESSORS.—If the common bond of any group referred to in subparagraph (A) is defined by any particular organization or business entity, subparagraph (A) shall continue to apply with respect to any successor to the organization or entity.*

*''(2) EXCEPTION FOR UNDERSERVED AREAS.—Notwithstanding subsection (b), in the case of a Federal credit union, the field of membership category of which is described in subsection (b)(2), the Board may allow the membership of the credit union to include any person or organization within a local community, neighborhood, or rural district if—*

*''(A) the Board determines that the local community, neighborhood, or rural district—*

*''(i) meets the requirements of paragraph (3) and subparagraphs (A) and (B) of paragraph (4) of section 233(b) of the Bank Enterprise Act of 1991, and such additional requirements as the Board may impose; and*

*''(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), by other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and*

''(B) the credit union establishes and maintains an office or facility in the local community, neighborhood, or rural district at which credit union services are available.

''(d) MULTIPLE COMMON-BOND CREDIT UNION GROUP REQUIREMENTS.—

''(1) NUMERICAL LIMITATION.—Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership category of a credit union described in subsection (b)(2).

''(2) EXCEPTIONS.—In the case of any Federal credit union, the field of membership category of which is described in subsection (b)(2), the numerical limitation in paragraph (1) of this subsection shall not apply with respect to—

''(A) any group that the Board determines, in writing and in accordance with the guidelines and regulations issued under paragraph (3), could not feasibly or reasonably establish a new single common-bond credit union, the field of membership category of which is described in subsection (b)(1) because—

''(i) the group lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

''(ii) the group does not meet the criteria that the Board has determined to be important for the likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or

''(iii) the group would be unlikely to operate a safe and sound credit union;

''(B) any group transferred from another credit union—

''(i) in connection with a merger or consolidation recommended by the Board or any appropriate State credit union supervisor based on safety and soundness concerns with respect to that other credit union; or

''(ii) by the Board in the Board's capacity as conservator or liquidating agent with respect to that other credit union; or

''(C) any group transferred in connection with a voluntary merger, having received conditional approval by the Administration of the merger application prior to October 25, 1996, but not having consummated the merger prior to October 25, 1996, if the merger is consummated not later than 180 days after the date of enactment of the Credit Union Membership Access Act.

''(3) REGULATIONS AND GUIDELINES.—The Board shall issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria that the Board will apply in determining under this subsection whether or not an additional group may be included within the field of membership category of an existing credit union described in subsection (b)(2).

''(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVISIONS.—

''(1) MEMBERSHIP ELIGIBILITY LIMITED TO IMMEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No individual shall be eligible for membership in a credit union on the basis of the relationship of the individual to another person who is eligible for membership in the credit union, unless the individual is a member of the immediate family or household (as those terms are defined by the Board, by regulation) of the other person.

''(2) RETENTION OF MEMBERSHIP.—Except as provided in section 118, once a person becomes a member of a credit union in accordance with this title, that person or organization may remain a member of that credit union until the person or organization chooses to withdraw from the membership of the credit union.''.

**SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF MEMBERSHIP OF MULTIPLE COMMON-BOND CREDIT UNIONS.**

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by adding at the end the following new subsection:

''(f) CRITERIA FOR APPROVAL OF EXPANSION OF MULTIPLE COMMON-BOND CREDIT UNIONS.—

''(1) IN GENERAL.—The Board shall—

''(A) encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union; and

''(B) if the formation of a separate credit union by the group is not practicable or consistent with the standards referred to in subparagraph (A), require the inclusion of the group in the field of membership of a credit union that is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

''(2) APPROVAL CRITERIA.—The Board may not approve any application by a Federal credit union, the field of membership category of which is described in subsection (b)(2) to include any additional group within the field of membership of the credit union (or an application by a Federal credit union described in subsection (b)(1) to include an additional group and become a credit union described in subsection (b)(2)), unless the Board determines, in writing, that—

''(A) the credit union has not engaged in any unsafe or unsound practice (as defined in section 206(b)) that is material during the 1-year period preceding the date of filing of the application;

''(B) the credit union is adequately capitalized;

''(C) the credit union has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new membership group;

''(D) pursuant to the most recent evaluation of the credit union under section 215, the credit union is satisfactorily providing affordable credit union services to all individuals of modest means within the field of membership of the credit union;

''(E) any potential harm that the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership; and

''(F) the credit union has met such additional requirements as the Board may prescribe, by regulation.''.

**SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY CREDIT UNIONS.**

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by adding at the end the following new subsection:

''(g) REGULATIONS REQUIRED FOR COMMUNITY CREDIT UNIONS.—

''(1) DEFINITION OF WELL-DEFINED LOCAL COMMUNITY, NEIGHBORHOOD, OR RURAL DISTRICT.—The Board shall prescribe, by regulation, a definition for the term 'well-defined local community, neighborhood, or rural district' for purposes of—

''(A) making any determination with regard to the field of membership of a credit union described in subsection (b)(3); and

''(B) establishing the criteria applicable with respect to any such determination.

''(2) SCOPE OF APPLICATION.—The definition prescribed by the Board under paragraph (1) shall apply with respect to any application to form a new credit union, or to alter or expand the field of membership of an existing credit union, that is filed with the Board after the date of enactment of the Credit Union Membership Access Act.''.

## TITLE II—REGULATION OF CREDIT UNIONS

**SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIREMENTS.**

(a) IN GENERAL.—Section 202(a)(6) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)) is amended by adding at the end the following new subparagraphs:

''(C) ACCOUNTING PRINCIPLES.—

''(i) IN GENERAL.—Accounting principles applicable to reports or statements required to be filed with the Board by each insured credit union shall be uniform and consistent with generally accepted accounting principles.

''(ii) BOARD DETERMINATION.—If the Board determines that the application of any generally accepted accounting principle to any insured credit union is not appropriate, the Board may prescribe an accounting principle for application to the credit union that is no less stringent than generally accepted accounting principles.

''(iii) DE MINIMUS EXCEPTION.—This subparagraph shall not apply to any insured credit union, the total assets of which are less than $10,000,000, unless prescribed by the Board or an appropriate State credit union supervisor.

''(D) LARGE CREDIT UNION AUDIT REQUIREMENT.—

''(i) IN GENERAL.—Each insured credit union having total assets of $500,000,000 or more shall have an annual independent audit of the financial statements of the credit union, performed in accordance with generally accepted auditing standards by an independent certified public accountant or public accountant licensed by the appropriate State or jurisdiction to perform those services.

''(ii) VOLUNTARY AUDITS.—If a Federal credit union that is not required to conduct an audit under clause (i), and that has total assets of more than $10,000,000 conducts such an audit for any purpose, using an independent auditor who is compensated for his or her audit services with respect to that audit, the audit shall be performed consistent with the accountancy laws of the appropriate State or jurisdiction, including licensing requirements.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 202(a)(6)(B) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)(B)) is amended by striking ''subparagraph (A)'' and inserting ''subparagraph (A) or (D)''.

**SEC. 202. CONVERSION OF INSURED CREDIT UNIONS.**

Section 205(b) of the Federal Credit Union Act (12 U.S.C. 1785(b)) is amended—

(1) in paragraph (1), by striking ''Except with the prior written approval of the Board, no insured credit union shall'' and inserting ''Except as provided in paragraph (2), no insured credit union shall, without the prior approval of the Board'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

''(2) CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), an insured credit union may convert to a mutual savings bank or savings association (if the savings association is in mutual form), as those terms are defined in section 3 of the Federal Deposit Insurance Act, without the prior approval of the Board, subject to the requirements and procedures set forth in the laws and regulations governing mutual savings banks and savings associations.

''(B) CONVERSION PROPOSAL.—A proposal for a conversion described in subparagraph (A) shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on that date or by written ballot to be filed on or before that date), by a majority of the directors of the insured credit union. Approval of the proposal for conversion shall be by the affirmative vote of a majority of the members of the insured credit union who vote on the proposal.

''(C) NOTICE OF PROPOSAL TO MEMBERS.—An insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) shall submit notice to each of its members who is eligible to vote on the matter of its intent to convert—

''(i) 90 days before the date of the member vote on the conversion;

''(ii) 60 days before the date of the member vote on the conversion; and

''(iii) 30 days before the date of the member vote on the conversion.

''(D) NOTICE OF PROPOSAL TO BOARD.—The Board may require an insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) to submit a notice to the Board of its intent to convert during the 90-day period preceding the date of the completion of the conversion.

''(E) INAPPLICABILITY OF ACT UPON CONVERSION.—Upon completion of a conversion described in subparagraph (A), the credit union shall no longer be subject to any of the provisions of this Act.

''(F) LIMIT ON COMPENSATION OF OFFICIALS.—

''(i) IN GENERAL.—No director or senior management official of an insured credit union may receive any economic benefit in connection with a conversion of the credit union as described in subparagraph (A), other than—

''(I) director fees; and

''(II) compensation and other benefits paid to directors or senior management officials of the converted institution in the ordinary course of business.

''(ii) SENIOR MANAGEMENT OFFICIAL.—For purposes of this subparagraph, the term 'senior management official' means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32(f) of the Federal Deposit Insurance Act).

''(G) CONSISTENT RULES.—

''(i) IN GENERAL.—Not later than 6 months after the date of enactment of the Credit Union Membership Access Act, the Administration shall promulgate final rules applicable to charter conversions described in this paragraph that are consistent with rules promulgated by other financial regulators, including the Office of Thrift Supervision and the Office of the Comptroller of the Currency. The rules required by this clause shall provide that charter conversion by an insured credit union shall be subject to regulation that is no more or less restrictive than that applicable to charter conversions by other financial institutions.

''(ii) OVERSIGHT OF MEMBER VOTE.—The member vote concerning charter conversion under this paragraph shall be administered by the Administration, and shall be verified by the Federal or State regulatory agency that would have jurisdiction over the institution after the conversion. If either the Administration or that regulatory agency disapproves of the methods by which the member vote was taken or procedures applicable to the member vote, the member vote shall be taken again, as directed by the Administration or the agency.''.

**SEC. 203. LIMITATION ON MEMBER BUSINESS LOANS.**

The Federal Credit Union Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 107 the following new section:

**''SEC. 107A. LIMITATION ON MEMBER BUSINESS LOANS.**

''(a) IN GENERAL.—On and after the date of enactment of this section, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of—

''(1) 1.75 times the actual net worth of the credit union; or

''(2) 1.75 times the minimum net worth required under section 216(c)(1)(A) for a credit union to be well capitalized.

''(b) EXCEPTIONS.—Subsection (a) does not apply in the case of—

''(1) an insured credit union chartered for the purpose of making, or that has a history of primarily making, member business loans to its members, as determined by the Board; or

''(2) an insured credit union that—

''(A) serves predominantly low-income members, as defined by the Board; or

''(B) is a community development financial institution, as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994.

''(c) DEFINITIONS.—As used in this section—

''(1) the term 'member business loan'—

''(A) means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose; and

''(B) does not include an extension of credit—

''(i) that is fully secured by a lien on a 1- to 4-family dwelling that is the primary residence of a member;

''(ii) that is fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

''(iii) that is described in subparagraph (A), if it was made to a borrower or an associated member that has a total of all such extensions of credit in an amount equal to less than $50,000;

''(iv) the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the Federal Government or of a State, or any political subdivision thereof; or

''(v) that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

''(2) the term 'net worth'—

''(A) with respect to any insured credit union, means the credit union's retained earnings balance, as determined under generally accepted accounting principles; and

''(B) with respect to a credit union that serves predominantly low-income members, as defined by the Board, includes secondary capital accounts that are—

''(i) uninsured; and

''(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund; and

''(3) the term 'associated member' means any member having a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

''(d) EFFECT ON EXISTING LOANS.—An insured credit union that has, on the date of enactment of this section, a total amount of outstanding member business loans that exceeds the amount permitted under subsection (a) shall, not later than 3 years after that date of enactment, reduce the total amount of outstanding member business loans to an amount that is not greater than the amount permitted under subsection (a).''.

**SEC. 204. SERVING PERSONS OF MODEST MEANS WITHIN THE FIELD OF MEMBERSHIP OF CREDIT UNIONS.**

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

**''SEC. 215. SERVING PERSONS OF MODEST MEANS WITHIN THE FIELD OF MEMBERSHIP OF CREDIT UNIONS.**

''(a) CONTINUING AND AFFIRMATIVE OBLIGATION.—The purpose of this section is to reaffirm that insured credit unions have a continuing and affirmative obligation to meet the financial services needs of persons of modest means, consistent with safe and sound operation.

''(b) EVALUATION BY THE BOARD.—The Board shall, before the end of the 12-month period beginning on the date of enactment of the Credit Union Membership Access Act—

''(1) prescribe criteria for periodically reviewing the record of each insured credit union in providing affordable credit union services to all individuals of modest means (including low- and moderate-income individuals) within the field of membership of the credit union; and

''(2) provide for making the results of the reviews publicly available.

''(c) ADDITIONAL CRITERIA FOR COMMUNITY CREDIT UNIONS REQUIRED.—The Board shall, by regulation—

''(1) prescribe additional criteria for annually evaluating the record of any insured credit union that is organized to serve a well-defined local community, neighborhood, or rural district in meeting the credit needs and credit union service needs of the entire field of membership of the credit union; and

''(2) prescribe procedures for remedying the failure of any insured credit union described in paragraph (1) to meet the criteria established pursuant to paragraph (1), including the disapproval of any application by the credit union to expand the field of membership of the credit union.

''(d) EMPHASIS ON PERFORMANCE, NOT PAPERWORK.—In evaluating any insured credit union under this section, the Board—

''(1) shall focus on the actual performance of the insured credit union; and

''(2) may not impose burdensome paperwork or recordkeeping requirements.''.

(b) ANNUAL REPORTS.—With respect to each of the first 5 years that begin after the date of enactment of this Act, the Board shall include in the annual report to the Congress under section 102(d) of the Federal Credit Union Act, a report on the progress of the Board in implementing section 215 of that Act (as added by subsection (a) of this section).

**SEC. 205. NATIONAL CREDIT UNION ADMINISTRATION BOARD MEMBERSHIP.**

Section 102(b) of the Federal Credit Union Act (12 U.S.C. 1752a(b)) is amended—

(1) by striking ''(b) The Board'' and inserting ''(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—

''(1) IN GENERAL.—The Board''; and

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

''(2) APPOINTMENT CRITERIA.—

''(A) EXPERIENCE IN FINANCIAL SERVICES.—In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board.

''(B) LIMIT ON APPOINTMENT OF CREDIT UNION OFFICERS.—Not more than 1 member of the Board may be appointed to the Board from among individuals who, at the time of the appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.''.

**SEC. 206. REPORT AND CONGRESSIONAL REVIEW REQUIREMENT FOR CERTAIN REGULATIONS.**

A regulation prescribed by the Board shall be treated as a major rule for purposes of chapter 8 of title 5, United States Code, if the regulation defines, or amends the definition of—

(1) the term ''immediate family or household'' for purposes of section 109(e)(1) of the Federal Credit Union Act (as added by section 101 of this Act); or

(2) the term ''well-defined local community, neighborhood, or rural district'' for purposes of section 109(g) of the Federal Credit Union Act (as added by section 103 of this Act).

## TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS

**SEC. 301. PROMPT CORRECTIVE ACTION.**

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

**''SEC. 216. PROMPT CORRECTIVE ACTION.**

''(a) RESOLVING PROBLEMS TO PROTECT FUND.—

''(1) PURPOSE.—The purpose of this section is to resolve the problems of insured credit unions at the least possible long-term loss to the Fund.

''(2) PROMPT CORRECTIVE ACTION REQUIRED.—The Board shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured credit unions.

''(b) REGULATIONS REQUIRED.—

''(1) INSURED CREDIT UNIONS.—

''(A) IN GENERAL.—The Board shall, by regulation, prescribe a system of prompt corrective action for insured credit unions that is—

''(i) consistent with this section; and

''(ii) comparable to section 38 of the Federal Deposit Insurance Act.

''(B) COOPERATIVE CHARACTER OF CREDIT UNIONS.—The Board shall design the system required under subparagraph (A) to take into account that credit unions are not-for-profit cooperatives that—

''(i) do not issue capital stock;

''(ii) must rely on retained earnings to build net worth; and

''(iii) have boards of directors that consist primarily of volunteers.

''(2) NEW CREDIT UNIONS.—

''(A) IN GENERAL.—In addition to regulations under paragraph (1), the Board shall, by regulation, prescribe a system of prompt corrective action that shall apply to new credit unions in lieu of this section and the regulations prescribed under paragraph (1).

''(B) CRITERIA FOR ALTERNATIVE SYSTEM.—The Board shall design the system prescribed under subparagraph (A)—

''(i) to carry out the purpose of this section;

''(ii) to recognize that credit unions (as cooperatives that do not issue capital stock) initially have no net worth, and give new credit unions reasonable time to accumulate net worth;

''(iii) to create adequate incentives for new credit unions to become adequately capitalized by the time that they either—

''(I) have been in operation for more than 10 years; or

''(II) have more than $10,000,000 in total assets;

''(iv) to impose appropriate restrictions and requirements on new credit unions that do not make sufficient progress toward becoming adequately capitalized; and

''(v) to prevent evasion of the purpose of this section.

''(c) NET WORTH CATEGORIES.—

''(1) IN GENERAL.—For purposes of this section the following definitions shall apply:

''(A) WELL CAPITALIZED.—An insured credit union is 'well capitalized' if—

''(i) it has a net worth ratio of not less than 7 percent; and

''(ii) it meets any applicable risk-based net worth requirement under subsection (d).

''(B) ADEQUATELY CAPITALIZED.—An insured credit union is 'adequately capitalized' if—

''(i) it has a net worth ratio of not less than 6 percent; and

''(ii) it meets any applicable risk-based net worth requirement under subsection (d).

''(C) UNDERCAPITALIZED.—An insured credit union is 'undercapitalized' if—

''(i) it has a net worth ratio of less than 6 percent; or

''(ii) it fails to meet any applicable risk-based net worth requirement under subsection (d).

''(D) SIGNIFICANTLY UNDERCAPITALIZED.—An insured credit union is 'significantly undercapitalized'—

''(i) if it has a net worth ratio of less than 4 percent; or

''(ii) if—

''(I) it has a net worth ratio of less than 5 percent; and

''(II) it—

''(aa) fails to submit an acceptable net worth restoration plan within the time allowed under subsection (f); or

''(bb) materially fails to implement a net worth restoration plan accepted by the Board.

''(E) CRITICALLY UNDERCAPITALIZED.—An insured credit union is 'critically undercapitalized' if it has a net worth ratio of less than 2 percent (or such higher net worth ratio, not to exceed 3 percent, as the Board may specify by regulation).

''(2) ADJUSTING NET WORTH LEVELS.—

''(A) IN GENERAL.—If, for purposes of section 38(c) of the Federal Deposit Insurance Act, the Federal banking agencies increase or decrease the required minimum level for the leverage limit (as those terms are used in that section 38), the Board may, by regulation, and subject to subparagraph (B) of this paragraph, correspondingly increase or decrease 1 or more of the net worth ratios specified in subparagraphs (A) through (D) of paragraph (1) of this subsection in an amount that is equal to not more than the difference between the required minimum level most recently established by the Federal banking agencies and 4 percent of total assets (with respect to institutions regulated by those agencies).

''(B) DETERMINATIONS REQUIRED.—The Board may increase or decrease net worth ratios under subparagraph (A) only if the Board—

''(i) determines, in consultation with the Federal banking agencies, that the reason for the increase or decrease in the required minimum level for the leverage limit also justifies the adjustment in net worth ratios; and

''(ii) determines that the resulting net worth ratios are sufficient to carry out the purpose of this section.

''(C) TRANSITION PERIOD REQUIRED.—If the Board increases any net worth ratio under this paragraph, the Board shall give insured credit unions a reasonable period of time to meet the increased ratio.

''(d) RISK-BASED NET WORTH REQUIREMENT FOR COMPLEX CREDIT UNIONS.—

''(1) IN GENERAL.—The regulations required under subsection (b)(1) shall include a risk-based net worth requirement for insured credit unions that are complex, as defined by the Board based on the portfolios of assets and liabilities of credit unions.

''(2) STANDARD.—The Board shall design the risk-based net worth requirement to take account of any material risks against which the net worth ratio required for an insured credit union to be adequately capitalized may not provide adequate protection.

''(e) EARNINGS-RETENTION REQUIREMENT APPLICABLE TO CREDIT UNIONS THAT ARE NOT WELL CAPITALIZED.—

''(1) IN GENERAL.—An insured credit union that is not well capitalized shall annually set aside as net worth an amount equal to not less than 0.4 percent of its total assets.

''(2) BOARD'S AUTHORITY TO DECREASE EARNINGS-RETENTION REQUIREMENT.—

''(A) IN GENERAL.—The Board may, by order, decrease the 0.4 percent requirement in paragraph (1) with respect to a credit union to the extent that the Board determines that the decrease—

''(i) is necessary to avoid a significant redemption of shares; and

''(ii) would further the purpose of this section.

''(B) PERIODIC REVIEW REQUIRED.—The Board shall periodically review any order issued under subparagraph (A).

