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105TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPT. 105–608, Part 1

MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY ACT OF 1998

JUNE 25, 1998.—Ordered to be printed

Mr. LEACH, from the Committee on Banking and Financial Services, submitted the following

R E P O R T

[To accompany H.R. 1756]

[Including cost estimate of the Congressional Budget Office]

The Committee on Banking and Financial Services, to whom was referred the bill (H.R. 1756) to amend chapter 53 of title 31, United States Code, to require the development and implementation by the Secretary of the Treasury of a national money laundering and related financial crimes strategy to combat money laundering and related financial crimes, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Money Laundering and Financial Crimes Strategy Act of 1998".

SEC. 2. MONEY LAUNDERING AND RELATED FINANCIAL CRIMES.

(a) IN GENERAL.—Chapter 53 of title 31, United States Code is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—MONEY LAUNDERING AND RELATED FINANCIAL CRIMES

"§ 5340. Definitions

"For purposes of this subchapter, the following definitions shall apply:

"(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATIONS.—The term 'Department of the Treasury law enforcement organizations' has the meaning given to such term in section 9703(p)(1).

"(2) MONEY LAUNDERING AND RELATED FINANCIAL CRIME.—The term 'money laundering and related financial crime' means an offense under subchapter II of this chapter, chapter II of title I of Public Law 91–508 (12 U.S.C. 1951, et

seq.; commonly referred to as the 'Bank Secrecy Act'), or section 1956, 1957, or 1960 of title 18 or any related Federal, State, or local criminal offense.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(4) ATTORNEY GENERAL.—The term 'Attorney General' means the Attorney General of the United States.

"PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL CRIMES STRATEGY

"§ 5341. National money laundering and related financial crimes strategy

"(a) DEVELOPMENT AND TRANSMITTAL TO CONGRESS.—

"(1) DEVELOPMENT.—The President, acting through the Secretary and in consultation with the Attorney General, shall develop a national strategy for combating money laundering and related financial crimes.

"(2) TRANSMITTAL TO CONGRESS.—By February 1 of 1999, 2000, 2001, 2002, and 2003, the President shall submit a national strategy developed in accordance with paragraph (1) to the Congress.

"(3) SEPARATE PRESENTATION OF CLASSIFIED MATERIAL.—Any part of the strategy that involves information which is properly classified under criteria established by Executive Order shall be submitted to the Congress separately.

"(b) DEVELOPMENT OF STRATEGY.—The national strategy for combating money laundering and related financial crimes shall address any area the President, acting through the Secretary and in consultation with the Attorney General, considers appropriate, including the following:

"(1) GOALS, OBJECTIVES, AND PRIORITIES.—Comprehensive, research-based goals, objectives, and priorities for reducing money laundering and related financial crime in the United States.

"(2) PREVENTION.—Coordination of regulatory and other efforts to prevent the exploitation of financial systems in the United States for money laundering and related financial crimes, including a requirement that the Secretary shall—

"(A) regularly review enforcement efforts under this subchapter and other provisions of law and, when appropriate, modify existing regulations or prescribe new regulations for purposes of preventing such criminal activity; and

"(B) coordinate prevention efforts and other enforcement action with the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, the Federal Trade Commission, other Federal banking agencies, and the National Credit Union Administration Board.

"(3) DETECTION INITIATIVES.—A description of operational initiatives to improve detection of money laundering and related financial crimes.

"(4) ENHANCEMENT OF THE ROLE OF THE PRIVATE FINANCIAL SECTOR IN PREVENTION.—A description of the enhanced partnership between the private financial sector and law enforcement agencies with regard to the prevention and detection of money laundering and related financial crimes, including providing incentives to strengthen internal controls and to adopt on an industrywide basis more effective policies.

"(5) INTERGOVERNMENTAL COOPERATION.—A description of—

"(A) cooperative efforts between the Federal Government and State and local officials, including State and local prosecutors and other law enforcement officials; and

"(B) cooperative efforts among the several States and between State and local officials, including State and local prosecutors and other law enforcement officials,

for financial crimes control which could be utilized or should be encouraged.

"(6) PROJECT AND BUDGET PRIORITIES.—A 3-year projection for program and budget priorities and achievable projects for reductions in financial crimes.

"(7) ASSESSMENT OF FUNDING.—A complete assessment of how the proposed budget is intended to implement the strategy and whether the funding levels contained in the proposed budget are sufficient to implement the strategy.

"(8) DESIGNATED AREAS.—A description of geographical areas designated as 'high-risk money laundering and related financial crime areas' in accordance with, but not limited to, section 5342.

"(9) PERSONS CONSULTED.—Persons or officers consulted by the Secretary pursuant to subsection (d).

"(10) DATA REGARDING TRENDS IN MONEY LAUNDERING AND RELATED FINANCIAL CRIMES.—The need for additional information necessary for the purpose of developing and analyzing data in order to ascertain financial crime trends.

"(11) IMPROVED COMMUNICATIONS SYSTEMS.—A plan for enhancing the compatibility of automated information and facilitating access of the Federal Government and State and local governments to timely, accurate, and complete information.

"(c) EFFECTIVENESS REPORT.—At the time each national strategy for combating financial crimes is transmitted by the President to the Congress (other than the 1st transmission of any such strategy) pursuant to subsection (a), the Secretary shall submit a report containing an evaluation of the effectiveness of policies to combat money laundering and related financial crimes.

"(d) CONSULTATIONS.—In addition to the consultations required under this section with the Attorney General, in developing the national strategy for combating money laundering and related financial crimes, the Secretary shall consult with—

"(1) the Board of Governors of the Federal Reserve System and other Federal banking agencies and the National Credit Union Administration Board;

"(2) State and local officials, including State and local prosecutors;

"(3) the Securities and Exchange Commission;

"(4) the Commodities and Futures Trading Commission;

"(5) the Director of the Office of National Drug Control Policy, with respect to money laundering and related financial crimes involving the proceeds of drug trafficking;

"(6) the Chief of the United States Postal Inspection Service;

"(7) to the extent appropriate, State and local officials responsible for financial institution and financial market regulation;

"(8) any other State or local government authority, to the extent appropriate;

"(9) any other Federal Government authority or instrumentality, to the extent appropriate; and

"(10) representatives of the private financial services sector, to the extent appropriate.

"§ 5342. High-risk money laundering and related financial crime areas

"(a) FINDINGS AND PURPOSE.—

"(1) FINDINGS.—The Congress finds the following:

"(A) Money laundering and related financial crimes frequently appear to be concentrated in particular geographic areas, financial systems, industry sectors, or financial institutions.

"(B) While the Secretary has the responsibility to act with regard to Federal offenses which are being committed in a particular locality or are directed at a single institution, because modern financial systems and institutions are interconnected to a degree which was not possible until recently, money laundering and other related financial crimes are likely to have local, State, national, and international effects wherever they are committed.

"(2) PURPOSE AND OBJECTIVE.—It is the purpose of this section to provide a mechanism for designating any area where money laundering or a related financial crime appears to be occurring at a higher than average rate such that—

"(A) a comprehensive approach to the problem of such crime in such area can be developed, in cooperation with State and local law enforcement agencies, which utilizes the authority of the Secretary to prevent such activity; or

"(B) such area can be targeted for law enforcement action.

"(b) ELEMENT OF NATIONAL STRATEGY.—The designation of certain areas as areas in which money laundering and related financial crimes are extensive or present a substantial risk shall be an element of the national strategy developed pursuant to section 5341(b).

"(c) DESIGNATION OF AREAS.—

"(1) DESIGNATION BY SECRETARY.—The Secretary, after taking into consideration the factors specified in subsection (d), shall designate any geographical area, industry, sector, or institution in the United States in which money laundering and related financial crimes are extensive or present a substantial risk as a 'high-risk money laundering and related financial crimes area'.

"(2) CASE-BY-CASE DETERMINATION IN CONSULTATION WITH THE ATTORNEY GENERAL.—In addition to the factors specified in subsection (d), any designation of any area under paragraph (1) shall be made on the basis of a determination by the Secretary, in consultation with the Attorney General, that the particular area, industry, sector, or institution is being victimized by, or is particularly vulnerable to, money laundering and related financial crimes.

"(3) SPECIFIC INITIATIVES.—Any head of a department, bureau, or law enforcement agency, including any State or local prosecutor, involved in the detection,

prevention, and suppression of money laundering and related financial crimes and any State or local official or prosecutor may submit—

"(A) a written request for the designation of any area as a high-risk money laundering and related financial crimes area; or

"(B) a written request for funding under section 5351 for a specific prevention or enforcement initiative, or to determine the extent of financial criminal activity, in an area.

"(d) FACTORS.—In considering the designation of any area as a high-risk money laundering and related financial crimes area, the Secretary shall, to the extent appropriate and in consultation with the Attorney General, take into account the following factors:

"(1) The population of the area.

"(2) The number of bank and nonbank financial institution transactions which originate in such area or involve institutions located in such area.

"(3) The number of stock or commodities transactions which originate in such area or involve institutions located in such area.

"(4) Whether the area is a key transportation hub with any international ports or airports or an extensive highway system.

"(5) Whether the area is an international center for banking or commerce.

"(6) The extent to which financial crimes and financial crime-related activities in such area are having a harmful impact in other areas of the country.

"(7) The number or nature of requests for information or analytical assistance which—

"(A) are made to the analytical component of the Department of the Treasury; and

"(B) originate from law enforcement or regulatory authorities located in such area or involve institutions or businesses located in such area or residents of such area.

"(8) The volume or nature of suspicious activity reports originating in the area.

"(9) The volume or nature of currency transaction reports or reports of cross-border movements of currency or monetary instruments originating in the area.

"(10) Whether, and how often, the area has been the subject of a geographical targeting order.

"(11) Observed changes in trends and patterns of money laundering activity.

"(12) Unusual patterns, anomalies, growth, or other changes in the volume or nature of core economic statistics or indicators.

"(13) Statistics or indicators of unusual or unexplained volumes of cash transactions.

"(14) Unusual patterns, anomalies, or changes in the volume or nature of transactions conducted through financial institutions operating within or outside the United States.

"(15) The extent to which State and local governments and State and local law enforcement agencies have committed resources to respond to the financial crime problem in the area and the degree to which the commitment of such resources reflects a determination by such government and agencies to address the problem aggressively.

"(16) The extent to which a significant increase in the allocation of Federal resources to combat financial crimes in such area is necessary to provide an adequate State and local response to financial crimes and financial crime-related activities in such area.

"PART 2—FINANCIAL CRIME-FREE COMMUNITIES SUPPORT PROGRAM

"§ 5351. Establishment of financial crime-free communities support program

"(a) ESTABLISHMENT.—The Secretary of the Treasury, in consultation with the Attorney General, shall establish a program to support local law enforcement efforts in the development and implementation of a program for the detection, prevention, and suppression of money laundering and related financial crimes.

"(b) PROGRAM.—In carrying out the program, the Secretary of the Treasury, in consultation with the Attorney General, shall—

"(1) make and track grants to grant recipients;

"(2) provide for technical assistance and training, data collection, and dissemination of information on state-of-the-art practices that the Director determines to be effective in detecting, preventing, and suppressing money laundering and related financial crimes; and

"(3) provide for the general administration of the program.

"(c) ADMINISTRATION.—The Secretary shall appoint an administrator to carry out the program.

"(d) CONTRACTING.—The Secretary may employ any necessary staff and may enter into contracts or agreements with Federal and State law enforcement agencies to delegate authority for the execution of grants and for such other activities necessary to carry out this chapter.

"§ 5352. Program authorization

"(a) GRANT ELIGIBILITY.—To be eligible to receive an initial grant or a renewal grant under this part, a State or local law enforcement agency or prosecutor shall meet each of the following criteria:

"(1) APPLICATION.—The State or local law enforcement agency or prosecutor shall submit an application to the Secretary in accordance with section 5353(a)(2).

"(2) ACCOUNTABILITY.—The State or local law enforcement agency or prosecutor shall—

"(A) establish a system to measure and report outcomes—

"(i) consistent with common indicators and evaluation protocols established by the Secretary, in consultation with the Attorney General; and

"(ii) approved by the Secretary;

"(B) conduct biennial surveys (or incorporate local surveys in existence at the time of the evaluation) to measure the progress and effectiveness of the coalition; and

"(C) provide assurances that the entity conducting an evaluation under this paragraph, or from which the applicant receives information, has experience in gathering data related to money laundering and related financial crimes.

"(b) GRANT AMOUNTS.—

"(1) GRANTS.—

"(A) IN GENERAL.—Subject to subparagraph (D), for a fiscal year, the Secretary of the Treasury, in consultation with the Attorney General, may grant to an eligible applicant under this section for that fiscal year, an amount determined by the Secretary of the Treasury, in consultation with the Attorney General, to be appropriate.

"(B) SUSPENSION OF GRANTS.—If such grant recipient fails to continue to meet the criteria specified in subsection (a), the Secretary may suspend the grant, after providing written notice to the grant recipient and an opportunity to appeal.

"(C) RENEWAL GRANTS.—Subject to subparagraph (D), the Secretary may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded.

"(D) LIMITATION.—The amount of a grant award under this paragraph may not exceed $750,000 for a fiscal year.

"(2) GRANT AWARDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may, with respect to a community, make a grant to 1 eligible applicant that represents that community.

"(B) EXCEPTION.—The Secretary may make a grant to more than 1 eligible applicant that represent a community if—

"(i) the eligible coalitions demonstrate that the coalitions are collaborating with one another; and

"(ii) each of the coalitions has independently met the requirements set forth in subsection (a).

"(c) CONDITION RELATING TO PROCEEDS OF ASSET FORFEITURES.—

"(1) IN GENERAL.—No grant may be made or renewed under this part to any State or local law enforcement agency or prosecutor unless the agency or prosecutor agrees to donate to the Secretary of the Treasury for the program established under this part any amount received by such agency or prosecutor (after the grant is made) pursuant to any criminal or civil forfeiture under chapter 46 of title 18, United States Code, or any similar provision of State law.

"(2) SCOPE OF APPLICATION.—Paragraph (1) shall not apply to any amount received by a State or local law enforcement agency or prosecutor pursuant to any criminal or civil forfeiture referred to in such paragraph in excess of the aggregate amount of grants received by such agency or prosecutor under this part.

"(d) ROLLING GRANT APPLICATION PERIODS.—In establishing the program under this part, the Secretary shall take such action as may be necessary to ensure, to the extent practicable, that—

"(1) applications for grants under this part may be filed at any time during a fiscal year; and

"(2) some portion of the funds appropriated under this part for any such fiscal year will remain available for grant applications filed later in the fiscal year.

"§ 5353. Information collection and dissemination with respect to grant recipients

"(a) APPLICANT AND GRANTEE INFORMATION.—

"(1) APPLICATION PROCESS.—The Secretary shall issue requests for proposal, as necessary, regarding, with respect to the grants awarded under section 5352, the application process, grant renewal, and suspension or withholding of renewal grants. Each application under this paragraph shall be in writing and shall be subject to review by the Secretary.

"(2) REPORTING.—The Secretary shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a grant recipient and expedite any application for a renewal grant made under this part.

"(b) ACTIVITIES OF SECRETARY.—The Secretary may—

"(1) evaluate the utility of specific initiatives relating to the purposes of the program;

"(2) conduct an evaluation of the program; and

"(3) disseminate information described in this subsection to—

"(A) eligible State local law enforcement agencies or prosecutors; and

"(B) the general public.