''(f) NET WORTH RESTORATION PLAN REQUIRED.—

''(1) IN GENERAL.—Each insured credit union that is undercapitalized shall submit an acceptable net worth restoration plan to the Board within the time allowed under this subsection.

''(2) ASSISTANCE TO SMALL CREDIT UNIONS.—The Board (or the staff of the Board) shall, upon timely request by an insured credit union with total assets of less than $10,000,000, and subject to such regulations or guidelines as the Board may prescribe, assist that credit union in preparing a net worth restoration plan.

''(3) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The Board shall, by regulation, establish deadlines for submission of net worth restoration plans under this subsection that—

''(A) provide insured credit unions with reasonable time to submit net worth restoration plans; and

''(B) require the Board to act on net worth restoration plans expeditiously.

''(4) FAILURE TO SUBMIT ACCEPTABLE PLAN WITHIN TIME ALLOWED.—

''(A) FAILURE TO SUBMIT ANY PLAN.—If an insured credit union fails to submit a net worth restoration plan within the time allowed under paragraph (3), the Board shall—

''(i) promptly notify the credit union of that failure; and

''(ii) give the credit union a reasonable opportunity to submit a net worth restoration plan.

''(B) SUBMISSION OF UNACCEPTABLE PLAN.—If an insured credit union submits a net worth restoration plan within the time allowed under paragraph (3) and the Board determines that the plan is not acceptable, the Board shall—

''(i) promptly notify the credit union of why the plan is not acceptable; and

''(ii) give the credit union a reasonable opportunity to submit a revised plan.

''(5) ACCEPTING PLAN.—The Board may accept a net worth restoration plan only if the Board determines that the plan is based on realistic assumptions and is likely to succeed in restoring the net worth of the credit union.

''(g) RESTRICTIONS ON UNDERCAPITALIZED CREDIT UNIONS.—

''(1) RESTRICTION ON ASSET GROWTH.—An insured credit union that is undercapitalized shall not generally permit its average total assets to increase, unless—

''(A) the Board has accepted the net worth restoration plan of the credit union for that action;

''(B) any increase in total assets is consistent with the net worth restoration plan; and

''(C) the net worth ratio of the credit union increases at a rate that is consistent with the net worth restoration plan.

''(2) RESTRICTION ON MEMBER BUSINESS LOANS.—Notwithstanding section 107A(a), an insured credit union that is undercapitalized may not make any increase in the total amount of member business loans (as defined in section 107A(c)) outstanding at that credit union at any one time, until such time as the credit union becomes adequately capitalized.

''(h) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA.—With respect to the exercise of authority by the Board under regulations comparable to section 38(g) of the Federal Deposit Insurance Act—

''(1) the Board may not reclassify an insured credit union into a lower net worth category, or treat an insured credit union as if it were in a lower net worth category, for reasons not pertaining to the safety and soundness of that credit union; and

''(2) the Board may not delegate its authority to reclassify an insured credit union into a lower net worth category or to treat an insured credit union as if it were in a lower net worth category.

''(i) ACTION REQUIRED REGARDING CRITICALLY UNDERCAPITALIZED CREDIT UNIONS.—

''(1) IN GENERAL.—The Board shall, not later than 90 days after the date on which an insured credit union becomes critically undercapitalized—

''(A) appoint a conservator or liquidating agent for the credit union; or

''(B) take such other action as the Board determines would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

''(2) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by the Board under paragraph (1)(B) to take any action with respect to an insured credit union in lieu of appointing a conservator or liquidating agent shall cease to be effective not later than the end of the 180-day period beginning on the date on which the determination is made, and a conservator or liquidating agent shall be appointed for that credit union under paragraph (1)(A), unless the Board makes a new determination under paragraph (1)(B) before the end of the effective period of the prior determination.

''(3) APPOINTMENT OF LIQUIDATING AGENT REQUIRED IF OTHER ACTION FAILS TO RESTORE NET WORTH.—

''(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Board shall appoint a liquidating agent for an insured credit union if the credit union is critically undercapitalized on average during the calendar quarter beginning 18 months after the date on which the credit union became critically undercapitalized.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), the Board may continue to take such other action as the Board determines to be appropriate in lieu of appointment of a liquidating agent if—

''(i) the Board determines that—

''(I) the insured credit union has been in substantial compliance with an approved net worth restoration plan that requires consistent improvement in the net worth of the credit union since the date of the approval of the plan; and

''(II) the insured credit union has positive net income or has an upward trend in earnings that the Board projects as sustainable; and

''(ii) the Board certifies that the credit union is viable and not expected to fail.

''(4) NONDELEGATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Board may not delegate the authority of the Board under this subsection.

''(B) EXCEPTION.—The Board may delegate the authority of the Board under this subsection with respect to an insured credit union that has less than $5,000,000 in total assets, if the Board permits the credit union to appeal any adverse action to the Board.

''(j) REVIEW REQUIRED WHEN FUND INCURS MATERIAL LOSS.—For purposes of determining whether the Fund has incurred a material loss with respect to an insured credit union (such that the inspector general of the Board must make a report), a loss is material if it exceeds the sum of—

''(1) $10,000,000; and

''(2) an amount equal to 10 percent of the total assets of the credit union at the time at which the Board initiated assistance under section 208 or was appointed liquidating agent.

''(k) APPEALS PROCESS.—Material supervisory determinations, including decisions to require prompt corrective action, made pursuant to this section by Administration officials other than the Board may be appealed to the Board pursuant to the independent appellate process required by section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (or, if the Board so specifies, pursuant to separate procedures prescribed by regulation).

''(l) CONSULTATION AND COOPERATION WITH STATE CREDIT UNION SUPERVISORS.—

''(1) IN GENERAL.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.

''(2) EVALUATING NET WORTH RESTORATION PLAN.—In evaluating any net worth restoration plan submitted by a State-chartered insured credit union, the Board shall seek the views of the State official having jurisdiction over the credit union.

''(3) DECIDING WHETHER TO APPOINT CONSERVATOR OR LIQUIDATING AGENT.—With respect to any decision by the Board on whether to appoint a conservator or liquidating agent for a State-chartered insured credit union—

''(A) the Board shall—

''(i) seek the views of the State official having jurisdiction over the credit union; and

''(ii) give that official an opportunity to take the proposed action;

''(B) the Board shall, upon timely request of an official referred to in subparagraph (A), promptly provide the official with—

''(i) a written statement of the reasons for the proposed action; and

''(ii) reasonable time to respond to that statement;

''(C) if the official referred to in subparagraph (A) makes a timely written response that disagrees with the proposed action and gives reasons for that disagreement, the Board shall not appoint a conservator or liquidating agent for the credit union, unless the Board, after considering the views of the official, has determined that—

''(i) the Fund faces a significant risk of loss with respect to the credit union if a conservator or liquidating agent is not appointed; and

''(ii) the appointment is necessary to reduce—

''(I) the risk that the Fund would incur a loss with respect to the credit union; or

(II) any loss that the Fund is expected to incur with respect to the credit union; and

''(D) the Board may not delegate any determination under subparagraph (C).

''(m) CORPORATE CREDIT UNIONS EXEMPTED.—This section does not apply to any insured credit union that—

''(1) operates primarily for the purpose of serving credit unions; and

''(2) permits individuals to be members of the credit union only to the extent that applicable law requires that such persons own shares.

''(n) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of the Board or a State to take action in addition to (but not in derogation of) that required under this section.

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

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

''(2) NET WORTH.—The term 'net worth'—

''(A) with respect to any insured credit union, means retained earnings balance of the credit union, as determined under generally accepted accounting principles; and

''(B) with respect to a low-income credit union, includes secondary capital accounts that are—

''(i) uninsured; and

''(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund.

''(3) NET WORTH RATIO.—The term 'net worth ratio' means, with respect to a credit union, the ratio of the net worth of the credit union to the total assets of the credit union.

''(4) NEW CREDIT UNION.—The term 'new credit union' means an insured credit union that—

''(A) has been in operation for less than 10 years; and

''(B) has not more than $10,000,000 in total assets.''.

(b) CONSERVATORSHIP AND LIQUIDATION AMENDMENTS TO FACILITATE PROMPT CORRECTIVE ACTION.—

(1) CONSERVATORSHIP.—Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (D), by striking ''or'' at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following new subparagraphs:

''(F) the credit union is significantly undercapitalized, as defined in section 216, and has no reasonable prospect of becoming adequately capitalized, as defined in section 216; or

''(G) the credit union is critically undercapitalized, as defined in section 216.''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''In the case'' and inserting ''Except as provided in subparagraph (C), in the case''; and

(ii) by adding at the end the following new subparagraph:

''(C) In the case of a State-chartered insured credit union, the authority conferred by subparagraphs (F) and (G) of paragraph (1) may not be exercised unless the Board has complied with section 216(l).''.

(2) LIQUIDATION.—Section 207(a) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(A) in paragraph (1)(A), by striking ''himself'' and inserting ''itself''; and

(B) by adding at the end the following new paragraph:

''(3) LIQUIDATION TO FACILITATE PROMPT CORRECTIVE ACTION.—The Board may close any credit union for liquidation, and appoint itself or another (including, in the case of a State-chartered insured credit union, the State official having jurisdiction over the credit union) as liquidating agent of that credit union, if—

''(A) the Board determines that—

''(i) the credit union is significantly undercapitalized, as defined in section 216, and has no reasonable prospect of becoming adequately capitalized, as defined in section 216; or

''(ii) the credit union is critically undercapitalized, as defined in section 216; and

''(B) in the case of a State-chartered insured credit union, the Board has complied with section 216(l).''.

(c) CONSULTATION REQUIRED.—In developing regulations to implement section 216 of the Federal Credit Union Act (as added by subsection (a) of this section), the Board shall consult with the Secretary, the Federal banking agencies, and the State officials having jurisdiction over State-chartered insured credit unions.

(d) DEADLINES FOR REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Board shall—

(A) publish in the Federal Register proposed regulations to implement section 216 of the Federal Credit Union Act (as added by subsection (a) of this section) not later than 270 days after the date of enactment of this Act; and

(B) promulgate final regulations to implement that section 216 not later than 18 months after the date of enactment of this Act.

(2) RISK-BASED NET WORTH REQUIREMENT.—

(A) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Board shall publish in the Federal Register an advance notice of proposed rulemaking, as required by section 216(d) of the Federal Credit Union Act, as added by this Act.

(B) FINAL REGULATIONS.—The Board shall promulgate final regulations, as required by that section 216(d) not later than 2 years after the date of enactment of this Act.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 216 of the Federal Credit Union Act (as added by this section) shall become effective 2 years after the date of enactment of this Act.

(2) RISK-BASED NET WORTH REQUIREMENT.—Section 216(d) of the Federal Credit Union Act (as added by this section) shall become effective on January 1, 2001.

(f) REPORT TO CONGRESS REQUIRED.—When the Board publishes proposed regulations pursuant to subsection (d)(1)(A), or promulgates final regulations pursuant to subsection (d)(1)(B), the Board shall submit to the Congress a report that specifically explains—

(1) how the regulations carry out section 216(b)(1)(B) of the Federal Credit Union Act (as added by this section), relating to the cooperative character of credit unions; and

(2) how the regulations differ from section 38 of the Federal Deposit Insurance Act, and the reasons for those differences.

(g) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO ENFORCEMENT OF PROMPT CORRECTIVE ACTION.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended—

(A) in paragraph (1), by inserting ''or section 216'' after ''this section'' each place it appears; and

(B) in paragraph (2)(A)(ii), by inserting '', or any final order under section 216'' before the semicolon.

(2) CONFORMING AMENDMENT REGARDING APPOINTMENT OF STATE CREDIT UNION SUPERVISOR AS CONSERVATOR.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is

*amended by inserting ''or another (including, in the case of a State-chartered insured credit union, the State official having jurisdiction over the credit union)'' after ''appoint itself''.*

*(3) AMENDMENT REPEALING SUPERSEDED PROVISION.—Section 116 of the Federal Credit Union Act (12 U.S.C. 1762) is repealed.*

***SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE FUND EQUITY RATIO, AVAILABLE ASSETS RATIO, AND STANDBY PREMIUM CHARGE.***

*(a) IN GENERAL.—Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—*

*(1) by striking subsection (b) and inserting the following:*

*''(b) CERTIFIED STATEMENT.—*

*''(1) STATEMENT REQUIRED.—*

*''(A) IN GENERAL.—For each calendar year, in the case of an insured credit union with total assets of not more than $50,000,000, and for each semi-annual period in the case of an insured credit union with total assets of $50,000,000 or more, an insured credit union shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the relevant period and both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the Fund for that period, both as computed under subsection (c).*

*''(B) EXCEPTION FOR NEWLY INSURED CREDIT UNION.—Subparagraph (A) shall not apply with respect to a credit union that became insured during the reporting period.*

*''(2) FORM.—The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.*

*''(3) CERTIFICATION.—The president of the credit union or any officer designated by the board of directors shall certify, with respect to each statement required to be filed with the Board pursuant to this subsection, that to the best of his or her knowledge and belief the statement is true, correct, complete, and in accordance with this title and the regulations issued under this title.'';*

*(2) in subsection (c)(1)(A), by striking clause (iii) and inserting the following:*

*''(iii) PERIODIC ADJUSTMENT.—The amount of each insured credit union's deposit shall be adjusted as follows, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares:*

*''(I) annually, in the case of an insured credit union with total assets of not more than $50,000,000; and*

*''(II) semi-annually, in the case of an insured credit union with total assets of $50,000,000 or more.'';*

*(3) in subsection (c), by striking paragraphs (2) and (3) and inserting the following:*

*''(2) INSURANCE PREMIUM CHARGES.—*

*''(A) IN GENERAL.—Each insured credit union shall, at such times as the Board prescribes (but not more than twice in any calendar year), pay to the Fund a premium charge for insurance in an amount stated as a percentage of insured shares (which shall be the same for all insured credit unions).*

*''(B) RELATION OF PREMIUM CHARGE TO EQUITY RATIO OF FUND.—The Board may assess a premium charge only if—*

*''(i) the Fund's equity ratio is less than 1.3 percent; and*

*''(ii) the premium charge does not exceed the amount necessary to restore the equity ratio to 1.3 percent.*

*''(C) PREMIUM CHARGE REQUIRED IF EQUITY RATIO FALLS BELOW 1.2 PERCENT.—If the Fund's equity ratio is less than 1.2 percent, the Board shall, subject to subparagraph (B), assess a premium charge in such an amount as the Board determines to be necessary to restore the equity ratio to, and maintain that ratio at, 1.2 percent.*

*''(3) DISTRIBUTIONS FROM FUND REQUIRED.—*

*''(A) IN GENERAL.—The Board shall effect a pro rata distribution to insured credit unions after each calendar year if, as of the end of that calendar year—*

*''(i) any loans to the Fund from the Federal Government, and any interest on those loans, have been repaid;*

*''(ii) the Fund's equity ratio exceeds the normal operating level; and*

*''(iii) the Fund's available assets ratio exceeds 1.0 percent.*

*''(B) AMOUNT OF DISTRIBUTION.—The Board shall distribute under subparagraph (A) the maximum possible amount that—*

*''(i) does not reduce the Fund's equity ratio below the normal operating level; and*

*''(ii) does not reduce the Fund's available assets ratio below 1.0 percent.*

*''(C) CALCULATION BASED ON CERTIFIED STATEMENTS.—In calculating the Fund's equity ratio and available assets ratio for purposes of this paragraph, the Board shall determine the aggregate amount of the insured shares in all insured credit unions from insured credit unions certified statements under subsection (b) for the final reporting period of the calendar year referred to in subparagraph (A).'';*

*(4) in subsection (c), by adding at the end the following new paragraph:*

*''(4) TIMELINESS AND ACCURACY OF DATA.—In calculating the available assets ratio and equity ratio of the Fund, the Board shall use the most current and accurate data reasonably available.''; and*

*(5) by striking subsection (h) and inserting the following:*

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

*''(1) AVAILABLE ASSETS RATIO.—The term 'available assets ratio', when applied to the Fund, means the ratio of—*

*''(A) the amount determined by subtracting—*

*''(i) direct liabilities of the Fund and contingent liabilities for which no provision for losses has been made, from*

*''(ii) the sum of cash and the market value of unencumbered investments authorized under section 203(c), to*

*''(B) the aggregate amount of the insured shares in all insured credit unions.*

*''(2) EQUITY RATIO.—The term 'equity ratio', when applied to the Fund, means the ratio of—*

*''(A) the amount of Fund capitalization, including insured credit unions' 1 percent capitalization deposits and the retained earnings balance of the Fund (net of direct liabilities of the Fund and contingent liabilities for which no provision for losses has been made); to*

*''(B) the aggregate amount of the insured shares in all insured credit unions.*

*''(3) INSURED SHARES.—The term 'insured shares', when applied to this section, includes share, share draft, share certificate, and other similar accounts as determined by the Board, but does not include amounts exceeding the insured account limit set forth in section 207(c)(1).*

*''(4) NORMAL OPERATING LEVEL.—The term 'normal operating level', when applied to the Fund, means an equity ratio specified by the Board, which shall be not less than 1.2 percent and not more than 1.5 percent.''.*

*(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1 of the first calendar year beginning more than 180 days after the date of enactment of this Act.*

***SEC. 303. ACCESS TO LIQUIDITY.***

*Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsections:*

*''(f) ACCESS TO LIQUIDITY.—The Board shall—*

*''(1) periodically assess the potential liquidity needs of each insured credit union, and the options that the credit union has available for meeting those needs; and*

*''(2) periodically assess the potential liquidity needs of insured credit unions as a group, and the options that insured credit unions have available for meeting those needs.*

*''(g) SHARING INFORMATION WITH FEDERAL RESERVE BANKS.—The Board shall, for the purpose of facilitating insured credit unions' access to liquidity, make available to the Federal reserve banks (subject to appropriate assurances of confidentiality) information relevant to making advances to such credit unions, including the Board's reports of examination.''.*

***TITLE IV—MISCELLANEOUS PROVISIONS***

***SEC. 401. STUDY AND REPORT ON DIFFERING REGULATORY TREATMENT.***

*(a) STUDY.—The Secretary shall conduct a study of—*

*(1) the differences between credit unions and other federally insured financial institutions, including regulatory differences with respect to regulations enforced by the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Administration; and*

*(2) the potential effects of the application of Federal laws, including Federal tax laws, on credit unions in the same manner as those laws are applied to other federally insured financial institutions.*

*(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study required by subsection (a).*

***SEC. 402. REVIEW OF REGULATIONS AND PAPERWORK REDUCTION.***

*Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803) is amended to read as follows:*

***''SEC. 303. REGULAR REVIEW OF REGULATIONS AND PAPERWORK REDUCTION.***

*''(a) REVIEW.—During the 1-year period following the date of enactment of the Credit Union Membership Access Act, each Federal banking agency and the National Credit Union Administration shall, to the maximum extent possible and consistent with the principles of safety and soundness, statutory law and policy, and the public interest—*

*''(1) conduct a review of the regulations and written policies of each such agency—*

*''(A) to streamline and modify those regulations and policies in order to improve efficiency, reduce unnecessary costs, and reduce the paperwork burden for insured depository institutions; and*

*''(B) to remove inconsistencies and outmoded and duplicative requirements; and*

*''(2) work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies.*

*''(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the Credit Union Membership Access Act, each agency referred to in subsection (a) shall submit a report to Congress detailing the progress of the agency in carrying out this section and making recommendations to the Congress on the need for statutory changes, if any, that would assist in the effort to reduce the paperwork burden for insured institutions.''.*

***SEC. 403. TREASURY REPORT ON REDUCED TAXATION AND VIABILITY OF SMALL BANKS.***

*The Secretary shall, not later than 1 year after the date of enactment of this Act, submit a report to the Congress containing—*

*(1) recommendations for such legislative and administrative action as the Secretary deems appropriate, that would reduce and simplify the tax burden for—*

*(A) insured depository institutions having less than $1,000,000,000 in assets; and*

*(B) banks having total assets of not less than $1,000,000,000 nor more than $10,000,000,000; and*

*(2) any other recommendations that the Secretary deems appropriate that would preserve the viability and growth of small banking institutions in the United States.*

PRIVILEGE OF THE FLOOR

Mr. SARBANES. Mr. President, I ask unanimous consent that Dean

Shahinian of our committee be allowed on the floor of the Senate during consideration of this bill.

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

Mr. D'AMATO addressed the Chair.

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

Mr. D'AMATO. Mr. President, I ask unanimous consent that staff of the Committee on Banking, Housing, and Urban Affairs be permitted access to the floor during consideration of this bill.

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

Mr. D'AMATO addressed the Chair.

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

Mr. D'AMATO. Mr. President, today, we consider H.R. 1151, the Credit Union Membership Access Act, which is critical legislation. It is legislation necessary to preserve the ability of all Americans to join the credit union of their choice, and to ensure that 73 million Americans who are currently members of a credit union in no way have their membership status jeopardized.

Credit unions work, Mr. President. They work for working families, they work for the little guy. And in their hour of gravest need, it is time for Congress to work for them. I urge my colleagues to support this legislation as enthusiastically as our friends in the House did—by an overwhelming vote of 411–8. I am confident that we will act to preserve the rights of all Americans to join credit unions now and into the future.