"§ 5354. Grants for fighting money laundering and related financial crimes

"(a) IN GENERAL.— After the end of the 1-year period beginning on the date the 1st national strategy for combating money laundering and related financial crimes is submitted to the Congress in accordance with section 5341, and subject to subsection (b), the Secretary may review, select, and award grants for State or local law enforcement agencies and prosecutors to provide funding necessary to investigate and prosecute money laundering and related financial crimes in high-risk money laundering and related financial crime areas.

"(b) SPECIAL PREFERENCE.—Special preference shall be given to applications submitted to the Secretary which demonstrate collaborative efforts of 2 or more State and local law enforcement agencies or prosecutors who have a history of Federal, State, and local cooperative law enforcement and prosecutorial efforts in responding to such criminal activity.

"§ 5355. Authorization of appropriations

"There are authorized to be appropriated the following amounts for the following fiscal years to carry out the purposes of this subchapter:

"For fiscal year:	The amount authorized is:
1999	$5,000,000.
2000	$7,500,000.
2001	$10,000,000.
2002	$12,500,000.
2003	$15,000,000.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 53 of title 31, United States Code, is amended by adding at the end the following item:

"SUBCHAPTER III—MONEY LAUNDERING AND RELATED FINANCIAL CRIMES

"5340. Definitions.

"PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL CRIMES STRATEGY

"5341. National money laundering and related financial crimes strategy.
"5342. High-risk money laundering and related financial crime areas.

"PART 2—FINANCIAL CRIME-FREE COMMUNITIES SUPPORT PROGRAM

"5351. Establishment of financial crime-free communities support program.
"5352. Program authorization.
"5353. Information collection and dissemination with respect to grant recipients.
"5354. Grants for fighting money laundering and related financial crimes.
"5355. Authorization of appropriations.".

(c) REPORT AND RECOMMENDATIONS.—Before the end of the 5-year period beginning on the date the 1st national strategy for combating money laundering and related financial crimes is submitted to the Congress pursuant to section 5341(a)(1) of title 31, United States Code (as added by section 2(a) of this Act), the Secretary

of the Treasury shall submit a report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the effectiveness of and the need for the designation of areas, under section 5342 of title 31, United States Code (as added by such section 2(a)), as high-risk money laundering and related financial crime areas, together with such recommendations for legislation as the Secretary may determine to be appropriate to carry out the purposes of such section.

PURPOSE AND SUMMARY

The purpose of H.R. 1756, the Money Laundering and Financial Crimes Strategy Act, is to create a national strategy for combating money laundering and other financial crimes by coordinating Federal, state and local efforts and resources. The legislation provides for the designation of high risk money laundering areas for the purpose of providing these localities with increased Federal assistance and access to information relating to money laundering and other financial crimes. The bill also provides a mechanism to fund money laundering investigations conducted by state and local law enforcement agencies.

BACKGROUND AND NEED FOR LEGISLATION

Efforts by law enforcement officials to combat money laundering—the process by which criminal elements seek to legitimize the proceeds of their illegal activities—have taken on particular urgency as the operations of large-scale criminal organizations in the U.S. and abroad have grown increasingly sophisticated. Money laundering and related financial crimes, which are often inextricably tied to the illegal drug trade that has ravaged so many American communities, are frequently concentrated in specific geographic areas where drug trafficking is also prevalent. State and local law enforcement officials and prosecutors in these areas often find themselves overwhelmed by the sheer size and scope of the criminal enterprises arrayed against them, and encounter particular difficulty in following the complex "money trails" by which these organizations conceal and launder their ill-gotten gains.

Recent law enforcement initiatives have demonstrated that working partnerships among Federal, state and local agencies can yield impressive results in the fight against drug-related money laundering. Perhaps the best example of the benefits of a coordinated law enforcement response to money laundering can be found in the Treasury Department's successful use of a Geographic Targeting Order (GTO) in 1996 and 1997 to combat money laundering in a segment of the money transmitter industry in the New York City metropolitan area. The New York GTO, which was the subject of a hearing of the Subcommittee on General Oversight and Investigations in March 11, 1997, was issued pursuant to the Secretary of the treasury's authority under the Bank Secrecy Act to require a group of financial institutions in a geographic area to comply with special reporting or record-keeping requirements. It required 22 licensed money transmitters and their appropriately 3,500 agents to report information about the senders and recipients of all cash purchased transmissions to Colombia of $750 or more. By lowering the reporting threshold and targeting a specific sector of the money transmitting industry long thought to be a conduit for the proceeds of the Colombian cartels' U.S. street sales of narcotics, the

New York GTO achieved a dramatic reduction in the volume of illicit funds moving to Colombia through New York money transmitters.

A critical component of the New York GTO's success was the investigative work of an interagency task force comprised of 140 agents, police officers and support personnel from 13 different Federal, State, and local agencies, including the U.S. Customs Service, the Internal Revenue Service, the Secret Service, the Justice Department, the New York Police Department, the New York State Banking Department, and the Nassau and Suffolk County, New York, Police Departments. The task force compiled a comprehensive database of information on the money remitter industry and its customers, and stepped up its street level enforcement and surveillance activity in the targeted area to impede the narco-traffickers' use of alternate routes for their illicit proceeds once the GTO made money transmitters a less attractive option.

In testimony before the Subcommittee on General Oversight and Investigations, Deputy Assistant Attorney General for the Criminal Division Robert S. Litt stated that "the most important lesson from the GTO experience is the value of consistent and close interagency cooperation," involving the efforts of prosecutors and investigators to "target the appropriate financial sector, to identify their targets, to obtain and analyze as many financial records as can be made available, and, if necessary, to take the time to start enforcement at the lowest level and work slowly up the ladder."

H.R. 1756 is designed to apply to lessons of the New York GTO on a national level, by calling for the formulation of a national strategy for combating money laundering and related financial crimes that emphasizes the importance of coordination and information-sharing among Federal, state, and local authorities, and by singling out localities in which money laundering is particularly rampant for increased financial assistance and Federal law enforcement support.

HEARINGS

On June 3, 1997, Rep. Nydia Velázquez (D–NY.) introduced H.R. 1756, the Money laundering and Financial Crimes Strategy Act of 1997. The Committee held a hearing on the legislation and related issues on June 11, 1998. Testifying were The Honorable Charles Grassley (R–Iowa); Raymond Kelly, Treasury Undersecretary for Enforcement; Mary Lee Warren, Deputy Assistant Attorney General for the Criminal Division; Jonathan Weiner, Deputy Assistant Secretary of State; Herbert A. Biern, Associate Director of the Federal Reserve Board's Division of Banking Supervision and Regulation; Robert B. Serino, Deputy Chief Counsel of the Office of the Comptroller of the Currency; Jack A. Blum of the law firm of Lobel, Novins & Lamont, and Charles S. Saphos of the law firm of Fila & Saphos.

COMMITTEE CONSIDERATION AND VOTES

On June 11, 1998, the full Committee met in open session to mark up H.R. 1756, the Money Laundering and Financial Crimes Strategy Act. The Committee considered as original text for pur-

poses of amendment an Amendment in the Nature of a Substitute offered by Ms. Veláquez. The Amendment in the Nature of a Substitute was adopted by voice vote.

The Committee adopted, by voice vote, a motion by Mr. Bereuter to authorize the Chairman to offer such motions as may be necessary in the House of Representatives to go to conference with the Senate.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l) (3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings and recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of the Representatives, the constitutional authority for Congress to enact this legislation is derived from the interstate commerce clause (Clause 3, Section 8, Article I). In addition, the power "to provide for the punishment of counterfeiting * * * current coin of the U.S." (Cause 6, Section 8, Article I) and to "coin money" and "regulate the value thereof" (Clause 5, Section 8, Article I) has been broadly construed to allow for the Federal regulation of the provision of credit, financial institutions, and money.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONGRESSIONAL ACCOUNTABILITY ACT

The reporting requirement under section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1) is inapplicable because this legislation does not relate to terms and conditions of employment or access to public services or accommodations.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE AND UNFUNDED MANDATES ANALYSIS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 24, 1998.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1756, the Money Laundering and Financial Crimes Strategy Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for federal costs) and Leo Lex (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 1756—Money Laundering and Financial Crimes Strategy Act of 1998

Summary: H.R. 1756 would direct the Secretary of the Treasury to develop a national strategy for combating money laundering and related financial crimes. The bill also would direct the Secretary to establish a grant program to support state and local law enforcement efforts against such crimes. This legislation would authorize the appropriation of $50 million over the 1999–2003 period to carry out these programs.

CBO estimates that implementing H.R. 1756 would result in additional discretionary spending of about $36 million over the 1999–2003 period, assuming appropriation of the authorized amounts. This legislation could lead to an increase in receipts, so pay-as-you-go procedures would apply, but we estimate that any increases would be less than $500,000 annually.

H.R. 1756 contains no intergovernmental or private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1756 is shown in the following table. For the purposes of this estimate, CBO assumes that the authorized amounts will be appropriated by the start of each fiscal year and that outlays would be consistent with historical spending patterns for similar programs. The costs of this legislation fall within budget function 750 (administration of justice).

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION					
Authorization level	5	7	10	13	15
Estimated outlays	1	4	8	10	13

Note: Enacting H.R. 1756 could increase governmental receipts through donations from grant recipients, but we do not expect any such amounts to be significant.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Many of

the grants established by H.R. 1756 would be used to expand investigations into financial crimes and could result in the forfeiture of more criminals' assets to state and local governments. The bill would require grant recipients to pay to the Department of the Treasury amounts received as a result of successful investigations, up to the amount of the individual grant. These payments would be classified as governmental receipts, but we do not expect any such amounts to be significant.

Estimated impact on State, local, and tribal governments: H.R. 1756 contains no intergovernmental mandates as defined in UMRA. The bill would establish grant programs for state and local law enforcement efforts to prevent and prosecute money laundering and other financial crimes. To qualify for these grants, state and local agencies would have to meet certain conditions, including relinquishing claims to a portion of the assets that are forfeited as a result of civil or criminal prosecution. Because these requirements would be conditions of assistance, they would not be considered mandates under UMRA.

Estimated impact on the private sector: H.R. 1756 contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Mark Grabowicz; Impact on State, Local, and Tribal Governments: Leo Lex.

Estimate approved by: Robert A. Sunshine, Deputy Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

"Money Laundering and Financial Crimes Strategy Act of 1998"

Section 2. Money laundering and related financial crimes

This section would amend chapter 53 of title 31 of the United States Code by adding a new Subchapter III, comprised of the following sections:

Section 5340. Definitions

This section defines several terms for purposes of new Subchapter III. The definition of "money laundering and related financial crime" is intended to be sufficiently broad to allow the Secretary of the Treasury and the Attorney General to keep pace with rapidly changing trends in money laundering activity in developing the national strategy mandated by the legislation.

Section 5341. National money laundering and related financial crimes strategy

The legislation authorizes the Secretary of the Treasury, in consultation with the Attorney General, to promulgate a National Money Laundering Strategy, to be submitted to Congress on an annual basis. The Strategy would, among other things, (1) establish comprehensive, research-based goals, objectives and priorities for reducing money laundering; (2) coordinate efforts by Federal government agencies, state and local law enforcement authorities, and the private financial sector to prevent money laundering and related financial crimes; (3) describe operational initiatives to improve

detection of money laundering and related financial crimes; (4) project three-year program and budget priorities and identify achievable projects for reducing financial crimes; (5) assess the sufficiency of the proposed budget in implementing the Strategy; (6) describe the geographical areas designated as "high-risk money laundering and related financial crime areas" pursuant to section 5342; (7) identify any additional information needed to ascertain trends in financial crimes; and (8) outline a plan for enhancing the compatibility of automated information systems and facilitating access by Federal, state and local officials to timely and accurate information relating to money laundering and related financial crimes.

This section also mandates preparation of an annual report by the Secretary of the Treasury evaluating the effectiveness of policies to combat money laundering and related financial crimes. It provides that in developing the national strategy for combating money laundering and related financial crimes, the Secretary of the Treasury and the Attorney General shall consult with the Department of the Treasury law enforcement organizations involved in the detection, prevention, and suppression of money laundering and related financial crimes, the Board of Governors of the Federal Reserve System and other Federal banking agencies, and the National Credit Union Administration Board, state and local officials, including prosecutors, and representatives of the private financial services sector, among others.

Section 5342. High-risk money laundering and related financial crime areas

Because money laundering and related financial crimes are frequently concentrated in particular geographic areas, financial systems, industry sectors, or financial institutions, and because these crimes have a destructive influence on many local communities, the legislation authorizes the Secretary of the Treasury, in consultation with the Attorney General, to designate certain regions as high risk money laundering areas. Areas so designated would be targeted for increased scrutiny by Federal, state and local law enforcement officials. This approach is modeled after the High Intensity Drug Trafficking Area (HIDTA) Program administered by the Office of National Drug Control Policy, which coordinates the efforts of Federal, state, and local agencies in regions with critical narcotics trafficking problems.

In making designations pursuant to this section, the Secretary of the Treasury is directed to take into account the following factors: the population of the area; the number of bank and non-bank financial institution transactions which originate at or involve institutions in the area; the number of stock or commodities transactions which originate at or involve institutions in the area; whether the area is a key transportation hub with any international ports or airports or an extensive highway system; whether the area is an international center for banking or commerce; the extent to which financial crimes and financial crime-related activities are having a harmful impact in the area; whether the area is or has been the subject of active money laundering investigations; the volume or nature of suspicious activity reports originating in

the area; the volume or nature of currency transaction reports or reports of cross-border movements of currency or monetary instruments originating in the area; whether, and how often, the area has been the subject of a geographical targeting order; any observed changes in trends and patterns of money laundering activity; unusual patterns, anomalies, growth, or other changes in the volume or nature of core economic statistics or indicators; statistics or indicators of unusual or unexplained volumes of cash transactions; unusual patterns, anomalies, growth, or changes in the volume or nature of transactions conducted through financial institutions operating within or outside the United States; the extend to which state and local governments and state and local law enforcement agencies have committed resources to the financial crime problem in the area and the degree to which the commitment of such resources reflects a determination by such government and agencies to address the problem aggressively; and the extent to which a significant increase in the allocation of Federal resources to combat financial crimes in such area is necessary to provide an adequate state and local response to financial crimes and financial crime-related activities in such area.

Section 5351. Establishment of financial crime-free communities support program

This section directs the Secretary of the Treasury, in consultation with the Attorney General, to establish an assistance program for communities that find themselves besieged by money laundering. The Financial Crime-Free Communities Support Program would provide grants, technical assistance and training, and information on "best practices" to support local law enforcement efforts to detect and prevent money laundering and related financial crimes. This section also authorizes the appointment of a director to administer the program.

Section 5352. Program authorization

This section outlines the eligibility criteria for Financial Crime-Free Communities Support Program grants. To qualify for assistance, a state or local law enforcement agency or prosecutor must (1) establish a system for measuring and reporting outcomes consistent with standards set by the Secretary of the Treasury, in consultation with the Attorney General; (2) conduct biennial surveys to measure the progress and effectiveness of anti-money laundering efforts in the relevant jurisdiction; and (3) provide assurances that the entity conducting the survey has experience in gathering data related to money laundering and related financial crimes.

The section authorizes the Secretary of the Treasury, in consultation with the Attorney General, to make grants in amounts of up to $750,000 in any one fiscal year, and to suspend any such grant upon a determination that the recipient no longer meets the criteria for eligibility. As a condition of assistance, grant recipients must agree to remit to the Secretary of the Treasury the proceeds of any asset forfeiture executed under chapter 46 of title 18 of the United States Code, or any similar provision of state law, up to the aggregate amount of grants awarded to the recipient under the Financial Crime-Free Communities Support Program.