Mr. President, this legislation was crafted in response to a Supreme Court ruling that was decided on a very narrow legal point, handed down on February 25 of this year. That ruling placed 20 million Americans in immediate jeopardy and tens of millions of others of being kicked out of the credit unions they belong to. Who are these Americans? They are small business employees and small business owners, low- and moderate-income earners, farmers, laborers, church members—the hard-working American men and women who have a right to affordable financial services as much as anyone else.

For decades, the American dream has been made a reality by credit unions. These cooperatives reach out to individuals, associations and communities who have had the door slammed in their faces by other financial institutions. Make no mistake about it, Mr. President, the economy, while strong today, the economy—such that people can get loans for a variety of reasons—may not always be that strong. I hope it is. But if history is any reminder of what may be in the future, there will be difficult times.

It has always been the credit union that has given to the little guy, the forgotten middle class—I don't mean little in terms of size and not as a pejorative, but indeed I am talking about the backbone of this country—the opportunity to look his or her neighbor in the eye, who knows that they are good and who knows they will work to pay back that loan, as opposed to somebody 2,000 miles away who doesn't even see that person, who gets an application, who views it in terms of what the income is or the fact that the person is out of work, or the fact that the person has a small farm and is running against tough times and says, no, and turns them down.

It has traditionally been the credit union neighbor, knowing a neighbor employee, working next to his co-employee, recognizing their needs, making that money available so they can send their kid to school. It is one of the great strengths of this country, and it gives us economic diversity, it gives people choice, and it provides competition.

There are those who do not like competition, who set up a whole series—almost a canard as to, ''Oh, no; credit unions are a problem.'' They are a problem, because they give people affordable opportunities to borrow at the lowest rates, because they don't pay income taxes. Why? They are not paying dividends out to people. Where do those moneys go? Those moneys go so that additional loans are available to their members. I love it. I think it is great. I think it really is Americana at its best.

During good and prosperous times, we should not turn away and we should not create conditions that make it difficult, if not impossible, for them to serve the needs of our neighbors and our friends, and people in all of our communities.

Mr. President, it is not good enough to say, ''I am going to vote for a credit union bill,'' and then attempt to fix a whole series of measures aimed at impeding the credit unions from doing their job. There are going to be some of my good friends and colleagues who are going to come here and say, ''We want to make it possible for others in the financial services area to recognize that we love them and we care for them,'' et cetera.

There are going to be a number of amendments that are going to be put forth. Some of these amendments, and one in particular, one that would attempt to remove the Community Reinvestment Act from the obligation of community banks—if that is passed, that will spell a veto of this bill.

I am not suggesting to you we shouldn't help community banks. I want to help them. Indeed, our President who presides today has come forth. I want to commend the Senator from Colorado for some very creative, long overdue actions to help community banks in the most positive way by seeing to it that they do not have unfair tax burdens placed upon them, by seeing that they have the opportunity to expand their board of directors or their shareholders, the number of shareholders, without falling into another taxable area.

There are things we can do and should be doing. But we shouldn't be attempting to do them, in my opinion, on this bill because it clouds the issue of whether or not we are going to give credit unions the opportunity to continue to serve their people.

Let me suggest this. Our Senate bill goes much further than the House bill to ensure the safety and the soundness of credit unions through tougher, more detailed provisions requiring a system of prompt, corrective action for federally insured credit unions.

This is not a giveaway. This is not the same bill that came from the House. It is improved. It is tougher on them and fairer on them. We sat down and negotiated with them. We said to them that we are not going to place at risk the FDIC insurance for the American taxpayer. They agreed.

The system is be patterned after the prompt corrective action provisions of the Federal Deposit Insurance Act. This is a different bill from the one that comes from the House. It is aimed at protecting our taxpayers.

The Senate bill also includes for the first time capital requirements for all federally insured credit unions, including a risk-based capital requirement for complex credit unions. Together, these provisions represent the most significant legislative reform of credit union safety and soundness since 1970 when the National Credit Union insurance fund was created.

We have included the enhanced safety and soundness provisions upon the recommendation of the Treasury Department following an extensive Treasury Department study placed in legislation by our colleague, Senator BENNETT. These are basic, prudent approaches to successfully manage any financial institution that Congress has already applied to banks and thrifts. In the long run, it is the American taxpayer that we protect by assuring that credit unions reach and attain high levels of capital, or face restrictions with respect to their operations.

Credit unions, no matter how small or how large, need a sufficient capital buffer to handle unexpected downturns in the economy and subsequent losses. The capital requirements in this bill will see to it that those goals are achieved.

We all know how important prevention is, along with legislative oversight, when dealing with financial institutions. Credit unions are no different from other financial institutions when it comes to prevention and oversight.

There are those who will say you are going in and giving to the masses. No. We responded to their legitimate concerns that they can continue business. But we have tougher end requirements as it relates to sound operation and oversight and the ability to close those down who may not be meeting their obligations.

In 1991, the GAO issued an extensive study which detailed the recommendations for corporate credit union investments and capital ratios that were later adopted. These recommendations were also adopted by the NCUA.

The failure of Cap Corp. in 1995 raised specific concerns about the interest rate risk that corporate credit unions were taking. Our committee held hearings in early 1995 and later reported out a bill, S. 883. In 1997, NCUA issued a comprehensive revision of the rules governing corporate credit unions to address concerns arising from the failure of Cap Corp.

Mr. President, credit unions all over are now in solid shape, as concluded in the exhaustive study done by Treasury last year. The new safety and soundness provisions, as recommended by the Treasury Department, will further strengthen insured credit unions across the country and, in so doing, protect our taxpayers.

Our legislation also goes much further than the House in placing for the first time significant restrictions on member business loans. We are going to hear something about that. We are going to hear that we should restrict loans that credit unions can make. While the House bill simply puts a freeze on current regulations and requires a study, our bill places statutory limits on the amount of total business loans available for credit unions.

This is not a bill crafted to please all. This is a bill crafted to permit credit unions to do that which they do best—to make those loans, those personal loans to their members, and, yes, to meet the needs of the small businessmen.

In the Senate bill, the total amount of outstanding member business loans of a federally insured credit union cannot exceed 12.25 percent of the assets of the credit union. Credit unions that become undercapitalized—that is, less than 6 percent of their net worth—are prohibited from making new commercial loans that would result in an increase in the total amount of member business loans outstanding. Credit unions that presently exceed the member business loan limits will be given 3 years in which to come into compliance.

Mr. President, this is a pretty tough loan limitation, the first time. It is not in the House bill—never had any limitations on business loans. There are going to be some who genuinely feel that should be curtailed even further. I would suggest to go further would really do violence to the ability of almost 200 of the Nation's 1,500 credit unions that make these loans available today. It is unintended mischief that will take place if that legislation passes. I say ''unintended,'' Mr. President. Notwithstanding unintended, the consequences will not be fair and will be disruptive.

These restrictions on business lending in our bill are real and they are meaningful, and together with the expanded safety and soundness provisions in title III of the bill, we will ensure that credit union business lending does not present any safety and soundness concerns. In a July 13 letter to the majority leader, Secretary Rubin has stated Treasury's position that the prompt corrective action in capital standard provisions in the bill represent an adequate response to any safety and soundness concerns about credit union business lending.

Furthermore, I have a copy of the statement of the administration policy dated July 22, 1998, which states that there is no safety and soundness basis for additional business loan requirements.

I ask unanimous consent that Secretary Rubin's letter and the Statement of the Administration Policy be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
*Washington, DC, July 13, 1998.*

Hon. TRENT LOTT,
*Majority Leader, U.S. Senate,*
*Washington, DC.*

DEAR TRENT: I appreciate your scheduling H.R. 1151, the Credit Union Membership Access Act, for Senate floor action beginning July 17. I am writing to urge expeditious Senate passage of the bill—as approved by the Banking Committee on April 30—without any extraneous amendments.

In revising the statute governing federal credit unions' field of membership, the bill would protect existing credit union members and membership groups, and remove uncertainty created by the Supreme Court's AT&T decision.

The bill's safety and soundness provisions would represent the most significant legislative reform of credit union safety and soundness safeguards since the creation of the National Credit Union Share Insurance Fund in 1970. The bill would institute capital standards for all federally insured credit unions, including a risk-based capital requirement for complex credit unions. It would create a system of prompt corrective action—specifically tailored to credit unions as not-for-profit, member-owned cooperatives. It would also take a series of steps to make the Share Insurance Fund even stronger and more resilient.

These reforms involve little cost or burden to credit unions today, yet they could pay enormous dividends in more difficult times.

The bill rightly reaffirms and reinforces credit unions' mission of serving persons of modest means. Section 204 would require periodic review of each federally insured credit union's record of meeting the needs of such persons within its field of membership. This requirement is flexible, tailored to credit unions, and will impose no unreasonable burden. It rests on the Congressionally mandated mission of credit unions and on the benefits of federal deposit insurance. Such deposit insurance gives credit union members ironclad assurance about the safety of their savings, and thus helps credit unions compete for deposits with larger, more widely known financial institutions (just as it helps community banks and thrifts). Section 204 is particularly appropriate in view of how the bill liberalizes the common bond requirement and thus facilitates credit unions' expansion beyond their core membership groups.

Finally, I would like to comment on the safety and soundness of credit unions' business lending. Credit unions may make business loans only to their members, and cannot make loans to business corporations. Under the National Credit Union Administration's regulations, each business loan must be fully secured with good-quality collateral, the borrower must be personally liable on the loan, and business loans to any one borrower generally cannot exceed 15 percent of the credit union's reserves. Credit unions' business loans have delinquency rates that are comparable to those on commercial loans made by community banks and thrifts, and charge-off (i.e., loss) rates that compare favorably with those of banks and thrifts. We believe that existing safeguards—together with such new statutory protections as the 6 percent capital requirement, the risk-based capital requirement for complex credit unions, and the system of prompt corrective action—represent an adequate response to safety and soundness concerns about credit unions' business lending.

We look forward to working with you and other Senators to secure expeditious passage of a clean bill.

Sincerely,

ROBERT E. RUBIN,
*Secretary of the Treasury.*

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STATEMENT OF ADMINISTRATION POLICY

H.R. 1151—CREDIT UNION MEMBERSHIP ACCESS ACT

The Administration strongly supports Senate passage of H.R. 1151, as approved by the Senate Banking Committee, without extraneous or controversial amendments. The full Senate should reject amendments rejected at the Banking Committee mark-up, such as the amendment that would substantially weaken the Community Reinvestment Act by exempting certain banks from the Act's requirements. If H.R. 1151 were presented to the President with such an amendment, the Secretary of the Treasury would recommend that the President veto the bill.

The Senate Banking Committee version reflects a careful balancing of important goals: (1) protecting existing credit union members and membership groups; (2) removing uncertainty created by the Supreme Court's AT&T decision; (3) facilitating credit union expansion beyond core membership groups in appropriate circumstances, such as when necessary to meet the needs of underserved areas; (4) reforming credit union safety and soundness safeguards, by instituting capital standards and a risk-based capital requirement, as well as further strengthening the Share Insurance Fund; and (5) reaffirming and reinforcing credit unions' mission of serving persons of modest means. The Administration strongly opposes any efforts to upset this balance by stripping the bill of any of these important provisions.

Specifically, Section 204 would require periodic review of each Federally-insured credit union's record of meeting the needs of such persons within its membership. This requirement is flexible, tailored to credit unions, and will impose no unreasonable burden. It rests on the Congressionally mandated mission of credit unions and on the benefits of Federal deposit insurance. Inclusion of Section 204 is particularly important to keeping credit unions focused on their public mission in view of how the bill liberalizes the common bond requirement.

In addition, the Administration sees no safety and soundness basis for an amendment that would limit the ability of credit unions to make business loans to their members. Existing safeguards, coupled with the new capital and other reforms in the bill, are sufficient to protect against any safety and soundness risk from member business lending.

PAY-AS-YOU-GO-SCORING

H.R. 1151 would affect direct spending and receipts; therefore it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. The Administration's preliminary estimate is that H.R. 1151 would have a net budget cost of zero.

Mr. D'AMATO. We need to act expeditiously on this legislation. I am deeply grateful to the Senate majority leader for making this time available so that we can go forward. Make no mistake about it, without the ability to add new members and new groups, the credit union movement would be fatally injured.

I am convinced that we are going to move in a prompt way and that the legislation will pass by an overwhelming margin. Why? Because it is the right thing to do. It is the right thing to do for 73 million Americans who now belong to credit unions, for the 20 million Americans whose current credit union membership is threatened, and for the 675 million Americans and small businesses who may be shut out, prevented from joining a credit union in the future. I certainly urge my colleagues to support and expeditiously act on this important legislation.

Mr. President, before I yield the floor, I would be remiss if I did not thank my colleague, the ranking member of the Banking Committee, Senator SARBANES, the distinguished senior Senator from Maryland, for his outstanding contribution and leadership in helping to craft this legislation and to bring it to this point in a totally bipartisan fashion. We would not be here positioned to go forth on this legislation were it not for his outstanding leadership and that of a dedicated bipartisan staff, might I add, on the minority side. They have done an absolutely fabulous job in bringing us to this point.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. SARBANES. Mr. President, I ask unanimous consent that Patience Singleton and Loretta Garrison, staff members, be allowed privileges of the floor.

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

Mr. SARBANES. Mr. President, first I want to thank my colleague, Chairman D'AMATO, for his kind words and to underscore the very effective leadership which the chairman has exercised in bringing this legislation to this point. This bill came out of the committee on a vote of 16 to 2. We had very strong support within the Senate Banking, Housing, and Urban Affairs Committee, and I have been pleased to be able to work closely with the chairman in trying to craft this legislation.

We had, as usual, outstanding contributions by members of the staff on both the Republican and the Democratic sides, and we are most appreciative to them for the many long hours they have put in on this legislation.

The time is now to straighten out the credit union challenge which was posed by the Supreme Court decision. This legislation passed the House of Representatives in the beginning of April by a vote of 411 to 8. The Senate Banking Committee, after holding two hearings on the issue, marked up the legislation on April 30 and reported it with amendments to the full Senate by a vote of 16 to 2. Since April 30, we have been looking for an opening on the Legislative Calendar in order to take the matter up in the Chamber, and the majority leader has provided this opening.

If I could have the attention of the majority leader, I would like to ask, it is my understanding the intention now is to do the opening statements—I know that Senator SHELBY and others have amendments—and begin debate on the amendments, continue that on Monday afternoon beginning at about 1 o'clock, and any votes that would transpire in relationship to the amendments which have been offered would occur beginning about 6 o'clock Monday evening?

Mr. LOTT. Mr. President, if the Senator will yield, we would have to begin those votes a little earlier than that, probably at 5:30. It would be partially driven by how many votes we have. If we just had one vote lined up, for instance, we could begin about 5:45. If we have two or three, we would have to begin at 5:30 in order to get the voting sequence completed by 6:30.

So that is what we are up against. We are trying to accommodate Senators coming in late and Senators who have to leave after 6:30. But the hope is that you would have two or three amendments ready to be voted on Monday afternoon beginning around 5:30, with the understanding that if we need to hold that first vote a little while for Senators coming in with a close plane connection, we would be prepared to do that, and then have the vote probably on the Shelby amendment and final passage Tuesday morning at 9:30.

I discussed that with Senator DASCHLE, and he and I worked on trying to accommodate Senators' schedules on all sides. I believe, if you could go ahead and get debate on all amendments today and Monday, then we could have one or two or three votes Monday afternoon, sometime between 5:30 and 6, probably not later than 5:45, and then the last two votes Tuesday morning.

Mr. SARBANES. As I understand it, some people will be scrambling to be here. I think if we didn't start before 5:45, or if we let that first vote run a little bit——

Mr. LOTT. A little bit, except Senators have to leave at 6:30, and I am one of them, and that is the schedule I am particularly interested in.

Mr. SARBANES. Of course, the Senator could make the beginning of the last vote and leave.

Mr. LOTT. As long as I am out of here at 6:30, everything will be fine.

Once again, I know we have had to work late, but we have made good progress on the appropriations bills. This is a good bill. But I still think the Senate should work during the day and be home with their families at night. That is a novel idea that I still advocate, so I am going to be with my wife eating supper Monday night at 7 o'clock. Good luck before then. But we will try to accommodate everybody, including my favorite lady in the world.

Mr. SARBANES. I just want to underscore the intention is, and we have every reasonable expectation that, we are going to be able to complete this bill finally by Tuesday morning and do a good deal of it by Monday evening.

In addition to the broad bipartisan support for this legislation in the Congress, it is strongly supported by the administration. Senator D'AMATO has already placed in the RECORD a letter that Secretary Rubin, our very able Secretary of the Treasury, sent to the majority leader and to the minority leader urging expeditious Senate passage of the bill without any extraneous amendments. Of course, the amendments are the important issue that we will be considering over the next few days.

President Clinton has personally indicated his support for this legislation, urging the Senate to pass the bill without weighing it down with extraneous and controversial amendments that would seriously jeopardize the legislation. H.R. 1151 is also supported by a very diverse range of groups in the community including the Consumer Federation of America, the Seniors Coalition, the National Farmers Union, National Educational Association, Americans for Tax Reform, the American Small Business Association, AFL–CIO, and the National Urban Coalition.

The broad support for this legislation suggests the important role credit unions play in our economy. Since the founding of the first credit union in the United States in 1909, almost a century ago, credit unions have served as a way for people of average means, without easy access to credit, to pool their savings in order to make loans to fellow credit union members at competitive interest rates.

Mr. President, the impetus for H.R. 1151 came from a Supreme Court decision earlier this year. In a 5 to 4 decision, the Court held that under the Federal Credit Union Act a federally chartered credit union may only have a single common bond of occupation. This overturned a policy of the National Credit Union Administration, the regulators of the credit unions, first adopted in 1982, which permitted multiple groups each having a separate common bond to be part of a single Federal credit union.

The consequence of that Supreme Court decision is to prohibit the formation of multiple group credit unions. Even if the lower courts, in implementing the Supreme Court decision, permit existing multiple group credit unions to stay in business and to accept members from their current groups, employees from the large majority of

companies in the United States will find their future opportunities to become a member of a Federal credit union seriously constrained by the Supreme Court's decision.

The National Credit Union Administration generally does not permit groups with less than 500 employees to start a credit union because it is judged the group is not broad enough or numerous enough to support a credit union in a safe and sound manner. The only way for employees of these companies to join a credit union is if the companies affiliate with existing credit unions. So, if new multiple bond credit unions are prohibited, this will no longer be possible and millions of Americans may be denied the opportunity to join a credit union. This outcome is clearly undesirable, in my view, and is, of course, the basis for the broad bipartisan support for enacting this legislation.

This legislation would first grandfather existing multiple group credit unions and allow them to add members from their current groups. In addition, it would permit Federal credit unions to have multiple groups, each of which, after the first group, has a common bond of occupation or association and has less than 3,000 members. The bill would also give the National Credit Union Administration the power to authorize credit unions to add additional groups if it finds the groups cannot safely establish and operate a credit union on their own. The Credit Union Administration could also permit a Federal credit union to add a person or organization located in a local community, neighborhood, or rural district that it has determined is underserved by other depository institutions.

But, in order for a Federal credit union to accept additional membership groups, the NCUA would have to find that the credit union is adequately capitalized, has adequate managerial or financial resources, and has a satisfactory examination record. The legislation directs the Credit Union Administration to encourage the formation of separately chartered credit unions whenever practicable and consistent with safety and soundness.

In addition to addressing the membership issue, this legislation requires significant new safety and soundness standards for Federal credit unions. These new requirements are based on recommendations contained in a carefully prepared study of credit unions by the Treasury Department conducted at the direction of the Congress and submitted last year.

Earlier, in legislation, the Congress directed the Treasury Department to study credit unions and to submit a report to the Congress. A good deal of what is contained in this legislation reflects the outcome of that study.

The bill imposes, for the first time, statutory capital standards on Federal credit unions. The bill requires an insured credit union to have a net worth ratio of 7 percent to be ''well capitalized'' and 6 percent to be ''adequately capitalized.'' A credit union with a net worth ratio of less than 6 percent would be ''undercapitalized,'' at 4 percent it would be ''significantly undercapitalized,'' and at 2 percent ''critically undercapitalized.'' The legislation provides a system of prompt corrective action which requires the National Credit Union Administration to take a series of progressively more stringent measures if the credit union falls below the ''adequately capitalized'' level. Each insured credit union that is undercapitalized would be required to submit an acceptable net worth restoration plan to the NCUA. Until that plan is approved, the credit union generally would not be permitted to increase its average total assets. If an insured credit union becomes critically undercapitalized according to the standards I mentioned earlier, the NCUA would be required to liquidate the credit union, appoint a conservator, or take such other action as it determines could better achieve the purpose of protecting the credit union insurance fund.

I have taken a few moments to dwell on these provisions because I think they are quite important. They have generally not been involved in the debate that has led up to considering the measure on the floor, but I think Members need to appreciate the very important safety and soundness provisions contained in this legislation. This is a major step in ensuring financial stability in the credit union industry. It has led the Secretary of the Treasury, in the letter which he sent to the leadership, to make this statement. I just want to quote this paragraph from Secretary Rubin's letter:

> The bill's safety and soundness provisions would represent the most significant legislative reform of credit union safety and soundness safeguards since the creation of the National Credit Union Share Insurance Fund in 1970. The bill would institute capital standards for all federally insured credit unions, including a risk-based capital requirement for complex credit unions. It would create a system of prompt corrective action—specifically tailored to credit unions as not-for-profit, member-owned cooperative. It would also take a series of steps to make the Share Insurance Fund even stronger and more resilient.
>
> These reforms involve little cost or burden to credit unions today, yet they could pay enormous dividends in more difficult times.