The section authorizes the Secretary of the Treasury to establish a rolling grant process, whereby applications for funding could be filed at any time during the fiscal year, and some portion of the funds appropriated in such fiscal year would remain available for grant requests made later in the fiscal year.

Section 5353. Information collection and dissemination with respect to grant recipients

This section specifies the procedures to be followed by the Secretary of the Treasury in administering the Financial Crime-Free Communities Support Program, including the application process and the dissemination of information regarding the program to eligible law enforcement agencies and the general public.

Section 5354. Grants for fighting money laundering and related financial crimes

This section authorizes the Secretary of the Treasury to make grants to state and local law enforcement agencies and prosecutors for the purpose of investigating and prosecuting money laundering and related financial crimes in high-risk money laundering and related financial crime areas. In making such awards, the Secretary of the Treasury will accord special preference to localities that demonstrate collaborative efforts by two or more state and local law enforcement agencies or prosecutors who have a history of Federal, state, and local cooperative law enforcement and prosecutorial efforts in responding to money laundering.

Section 5355. Authorization of appropriations

This section authorizes the appropriation of $5 million in its first year, with a $2.5 million increase in each subsequent year for five years, for fulfilling the requirements of the legislation. It also mandates submission of a report by the Secretary of the Treasury to the House and Senate Banking Committees on the effectiveness of and need for the designation of high intensity money laundering areas.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

* * * * * * *

CHAPTER 53—MONETARY TRANSACTIONS

SUBCHAPTER I—CREDIT AND MONETARY EXPANSION

Sec.
5301. Buying obligations of the United States Government.

* * * * * * *

SUBCHAPTER III—MONEY LAUNDERING AND RELATED FINANCIAL CRIMES

5340. Definitions.

PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL CRIMES STRATEGY

5341. National money laundering and related financial crimes strategy.
5342. High-risk money laundering and related financial crime areas.

PART 2—FINANCIAL CRIME-FREE COMMUNITIES SUPPORT PROGRAM

5351. Establishment of financial crime-free communities support program.
5352. Program authorization.
5353. Information collection and dissemination with respect to grant recipients.
5354. Grants for fighting money laundering and related financial crimes.
5355. Authorization of appropriations.

* * * * * * *

SUBCHAPTER III—MONEY LAUNDERING AND RELATED FINANCIAL CRIMES

§ 5340. Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATIONS.—The term "Department of the Treasury law enforcement organizations" has the meaning given to such term in section 9703(p)(1).

(2) MONEY LAUNDERING AND RELATED FINANCIAL CRIME.—The term "money laundering and related financial crime" means an offense under subchapter II of this chapter, chapter II of title I of Public Law 91–508 (12 U.S.C. 1951, et seq.; commonly referred to as the "Bank Secrecy Act"), or section 1956, 1957, or 1960 of title 18 or any related Federal, State, or local criminal offense.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL CRIMES STRATEGY

§ 5341. National money laundering and related financial crimes strategy

(a) DEVELOPMENT AND TRANSMITTAL TO CONGRESS.—

(1) DEVELOPMENT.—The President, acting through the Secretary and in consultation with the Attorney General, shall develop a national strategy for combating money laundering and related financial crimes.

(2) TRANSMITTAL TO CONGRESS.—By February 1 of 1999, 2000, 2001, 2002, and 2003, the President shall submit a national strategy developed in accordance with paragraph (1) to the Congress.

(3) SEPARATE PRESENTATION OF CLASSIFIED MATERIAL.—Any part of the strategy that involves information which is properly classified under criteria established by Executive Order shall be submitted to the Congress separately.

(b) DEVELOPMENT OF STRATEGY.—The national strategy for combating money laundering and related financial crimes shall address any area the President, acting through the Secretary and in consultation with the Attorney General, considers appropriate, including the following:

(1) GOALS, OBJECTIVES, AND PRIORITIES.—Comprehensive, research-based goals, objectives, and priorities for reducing money laundering and related financial crime in the United States.

(2) PREVENTION.—Coordination of regulatory and other efforts to prevent the exploitation of financial systems in the United States for money laundering and related financial crimes, including a requirement that the Secretary shall—

(A) regularly review enforcement efforts under this subchapter and other provisions of law and, when appropriate, modify existing regulations or prescribe new regulations for purposes of preventing such criminal activity; and

(B) coordinate prevention efforts and other enforcement action with the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, the Federal Trade Commission, other Federal banking agencies, and the National Credit Union Administration Board.

(3) DETECTION INITIATIVES.—A description of operational initiatives to improve detection of money laundering and related financial crimes.

(4) ENHANCEMENT OF THE ROLE OF THE PRIVATE FINANCIAL SECTOR IN PREVENTION.—A description of the enhanced partnership between the private financial sector and law enforcement agencies with regard to the prevention and detection of money laundering and related financial crimes, including providing incentives to strengthen internal controls and to adopt on an industrywide basis more effective policies.

(5) INTERGOVERNMENTAL COOPERATION.—A description of—

(A) cooperative efforts between the Federal Government and State and local officials, including State and local prosecutors and other law enforcement officials; and

(B) cooperative efforts among the several States and between State and local officials, including State and local prosecutors and other law enforcement officials,

for financial crimes control which could be utilized or should be encouraged.

(6) PROJECT AND BUDGET PRIORITIES.—A 3-year projection for program and budget priorities and achievable projects for reductions in financial crimes.

(7) ASSESSMENT OF FUNDING.—A complete assessment of how the proposed budget is intended to implement the strategy and whether the funding levels contained in the proposed budget are sufficient to implement the strategy.

(8) DESIGNATED AREAS.—A description of geographical areas designated as "high-risk money laundering and related financial crime areas" in accordance with, but not limited to, section 5342.

(9) PERSONS CONSULTED.—Persons or officers consulted by the Secretary pursuant to subsection (d).

(10) DATA REGARDING TRENDS IN MONEY LAUNDERING AND RELATED FINANCIAL CRIMES.—The need for additional information necessary for the purpose of developing and analyzing data in order to ascertain financial crime trends.

(11) IMPROVED COMMUNICATIONS SYSTEMS.—A plan for enhancing the compatibility of automated information and facilitating access of the Federal Government and State and local governments to timely, accurate, and complete information.

(c) EFFECTIVENESS REPORT.—At the time each national strategy for combating financial crimes is transmitted by the President to the Congress (other than the 1st transmission of any such strategy) pursuant to subsection (a), the Secretary shall submit a report containing an evaluation of the effectiveness of policies to combat money laundering and related financial crimes.

(d) CONSULTATIONS.—In addition to the consultations required under this section with the Attorney General, in developing the national strategy for combating money laundering and related financial crimes, the Secretary shall consult with—

(1) the Board of Governors of the Federal Reserve System and other Federal banking agencies and the National Credit Union Administration Board;

(2) State and local officials, including State and local prosecutors;

(3) the Securities and Exchange Commission;

(4) the Commodities and Futures Trading Commission;

(5) the Director of the Office of National Drug Control Policy, with respect to money laundering and related financial crimes involving the proceeds of drug trafficking;

(6) the Chief of the United States Postal Inspection Service;

(7) to the extent appropriate, State and local officials responsible for financial institution and financial market regulation;

(8) any other State or local government authority, to the extent appropriate;

(9) any other Federal Government authority or instrumentality, to the extent appropriate; and

(10) representatives of the private financial services sector, to the extent appropriate.

§ 5342. High-risk money laundering and related financial crime areas

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) Money laundering and related financial crimes frequently appear to be concentrated in particular geographic areas, financial systems, industry sectors, or financial institutions.

(B) While the Secretary has the responsibility to act with regard to Federal offenses which are being committed in a particular locality or are directed at a single institution, because modern financial systems and institutions are interconnected to a degree which was not possible until recently, money laundering and other related financial crimes are likely to have local, State, national, and international effects wherever they are committed.

(2) PURPOSE AND OBJECTIVE.—It is the purpose of this section to provide a mechanism for designating any area where money laundering or a related financial crime appears to be occurring at a higher than average rate such that—

(A) a comprehensive approach to the problem of such crime in such area can be developed, in cooperation with State and local law enforcement agencies, which utilizes the authority of the Secretary to prevent such activity; or

(B) such area can be targeted for law enforcement action.

(b) ELEMENT OF NATIONAL STRATEGY.—The designation of certain areas as areas in which money laundering and related financial crimes are extensive or present a substantial risk shall be an element of the national strategy developed pursuant to section 5341(b).

(c) DESIGNATION OF AREAS.—

(1) DESIGNATION BY SECRETARY.—The Secretary, after taking into consideration the factors specified in subsection (d), shall designate any geographical area, industry, sector, or institution in the United States in which money laundering and related financial crimes are extensive or present a substantial risk as a "high-risk money laundering and related financial crimes area".

(2) CASE-BY-CASE DETERMINATION IN CONSULTATION WITH THE ATTORNEY GENERAL.—In addition to the factors specified in subsection (d), any designation of any area under paragraph (1) shall be made on the basis of a determination by the Secretary, in consultation with the Attorney General, that the particular area, industry, sector, or institution is being victimized by, or is particularly vulnerable to, money laundering and related financial crimes.

(3) SPECIFIC INITIATIVES.—Any head of a department, bureau, or law enforcement agency, including any State or local prosecutor, involved in the detection, prevention, and suppression of money laundering and related financial crimes and any State or local official or prosecutor may submit—

(A) a written request for the designation of any area as a high-risk money laundering and related financial crimes area; or

(B) a written request for funding under section 5351 for a specific prevention or enforcement initiative, or to determine the extent of financial criminal activity, in an area.

(d) FACTORS.—In considering the designation of any area as a high-risk money laundering and related financial crimes area, the Secretary shall, to the extent appropriate and in consultation with the Attorney General, take into account the following factors:

(1) The population of the area.

(2) The number of bank and nonbank financial institution transactions which originate in such area or involve institutions located in such area.

(3) The number of stock or commodities transactions which originate in such area or involve institutions located in such area.

(4) Whether the area is a key transportation hub with any international ports or airports or an extensive highway system.

(5) Whether the area is an international center for banking or commerce.

(6) The extent to which financial crimes and financial crime-related activities in such area are having a harmful impact in other areas of the country.

(7) The number or nature of requests for information or analytical assistance which—

(A) are made to the analytical component of the Department of the Treasury; and

(B) originate from law enforcement or regulatory authorities located in such area or involve institutions or businesses located in such area or residents of such area.

(8) The volume or nature of suspicious activity reports originating in the area.

(9) The volume or nature of currency transaction reports or reports of cross-border movements of currency or monetary instruments originating in the area.

(10) Whether, and how often, the area has been the subject of a geographical targeting order.

(11) Observed changes in trends and patterns of money laundering activity.

(12) Unusual patterns, anomalies, growth, or other changes in the volume or nature of core economic statistics or indicators.

(13) Statistics or indicators of unusual or unexplained volumes of cash transactions.

(14) Unusual patterns, anomalies, or changes in the volume or nature of transactions conducted through financial institutions operating within or outside the United States.

(15) The extent to which State and local governments and State and local law enforcement agencies have committed resources to respond to the financial crime problem in the area and the degree to which the commitment of such resources reflects a determination by such government and agencies to address the problem aggressively.

(16) The extent to which a significant increase in the allocation of Federal resources to combat financial crimes in such area is necessary to provide an adequate State and local response to financial crimes and financial crime-related activities in such area.

PART 2—FINANCIAL CRIME-FREE COMMUNITIES SUPPORT PROGRAM

§ 5351. Establishment of financial crime-free communities support program

(a) ESTABLISHMENT.—The Secretary of the Treasury, in consultation with the Attorney General, shall establish a program to support local law enforcement efforts in the development and implementation of a program for the detection, prevention, and suppression of money laundering and related financial crimes.

(b) PROGRAM.—In carrying out the program, the Secretary of the Treasury, in consultation with the Attorney General, shall—

(1) make and track grants to grant recipients;

(2) provide for technical assistance and training, data collection, and dissemination of information on state-of-the-art prac-

tices that the Director determines to be effective in detecting, preventing, and suppressing money laundering and related financial crimes; and

(3) provide for the general administration of the program.

(c) ADMINISTRATION.—The Secretary shall appoint an administrator to carry out the program.

(d) CONTRACTING.—The Secretary may employ any necessary staff and may enter into contracts or agreements with Federal and State law enforcement agencies to delegate authority for the execution of grants and for such other activities necessary to carry out this chapter.

§ 5352. Program authorization

(a) GRANT ELIGIBILITY.—To be eligible to receive an initial grant or a renewal grant under this part, a State or local law enforcement agency or prosecutor shall meet each of the following criteria:

(1) APPLICATION.—The State or local law enforcement agency or prosecutor shall submit an application to the Secretary in accordance with section 5353(a)(2).

(2) ACCOUNTABILITY.—The State or local law enforcement agency or prosecutor shall—

(A) establish a system to measure and report outcomes—

(i) consistent with common indicators and evaluation protocols established by the Secretary, in consultation with the Attorney General; and

(ii) approved by the Secretary;

(B) conduct biennial surveys (or incorporate local surveys in existence at the time of the evaluation) to measure the progress and effectiveness of the coalition; and

(C) provide assurances that the entity conducting an evaluation under this paragraph, or from which the applicant receives information, has experience in gathering data related to money laundering and related financial crimes.

(b) GRANT AMOUNTS.—

(1) GRANTS.—

(A) IN GENERAL.—Subject to subparagraph (D), for a fiscal year, the Secretary of the Treasury, in consultation with the Attorney General, may grant to an eligible applicant under this section for that fiscal year, an amount determined by the Secretary of the Treasury, in consultation with the Attorney General, to be appropriate.

(B) SUSPENSION OF GRANTS.—If such grant recipient fails to continue to meet the criteria specified in subsection (a), the Secretary may suspend the grant, after providing written notice to the grant recipient and an opportunity to appeal.

(C) RENEWAL GRANTS.—Subject to subparagraph (D), the Secretary may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded.

(D) LIMITATION.—The amount of a grant award under this paragraph may not exceed $750,000 for a fiscal year.

(2) GRANT AWARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may, with respect to a community, make a grant to 1 eligible applicant that represents that community.

(B) EXCEPTION.—The Secretary may make a grant to more than 1 eligible applicant that represent a community if—

(i) the eligible coalitions demonstrate that the coalitions are collaborating with one another; and

(ii) each of the coalitions has independently met the requirements set forth in subsection (a).

(c) CONDITION RELATING TO PROCEEDS OF ASSET FORFEITURES.—

(1) IN GENERAL.—No grant may be made or renewed under this part to any State or local law enforcement agency or prosecutor unless the agency or prosecutor agrees to donate to the Secretary of the Treasury for the program established under this part any amount received by such agency or prosecutor (after the grant is made) pursuant to any criminal or civil forfeiture under chapter 46 of title 18, United States Code, or any similar provision of State law.

(2) SCOPE OF APPLICATION.—Paragraph (1) shall not apply to any amount received by a State or local law enforcement agency or prosecutor pursuant to any criminal or civil forfeiture referred to in such paragraph in excess of the aggregate amount of grants received by such agency or prosecutor under this part.