We worked closely with the Treasury in considering the provisions that were in the legislation. I think this is a major step forward. I really commend this aspect of the legislation to my colleagues as they consider the overall bill.

Furthermore, this bill imposes, for the first time, a limit on commercial lending by credit unions. No such limit currently exists. The bill provides that a credit union would be generally limited in its member business loans to no more than the lesser of 1.75 times the minimum net worth required for well-capitalized credit unions—namely 7 percent—or 1.7 times its actual net worth. This would put a limit on member business loans for a well-capitalized credit union at approximately 12.25 percent of its total loans. Loans of less than $50,000 would be excluded—that is an operating practice currently—and we would continue to adhere to that.

Many credit unions are chartered for or have a history of making business loans to their members. Members of a specialized vocation—farmers, fishermen, taxi drivers and so forth—would not be subject to this limit.

Furthermore, this legislation imposes, for the first time, a modest but meaningful community obligation with respect to reinvestment in insured credit unions, which has been carefully tailored to the membership-based nature of credit unions. It would require the National Credit Union Administration to prescribe criteria for periodically reviewing the record of each insured credit union in providing affordable credit union services to all individuals of modest means, including low- and moderate-income individuals, within the field of membership of the credit union, and provide for making such results publicly available.

The bill also directs the National Credit Union Administration, in evaluating any insured credit union under this requirement, to focus on the actual performance of the credit union and not to impose burdensome paperwork or recordkeeping requirements. We think this is a modest but important step in paying attention to the needs of low- and moderate-income individuals, and thereby making access to credit more broadly available.

In conclusion, let me just say this is a very carefully developed and balanced piece of legislation. As I said, the committee held two extensive hearings on the matter. It worked very carefully over the provisions that have been included in the legislation and brought here before the Senate. This legislation seeks to make credit union membership accessible while strengthening the safety and soundness of federally insured credit unions and encourages them to meet the financial service needs of all of their members.

I strongly urge the support of this legislation by my colleagues. I strongly urge my colleagues to reject extraneous amendments that may be offered to the legislation that may complicate or jeopardize its enactment. We now need to move this legislation forward.

I think a very careful package has been put together here. The credit union movement supports the legislation as reported by the committee. The administration supports the legislation as reported by the committee. I respect, obviously, the motivation of my colleagues who intend to offer amendments, but I can only point out that those amendments would greatly complicate our efforts to move this legislation to final passage and signature into law by the President. I very much hope my colleagues can back the work that

was done by the committee in bringing this matter to the Senate floor.

I, again, thank Chairman D'AMATO for his skillful work in developing the legislation to this point and bringing it to the floor of the Senate.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me add my voice to those who have congratulated Senator D'AMATO and Senator SARBANES for this bill. I believe we have put together a good bill. I think it is a dramatic improvement over the House bill. It does, for the first time, in an effective manner begin to look at capital requirements and safety and soundness, and, in doing so, it will dramatically improve the quality and regulation of credit unions all over the country. I think those who are part of the credit union movement want people to know that their deposits are safe, sound, insured, regulated and protected in the savers' interest.

Second, the bill, for the first time, begins to put appropriate limits on the amount of business loans that credit unions can make. There are those who believe, and I happen to be one of them, that credit unions were chartered to provide consumer credit to their members as part of a cooperative effort. A dramatic movement of credit unions into commercial lending would circumvent the whole intent of the credit union movement, and in my opinion, it would be a negative factor on the progress of the credit union movement. In this bill, we for the first time set limits on the amount of credit union assets that can go into commercial loans. That is a very positive step.

We deal with the common bond issue, and we settle once and for all the principle that every American ought to have the right to join a credit union—not any credit union—but join a credit union within an appropriate field of membership. it my view, and I believe that we achieve this with this bill, that it should be possible for every American citizen to find an appropriate field of membership by which he or she can associate with others, and have the opportunity to join a credit union and to affiliate with that credit union if they choose to do it.

Those are the positive things about this bill. I am a strong supporter of the bill. I intend to vote for this bill, but there is one provision in the bill to which I am very strongly opposed.

In this bill, for the first time ever, we begin to have the Federal Government direct credit unions as to how they will use their members' money. In this bill, for the first time ever, we begin the process of telling credit unions that the government is going to allocate some of a credit union's resources to promote a ''public purpose,'' even though it may not be the purpose of credit union members. I believe that not only is this very bad and dangerous public policy, but I think the logic of it is totally inapplicable to credit unions and the credit union movement.

The name—it is a wonderful sounding name for a program that has nothing to do with any one word in the name—is Community Reinvestment Act. In this bill, for the first time ever, we apply in three different ways this Federal mandate and credit allocation to credit unions.

Let me explain why, despite all the arguments you can make on the merits or demerits of the Community Reinvestment Act, why it does not belong on this bill.

Credit unions are voluntary, private associations. They are nonprofit organizations. They are tax-exempt organizations. They represent a collective effort of members to pool their savings with a common objective. They pool their savings and they lend to each other, the members of the credit union. In doing so, they perform a cooperative credit function. In many cases, they provide credit that would not be available, certainly at rates that would not be available, in many cases, to the consumer.

They are not in the business of promoting any broad, general purposes, such as the general welfare of the country or the community. They are small, private associations that are organized for the purpose of promoting the welfare of their members. The whole purpose is to pool nickels, dimes and dollars to build a cash base that can be lent to members for things such as buying a new car or new truck, buying a new tractor.

The objective of the credit union is to promote the interest of credit union members. It is not a for-profit organization, and there is no logic to applying to it a provision of law where the Government adds an additional mandate that the credit unions should direct the money of those members to support some end other than the well-being of the people who put up the money in the first place.

Let me explain how this works, and I want to read you some language—in my mind, shocking language—that has been included in this bill in the House, and language that I believe should be removed.

In the bill, the House has set up this requirement for a Federal mandate and capital allocation that goes by the name of community reinvestment. I will talk in a moment as to why this provision has nothing to do with community or reinvestment.

This bill mandates that credit unions conform to this Federal capital allocation. Here is how it is defined, and here is basically how it works:

In three different places, we have a reference to it in the bill. The first way that the bill would measure whether a credit union is complying with this Federal mandate allocating their members' hard-earned money is on page 58 in new section 215. In subsection (b), it is set out that credit unions have to comply with this community reinvestment, and that in doing so, they will be regularly evaluated by the Federal Government, and their record will be looked at to see if the credit union is ''providing''—I want you to remember, that is ''ing''—''. . . providing affordable credit union services to all individuals of modest means . . . within the field of membership of the credit union. . . .''

In other words, in this section, the Federal Government will evaluate whether or not this credit union, in making loans, in allocating the money of the people who have joined the credit union, is providing affordable services—and I don't know how you define ''affordable.'' I think I know how you define ''providing;'' you test whether they are actually doing it, although I could imagine some very interesting and intrusive methods of testing that the regulators might conjure up. But the test of ''providing'' can be a very rigorous test, since the standard is not whether the credit union is offering its services, it is not whether they are trying to do it. They are required to do it. They are to be ''providing''—you are evaluating whether they are ''. . . providing affordable credit union services to all individuals of modest means . . . within the field of membership of the credit union.''

You need to understand, field of membership and membership are two different things. A credit union considers itself successful if it is able to get about 20 percent of the people who could join that credit union to join it. So that in any field of membership, normally about 80 percent of the people in the field of membership who were invited to join the credit union, who were invited to put up their money, said ''No, I don't want to join your credit union; I don't want to put my money into your credit union.'' But the first provision of this bill requires that the credit union, to comply with this law on Federally mandated capital allocation, must be ''. . . providing affordable''—and where are these terms defined? Nowhere—''credit union services to all individuals of modest means . . . within the field of membership.''

Now, I do not believe we ought to be forcing credit union members, who put up their own money, to provide services to people that had an opportunity to join the credit union but decided not to join it. I think that violates the whole spirit of the credit union movement because a credit union is a cooperative, and if you want credit union services, you join the credit union. You participate in putting up the capital and you apply for loans or services from the credit union.

The second evaluation has to do with community credit unions. And those are credit unions that serve an entire community. This second provision requires that credit unions are ''meeting''—not trying to meet—and please note, the law does not say that you ''offer'' services, that you offer ''affordable'' services, whatever that means, to

all people of modest means within your field of membership. The law requires that you ''provide'' it.

Now, the second reference is, that you are ''meeting the credit needs and credit union service needs of the entire field of membership of the credit union.'' That is on page 59—''the entire field of membership. * * *''

So again, you are in a community. This little credit union is providing services to people in a town with 5,000 people; roughly 20 percent of those people have joined the credit union. But this law requires that they provide ''affordable'' services—whatever that means—to people who did not even join the credit union. How can that be right? Clearly, in my opinion, it cannot be right.

Now, the third case, very similar to the first, except the language gets even more grandiose. Imagine writing a Federal law where you can threaten the deposit insurance of a credit union and put it completely out of business. If it does not have Federal deposit insurance, it is not going to be able to operate. This law applies to both Federal credit unions and State credit unions, as long as they receive Federal deposit insurance.

Listen to this language. You have regulation to see if the credit union is ''satisfactorily''—satisfactorily, mind you—''providing,'' ''affordable''—I do not know how you define these terms. I have discussed ''providing.'' The credit union is actually doing it. It is not ''offering'' services; it is ''providing'' them, services are being accepted and received, not just offered. ''Satisfactorily'' is an undefined term, satisfactory to whom? ''Affordable'' is undefined and undefinable —that the ''credit union is satisfactorily providing affordable credit union services to all individuals of modest means within the field of membership of the credit union,'' whether or not they join the credit union in the first place.

Mr. President, this provision does not belong in this bill. This provision is piracy. This provision came about because we have a crisis in the credit union movement because of the court ruling, a crisis which requires congressional action. And what those in the House, who put this provision in the bill, have, in essence, said is, that in order to resolve your crisis, you have to pay tribute. And the tribute you have to pay is that we are writing a provision of law which says that every year you will be evaluated by a group of Federal bureaucrats who will determine whether you are satisfactorily providing affordable credit union services to people who are not even members of the credit union. And then they will publish their findings.

Now, what does this produce? What this produces is a situation where you literally—I am going to use some strong language here; and I mean every word of it—this produces a situation where literally you have professional protesters who extort resources from banks, and if this bill passes unchanged, they will be extorting resources from credit unions. Here is how it works. And I am going to give you some examples. And you are going to be shocked by these examples.

What happens is that periodically you have this evaluation that is made public, and whether or not the evaluation is satisfactory, you have a group of people who show up from various organizations to tell you how to use your resource for their benefit. ACORN is very active in this effort, and there are many other organizations, it is a growing industry—they show up at the bank and they say, ''You're not meeting your CRA requirements. And here are some things we want you to do. And if you'll do these things, then we will say that you're meeting these requirements, and we will stop protesting for now.''

It works like this. You have a bank who may have a perfect record on CRA requirements, but they want to merge with another bank. Even though they may have never had anything other than an exemplary rating, protesters can enter the process and challenge the merger on the grounds of community reinvestment and cost the banks millions of dollars because of the delays that their protests cause.

Now, let me give you two examples of where this has occurred.

The first I will refer to happened in 1989 in California. And let me say, Mr. President, it is hard to get banks to talk about this. I recently spoke to the CEO of a major Fortune 500 company, and I mentioned to him an effort I am supporting, an effort Senator SHELBY is undertaking to provide CRA relief for small community banks. When I mentioned CRA, he said, ''It's extortion.'' If I called him up and asked, ''Could I use your name?'' how many people who are being extorted want their name used? They do not. They are afraid to have their name used. When a CEO of a Fortune 500 company in America is afraid to say his mind publicly, to expose extortion, something is wrong in America.

Now, let me give you my examples and offer my amendment, and then we will debate this again on Monday.

In 1989, California First Bank wanted to merge with Union Bank. But when they sought to merge, opposition was lodged under the CRA provisions of banking law, and in order for these protests to be withdrawn so that delays could be ended and the merger could go forward, here is what California First Bank agreed to: One, to increase purchases from women and minority-owned vendors to 20 percent of purchases within the next 5 years. Second, they agreed to give charitable contributions, cash grants, not loans, in the amount of 1.4 percent of income in 1989 and 1.5 percent of income in 1990.

Now, I do not know this, but if I were a U.S. attorney in that district, I would go look and see if they gave those contributions to the groups that protested the merger. That would be a very interesting inquiry.

Next, California First Bank committed that 60 percent of the employees placed in middle and senior management positions within the next 5 years would be minorities and women. And finally, they committed to appoint three minority and women directors.

That is what they had to do in order to get the right to merge with another bank. Now, listen to this next one.

Sumitomo Bank of California—now I do not know, but I guess that Sumitomo Bank is a Japanese affiliate. I think it is relevant because I want you to put yourself in this position. Let us assume that an Ohio bank had opened an affiliate in the Dominican Republic and that some government agency there had said that, ''You are not meeting your CRA requirements.'' And then they published that, and then a group of people came to the bank and said, ''We want you to do some things so that we then will tell the government that you are meeting these requirements.'' Let's see what the things were that our Government in effect forced this bank to do. Let me read to you what they did.

No. 1, $500 million was committed to CRA-related loans. No. 2, the bank committed to spend 2 percent of income on charity, nonprofit organizations, with two-thirds of the money going to inner-city development, this being cash, grant money. No. 3, the bank committed to appoint minority board members. No. 4, the bank agreed to appoint a paid five-member minority advisory board to consult with management. And, No. 5, the bank agreed to give 20 to 25 percent of outside contracts to minority-owned vendors.

Now if that happened to an Ohio bank operating in the Dominican Republic, what would you call it? I would call it extortion. That is what I would call it. I would call it extortion, or maybe even expropriation, a taking of private property.

Now, how does something like that happen? How it happens is that we let people write into law provisions like ''satisfactorily providing affordable services,'' which no one can define, nobody knows what it means, and if you have to comply—a regulator that is willing to let protest groups file objections to banks merging, for example, by simply the ability to hold that merger up—they are able to extort resources.

Now, I could go on for quite a while and add to the list. For example, when Bank One wanted to merge with First Chicago. But what do you think happened when they filed that merger? What happened was, they had a group of protesters who showed up, who filed a boilerplate objection which could be drawn up in 15 minutes by any lawyer who deals in this area. I am sure the bank president said, ''Well, we have an exemplary CRA record.'' The protestors said, ''We have objected to your merger.''

So weeks go by, time goes by, and this is the Woodstock Institute that objected in Chicago—I better be careful to get the name right—yes, in Chicago, the Woodstock Institute objected. So what happens in such cases? The bank ends up allocating the resources of its stockholders in order to eliminate the objection just to be able to move forward with its business.

Now, let me read a quote to just show the arrogance of these people who we are empowering under these laws. Forgive me if I get a little excited about it, but it is the kind of practice I hate worst. This comes from the proposed merger of NationsBank and Bank of America. They have received outstanding CRA grades, but in spite of their unprecedented $350 billion CRA packages of loans and services to inner cities, et cetera, CRA activists are raising protests against the merger. One of the activist leaders has said the following—remember, this is about banks that have exemplary CRA records, at least according to the Government regulators who regulate this activity. These banks have exemplary records. But here is what the protester said, ''We will close down their branches and ensure they fail in California.'' That is what they said. ''We will close down their branches and ensure they fail in California. This is going to be a street fight and we're prepared to engage in it.''

Do you know what this reminds me of? This reminds me of a little immigrant storeowner. He and his wife and three children are running a little store, and these great big hoods come knock on his door. They come in and say, ''Somebody could do you some harm. There might be people who could come and break in your store, steal your goods. They might beat you up; they might break your arm. But I will tell you what we will do. If you will pay us 5 percent of what you earn in this store, we will see that nobody comes and breaks your arm.''

That is what this reminds me of. That is exactly what this reminds me of.

Now, I don't like the fact that it is going on. Some day I will get rid of it. Some day this is going to be gone. I intend to speak out on this for so long with such great passion that in good time Congress is ultimately going to rise up and stop this. That is not likely to happen here today, but some day it will happen.

What I don't want to do is, I don't want to start this business with credit unions. Now, I am sure that we are going to hear from someone who will say credit unions don't support this amendment. Well, the credit unions have been told, ''You support the Gramm amendment, and maybe your bill won't get passed. You support this amendment, and maybe the President won't sign your bill. You support this amendment, and maybe it will mean endless delays.'' Now, that is like saying to someone sticking a gun to your temple, saying, ''You feel good about things, don't you?''

We will vote on this amendment on Monday afternoon.

I don't want credit unions to have to be evaluated on whether or not they are providing satisfactory, affordable services to people who didn't even join the credit union.

AMENDMENT NO. 3336

(Purpose: To strike provisions requiring credit unions to use the funds of credit union members to serve persons not members of the credit union)

Mr. GRAMM. Mr. President, as a result of not wanting that to happen, I send this amendment to the desk to strike these provisions, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 3336.

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

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

The amendment is as follows:

Strike section 204 of the bill and renumber the sections accordingly, and beginning on page 45, line 24, strike all through page 46, line 4, and redesignate subparagraph (E) and (F) on page 46 as subparagraphs (D) and (E), respectively.

Mr. GRAMM. Mr. President, it is my understanding this will be the first vote we have on Monday. It is also my understanding that there will probably be an hour set aside so each side will have 30 minutes to debate the amendment. Rather than stay around today and debate it, I will use my 30 minutes on Monday.

I thank my colleagues for their indulgence. This is an important amendment. We ought not to add these onerous CRA provisions to credit unions, which are investor owned, which are set up as cooperatives to serve the people who are members.

Imagine, for example, in New York, where you have a credit union that was set up so cabdrivers could save their money and lend it to one another, and the loans, then, would be made to buy a Medallion so somebody could own their own cab.

Now, with CRA, the Federal Government comes in and says, ''Hey, how many loans have you made to people who aren't members of your credit union who could have been—they are in your field of membership, but they didn't choose to join your credit union; how many Medallions have you helped them buy?''

So Joe Brown, who put money into the credit union for 15 years, finally gets to the point where he thinks he can buy his Medallion, but because of this provision, the credit union has to take Joe's money and lend it to somebody who never joined the credit union, never wanted to be in the credit union.

If you can defend that, good luck.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise to address the overall issue of the legislation before the Senate, H.R. 1151.

I want, first, to commend Chairman D'AMATO and the ranking member, Senator SARBANES, for their help in this legislation getting to the floor in a timely fashion.

I will not address the issue raised by my colleague from Texas. I know there are others who will want to talk about that at much greater length.

There is an underlying legitimate debate there about whether an industry that benefits from Federal insurance, Federal regulation assuring that industry's stability and long-term viability, should, in turn, have to commit itself to making investments back into its own community or not. That debate can go forward. But I want to talk briefly about the underlying bill.

As we all, I think, understand, following the Supreme Court's decision earlier this year, the credit union membership of some 20 million credit union members all across America has been in some jeopardy. There was initially legislation offered in the other body that was designed simply to overturn the Supreme Court decision. The other body chose not to do that. Nevertheless, they did reach a compromise bill that passed in April on an overwhelmingly vote of 411–8.

Following that debate, and passage of that legislation, the Senate Banking Committee took up our version of credit union legislation, with the understanding that prompt action was in fact needed. But again, rather than simply choosing to overturn the Supreme Court decision and rather than simply choosing to pass the legislation passed in the House, the Senate Banking Committee crafted its own version, strengthening significantly the language of that original H.R. 1151.

Now, there is a compromise involved here. Most Members in this body, and many Americans, are members of both credit unions and banks. It is important that they both be viable, strong contributors to our national economy. It has always been—and it is the nature of compromises—that some will go away not entirely satisfied, but, on the other hand, we can reach that balance that will allow both the banking and credit union industries to go forward in a fair and competitive fashion. That certainly, at least, is the goal of this legislation.

So in the course of crafting this bill, we were able to arrive at bipartisan agreements on the level of restraint on expansion of credit unions that ought to be put into legislative language. There are some who would rather have no restraint whatsoever; others would rather have much greater restraint on what definition of ''common bond'' is used. We did reach a level of restraint in our legislation that, for the first time, now exists. I think perhaps, most

importantly, the Senate Banking Committee adopted the Treasury Department's recommendations on safety and soundness.

I think one of the greatest concerns all of us have had in this body is to make sure that if we are going to have an industry that is growing and prosperous, that it have underlying regulatory safety and soundness provisions that are really necessary for its long-term viability and for the confidence of the American consumers—not to mention the confidence the taxpayers ought to be able to have that they will not be called upon at some future time to bail out an industry that may have failed for lack of adequate safety and soundness provisions. I think one of the most important parts of the Senate response to the crisis that we have faced this year is stronger safety and soundness provisions and the adoption of the Treasury's recommendations.

The committee also took up the issue of restraint on commercial lending—or member business loans, as they are sometimes referred to—which now, for the first time, is in place. Again, there are those who would have much more severe restrictions and those who would have no restrictions and ask why any restrictions ought to exist over and above our safety and soundness standards. But this compromise was reached, and I think it is one that is supported by the credit union industry and is supported by the consumer groups as well. And the Senate committee chose to retain language on CRA—or ''CRA-light'' as it is sometimes referred to—that was instituted by the other body when they took up H.R. 1151.