(d) ROLLING GRANT APPLICATION PERIODS.—In establishing the program under this part, the Secretary shall take such action as may be necessary to ensure, to the extent practicable, that—

(1) applications for grants under this part may be filed at any time during a fiscal year; and

(2) some portion of the funds appropriated under this part for any such fiscal year will remain available for grant applications filed later in the fiscal year.

§ 5353. Information collection and dissemination with respect to grant recipients

(a) APPLICANT AND GRANTEE INFORMATION.—

(1) APPLICATION PROCESS.—The Secretary shall issue requests for proposal, as necessary, regarding, with respect to the grants awarded under section 5352, the application process, grant renewal, and suspension or withholding of renewal grants. Each application under this paragraph shall be in writing and shall be subject to review by the Secretary.

(2) REPORTING.—The Secretary shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a grant recipient and expedite any application for a renewal grant made under this part.

(b) ACTIVITIES OF SECRETARY.—The Secretary may—

(1) evaluate the utility of specific initiatives relating to the purposes of the program;

(2) conduct an evaluation of the program; and

(3) disseminate information described in this subsection to—

(A) eligible State local law enforcement agencies or prosecutors; and

(B) the general public.

§ 5354. Grants for fighting money laundering and related financial crimes

(a) IN GENERAL.— After the end of the 1-year period beginning on the date the 1st national strategy for combating money laundering and related financial crimes is submitted to the Congress in accordance with section 5341, and subject to subsection (b), the Secretary may review, select, and award grants for State or local law enforcement agencies and prosecutors to provide funding necessary to investigate and prosecute money laundering and related financial crimes in high-risk money laundering and related financial crime areas.

(b) SPECIAL PREFERENCE.—Special preference shall be given to applications submitted to the Secretary which demonstrate collaborative efforts of 2 or more State and local law enforcement agencies or prosecutors who have a history of Federal, State, and local cooperative law enforcement and prosecutorial efforts in responding to such criminal activity.

§ 5355. Authorization of appropriations

There are authorized to be appropriated the following amounts for the following fiscal years to carry out the purposes of this subchapter:

For fiscal year:	***The amount authorized is:***
1999	*$5,000,000.*
2000	*$7,500,000.*
2001	*$10,000,000.*
2002	*$12,500,000.*
2003	*$15,000,000.*

* * * * * * *

DISSENTING VIEW OF RON PAUL REGARDING MONEY LAUNDERING BILLS

The support for the passage of these bills is recognition that the current policy has failed. These two bills, H.R. 4005, the Money Laundering Deterrence Act of 1998, and H.R. 1756, the Money Laundering and Financial Crimes Strategy Act of 1998, should be rejected. Despite the desire to appear to be "doing something" to thwart personal behavior that some find objectionable, the more justifiable position is to stand for and respect the U.S. constitution, good economic sense, individual rights and privacy. Ours is a federal government of limited powers, restricted by the United States Constitution and the too-often-forgotten Bill of Rights preserving individual liberty and reserving certain powers to the states.

CONSTITUTIONAL CONCERNS

Constitutionally there are only three federal crimes. These are treason, piracy on the high seas, and counterfeiting. The federal government's role in law enforcement ought to be limited to these constitutionally federal crimes. As such, the criminal laws concerning issues other than these must, according to the ninth and tenth amendments, be reserved to state and local governments. The eighteenth and twenty-first amendments are testaments to the constitutional restrictions placed upon police power at the federal level of government.

This interventionist approach (further expanded by these two bills) has not only failed to stem the flow of drugs into this country, substantially reduce the illegal drug trades' profitability or reduce consumption of publicly disapproved-of substances, but it has introduced a new, violent element into the mix. As a result of government coercion attempting to stifle individual choice and voluntary exchange, profits on the trade of now-illegal substances are artificially high which induces some individuals to risk official retribution. Before drug prohibition and the so-called war on drugs, some individuals chose to use some drugs—just as some do today. However, the violence associated with the drug trade is a result of the failed federal government's attempt to restrict individual liberty.

It is an irrational policy: what is the rationale behind a policy whereby morphine is legal but marijuana is not? Perhaps, following the logic of the prohibitionists, we should, by federal governmental intervention, outlaw fatty foods that allegedly harm one's health.

UNFUNDED MANDATE AND GREAT REGULATORY COST

These bills will join the misnamed Bank Secrecy Act and other measures that amount to an unfunded mandate on private bankers whose only crime is to meet the needs of their customers. Such a federal government intervention in this voluntary exchange is obviously wrong and unjustified by our constitutional rights.

The costs of showing that one complies with the current forms far exceed any alleged benefit. These bills will only add to that burden. Calculations using statistics provided by the Financial Crime Enforcement Network (FinCEN) put costs of compliance at $83,454,000 in 1996 for just one law, the Bank Secrecy Act. This estimate was made by totalling only the number of forms required by the Bank Secrecy Act (multiplied by the cost of compliance of each type of form) to the respondent financial institution, according to numbers supplied in response to a September 1997 request by my office to FinCEN. Two forms were not included in the total which undoubtably would push the current total compliance cost higher. IRS 8852 had been required for less than one year, and TDF 90–2249 was not yet active.

REGULATORY BURDENS CONTRIBUTE TO BANK MERGERS

Compliance costs for smaller banks are disproportionately high. According to a study prepared for the Independent Banks Association of America by Grant Thorton in 1993, annual compliance costs for the Bank Secrecy Act in 1992 were estimated at 2,083,003 hours and $59,660,479 just for community banks. It noted that "smaller banks face the highest compliance cost in relation to total assets, equity capital and net income before taxes. For each $1 million in assets, banks less than $30 million in assets incur almost three times the compliance cost of banks between $30–65 million in assets. These findings are consistent for both equity capital and net income measurements." In short, these regulations impose a marginal advantage to larger institutions and are a contributing factor to the rise in mergers into ever-larger institutions. These bills will only exacerbate this factor.

The Cost of Banking Regulation: A Review of the Evidence, (Gregory Elliehausen, Board of Governors of the Federal Reserve System Staff Study 171, April 1998), concurs that the new regulations will impose a disproportionately large cost on smaller institutions. The estimated, aggregate cost of bank regulation (noninterest expenses) on commercial banks was $125.9 billion in 1991, according to the Fed Staff Study. As the introduction of new entrants into the market becomes more costly, smaller institutions will face a marginally increased burden and will be more likely to consolidate. "The basic conclusion is similar for all of the studies of economies of scale: Average compliance costs for regulations are substantially greater for banks at low levels of output than for banks at moderate or high levels of output," the Staff study concludes.

In addition to all of the problems associated with the obligations and requirements that the government regulations impose on the productive, private sectors of the economy, the regulatory burdens amount to a government credit allocation scheme. As Ludwig von Mises explained well in *The Theory of Money and Credit* (originally) in 1912, governmental credit allocation is a misdirection of credit which leads to malinvestment and contributes to an artificial boom and bust cycle. Nobel laureate Frederick A. Hayek and Mises' other brilliant student Murray Rothbard expounded in this idea.

The unintended consequences of the passage of this bill, as written, will be to stifle the formation of new financial institutions, to consolidate current financial institutions into larger ones better

able to internalize the cost of the additional regulations, and to lower productivity and economic growth due to the misallocation of credit. This increased burden must ultimately be passed on to the consumer. The increased costs on financial institutions these bills impose will lead to a reduction of access to financial institutions, higher fees and higher rates. These provisions are anti-consumer. *The marginal consumers are the ones who will suffer most under these bills.*

LITTLE BENEFIT FOR GREAT COST

Despite the great costs this interventionist approach imposes on the economy, the alleged benefits are poor. Let all of those who believe that the current anti-money laundering laws work stand up and take credit for the success of their approach: drugs are still readily available on the streets. The proponents of these bills need to explain how the additional burden that these bills will impose will meet their objectives. They have failed to justify the costs.