Again, there are those who would like to see a much more rigorous, aggressive approach to CRA taken, and there are those who are simply philosophically disinclined to support any kind of CRA, even though this ''light'' version is simply a direction to the regulator of credit unions to come up with some assurance that, in fact, credit unions are investing in their local communities, which certainly has always been the case, although now there are larger credit unions with billions of dollars of capital, and some question is raised there. In any event, this is a provision that is accepted by the industry.

We need a strong banking industry and we need a strong credit union industry. They both have legitimate, important roles to play in the provision of credit across America. In my State of South Dakota, with some 700,000 citizens, almost 200,000 of them belong to credit unions. We have historically a long track record of utilization of cooperative ventures, whether it is our rural electric, telephone co-ops, or other agricultural cooperatives across the State. We have that long tradition, one that has contributed significantly to affording more options, a greater level of economic prosperity, to a great number of people across rural America.

Mr. President, I ask unanimous consent that a letter in support of this legislation from the National Farmers Union and a letter from the National Rural Electric Cooperative Association be printed in the RECORD.

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

NATIONAL FARMERS UNION,
*Washington, DC, June 23, 1998.*

Re Credit Union Membership Access Act.

Hon. TIM JOHNSON,
*Member of the U.S. Senate,*
*Washington, DC.*

DEAR SENATOR JOHNSON: I am writing on behalf of the 300,000 members of the National Farmers Union (NFU) to urge you to support H.R. 1151, the Credit Union Membership Access Act, which will restore an open field of membership to credit unions. In addition, we urge you to oppose the Hagel-Bennett amendment which would make it more difficult for farmers and ranchers to obtain loans from their credit unions.

Farmers, ranchers, and rural citizens around the country are facing tough times right now due to low commodity prices. The Hagel-Bennett amendment would unnecessarily restrict credit unions from making loans to their members for business purposes, and will worsen the difficult situation farmers, ranchers and rural citizens now face.

During our 95th annual convention, NFU members affirmed their support for credit unions: ''We are unalterably opposed to any proposal that seeks to curtail services by credit unions to their members under the false guise of regulatory reform or financial soundness. Such proposals are especially discriminatory against rural credit unions which provide agricultural credit services. We pledge our support to the credit union movement in its efforts to combat the anti-competitive regulatory tactics undertaken by other segments of the financial services industry.''

We urge you to pass this important legislation, without adoption of the Hagel amendment.

Sincerely,

LELAND SWENSON,
*President.*

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NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION,
*Arlington, VA, July 15, 1998.*

Hon. TIM JOHNSON,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR JOHNSON: On behalf of the over 30 million Americans who currently receive electricity from rural electric cooperatives, we strongly urge you to vote in favor of H.R.1151, the Credit Union Membership Act, without any amendments.

It is vitally important that certainty be brought to the nation's credit unions and their members. For many Americans credit unions are their only source for affordable banking and credit services.

H.R.1151 represents an excellent balance among the competing financial interests and deserves to be enacted before the August recess. The House passed this measure by an overwhelming majority of 411–8 and the Senate Banking Committee reported the bill out in a 16–2 vote.

H.R.1151 has broad bipartisan and constituent support. Please pass this legislation.

Thank you for your consideration.

Sincerely,

GLENN ENGLISH,
*Chief Executive Officer.*

PRIVILEGE OF THE FLOOR

Mr. JOHNSON. Mr. President, I ask unanimous consent that Scott Swanjord, a staff member of mine, may have floor privileges during this debate.

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

Mr. JOHNSON. Mr. President, we have minimal time remaining in this 105th Congress. The schedule is full. We have virtually the entire budget still to do, and other key issues are facing us. Frankly, we cannot afford to have this legislation held up with vetoes, veto threats, with ongoing, never-ending negotiations. So I think it is very important that we move forward with this legislation.

A veto threat has been issued by the White House. If the CRA provisions are taken out—the ''CRA-light'' provisions—we will lose our bipartisanship, and it is a provision that is supported by the industry itself. It would appear to me that we need to move forward expeditiously with this legislation. We will be taking up bank regulatory relief legislation later on this coming week perhaps. There will be other vehicles in which to debate some of these extraneous matters dealing with the banking industry and, peripherally, the credit union industry. But I think it would be a mistake for us to be caught up in too many side issues on the underlying bill here.

There is an absolute urgency that we move this bill forward. If we do not, the membership of some 20 million Americans will, in fact, be in very real and very great jeopardy. So with the legislation that passed 411–8 in the House, passed the Senate Banking Committee by a 16–2 vote, it would be my hope that this coming week we could conclude debate on this bill, obviously, with the adequate consideration of well-intended amendments, hopefully limited in number, but then get this bill in its current form onto the President's desk for signature.

I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, something was said just a minute ago about the threat of a veto by the President. I have heard this a lot on different bills. But I know the process should work. Especially when you have a principle that you believe in and that you know is right, you should not step aside because someone intimates that they might veto it. That is part of the legislative process.

Mr. President, having said that, later in the debate—probably Monday when we get back—I will be offering an amendment to the bill dealing with the Community Reinvestment Act, or CRA. My proposed amendment would authorize a small bank exemption from the Government-mandated credit requirements of the Community Reinvestment Act, which Senator GRAMM from Texas so eloquently talked about earlier this morning. Community banks, as you well know, as a Senator and present Presiding Officer, by their

very nature, serve the needs of their community.

They do not need a burdensome, government mandate to force them to allocate credit or originate profitable loans. Make no mistake about it. Community banks would not exist very long if they didn't take care of the whole community; and they do.

Since H.R. 1151 increases the competitive advantage credit unions have over banks, we feel this amendment is necessary to reduce the inequities in this area and allow our small community banks to better meet the needs of consumers.

Nine members of the Banking Committee sponsored a small bank exemption amendment to H.R. 1151 in the committee markup. The amendment resulted in a tie vote of nine to nine. The nine members of the committee that supported the amendment felt so strongly about the small bank exemption, that all nine members signed a statement of additional views to the committee report, which is unusual.

Let me say from the start, CRA is a tax on community banks, CRA raises the costs of inputs to banks by increasing their regulatory burden and compliance costs. In addition, CRA forces banks to make loans according to a federal quota, increasing the risks, and therefore the costs, of borrowing to consumers. Make no mistake about it, the Community Reinvestment Act raises the cost of borrowing through higher loan rates and punishes savers in the form of lower savings rates. Congress I believe should adopt policies that lowers the cost of borrowing, and my amendment would do that.

I would also point out that the federal government does not know the demand for loans any better than the local banker. CRA preempts the free market lending criteria of community banks and imposes the judgment of federal bureaucrats. CRA is government mandated credit allocation, the form of credit allocation that has proven disastrous most recently in east Asia. We have an opportunity to reduce the scope of government mandated credit allocation with this amendment, and I urge my colleagues to do so.

I want to revisit, and give a little history contextually.

HISTORY

When the Community Reinvestment Act was introduced in 1977, the bill's chief sponsor and chairman of the Banking Committee, William Proxmire stated:

> The authority to operate new deposit facilities is given away, free, to successful applicants even though the authority conveys a substantial economic benefit to the applicant. Those who obtain new deposit facilities receive a semi-exclusive franchise to do business in a particular geographic area. The Government limits the entry of other potential competitors into that area if such entry would unduly jeopardize existing financial institutions. The Government also restricts competition and the cost of money to the bank by limiting the rate of interest payable on savings deposits and prohibiting any interest on demand deposits.

Senator Proxmire later said:

> The regulators have thus conferred substantial economic benefits on private institutions without extracting any meaningful quid pro quo for the public.

REVIEW

The central premise on which Senator Proxmire bases his justification for ''extracting any meaningful quid pro quo'' may have existed in 1977, but absolutely does not exist today. Taken one at a time, each and every claim Senator Proxmire used to justify CRA in 1977 is no longer applicable today. Let us go through them one at a time:

Chartered institutions ''receive a semi-exclusive franchise to do business in a particular geographic area.''

Congress passed the Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994, which allowed one bank to acquire another bank in any other state, thus subjecting small community banks to the competition of acquisition hungry megabanks.

Senator Proxmire also said:

''Government limits the entry of other potential competitors.''

That was in 1977.

Clearly this is not the case. The underlying bill, H.R. 1151 does not limit, but dramatically increases the entry of potential competitors.

The bill essentially says that credit unions can serve every group in a community—making them the same as community banks.

Senator Proxmire said in 1977 regarding CRA justification:

''Government also restricts competition and the cost of money to the bank by limiting the rate of interest payable on savings deposits and prohibiting any interest on demand deposits.''

This is no longer true.

The Depository Institutions Deregulation and Monetary Control Act of 1980 phased out the interest rate ceilings on savings deposits and introduced Negotiable Orders of Withdrawals (NOW Accounts) that allowed the payment of interest on demand deposits to consumers.

PROXMIRE PREMISE NO LONGER EXISTS

Twenty-one years later, the ''substantial economic benefit'' to which Senator Proxmire refers no longer exists. Since the benefit no longer exists, neither should the Government mandate of credit allocation. Congress should lift this mandate off small community banks.

REGULATORY BURDEN

According to a recent Federal Reserve study, entitled, ''The Cost of Banking Regulation: A Review of the Evidence,'' regulatory costs account for up to ''13 percent of noninterest expenses'' of banks. That is a lot of money. In addition, the study concluded that ''(A)verage compliance costs for regulations are substantially greater for banks at low levels of output''—in other words, smaller banks—''than for banks at moderate or high levels of output''—or larger banks.

This regulatory burden is borne out in the efficiency rate of banks. As you can see by the chart, small banks are less efficient than large banks.

Banks with less than $250 million in assets have an efficiency ratio of 63 percent versus that of large banks over $250 million with an efficiency ratio of 60.5 percent. These inefficiencies translate into a lower return on equity for small banks. Large banks have a return on equity of 14.4 percent versus 11.3 percent for small banks. This means the average large bank has a return on equity 27 percent greater than small banks.

EXEMPTION OF BANK ASSETS

Contrary to what opponents of the amendment would have you believe, the small bank exemption would not ''gut'' CRA.

Banks with less than $250 million in assets account for less than 12 percent of bank assets nationwide. Thus, 88 percent of bank assets are concentrated in banks with over $250 million in assets and would still be subject to CRA, assuming that the Shelby amendment is adopted.

I have a chart that will help put that into perspective for my colleagues. Although there are 8,110 small banks below $250 million in assets, those banks account for only $593 billion in combined assets. That means small banks account for 11.7 percent of bank assets nationwide.

However, one bank—BankAmerica, the new bank resulting from the merger of NationsBank and BankAmerica—possesses assets of $570 billion or 11.3 percent of total bank assets. Thus, one financial giant holds assets nearly as big as that of all 8,110 small banks across America. That begs the question, why do we have to burden 8,110 small community banks that only account for such a small portion of CRA monies? The vast majority of bank assets are concentrated in the large, billion dollar megabanks that can more easily shoulder the burden.

SMALL BANKS SERVE COMMUNITIES

Small community banks have an excellent record of serving their communities. Since over half of all banks and thrifts below $250 million have only one or two branches, they really have no other place to go but to their community to do business. Of the 8,970 small banks and thrifts, only nine—.1 percent—received a ''substantial noncompliance'' CRA rating in 1997. In addition, small banks have a better record with regard to the most common type of community-based lending—real estate lending.

Banks under $250 million had a real estate lending to assets ratio of 37 percent in 1997 versus 23.9 percent for large banks over $250 million.

FAIR LENDING LAWS

The small bank exemption from CRA is not about discrimination. The following fair lending laws will still apply, including: The Fair Housing Act of 1968 which prohibits discrimination on the basis of race, color, religion, sex, national origin, familial status

and handicap in all aspects of the housing industry; the Equal Credit Opportunity Act of 1974 which prohibits creditors from discrimination based on race, color, religion, national origin, sex, marital status, age, or receipt of public assistance; and the Home Mortgage Disclosure Act of 1975 which requires banks to keep current records of its mortgage lending activity.

Any assertion that small banks do not serve their communities rings hollow. Small banks must serve their communities if they want to survive. Any claim of discrimination also rings hollow given the fair lending laws that apply to all lenders.

CONCLUSION

In conclusion, Mr. President, the Community Reinvestment Act was introduced in 1977 by Senator Proxmire under the premise that banks receive a ''substantial economic benefit.'' That benefit does not apply today as we enter the 21st century.

The small bank exemption from CRA would go a long way in helping reduce the costs and risks of mandated credit allocation. CRA is not only a bad law for banks, but it is also a bad law for consumers. CRA forces banks to underwrite risky loans because they find that preferable to being terrorized and vandalized by so-called community groups that extort money from banks. As a result, consumers around this country are being forced to subsidize this terrorist activity in the form of higher loan rates, lower savings rates and a lower return on equity.

Mr. President, I ask my colleagues to support this very important amendment on behalf of the small community banks around America but, more importantly, every bank customer who walks in to get a loan and is forced to subsidize this government mandated credit allocation.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

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

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. SARBANES. Mr. President, will the Senator from Illinois yield me just 2 minutes without losing her right to the floor?

Ms. MOSELEY-BRAUN. Certainly.

Mr. SARBANES. Mr. President, before the Senator from Alabama leaves the floor—because this is going to turn into a very interesting debate, and I want to make clear the parameters of it, obviously—he sent out a letter quoting Senator Proxmire. I am sure he is a good former trial lawyer, and he would anticipate that we would go and read all of the Proxmire statement from which he was making selections which were reflected on the chart that he just showed us.

Now, from that Proxmire statement, the very one containing these selections which the Senator says is his rationale for supporting the Community Reinvestment Act, and from which the Senator allegedly shows that the rationale no longer applies—although I disagree with even that assertion—let me read to you. I will read the next sentence, which didn't appear on the Senator's chart, I regret to say.

Mr. SHELBY. If the Senator will yield——

Mr. SARBANES. Let me make the point, and then I would be happy to yield.

The next sentence said:

> The Government provides deposit insurance through the FDIC and the FSLIC with a financial backup from the U.S. Treasury.

''The Government provides deposit insurance through the FDIC and the FSLIC with a financial backup from the U.S. Treasury.''

That wasn't quoted as a rationale why it is reasonable to expect financial institutions to look after the needs of their community—because they are getting a very important Government support in the deposit insurance.

Now, Senator Proxmire made the statement in 1977. To prove his statement, in the 1980s, and to underscore the meaningfulness of the public benefits provided to federally insured financial institutions during the S&L crisis, the GAO report says that ''the direct and indirect cost to the United States taxpayers of resolving the savings and loan crisis, namely delivering on this insurance which is provided to them, was $132 billion—$132 billion—''and that does not include the interest expenses associated with financing the direct costs of the crisis which would drive the figure even higher.''

So, please, with all respect to the former chairman of the Senate Banking Committee, if we are going to start doing selections out of his statements, certainly we should include what I regard as the most important single rationale that he put there:

> The Government provides deposit insurance through the FDIC and the FSLIC with a financial backup from the U.S. Treasury.

Now, that comes right out of the CONGRESSIONAL RECORD of January 24, 1977, which is what the Senator said in the letter he sent to Members he was quoting from. But, unfortunately, for the purposes of clarity in debate, that provision was not cited. Of course, that is the very provision that became applicable in the 1980s when we had the S&L crisis, and we delivered to the tune of $132 billion in order to honor the deposit insurance requirements. Obviously, without the deposit insurance requirements, you wouldn't have these industries. They are absolutely dependent on them to provide a basic level of financial stability and consumer confidence.

So I appreciate the Senator yielding, but I thought it was important to get that on the RECORD at this point, although we will bring it up again in the debate later on.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I thank the Senator from Maryland for shedding light on this debate, because I think it is very important that this debate be put in context and that the whole story be told. The truth is that this debate, reduced to its essentials, really does relate to a fundamental philosophical difference. Either you are for the politics of conflict and anger and ''I got mine, too bad for you,'' or you understand and appreciate the value of a politics based on cooperation, on finding common ground, and in recognizing that, as Americans, we are all in this together.

The fact of the matter is, the CRA is not extortion, as, apparently, it was called on this floor this morning. It is a perfect example of coming up with a construct that allows financial service institutions to do good while doing well. I think it is very important for the listening public to understand that this gives money away to no one. These institutions are not giving away money. They are not losing money. They get back every cent. In fact, the loss ratio, to the extent that we have studies on this, the loss ratio for banks doing business under the Community Reinvestment Act is no different. Banks have done no more poorly while under CRA. The Community Reinvestment Act simply provides access to capital for underserved communities. There are those of us who think that is a good thing for America, that that helps everybody, that everybody benefits when we do not have whole sectors of our country, rural areas, inner-city areas—when we don't have whole sectors of our country cut off from capital flows.

I was going to rise in opposition specifically to the amendment by the Senator from Alabama to this credit union bill. But, really, my remarks have to be directed, I think, at both of the pending amendments, both the amendment of the Senator from Alabama, as well as the amendment of the Senator from Texas.

Before I speak specifically on the amendment, however, I think it is important to say what a strong supporter I am of the underlying bill, H.R. 1151. I commend and congratulate the Senator from New York as well as the Senator from Maryland for their very good work in resolving the issues that are reflected by the Credit Union Membership Access Act, which was reported out of our Banking Committee by a vote of 16 to 2. The fact is this, the underlying legislation, responds to a ruling by the U.S. Supreme Court that, frankly, terrified a number of people that they would lose their ability to participate in credit unions. Certainly this legislation will put an end to those fears.

I believe credit unions play such an important role in the panoply of financial institutions in our country precisely because we have to have ways to make certain that ordinary citizens will be able to access credit and capital, will have someone they can put a face on, who is in the neighborhood,

who is part and parcel of the community. Those values, associated with financial institutions, is just as important for our country as making certain that our big banks and our big institutions can compete internationally. We have to do both. We have to have the focus and the attention paid to Main Street, to little towns and communities, to parents who want to send their kids to college, to somebody who wants to borrow for a car, somebody who wants to borrow for a house or whatever their immediate needs are. We have to have those kinds of opportunities in our system of financial institutions or financial services, as well as the big banks and the institutions capable of competing with the European and other industrialized nation's banks that can aggregate huge amounts of capital.

So I think making certain the credit unions are strong and secure and able to provide access to capital and credit for citizens is a very, very important thing, and, again, I strongly support the effort by the Senator from New York and the Senator from Maryland in hammering out the basis of H.R. 1151, and I support it.

Having said that, I want to talk specifically about the amendment of the Senator from Alabama as well as, more generally, about the conversation from the Senator from Texas. I sat here, frankly, when my blood wasn't boiling over some of the conversation—actually the Senator from Alabama has a more soothing tone so he doesn't get your blood up as much as might otherwise happen. But it occurred to me it was really important in this debate to tell the listening audience and the general public what actually is going on here, because so much information has been left out of the conversation so far.

In the first instance, it is important to understand what the Community Reinvestment Act is not. Let's start there. CRA is not ''fair lending.'' It has nothing to do with race as a specific thing. It is not that. It has to do with geographic distribution of capital, so it relates to communities more than anything else, not so much to individuals. That is important to keep in mind as we talk about CRA, because this debate will continue into next week.

The second point I think is important to make, again in terms of what CRA is not, CRA is not a giveaway. Every penny comes back—or at least as much as to any other lending institution. It is about loans. It is not a mandated interest reduction. It is not requiring financial institutions go into social work. CRA is not charity.

As the Senator from Maryland pointed out, the taxpayers put up the money, really, for deposit insurance. We also have a tax exemption with regard, at least, to the credit unions. There are bankers, frankly, who are more than a little annoyed that credit unions have almost a 30 basis point advantage because of the tax exemption that they enjoy. But the tax exemption has been there precisely because we want to make certain that individuals, people in communities, have a chance to go into their neighborhood credit union or credit union associated with their job and borrow money for college or whatever. So there is a basis point advantage that the credit unions get.

The taxpayers, all of us, all Americans who pay taxes, help make that possible. That happens any time you create a tax exemption from something that ought otherwise be taxed. If we say we are going to tax everything from here to here, from A to D, but we are going to exempt this little part C to D and say, ''Because you are doing something we like, we are not going to tax you for that,'' that tax exemption, then, has to be made up by everybody else, right? So it becomes what we sometimes call a tax expenditure. When you take something out of A to D, that little part has to be made up if you have to get to D, and that is what happens if we provide for tax exemptions generally. Everybody chips in; everybody participates.

It should be for that reason, if nothing else, that we recognize that when you talk about policy like this, it really does matter, it really does come down to recognizing we are all in this together, that we all have an investment, that we all share in these policies, and that finding the place for cooperation and common ground makes a lot more sense for our country than, again, finding the points of conflict, of anger, and of ''I got mine, too bad for you.''

Another thing CRA is not, it does not have an explicit credit allocation criteria. There are no bureaucrats. This is another one of the old saws that just get people's blood boiling, ''Oh boy, those nasty Federal bureaucrats telling us what to do.'' There are no bureaucrats telling the credit unions, the banks or anybody else, how to do their jobs. It is a results-oriented kind of legislation.

And, in fact, there are, since the 1995 amendments, simply three separate criteria: A lending test evaluates whether or not a bank has a record of meeting the credit needs of its local community. Boy, is that awful. Has the bank met the credit needs of its local community.

An investment test evaluates how well a bank satisfies the credit needs of its local neighborhoods through qualified community investments that benefit the assessment area. Another horrendous extortion we were hearing about a minute ago.

Finally, a service test that evaluates how well the needs of the community are being met by the bank's retail delivery systems.

All of these things go into defining what CRA is about. Again, it is no bureaucrat telling somebody on the front end how to do it, but it is assessing whether or not the decisions were made in the private sector in an appropriate way that would achieve results.

Another thing that CRA is not is sanctions. Again, this gets to the inflammatory language we heard on the floor about extortion and a gun to the head and all the rest of it. There are no sanctions for poor performance, no explicit sanctions.

What it does is, the regulators will take an institution's CRA ratings into account in making evaluations with regard to their attempts to expand or merge or otherwise change the way they do business. What you have here then is a modest attempt to provide the basis for community reinvestment, and even that is under attack, again, I think, by some shopworn and already, hopefully, discredited politics that I don't believe the American people care to hear anymore. It is fighting yesterday's battles all over, or, as Yogi Berra would say, ''It's deja vu all over again.''

The amendment of the Senator from Alabama seeks to exempt fully 86 percent of our Nation's banks—that is to say, those with under $250 million in assets—from the provisions of the Community Reinvestment Act. This is not the first time he has offered this amendment. In 1995, this very amendment was considered as part of a banking regulatory relief bill. At that time, the Community Reinvestment Act regulations were undergoing revision to make them less burdensome and more effective for banks and customers and consumers and communities. The amendment was unnecessary and counterproductive then. It is even more so now. In addition to failing to relate to anything having to do with the current reality, it fails to make the case that it will help effectuate the goals of the Community Reinvestment Act.

The attempt to describe the CRA as overly burdensome to banks is not true, has not been true, it is not true. Frankly, the banks themselves have stepped forward to tell us that they believe the CRA is a positive thing that allows them to do good and to do well.

Let me share for a moment some of the comments by members of the banking industry.

Alan Morris, commissioner of banks for the Commonwealth of Massachusetts, Division of Banks and Loan Agencies:

> I would like to dispel any myths which may still exist about CRA, myths which abound not only among some bankers but among many regulators and community groups. CRA makes good business sense. Of the many bank failures which occurred in Massachusetts over the last 3 years, I can assure you that not one is attributable to a bank making too many CRA loans. We tend to forget, after all, that sound loans to people in businesses in an institution's own local community is what CRA is all about. The false assumptions by some that low and moderate income persons are not deserving of or cannot use banking services is harmful to the communities, the institutions and the economy.

Again, this is something that affects us all. If we don't have capital flows going to all parts of our country, it is

kind of like not having blood circulate to your feet. You can either get the blood circulating to your feet, or you can cut it off, or you can walk around in pain and misery. We can decide we are going to look at abandoned communities with boarded-up houses, with no jobs, where people cannot access capital and credit, or we can do something to get the blood pumping into those communities. And that is what the Community Reinvestment Act does.

Another banker talking about CRA:

My message is simple: Community reinvestment in low and moderate income communities is good and profitable business.

Again, doing good and well at the same time.

Nora Brownell, senior vice president, corporate affairs, Meridian Bank Corporation:

I want to reiterate the Community Reinvestment Act offers all of us an opportunity to address major economic development and service issues in our environment today.

The question becomes, What battle are we fighting here? What is going on? Why are we fighting a battle that doesn't exist? Why are we creating an ersatz crisis, or why are we coming up with an ersatz solution in search of a problem if the bankers don't think a problem exists, if the credit unions are happy with the bill as it is?

I point out the letter from the credit union—what is the quote—they are happy with the bill ''as passed by committee.'' ''As passed by committee'' does not mean either the amendment by the Senator from Alabama or the amendment by the Senator from Texas.

If the credit unions like the bill as it is, if the bankers aren't upset with the Community Reinvestment Act, what then are we talking about and why are we talking about it? I submit to you, I say to my colleagues, that the reason we are talking about it is that some people like to energize conflict and anger as a part of their politics; that some people like to have people mad at each other, because when they get people mad at each other, then they can get their voters particularly angry and their supporters particularly annoyed, and out of that annoyance, they wind up getting political power. That is what I think all of this really comes down to.

I don't mean to be nasty, and I don't mean to be discourteous to any of my colleagues, but it is just stunning to me that we continue to have a debate about the burdensome nature of the Community Reinvestment Act when the banks themselves aren't complaining about it.

To say they are not complaining about it because they are scared, because there is a gun at their head, really—that then suggests they are not only not being burdened but they are too cowardly to talk about it. I don't think any of the people who run these institutions are afraid to speak up for their own interests, particularly bankers. This institution has never been known not to listen to bankers. If bankers wanted to complain about something, they could have brought it to the attention of this committee and this institution. They certainly have the power and clout and have never been too shy in other regards when they needed something—when they needed bailing out, when they needed support. This institution has been very responsive to bankers, and I suggest they have not been afraid to show their faces and complain about the Community Reinvestment Act.

Let's talk a little bit about the history of the CRA. The CRA was passed in 1977 to combat what was called the ''redlining'' of certain neighborhoods. Redlining refers to the practice of—in some instances, people actually found evidence where red lines were drawn on maps to indicate areas that were off limits for lending.

The goal of the CRA is to encourage banks to meet the credit needs of their entire communities, including low- and moderate-income areas—nothing more, nothing less. This obligation had its roots, frankly, in the Banking Act of 1935 which required banks to meet the convenience and needs of their communities, and that, of course, was reiterated in the Bank Holding Company Act of 1956 and, of course, the bank charters themselves.

CRA is not new, really, in that regard. There is precedence in other existing laws with regard to the intent of making certain that banking and that the access to capital and credit are evenly and equitably distributed throughout all communities.

The CRA does not require any banks to make bad loans. It only asks them to explore good loan possibilities in their entire market area. CRA opens new markets and allows banks, again, to do good while doing well.

Now, it is critical, again, to keep in mind what it is and what it is not. It is not an effort to treat banks as if they were arms of the Government. It does not set up banks and financial institutions as social service agencies. It is not about treating them as an equivalent of a Government grant. This is not giving money away to anybody. It is not a credit allocation. It is not forcing somebody to give credit to a particular group or particular community in a particular way. And it certainly is not about minorities.

I certainly hope that nobody gets away with demonizing the Community Reinvestment Act on the basis of race, or demonize it, frankly, on the basis that it is for inner-city communities because it is not. It is about communities all over the country, and particularly in rural communities. Actually, rural communities in some instances are more challenged than our inner-city and urban areas in terms of getting access to capital and credit.

It is especially important to preserve the CRA obligations for rural banks when often they are the only game in town for credit purposes. Several years ago, our Banking Committee held some CRA oversight hearings and we discovered cases of small banks in which the service area consisted of two towns, each with a population of about 10,000. The bank in that case was found to be in substantial noncompliance with CRA because its loan portfolio consisted of only 5 percent of the total assets of the bank.

Now, again, 5 percent—you say, how could that happen? You have a bank in a little town. Why would it give only 5 percent of its loans in the town? Well, in some instances the investments are in Treasuries and other things like that which wind up being more profitable for the bottom line, but it certainly does not serve the interests of the community. And that is not where banking laws—again, going back to 1935—that is not where the banking laws want to take us. Frankly, that does not in any way reflect or relate to or in any way show support back for the kind of support that taxpayers and citizens overall give to these financial institutions.

The last time the efforts were made to exempt small banks from the CRA—I am speaking specifically to the amendment by the Senator from Alabama—there was an article that appeared in the Madison Capital Times in Wisconsin. It is ''Bank measure bad for farms.'' Referring to that amendment, the very same amendment, this article, ''Bank measure bad for farms'' presents the view of a concerned rural resident who was concerned about the unpainted barns and boarded-up rural businesses that she saw in her community.

I ask unanimous consent to have this article printed in the RECORD.

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

[From the Madison Capital Times, July 20, 1995]

BANK MEASURE BAD FOR FARMS

(By Margaret Krome)

Earlier this week I drove past unpainted barns and boarded up rural businesses on my way to a meeting. Like many city dwellers, I fretted about the health of farms I passed and small towns I drove through, but felt powerless to help.

However, we urbanites can protest policies that actively harm rural communities. One such proposal is before Congress right now. It would gut a major safeguard for money borrowers, the Community Reinvestment Act.

As in all communities, rural citizens need credit. When farmers, other small businesses, and rural citizens deposit their money in their local bank, they do so both to protect their funds and with the hope that when they want to start a new business or bring a new family member into their farm operation, the local bank will, in turn, lend them money.

But sometimes banks, and especially many rural banks, establish a very different pattern, where local lending takes a lower priority than making more assured investments, like federal government securities. Thus, such banks drain local resources outside of the very localities that support them, making it that much harder for local citizens to get credit.

The Community Reinvestment Act was passed in 1977 to make banks more responsive to the credit needs of the community they serve. The measure provides that before a bank can expand, be bought, merge with another, or make other changes in business structure, its record of community reinvestment is reviewed.

If community members voice dissatisfaction with how the bank has met local needs, or if the bank's local lending rate is consistently low, it triggers a regulatory yellow light. Before the bank's plans can proceed, it must respond to citizen concerns.

When M&I Bank proposed to buy out Valley Bank holdings in 1993, for example, citizens in southwestern Wisconsin held meetings to raise concerns about lending practices in that 10-county region. Without ever becoming a formal challenge, the process resulted in M&I's working with the community to increase agricultural and small businesses.

Despite such successes, now comes H.R. 1858, the ''Financial Institution Regulatory Relief Act of 1995,'' to the rescue of oppressed bankers everywhere. In three simple swipes, it effectively eviscerates the CRA.

First, it removes a citizen's or community group's ability to challenge a bank's application for expansion based on its prior CRA performance.

Second, it outright exempts banks with less than $100 million in assets from CRA regulations, which especially hurts rural areas, where such banks are located. In fact, under H.R. 1858, CRA provisions would not apply in 34 of the state's 72 mostly rural counties.

Finally, and incredibly, it allows banks between $100 and $250 million in assets to ''self-certify'' their CRA compliance . . . as if any bank would ever be motivated to do otherwise.

The banking community's complaint that meeting CRA regulations is too costly is unconvincing, given record profits that Wisconsin banks have registered in recent years. Granted, CRA-related paperwork for some banks has been considerable at times, but after a 2-year regulatory reform process, even those problems were addressed in April with greatly lessened reporting requirements and a streamlined examination process for small banks.

The ''reforms'' in H.R. 1858 are not designed to relieve banks of onerous reporting requirements. They appear to be poorly disguised efforts to grant banks a carte blanche to invest local monies in whatever ways best suit their private profit-making interests.

There's nothing wrong with making a profit, but in rural areas, where often there's little competition among banks, it's wrong to revoke one of the few accountability measures citizens have.

Historically, banking officials hold all the cards during any local lending negotiation. The CRA shifts that power balance by giving citizens a forum to air concerns about a bank's pattern of lending.

If rural communities are to regain the vitality their citizens deserve, they need true help an meaningful solutions. Permitting banks free rein in the name of regulatory relief is not one of them.

Ms. MOSELEY-BRAUN. The author stated in the article:

As in all communities, rural citizens need credit. When farmers, other small businesses, and rural citizens deposit their money in their local bank, they do so both to protect their funds and with the hope that when they want to start a new business or bring a new family member into their farm operation, the local bank will, in turn, lend them money.

But sometimes banks, and especially many rural banks, establish a very different pattern, where local lending takes a lower priority than making more assured investments, like Federal Government securities. Thus, such banks drain local resources outside of the very localities that support them, making it that much harder for local citizens to get credit.

She goes on—by the way, I do not know how many people who are listening to me now got a chance to hear the earlier comments about the nasty Federal Government, but, again, here this lady is saying they are taking money out of home localities in rural communities and investing them in Federal Government securities.

She goes on to describe how the Community Reinvestment Act spurred one bank in particular to increase its commitment to agricultural and small businesses. And I quote. She says:

. . . in rural areas, where often there is little competition among banks, it's wrong to revoke one of the few accountability measures citizens have.

Mr. President, I believe that she is exactly right. Even if banks under $250 million represent a small percentage of total banking assets, they still represent 100 percent of options for many small town residents.

To go back to the article, the author also writes:

If rural communities are to regain the vitality their citizens deserve, they need true help and meaningful solutions. Permitting banks free rein in the name of regulatory relief is not one of them.

In addition to the article that I just mentioned, I would like, Mr. President, to have printed in the RECORD a letter. This letter, which I received yesterday, expresses strong opposition to the amendment by the Senator from Alabama.

It asserts that:

Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve millions of Americans living in smaller low- and moderate-income communities.

This letter, by the way, is signed by 11 groups: The Center for Community Change, the Center for Rural Affairs, the Federation of Southern Cooperatives, the Housing Assistance Council, the Intertribal Agriculture Council, Iowa Citizens for Community Improvement, National Catholic Rural Life Conference, National Family Farm Coalition, National Farmers Union, National Rural Housing Coalition, and the Rural Coalition.

I ask unanimous consent that letter be printed in the RECORD.

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

JULY 23, 1998.

DEAR SENATOR: On behalf of the undersigned organizations representing rural Americans, we are writing to express our strong opposition to legislative efforts to weaken the coverage of the Community Reinvestment Act (CRA). Our understanding is that Senator Shelby plans to offer an amendment to H.R. 1151, the credit union legislation, that is scheduled for floor action. In addition, Senator Gramm plans to offer an amendment that strikes provisions, in H.R. 1151 that would ensure that credit unions provide services to all individuals of modest means within their field of membership.

The Shelby amendment would exempt banks under $250 million in assets from CRA coverage. This affects over 85% of banks nationally. For citizens in Iowa, Kansas, Minnesota, Montana, Nebraska, and Oklahoma, 95% of the banks would be exempt.

Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve the millions of Americans living in smaller low and moderate-income communities. Unfortunately, small commercial banks do not automatically reinvest in their local communities. This is documented by national data on reinvestment trends and loan to asset ratios for banks across the country. 50% of small banks have a loan-to-deposit ratio below 70%, with 25% of these having levels less than 58%. The data for 1997 reveals that banks under $100 million in assets received 82% of the substantial non-compliance ratings.

We strongly urge you to oppose these amendments to H.R. 1151. The Shelby amendment ignores the important regulatory changes since 1995 that have significantly reduced the paperwork and reporting issues for small banks. The Gramm amendment will strike an important provision from the bill that for the first time would require credit unions to meet the financial services needs of their entire field of membership.

A vote against these amendments will help meet the credit demand of millions of family farmers, rural residents, and local businesses. Thank you for considering our concerns.

Sincerely,

Center for Community Change; Center for Rural Affairs; Federation of Southern Cooperatives; Housing Assistance Council; Intertribal Agriculture Council; Iowa Citizens for Community Improvement; National Catholic Rural Life Conference; National Family Farm Coalition; National Farmers Union; National Rural Housing Coalition; Rural Coalition.

Ms. MOSELEY-BRAUN. In addition, I have received many letters from community groups and other concerned citizens who oppose this amendment.

I must point out that, again, in 1995, when this amendment was proposed before, letters were sent in opposition by the Save CRA Coalition and others. Unlike many of the special interest groups around here in Washington, frankly, that group's name lets you know exactly what it stands for. The Save CRA Coalition was established to defeat the amendment of the Senator from Alabama when it was previously offered.

The letter they sent, opposing the weakening of the CRA, was signed by 2,181 State and local government organizations, for-profit businesses, community groups, unions, farm groups and faith-based organizations from every State in the country, the District of Columbia, Puerto Rico, and the Virgin Islands, by the way, including a number of organizations from Alabama and Texas.

Now, I am going to ask that the letter be printed in the RECORD also. I am not intending to filibuster, and I know that some of my colleagues are here on the floor wanting to speak, but there is a long, long list of organizations which are very, very recognizable that I hope my colleagues have a chance to take a look at to see the breadth and the level of opposition to the amendment by the Senator from Alabama and the opposition to weakening the CRA.

I hope that also every Member of the Senate will have occasion to at least review the names of the organizations in their own State with regard to opposition to this amendment. My own State, what, it is three pages—Illinois has page 9, page 10, and on to page 11. They are just names in a single space of organizations in opposition to that amendment. And I am sure if I were to take Missouri or Delaware or any of the other States, they would be an equally long list. I hope my colleagues will familiarize themselves—or New York—will familiarize themselves with the names of the organizations that, again, are against weakening the Community Reinvestment Act.

However, I ask unanimous consent that the letter itself be printed in the RECORD, but not the names of the organizations who signed the letter because that would take up too much space in the RECORD.

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

SAVE THE CRA COALITION,
*Washington, DC, September 7, 1995.*

Hon. ALPHONSE D'AMATO,
*U.S. Senate, Washington, DC.*

DEAR SENATOR D'AMATO: The following state and local governments organizations, for-profit businesses, community groups, unions, farms groups, and faith-based organizations oppose legislative changes in S. 650 and H.R. 1858 that weaken the Community Reinvestment Act (CRA). CRA ensures that creditworthy borrowers have access to the American system of commerical credit. It has given banks an incentive to discover profitable lending and investment opportunities in rural, suburban and urban communities. Congress does not need to revise this effective law.

Preservation of CRA is vital to the work of community developers and small business nationwide, CRA has been the catalyst for important local alliances among financial institutions, local businesses, nonprofits, and state and local governments. It has led to hundreds of thousands of modest-income families becoming first-time home owners, generated new capital for small businesses and small and mid-size family farms, and made financing available for local economic development projects. Additionally, CRA has spurred the creation of innovative mechanisms for providing credit such as revolving loan funds and consortia.

We recognize the value of making CRA a more performance-based system rather than a process of documentation, however federal regulators have addressed this issue. On April 19, 1995, the four bank regulatory agencies issued final rules making CRA compliance more effective. The process of revising these regulations covered two years of intense deliberation; public hearings involving hundreds of bankers, community groups and local officials; and nearly 14,000 written comments from banks and other organizations nationwide. We strongly believe that the regulations agreed to by the nation's financial regulators effectively address whatever weaknesses banks have complained about in CRA's administration and thereby bolster its successes.

Proposed ''regulatory relief'' legislation (S. 650 and H.R. 1858) would stifle local community efforts by exempting an overwhelming majority of banks and allowing the rest to abandon their commitments to millions of Americans in low- and moderate-income communities. In addition to provisions that explicitly modify the Community Reinvestment Act, other provisions in this legislation deter community reinvestment efforts by abolishing constructive channels for community input in decisions regarding bank mergers and other corporate expansions, and eliminating critical data collection requirements that enable objective assessments of bank performance.

Since its enactment in 1977, CRA has attracted more than $60 billion worth of investments in low- and moderate-income communities around the country, and stimulated local economies. Every dollar spent in community-based development circulates through the economy an estimated five times through vendors, suppliers, subcontractors and related workers.

In light of the success of the CRA, we urge you to strike provisions within S. 650 and H.R. 1858 that weaken the CRA and to oppose any efforts to cripple this critical law.

Sincerely,

2,181 Organizations.

Ms. MOSELEY-BRAUN. One of the reasons that CRA has such broad support is very simple. It does not force banks to make bad loans. It encourages them to examine unexplored markets in their service area, and it, again, allows a financial institution to do good while doing well simultaneously. They make money on these loans.

My favorite CRA story is about one banker who said that he hated the CRA, but he did not think it was burdensome. What he hated was the fact that other banks did it, too. Other banks were complying with CRA. He had discovered years ago—it was kind of a market rating situation—he discovered years ago that there were many cash-poor but credit-worthy customs out there. And he had previously been the only one issuing loans in certain low- and moderate-income areas in low- and moderate-income neighborhoods.

So now with CRA in place, he was forced to compete where he had once enjoyed a monopoly. And so he was annoyed, if you will, that his monopoly over the areas that had not had access to capital and credit, except via him—that that monopoly was now opened up because other institutions were beginning to engage in those communities, because and by virtue of the Community Reinvestment Act.

Again, he had learned a lesson that many bankers are now learning. Because of CRA, community reinvestment is the best way to do good while doing well simultaneously. And CRA is profitable for banks. In a survey conducted by the Federal Reserve Bank of Kansas, 98 percent of banks found that their CRA activities were profitable.

Many others agree with the Kansas City study. Most major banks, including NationsBank and Bank of America, have reiterated their commitment to the CRA. As I recall, when we last had a hearing in the Banking Committee, some bankers testified in favor of keeping CRA intact. In fact, I was delighted at a hearing we had of the Banking Committee. Secretary Rubin had previously come out in support of the CRA, but I actually put the question to Chairman Greenspan, who is acknowledged as the guru of financial everything, I guess, and Chairman Greenspan reiterated or spoke to his support of the CRA, which I was absolutely delighted about.

I will give an earlier statement of Chairman Greenspan:

When conducted properly by banks which are knowledgeable about their local markets, CRA can be a safe, sound, and profitable business. CRA has prepared financial institutions to discover new markets that may have been underserved before.

I see a number of my colleagues standing and looking at me. I think this means I am talking too long. I don't mean to filibuster this issue. I just want to say I believe I have spoken to the issue. There are facts and figures I would like to share with my colleagues, but I know we will have another opportunity to do that because we will have this issue come up again on Monday.

Suffice it to say that expanding the Community Reinvestment Act to the credit unions, which apparently the Senator from Texas doesn't like very much, is not something which has the credit unions themselves riled up. They like the bill we passed out of committee. They don't want to have that amendment. They want to see us go forward with H.R. 1151.

With regard to the CRA-gutting attempt, taking out 85 percent of CRA activity that the Senator from Alabama would suggest, I submit that also is an amendment that the credit unions don't want to see on this bill because it is too important to them.

With regard to just an overall appeal to my colleagues, let me suggest that to find a solution like these two are suggesting in search of a problem does not do justice to the level of the cooperation that we have seen in this Congress, and particularly with this Banking Committee, that CRA gives us an opportunity to find common ground, to work together, and to work together for the good of our entire country. The alternative is an appeal to conflict and anger which I think is beneath the Senate. I hope my colleagues will join me in opposing both of these amendments.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I propound a unanimous consent request: That the pending Gramm amendment be temporarily set aside; I further ask that at 4:30 p.m. on Monday, July 27, the Senate resume consideration of the

Gramm amendment, with 1 hour for debate equally divided prior to a motion to table; I further ask that the tabling vote occur at 5:30 p.m, with no second-degree amendments in order to the amendment prior to the vote.

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

Mr. D'AMATO. I believe my colleague from Connecticut has a brief statement. I believe he has asked our other colleagues that he be recognized.

Mr. DODD. Let me thank my colleagues who are here, and I will keep these remarks brief. I thank my colleagues from Colorado, North Carolina, and Missouri.

Briefly, Mr. President, let me, first of all, extend my compliments to the distinguished chairman of the Banking Committee and the ranking member, Senator D'AMATO and Senator SARBANES, for their excellent leadership in bringing this bill on credit unions to the floor. This is a very, very important piece of legislation. I think most of my colleagues who have followed this debate hoped we wouldn't have had to come to the floor with a credit union bill. But as a result of Supreme Court decisions, we have been forced to act, and to act expeditiously in this Congress. In fact, as a result of a letter drafted by the chairman, several others, and myself, we have asked the court not to initiate their decision so that there would be time for us legislatively to respond to the Supreme Court decision.

This is not just any other bill we are bringing up that may or may not have some importance on the Legislative Calendar. It is critical that before this Congress adjourn this piece of legislation be considered and adopted and signed into law if we are going to provide the kind of relief that must be sought as a result of the AT&T credit union decision.

Again, my compliments to the leadership of Senator DOMENICI, Senator SARBANES, and other members of the Banking Committee, who voted 16–2, I think was the vote, that brought this bill to the floor of the U.S. Senate.

It is critically important. Why is it important? It is important because if we are going to see members of credit unions forced to leave their credit unions as a result of the AT&T credit union decision, the resulting loss of those members could cause a credit union to become insolvent. That is the problem here, and that in itself would create a drain on the taxpayer-backed deposit insurance fund.

So, it is very, very important we not allow those credit unions to run the risk of losing its membership as a result of that decision or our inability to act and then causing these credit unions to fail around the America. None of that will happen, obviously, if we move to adopt the legislation.

I point out that in the House, the other body, they adopted the legislation, I think, something like 411–8. It was overwhelmingly adopted. I am confident that will be the case here, as well. We will get a good, strong vote provided we don't get sidetracked on some side issues. Whether they have merit or not, there will certainly be other vehicles in the minds of some people, but the idea we would allow it to be attached to this, running the risk—you run the risk of having this credit union legislation collapse. If that does happen, then the resulting consequences of that collapse will have to be borne by those who try to take advantage of this vehicle to add extraneous matters. That is very, very clear to credit union members all across the country.

This is an opportunity for us to act on this bill. I have strong views about the amendment of our colleague from Alabama on CRA. I am opposed to what he wants to do. I know there are Members who strongly agree with what he wants to do. But also I will tell you that if you allow that provision to be added to this bill, you are going to cause this bill to fall. If that is the case, then the resulting consequences, I think, are terribly predictable.

I am not going to necessarily, today, engage in the debate on the Shelby amendment on the CRA, Community Reinvestment Act, except to say that I know in my State of Connecticut for the literally thousands of members of credit unions, the millions in the State of New York and California and elsewhere all across this country who are watching this debate, knowing if this bill falls because of a desire of some to come up with an amendment here that has some appeal, I think the transparency of the efforts will be quite obvious that, in fact, it is really not the issue of CRA.

There are those who, frankly, want to kill this bill, who don't like the credit union bill but don't really want to take it on directly and so will offer an extraneous amendment, hopefully, that might just narrowly get adopted, the bill collapses, and you have been able to sort of smuggle the destruction of this important piece of legislation through. It is extremely important that we deal with this bill in as clean a fashion as possible, no matter how appealing some of these amendments may be. So that is important.

The second question obviously we want to still address is whether or not we want the maximum possible number of Americans to have the choice of joining a credit union. I think people ought to be free to make that choice of joining a credit union. The overwhelming majority of credit unions provide affordable financial services to working families all across this country.

Let me draw one theme that has been raised during consideration of the bill—that is whether credit unions have lost their mission of serving middle-income Americans and families of modest means, which was written into the original act. The question surfaced because of a campaign of misinformation, in my view, prompted by some industries that compete with credit unions. During the Banking Committee hearing of these issues, back in March, one banking industry representative stated that ''credit union membership had become so compromised that membership was being offered to members of wealthy country clubs.'' I am not making up this example. This one actually happened.

Needless to say, those who support credit unions were very upset about that allegation because it would run contrary to the thrust of what credit unions are supposed to do. We examined that allegation and it is was true, in fact, that there were wealthy country club memberships.

What they fail to tell you is that the people being solicited to join the credit union were the cooks, janitors, groundskeepers, and others. They weren't members of the country club, they worked at the country club. Yet, if you listened to the allegation, you assumed it was people who paid significant fees to join the club, rather than employees. That is the sort of misinformation that is going on to try to destroy this bill and this important credit union organization across the country.

The average credit union is still very small in size. It is limited by the number of people they serve. In my State of Connecticut—an affluent State, a strong middle class State—the average size of a credit union as an institution is $16 million in assets. In fact, if you take all the assets of all of my credit unions in Connecticut and total them up, they don't equal the assets of one of my 10 largest banks in the State of Connecticut. I know that is not true in every State, but in Connecticut, which is a fairly affluent State and has an aggressive, strong credit union organization, total assets of all of my credit union members don't equal the size of any one of the 10 largest banks.

In fact, assets of all the 11,392 federally insured credit unions was $327 billion, or less than the size of Chase Manhattan Bank or Citibank. The asset size of the 11,452 federally insured banks is $5.2 trillion, compared to $327 billion for all the credit unions. So the notion that somehow this is some great threat to commercial banking in this country, I think, is unwarranted, it is not credible at all. Small banks and thrifts are threatened in many ways in this country, but I suggest that they are much more threatened by aggressive banking giants like NationsBank than by any credit union. The loss of banking services in many communities that I visited has much more to do with aggressive takeovers and consolidations practiced by large national financial institutions or large regional institutions than it does competition from credit unions. That is the least of these smaller banks' and community banks' threats.

The facts show that while credit unions have experienced modest growth since the implementation of

the multiple common bond, that growth is dwarfed by the growth in the banking industry.

Ultimately, the complaints of the bank and thrift industry boil down not so much to a loss of market share but to the fact that credit unions offer customers a pretty good deal. They offer customers higher interest rates on savings and checking, as well as lower interest rates on credit cards and certain kinds of loans; credit unions don't charge their customers a fee for every conceivable type of transaction. We have reached a point in the banking industry where seeking out a new fee income has replaced seeking out new loan business as the way to make profits.

Not only are banks generating $3 billion a year in ATM fees—a subject matter that the chairman of the committee cares deeply about—$3 billion a year in ATM fees in excess of their costs, but some banks even started charging customers for using a deposit slip at branches, or for having the temerity to actually call a live person—if you can ever find one—on the phone during normal business hours.

While the banks claim that credit unions offer a better deal because they don't pay taxes, that is also a fiction. Credit unions have no access to capital markets to raise funds; they keep the capital needed to stay in business only through retained earnings. That is vastly different from what the banks do. Moreover, the banks also don't acknowledge the many tax advantages they enjoy, such as being able to write off billions in taxes every year for loan losses that never occur, or for receiving a tax credit for any minimal premium they must pay toward maintaining taxpayer-guaranteed deposit insurance.

Credit unions are nonprofit organizations that put their earnings into both creating capital and keeping costs down for their customers, the actions that were precisely envisioned by Congress in establishing the Federal credit unions of 1934.

So, Mr. President, I think there is an important role that our credit unions play. There is good, healthy competition out there. Let me end where I began. That is, I urge my colleagues—those of you who truly care about allowing the Supreme Court decision to be dealt with legislatively—there is only one window where we are going to get a chance to do this. Even if you find yourself attracted to a standing-alone provision on the CRA issue—which I don't, but some do—even if you are slightly attracted to that amendment, by supporting that amendment you will bring down this bill, and then people are going to understand what happened here.

So I certainly endorse and support the comments of our colleague from Illinois, Senator CAROL MOSELEY-BRAUN, who speaks eloquently on the issue of the Community Reinvestment Act—the strength of it, how well it has worked, and how well it is working in reaching sectors of our society that have been too often in years past denied access to financial services in our country. I think it would be a mistake to jeopardize this credit union bill, which has come out of our committee with such a strong vote and such a strong vote in the other body.

I think on Monday we can certainly do a great deal to relieve the anxiety and fears of literally millions of people across the country who utilize credit unions for their financial security and their futures. They are going to be terribly disappointed in this body if we get involved in extraneous matters and bring this bill down. So over the weekend, I urge that members of credit unions across the country certainly let their Members of Congress know how important this bill is to them and how important it would be to keep off amendments that could destroy our ability to pass this legislation.

I thank my colleagues for their graciousness. I compliment the chairman and Senator SARBANES for their fine work on this bill.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in support of H.R. 1151. Credit unions have played an important role in our financial system. They have given a helping hand and a hand-up to millions of Americans whom it otherwise would not have been available to. Nearly 70 million Americans are members of credit unions. I consider myself a strong supporter of credit unions. We have over 195 in my State, including the second largest in the Nation. Over 2 million people in North Carolina are members of credit unions. I do not believe that we should limit their access to credit, and it is the principal reason I support the credit unions in this bill. We have to protect and preserve credit unions for the future.

Mr. President, this bill is not without controversy. This bill started out as a court case in my home State. The case went to the Supreme Court that began in North Carolina and was decided against the credit unions.

Now, there has been a lot of heated conversation about this legislation. Some of what has been said is correct, but a large part of it has been incorrect.

Very simply, this is what it would do. This legislation would allow multiple groups, each with their own common bond, to be part of one credit union. The Federal Credit Union Act of 1934 was unclear on this point. But beginning in 1982, the National Credit Union Administration has allowed groups to be part of a credit union. The real question is whether Congress will support the policy that has, in effect, been the law since then, since the 1980s. I have to conclude that the Congress will, but they are only going to do it with some limitations.

Essentially, this is why we have to change the law.

And let me say, the changing marketplace has changed the banking world too. Glass-Steagall—the bank law that separates banks and securities firms has almost no meaning in today's society. In fact, it is little adhered to.

Mr. President, the workplace has changed dramatically since 1934. The era of working for one company, with one occupation, with one skill—for all of one's life is gone. Technology and global markets have forever changed our way of life.

These changes mean that a one group credit union will have difficulty surviving in today's day and age.

Banks used to not have banks outside their own States, and primarily within their own community. Banks used to be able to sell insurance in only towns of 5,000 people. Now they are limited to the United States.

We need to update our bank laws as well—and I hope and anticipate that we can do that.

And I have not stood in the way of the bank regulators that have had to update our laws through executive action, rather than the Congress acting.

And I think the same view is reasonable with respect to credit unions.

But—as I said—there should be some limitations—and there are limitations in this bill.

Credit unions do not pay taxes. I am adamantly opposed to taxing credit unions.

The answer to this problem is not to impose taxes on credit unions. The answer is to reduce taxes for small banks. That is why Senator ALLARD and I introduced legislation yesterday to make tax law changes to help community banks.

We need to reduce regulation for small banks—that is why I will vote for Senator SHELBY's amendment to remove CRA for community banks.

We do not need to punish credit unions to help small banks—I think we should simply help small banks.

Let me also say this.

We have done a number of things to change and reform the credit union industry.

This bill is not without tough provisions for the credit union industry and some of them are pretty tough provisions.

We have limited commercial loans to be made by credit unions to 12 percent of their assets. Before now, there was no limit. And there was only a study in the House bill.

We have required the NCUA to charter separate credit unions where possible.

We have limited the use of geographic charter credit unions to a ''defined'' community—so that there cannot be abuses in the chartering of geographic credit unions.

Finally, we have imposed prompt corrective action on credit unions—and we have essentially established minimum net worth requirements for credit unions.

So there are many reforms to the industry that have not been discussed by the opponents of this bill.

Mr. President, let me just say again—this is an important bill to keep credit unions going into the future and into the 21st century.

If we don't pass this bill—it is uncertain if people can continue to join credit unions. And there is the possibility that persons could lose their right to be a member of a credit union. The district court has not yet decided how this case will be implemented.

It is simply wrong to suggest that if we don't pass this, that given benign neglect, it will probably go away. It will not. We have to pass this bill so that current members are assured of keeping their status.

Mr. President, I thank you and urge pass passage of the bill. But let me comment also on the two pending amendments.

First, I support Senator GRAMM's amendment.

It makes absolutely no sense to put CRA on credit unions. Credit unions are member organizations to begin with. The very nature of credit unions is to lend to their members. To put CRA on it is redundant, and ridiculous.

The provisions in the H.R. 1151 is redundant, as I said, and is, frankly, absurd. Anybody that has looked at it knows it.

I strongly support Senator GRAMM's amendment. We do not need CRA for credit unions. We need to reduce the burden for small banks. Every bank that I have talked to has a problem with the CRA. It is too subjective. There are too few definitive standards. Small banks spend an inordinate amount of their time and money complying with Federal law when their lending is almost totally local.

I support Senator SHELBY's amendment because CRA makes no sense for small banks. Small banks can't survive, if they don't lend in their community. That is what CRA says they need to do. But for a small bank, where else does it lend if it is not in its community?

That was the purpose of the CRA to begin with. It simply is not today viable. To take deposits and lend in a small community is what community banks do.

The Senator's amendment exempts 8,000 banks. But they account for only 11 percent of the assets of the industry. In fact, these 8,000-plus banks have roughly the same amount of assets as one of our North Carolina banks. It is not an unreasonable amendment. Small banks are shrinking, they are disappearing, and the more burden we put on them the less there will be.

Just as I don't think credit unions threaten big banks, I don't think exempting small banks from CRA is a threat to the CRA.

The SHELBY amendment only exempts 11.7 percent of the assets of the banks of this country.

As I said, we have one bank in North Carolina with roughly the same amount of assets.

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

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I rise in support of H.R. 1151.

First, I want to begin by thanking Chairman D'AMATO for skillfully steering the Credit Union Membership Act through the Senate Banking Committee and onto the Senate floor.

It has been a pleasure to work with both him and his staff on this Senate Banking Committee. That also is speaking in behalf of my staff also. We have been very appreciative of their work in helping us with our issues and what you are doing for credit unions.

I am pleased to support this credit union bill in the Banking Committee, and I am pleased to continue to support it now.

I have always been a supporter of the credit union movement. The main reason I have been supportive is because I felt that any competition among financial institutions is vitally important. And, obviously, the credit unions provide the customer another choice out there; another way of meeting his banking and financial needs.

During my years in the Colorado State Senate I worked closely with the Colorado Credit Union League and the numerous credit unions and members that we have in Colorado.

I have been pleased to continue my work with the Colorado Credit Unions as a member of the Senate Banking Committee.

Mr. President, there are 185 credit unions in Colorado. There are 1,321,000 credit union members in Colorado.

And the credit unions hold nearly $7 billion in assets in Colorado.

Credit Unions play a vital role in our communities. They provide an opportunity for groups of people to join together and pool their assets.

Credit Unions are run by their members. Those members make loans and help each other to get ahead and build a prosperous life for their families and for their communities.

Let me turn to several provisions in the Credit Unions bill.

I am particularly supportive of the new capital requirements and the ''prompt corrective action'' requirements that we put in the bill during our deliberations in the Senate Banking Committee. That is because I feel so strongly that we need to work to make sure that our financial institutions remain safe and sound.

I have always felt that we were particularly blessed to be serving in the Senate particularly during a time when our economy is doing very well.

As much as I would like to hope that our economy continues to prosper, history has shown us that periodically there are fluctuations in our economy; there are good times and there are bad times. If we do not make good decisions today to assure safety and soundness, it is going to create problems in the future. So that is why I have been so pleased with the safety and soundness provisions that we have added to H.R. 1151. These provisions are vital to protect credit union members. We want the credit union members' movement to remain strong and well capitalized.

Let me turn to the issue of taxation. From the beginning of this debate, I have opposed the taxation of credit unions. They are collective organizations. They are not-for-profit businesses. They pool their assets. Their gains go back to the members as assets. They also go back to their members as interest, and that interest is taxable to the credit union members. As I said earlier, credit unions exist to help their members, and consequently I do not believe that credit unions should be taxed. I have been concerned with the tax and regulatory burden that remains on small financial institutions, whether they are banks or credit unions. Consequently, I will support elimination of the Community Reinvestment Act. I support lifting the CRA burden on small financial institutions, and I support reducing the tax burden on small banks.

I raised this issue during the Banking Committee's hearing last month on the proposed financial modernization legislation. We need to do something to make certain that our small community banks can remain viable. We do not want those banks to drown in the burden of regulation and taxation.

At the time of the hearing I had brought up a question about subchapter S corporations and independent banks, and, graciously, the chairman says, ''You know, I think maybe you are on to something. We ought to continue to pursue that.'' Consequently, because of the strong support from the chairman in trying to give tax relief to small banks, I put together some legislation. This has all resulted because a small, independent banker from my State of Colorado decided to share with me some ideas he had about S corporations and how we could help small banks through the Tax Code.

So the chairman was very receptive to those concerns. He said, ''Well, let's work on it.'' We worked on it. We have introduced some legislation that will be helpful to small bankers in Colorado and throughout the country.

It has become very clear that small banks do want something done with their subchapter S corporations. The subchapter S provisions of the Internal Revenue Code reflect the desire of Congress to eliminate the double tax burden on small business corporations.

Subchapter S has been liberalized a number of times, and most recently in 1996. Yesterday, I introduced legislation that will expand and improve subchapter S of the Internal Revenue Code, and this is S. 2346. I am joined in this effort by Senators D'AMATO, FAIRCLOTH, HAGEL, ENZI, BENNETT, MACK, SHELBY, and GRAMS. This legislation contains several provisions that will make the subchapter S election more widely available to small businesses in

all sectors. It also contains several provisions of particular benefit to community banks that may be contemplating a conversion to the subchapter S.

Financial institutions were first made eligible for the subchapter S election in 1996. This legislation builds on and clarifies the subchapter S provisions applicable to financial institutions.

As Congress considers credit union legislation and financial modernization legislation, it is important that we explore ways in which we can ensure that the tax and regulatory burden on our community banks remains reasonable. This S corporation legislation is reflective of that desire, and we will now begin working with the Senate Finance Committee to see if we can get this legislation in a bill this year.

Section 403 of this credit union bill will require the Secretary of the Treasury to submit a study to Congress within 1 year that will make legislative recommendations on how Congress can reduce and simplify the tax burden on small banks. I hope the Treasury Department will be endorsing this S corporation legislation.

It seems to me that it is one of the better ways to reduce the tax burden on small banks. In the last several months, there has been considerable conflict between banks and credit unions. They both play a vital role in our communities. I hope that in the coming months we can produce legislation that will strengthen credit unions as well as community banks, and I support the bill.

I thank the members of the committee, particularly the chairman, for their support of H.R. 1151, and look forward to swift passage. I am particularly pleased to serve on this committee because of the cooperation and sincere desire in that committee to make sure that we have strong financial institutions and that we have competition out there, which I think is the real answer to a lot of our problems.

I yield the floor, Mr. President.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New York.

Mr. D'AMATO. Mr. President, let me just take a brief moment because I know the Senator from Missouri has been anxiously waiting to seek the floor.

I thank my colleague from Colorado, a member of our Banking Committee, as well as the Presiding Officer, for their support not only in this endeavor as it relates to the credit unions but for our overall legislative efforts. Indeed, I believe that Senator ALLARD has offered in a most constructive way an opportunity to begin to give to the small business entrepreneur, and in this case the small community bank, an opportunity to create meaningful competition, to allow retained earnings to be held to avoid double taxation, and to make a very positive impact on financial modernization that will lead to greater competition and in the long run will expand the economy and the tax base for individual small banks, and as a result, benefit all of our citizens. This effort is not only a worthwhile endeavor, it is one that all of us should seek to support, Republicans and Democrats alike.

Let me simply say this because I feel compelled to do so. I understand the frustrations of many of my colleagues as we debate the question of CRA and whether or not it should be a factor for small banks, whether it should be continued, or whether it should be modernized. Indeed, I think we should take a closer look at this issue, as Senator ALLARD has in terms of coming forth with his legislative proposal which addresses tax relief.

The CRA amendment regarding small banks is a broad brush, shotgun approach for those who would support the effort of dealing with this issue in the context of a very important legislative matter. It beclouds the issue. Addressing this important matter of CRA for small banks now does not help in attempting to see to it that we remove barriers from honest competition, barriers that maybe should be removed and that we should address. But, I repeat, to bring it up in this form with the limited time that we have this Session will be disruptive to the overall effort.

I ask all of my colleagues, my Republican colleagues in particular, and even those who have signed on and indicated support of the effort of the Senator from Alabama to help community banks, not to undertake it at this time. It actually distracts from the merits of their argument. It will prevent considering their concerns carefully and analyzing what can be done to ease these burdens, to assess if they really are burdensome and if so, in what way. So I am going to appeal to my colleagues—I appeal to them today; I will appeal to them on Monday—this is not the time to be going forward seeking relief that we will not have the opportunity to act on in any event. It will fracture our efforts on the credit union bill. It will at the least, the very least, bog down this effort. The House of Representatives will not accept the bill with this amendment. If they do accept it, then what will happen is that the bill will be a vetoed. Now what are we accomplishing? Why do we want to confuse whether or not we are really supporting credit unions with this attempt at dealing with another unrelated issue? That will only serve to hurt our efforts for credit unions.

This Senator intends to support the motion of Senator GRAMM of removing the CRA provisions from this credit union bill. But my gosh, if we are going to begin reaching far back through existing laws, without doing so in a meaningful way, then what I suggest what we are doing is purely mischief making. We want to be loved by all. We want to make everyone happy. I understand that. That is the nature of those in politics. But there comes a time when we have to take a stand and do what is right. Sometimes you can't have the adoration of all. Better to have the respect and to do what is right.

I will be urging that of my colleagues, and particularly those who have concerns about the application of CRA on the community banks. Let's do what is right.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to proceed 5 minutes as if in morning business to introduce a piece of legislation.

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

(The remarks of Mr. BOND pertaining to the introduction of S. 2354 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. D'AMATO. Mr. President, I think, as much as we will be returning on Monday to resume debate and consideration of the credit union legislation, which is so important, and which I believe will be adopted overwhelmingly, I urge any of my colleagues who might want to make statements that we will be available to receive those statements at this point. If not, it seems to me we will then be moving, at the request of the majority leader, to adjourn until Monday.

So I am going to suggest the absence of a quorum and hope if there are any of my colleagues who would like to make their statements now, opening statements or observations, that they would do so within the next 5 to 10 minutes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SARBANES. Mr. President, I will be very brief. I know we, in effect, have concluded the debate today with respect to the credit union bill, but there were some comments made earlier about the CRA aspects of this legislation, and I want to put this in the RECORD.

First of all, let me make it very clear, the CRA that is being applied to the credit unions is not the Community Reinvestment Act. It is a provision drafted especially for the credit unions, and it is designed to ensure that they pay full attention to the field of membership. I think it is a reasonable provision. I hope it will stay in the bill.

I know that the Senator from Texas is trying to strike it, but, of course, he is against any CRA, any version of CRA anywhere and at any time. I disagree very strongly with that. We will have

an extended debate on the effort to exclude some banks from CRA.

There is really a basic philosophical difference. We see the CRA as bringing people into the mainstream of economic life and involving them in our economic process. I have spoken to many bankers who support CRA. They think it has produced good results. Federal Reserve Chairman Greenspan has said:

> The essential purpose of the CRA is to try to encourage institutions who are not involved in areas where their own self-interest is involved, in doing so. If you are indicating to an institution that there is a forgone business opportunity in an area X or loan product Y, that is not credit allocation. That, indeed, is enhancing the market.

That is Chairman Greenspan.

It is being portrayed by its opponents as sort of a mandatory credit allocation. It certainly is not that. It is an effort to ensure a reasonable amount of money goes back into the community.

A number of banks have issued statements in support of CRA. They say it has increased their focus on their lending performance. In fact, the Bank of America said:

> Over the past several years, Bank of America, in partnership with community organizations, has developed CRA lending into a profitable mainstream business.

And that is really what we are trying to achieve—a profitable mainstream business.'' These institutions receive deposit insurance, and I earlier indicated the importance of that to the workings of the industry and the fact we had to produce hundreds of billions of dollars in the S&L crisis in order to deliver on that promise.

There was a problem with CRA over bookkeeping, recordkeeping, and so forth. Secretary Rubin led a major effort to revise the Federal regulations. This extended over a 12- to 18-month period. All groups were involved—the bankers, the community groups, academics, the administration. In effect, Members of the Congress were drawn into the process, and, in the end, very, very significant changes were made. As a consequence, I think many of the defects that earlier were argued against CRA were taken care of. Much of the regulatory overburden I think was removed.

The argument was made that these small banks hold only a fraction of the assets. The fact is that in 30 States, over 80 percent of the banks would be affected by the Shelby amendment. In other words, it would exclude 80 percent of the banks; in 6 States, over 95 percent; in 9 other States, over 90 percent; and the remainder, the other 15 States, over 80 percent.

Most of these are rural States, and there seems to be a perception that CRA benefits only the urban areas of our country. However, rural areas, no less than urban areas, are affected by it. We received a letter from a coalition of rural and farm groups, including the National Farmers Union, the National Family Farm Coalition, the National Rural Housing Coalition, and the Federation of Southern Cooperatives, in opposition to the small bank exemption for CRA.

I ask unanimous consent that the letter be printed in the RECORD.

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

JULY 23, 1998.

DEAR SENATOR, On behalf of the undersigned organizations representing rural Americans, we are writing to express our strong opposition to legislative efforts to weaken the coverage of the Community Reinvestment Act (CRA). Our understanding is that Senator Shelby plans to offer an amendment to H.R. 1151, the credit union legislation, that is scheduled for floor action. In addition, Senator Gramm plans to offer an amendment that strikes provisions in H.R. 1151 that would ensure that credit unions provide services to all individuals of modest means within their field of membership.

The Shelby amendment would exempt banks under $250 million in assets from CRA coverage. This affects over 85% of banks nationally. For citizens in Iowa, Kansas, Minnesota, Montana, Nebraska, and Oklahoma, 95% of the banks would be exempt.

Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve the millions of Americans living in smaller low and moderate-income communities. Unfortunately, small commercial banks do not automatically reinvest in their local communities. This is documented by national data on reinvestment trends and loan to asset ratios for banks across the country. 50% of small banks have a loan-to-deposit ratio below 70%, with 25% of these having levels less than 58%. The data for 1997 reveals that banks under $100 million in assets received 82% of the substantial non-compliance ratings.

We strongly urge you to oppose these amendments to H.R. 1151. The Shelby amendment ignores the important regulatory changes since 1995 that have significantly reduced the paperwork and reporting issues for small banks. The Gramm amendment will strike an important provision from the bill that for the first time would require credit unions to meet the financial services needs of their entire field of membership.

A vote against these amendments will help meet the credit demand of millions of family farmers, rural residents, and local businesses. Thank you for considering our concerns.

Sincerely,

Center for Community Change, Center for Rural Affairs, Federation of Southern Cooperatives, Housing Assistance Council, Intertribal Agriculture Council, Iowa Citizens for Community Improvement, National Catholic Rural Life Conference, National Family Farm Coalition, National Farmers Union, National Rural Housing Coalition, Rural Coalition and the United methodist Church, General Board of Church and Society.

Mr. SARBANES. Mr. President, I will quote a portion of this letter:

> Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve the millions of Americans living in smaller low- or moderate-income communities. Unfortunately, small commercial banks do not automatically reinvest in their local communities.

It is a strong view that CRA has really brought investment back into the communities and that this has redounded to everyone's advantage, including—including—the advantage of the banks.

We think that CRA has been remarkably effective in encouraging both large and small banks to look closely at market opportunities in all of the areas which they serve and in building a better relationship between the banks and the community. The result has been billions of dollars in market-rate profitable loans in urban and rural communities that historically have had difficulty in gaining access to credit.

That is the basic, bottom-line message, and it is a very good message. It is a very good message for the country.

I very much hope that as my colleagues think through this issue, they will appreciate the benefits that flow from CRA and reject the Shelby amendment, which would exclude banks under $250 million in assets—which, as I indicated, are the overwhelming number of banks in the country—and reject the Gramm amendment which seeks to eliminate a modest provision in the credit union bill that would require the credit unions to take a look at how they are serving their field of membership in their community, a provision which, I might note, the credit unions have indicated they accept. In fact, their stated position to us is that they support this bill as reported from the committee.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I must say that in the areas in which my ranking member, friend and colleague, Senator SARBANES and I have worked on in the Banking Committee, we have shared rather similar positions on—well, just about 80 or 90 percent of the issues we have addressed, whether it be on housing issues or mass transportation issues or issues regarding financial services. Indeed, I almost reluctantly come to the conclusion that this is not the appropriate time to undertake expanding CRA activities by prescribing them for credit unions. And just as I have cautioned my colleagues and friends—most of them on the Republican side—that if we are to look at the benefits, and maybe some of the effects that are not beneficial which could be the unintended consequences of a well-intentioned law—and I have no doubt it is well-intentioned—it is my opinion, overall, that CRA has been beneficial in attempting to ensure that financial institutions that accept deposits from a particular area or community, direct some of those financial activities back into that community.

Now, let us not kid ourselves. I think we are disingenuous if we would suggest that all institutions are sure to

meet both a financial and moral commitment and balance both. Some of these financial institutions have to be conscious of their stockholders and conscious of doing business in our very competitive society. And I think that we would be less than candid if we were not to recognize that there have been institutions over the years that have directed their investment activities with almost a singular purpose—to bring to the bottom line the greatest profits that they can possibly derive, without attempting to help a community, to derive an investment strategy or portfolio that would only give them the highest possible return.

I think it was as a result of looking at activities where communities and banks were gathering deposits from communities and giving little, if any, back and, indeed, engaged in the practice of redlining—and there have been studies, these practices are documented. The Federal Reserve Bank of Boston conducted a study that documented redlining practices in Boston, Massachusetts. And that is unfortunate, it is an outrage. But those are the facts.

Consequently, Congress came forth and passed legislation—and it is the law of the land—that directs credit allocation to these areas that heretofore were not receiving it, whether they be the rural areas or whether they be in the inner cities. But let us not kid ourselves. Redlining was taking place, and it is, again, disingenuous for any of our colleagues to suggest that it was not.

Maybe we should provide an opportunity for some of the smaller institutions that have an exemplary record—and indeed I am very conscious of the statements made in the 1997 Federal Reserve report, that there were only nine—only nine out of the thousands of community banks that were cited for inadequate investment, not meeting the goals of CRA. That is a great, great record. Maybe we could find a solution where there is a less frequent accounting or reporting process that would ease the burden, particularly for institutions that have demonstrated that they do care, that they have a concern, and that they meet their social responsibility. That is why CRA came about—to see to it that it was not just to get the highest yield every time, because Congress said, ''We insure these, and we think there should be some effort made at allocating credit, yes, in communities that might not otherwise be as attractive for investment purposes.''

That is what we are talking about. That is how CRA came about. So while I am sympathetic to the unintended burdens that may have been created, I also am appreciative of the fact that there have been billions of dollars as a result of this program that have been invested in rural areas, in rural America, and in urban centers that may not have otherwise benefitted from investment. This practice has, in turn, created profits, jobs, opportunity and hope for Americans that otherwise wouldn't be.

Having said that, I am arguing on one side why we should not at this time be looking to simply wipe out CRA legislation affecting community banks. I am willing to discuss this matter, willing to hold hearings and willing to go forward and examine, What alternative solutions can ease burdens that may exist? But by the same token, regarding CRA-like implications for credit unions, I just believe it is wrong. We are talking about groups of people, cooperatives, who come together by their very nature.

When we look at this matter more closely—Monday, I intend to look at the profile of the credit union member. I have to tell you, they meet the description when we try to encourage making available moneys and resources and to see to it, whether it be the community banks or all the financial institutions, that they become involved. And that is why they have come together. Their very profile, absolutely in terms of demographics, in terms of per capita income, meets the needs that we have tried to establish overall through CRA.

I believe it is absolutely counterproductive to say to the very people of these cooperatives—nonprofit institutions, have moneys that go right back into that institution; it is their capital, not the individual who earns more, or takes out more, or a stockholder—that we then place this requirement on them when it has never been demonstrated to be necessary. Indeed a letter from the NCUA attests to that fact. I will just read part of this letter. It was written to Phil Bechtel, chief counsel for the Senate Banking Committee, June 1, 1998, signed by Robert Loftus, director of Public Congressional Affairs.

It says, ''Our investigations have not produced any evidence''—any evidence—''that credit unions are guilty of redlining or other discriminatory practices.''

Given that history, let us move forward—I support this legislation, but I believe that the Senator from Texas is right in moving to strike this provision. I also strongly believe that, to those of my colleagues who want to give regulatory relief to the small banks and community banks, as well intentioned as they are, their efforts will absolutely do nothing but delay, bring about more confusion, and the charges that in their attempt to do provide relief to small banks, what they are really doing is trying to defeat this legislation. I think whether it is an unintended consequence or not, that is exactly how it is going to be portrayed. And I will say on the floor to my colleagues: Recognize what you are doing, recognize that you want to be loved by all.

I think that the point can be made. I think we can fight for regulatory relief. There are times and places to do it. But this is not the time nor the place. If this was the last boat going out of town, then fine, we would do it. I think there are a couple other areas where I could suggest that my colleagues address this issue of relief for small banks, if they really want to see this legislation enacted. And it would be appropriate to undertake that, but not here, and not on this credit union bill.

I see the distinguished chairman of the Finance Committee is here, and I know he wants to speak to this bill.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I thank the distinguished Senator from New York for yielding to me. I congratulate him and his colleague, Senator SARBANES, for bringing this legislation before us.

I want to take this opportunity to restate my support for Delaware's credit unions. As we all know, months ago, a Supreme Court decision placed the viability and future of credit unions in limbo. For that reason, I am particularly pleased that the Senate will be voting next week on H.R. 1151, a bill to ensure credit unions will be able to add new member groups.

Mr. President, I support credit unions because I know how vital they are to the financial health of thousands of Delaware families and businesses. These nonprofit member-run institutions are unique. Their sole purpose is to provide financial services to their members at the best rates and under the most favorable conditions possible.

Savvy consumers know that credit unions are often a great option. Their ATM fees are reasonable or nonexistent; single-digit credit card interest rates are common at credit unions; and your child's first savings account won't face a monthly low-balance fee. I don't think I mentioned, I say to my distinguished Senator from New York, you can also set up a Roth IRA.

All Senators have undoubtedly heard from the thousands of credit union members in their States. Their message is one of self-sufficiency and of low-cost, low-fee consumer-based financial services. Credit unions are good for families, good for businesses, and they are good for Delaware.

H.R. 1115 is necessary for these valuable institutions to thrive.

Again, I want to thank the chairman of the Banking Committee and the ranking member for their role in bringing this legislation to this point. I look forward to voting for this legislation next Monday.

Mr. D'AMATO. Mr. President, let me thank the distinguished chairman of the Finance Committee for his help and his work. Indeed, he and his staff are working on important legislation with Senator ALLARD, and I believe the Presiding Officer and others have signed on to give some tax relief to the small community banks.

The Senator and his staff have been most cooperative in helping to move it forward. I hope we would even have an opportunity to do something this year.

Mr. ROBERTS. Mr. President, notwithstanding all the advice we have received from Senator SARBANES and Senator D'AMATO in regard to how world banks make their loans or don't, and what is in the minds of country bankers all throughout the Nation, and without CRA we simply wouldn't have ever made a loan in rural America, 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. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Mr. President, I support H.R. 1151, the Credit Union Membership Access Act, but I strongly oppose the amendments being offered by Senator GRAMM and Senator SHELBY. Credit unions have a distinguished history of providing affordable financial services to America's low- and moderate-income communities. This legislation will help them continue to do that.

It is ironic that we are now debating the issue of whether banks and credit unions should serve low- and moderate-income communities and to reinvest in the communities in which they receive deposits. Massachusetts has 317 credit unions, at 1.7 million members. They have had community reinvestment obligations for many years, and they have done an excellent job of meeting needs of consumers at all income levels. Massachusetts credit unions are a model for the Nation. The vast majority of banks take their community reinvestment obligation seriously in meeting these obligations.

The Massachusetts Bankers Associations, whose member banks are doing excellent work in community reinvestment, does not support the Shelby amendment. Institutions which have received outstanding ratings, like Bank of Boston and Citizens Bank, are using the Community Reinvestment Act to provide profitable lines of business.

Senator SHELBY's amendment to eliminate the Community Reinvestment Act for 85 percent of the banks would eliminate an important source of affordable credit and financial services from low- and moderate-income families who are bankable. Massachusetts banks do not support this amendment, and I urge my colleagues to oppose it.

Senator GRAMM's amendment would say to credit unions who are being granted expanded power, they have no obligation to serve members of modest means. Both these amendments are bad policy.

In this period of sustained economic growth, it is vital that all families have the opportunity to obtain credit in order to buy a home, start a small business, or send a child to college. The Community Reinvestment Act has a long history of success. Since 1992, it has helped banks to extend over $800 billion in loans for housing, small businesses, economic development and local communities across the Nation.

As many have said, there is no capitalism without capital. We should oppose any effort to reduce access to credit which families need in order to buy a home, to start or expand a business, and send their children to college. The Community Reinvestment Act is not charity. It creates a positive obligation for banks to reinvest in communities from which they receive deposits. It is good business and it helps communities, businesses, and families nationwide; requiring similar investments by credit unions is good policy.

I urge my colleagues to pass this important piece of legislation and to oppose these two amendments. It hurts all those who want a better future for themselves and their families, and it hurts our inner cities and rural communities who are rebuilding. Most of all, they reverse 20 years of successful reimbursement in our neighborhoods, and it deserves to be defeated.

## MORNING BUSINESS

Mr. D'AMATO. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

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

Mr. KENNEDY. I ask unanimous consent to be able to proceed for 15 minutes.

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

Mr. KENNEDY. I ask the Chair to let me know when I have 3 minutes remaining.

## PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, since the Republican leadership plan on the Patients' Bill of Rights was introduced a week ago, we have been holding meetings and forums with doctors and nurses and patients to explore the critical issues that must be addressed if a Patients' Bill of Rights is to be worthy of the name.

In each case, the message has been the same. The problems created by HMOs and managed care are pervasive in our health system. Every doctor and patient knows that. Too often, managed care is mismanaged care. Every doctor and patient knows that medical decisions that should be made by doctors and patients are being made by insurance company accountants, and every doctor and patient knows that profits, not patients' care, have become the priority of too many health insurance companies.

And at each of the forums we have held, the message from doctors and nurses and patients has been the same: Pass the bipartisan Patients' Bill of Rights. Reject the Republican leadership plan; it leaves out too many critical protections and it leaves out too many patients. Even the protections it claims to offer are full of loopholes. It is a program to protect industry profits, not patients.

One of the most critical issues that needs to be addressed in legislation is the right of people with serious illnesses, like cancer, to get the high-quality specialty care they need. If the conventional treatments fail, they should have the opportunity to participate in clinical trials that offer them hope for improvement or a cure, and that can contribute to finding a better treatment for future patients. Our legislation provides for these rights; the Republican plan does not.

Yesterday, we heard from Dr. Casimir, a distinguished Texas oncologist. Dr. Casimir talked about some heartbreaking stories of cancer patients whose HMOs delay and deny access to specialty care, often until it is too late. She said that when she gets a patient whose cancer progressed substantially from the initial diagnosis to the time they are allowed to receive specialty care, she often flips to the front of the chart, and 9 times out of 10, the insurer is an HMO. Every centimeter a cancer grows can mean the difference between a good chance at life and the likelihood of death. Every centimeter represents potentially devastating and avoidable pain, suffering and sometimes the death of a patient. Dr. Casimir's message was clear: Pass the Patients' Bill of Rights so that more patients will not die needlessly.

Today, we heard from Dr. Bruce Chabner, a distinguished clinical oncologist and cancer researcher. This is what the doctor had to say:

> My name is Bruce Chabner and I am a medical oncologist and cancer researcher. I am here to support the Patients' Bill of Rights that would require HMOs and insurance companies to support clinical research. I would like to explain briefly the role of insurance coverage in research. Most of the costs in clinical research are associated with the cost of discovery. Laboratory experiments in the development of new treatments are supported by the Government grants, by industry, and by institutional commitments by hospitals and medical schools.
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> These contributions provide the hundreds of millions of dollars that lead to new treatments and new hope to millions of our patients with cancer. However, the clinical treatment of these patients requires support for the routine care associated with these clinical trials. The only source of such support for routine care costs is health insurance and HMO contributions.
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> This is the final step in proving that a new treatment or a new device actually works in people. Without this step, research is meaningless and has no impact on people, nor does it save lives. We are not asking the insurance companies and HMOs to support the vast effort to discover new treatments or to bring them to the clinics. We are not asking for support for the cost of analyzing data and support during the clinical trials. We are only asking them to continue support for the patients' care costs.