"The drive to stem these flows has imposed an enormous paperwork burden on banks. According to the American Bankers Association, the cost of meeting all the regulations required by the U.S. government may total $10 billion a year. That might be acceptable if convictions for money laundering kept pace with the millions of documents banks must file each year. But the scorecard has been disappointing," reads the *Journal of Commerce* (December 10, 1996).

Referring to the same Justice Department figures cited in the Journal of Commerce article, Richard Rahn, president and CEO of Novecon, LTD, writes, "In the ten year period from 1987–1996, banks filed more than 77 million Currency Transaction Reports (CTRs) with the U.S. Treasury. This amounts to approximately 308,000 pounds of paper * * * 7,300 defendants were charged but only 580 people were convicted, according to the Justice Department. Environmentalists take note: this works out to about 531 pounds of paper per conviction [*America the Financial Imperialist,* to be presented at the Cato Institute Conference, Collateral Damage: The Economic Cost of U.S. Foreign Policy, June 23, 1998]."

Mr. Rahn cites arguments by former Federal Reserve Board Governor Lawrence Lindsey who explained that *money laundering laws discriminate against the poor.* Mr. Rahn's paper elaborates, "[The poor] are the least likely to have established relationships with banks and the most likely to operate primarily with cash. Hence, they are the first to be targeted, and this even further discourages bankers from wanting their business."

LEGAL LIABILITY QUESTIONS NOT ADEQUATELY ADDRESSED

These laws open the financial institutions up to a new area of legal liability. These bills do not adequately address these concerns. Responding to the Treasury Department money laundering proposal, John J. Byrne, the American Bankers Association's money laundering expert, said the industry opposes plans that impose onerous record-keeping requirements and banks fear being sued by the government or another company if they incorrectly certify that a customer has not committed any illegal acts (*American Banker,*

November 11, 1997). These regulations effectively deputize bank tellers as law enforcement officers.

The Independent Bankers Association of America (IBAA) has called for FinCEN to establish a "safe harbor" in these regulations. In nearly all cases, the bank has acted in good faith and should not risk being punished. Says a January 1998 IBAA letter to FinCEN, "If a bank has acted in good faith, knowing that there is some protection from liability will encourage banks to use the exemption process. For many banks, especially smaller banks which do not experience as many large currency transactions, it is much simpler to file a CTR. Many are concerned about the possible liability attached to incorrect usage of the exemption list. To avoid any hint of liability, and to avoid criticism for examiners, bankers avoid using the exemption process. A safe harbor from liability would go a long way to encourage them to use exemptions, and to cut down on the number of CTRs." Banks filed 12.75 million currency transaction reports in 1996, nearly double the number only six years earlier without any appreciable reduction in the drug trade.

INFRINGES ON RIGHT TO PRIVACY

> Subtler and more far-reaching means of invading privacy have become available to the government. Discovery and invention have made it possible for the government, by means far more effective than stretching upon the rack, to obtain disclosure in court of what is whispered in the closet.—US Supreme Court Justice Louis Brandeis (1928).

A Winston Smith, or any other average citizen, would have good reason to be even more concerned with the technological reach of a not so fraternal, big government agency. In his opening statement before the Subcommittee on General Oversight and Investigations, House Banking and Financial Services Committee, Hearing to Review the Department of the Treasury's Proposed Rules for Money Service Businesses, Chairman Spencer Bachus championed privacy rights saying, "We have to be cognizant that rules often have unintended consequences * * * These rules will require a huge increase in the amount of information on private citizens that will be provided to federal law enforcement. We need to know whether this creates a potential for abuse, either by those in the industries that do the reporting or by those in government that receive the information * * * this is not an insignificant concern."

At the same hearing, John Byrne of the American Bankers Association trumpeted our tradition of common law rights of privacy and supported "meaningful, consumer-friendly" frameworks based on self-regulating privacy regimes. That is a much preferred approach.

It is proposed that some banks like the Bank Secrecy Act because of the safety and soundness concerns associated with "illicit" funds. The problem lies with the government's interventionist drug policies. Would those same proponents of the money-laundering laws still argue about safety and soundness of deposits from beer and wine wholesalers and distributors?

FINCEN'S BLEMISHED RECORD SAFEGUARDING OUR PRIVACY

The mere existence of the databases holding confidential information on private individuals opens up the possibility of abuse. Unfortunately, it is not just an unfounded fear based on hypotheticals. In fact, the employees of FinCEN itself cannot always be trusted. In 1993, one employee took the liberty of using the resources at his disposal to do a little digging into the (assumed to be) private records of the mother of his girlfriend. In the same year, another employee of FinCEN left her desk unattended with the opportunity available for others to access privileged information—and someone else used the opportunity to pursue personally-motivated independent research.

FinCEN defends itself in a fax to our office in response to our inquiries saying "our system of security controls is * * * obviously working out. Because of the controls we have in place, the two violations which occurred were picked up right away and dealt with immediately." Neither employee was prosecuted nor fired. No systemic changes were made to safeguard privacy.

The General Accounting Office has criticized FinCEN for failing to keep Congress adequately informed. The agency has missed congressionally-mandated deadlines and sometimes implemented fewer than one-half of the provisions of congressional acts, according to one recent GAO report (*Money Laundering: FinCEN Needs to Better Manage Bank Secrecy Act Civil Penalty Cases,* June 1998).

Computer vulnerability to hackers is another concern expressed by a major trade group. "The Independent Bankers of American said the Treasury Department's Financial Crimes Enforcement Network needs to do more to make sure that reports on questionable bank transactions are not vulnerable to anyone with a computer, a modem and some spare time," reports *The American Banker* (November 30, 1995).

"By requiring the disclosure of detailed information on customers and their transactions, the proposed regulations would conflict with the confidentiality inherent in encrypted communications in electronic banking and commerce," writes Thomas E. Crocker (*The American Banker,* September 23, 1997) in an editorial entitled "Broadening Bank Secrecy Act Is Risky." He wrote opposing Treasury Department's proposal to expand the BSA's reach into electronic commerce, but the comments are valid in a broader context as well.

No government agency can be trusted to safeguard adequately our privacy.

BARR AMENDMENT WOULD REDUCE PRIVACY SAFEGUARDS

The sense of Congress amendment offered by Mr. Barr would make a bad situation worse. Since current safeguards have proved insufficient, we must not reduce what little protection our constituents have. "'The government has tremendous information resources at its disposal in data base centers, like the Financial Crimes Enforcement Network (FinCEN) * * * FinCEN has literally everything there is to know about you—tax records, postal addresses credit records, banking information, you name it—and *if more taxpayers knew about it, they would be outraged* [emphasis added]"

claimed Grover G. Norquist, president, Americans for Tax Reforms, in a statement to the House Judiciary Committee at the hearing on "Security and Freedom Through Encryption."

FinCEN, in a written response to questions concerning his testimony, said "FinCEN has no access to income tax data of any kind * * * The only tax records to which FinCEN has access are property tax records of the kind that any citizen may view in any courthouse * * * FinCEN does obtain from credit agencies certain basic identifying information for individuals as permitted by the Fair Credit Reporting Act. Finally, it has no general access to banking records but only to reports of large currency transactions and suspicious activity."

Mr. Norquist was ahead of his time. This bill gives FinCEN access to income tax records. In addition, the Treasury Department has tried to lower the threshold for "large currency transactions" to only $750. Of course, if you look "suspicious," let's make it only $500, they say. "Suspicious activities" by customers is inherently subjective and open to abuse. Mr. Norquist is right to point out that taxpayers should be outraged. In addition, the so-called "know your customer" amendment adopted by the committee further infringes on the right to privacy.

NOT EVERY CITIZEN IS A CROOK

In Supreme Court Justice William O. Douglas dissented in *California Bankers Assn* v. *Shultz,* 416 U.S. 21 (1974), questioning the Constitutionality of the Bank Secretary Act, writing:

> First, as to the recordkeeping requirements, their announced purpose is that they will have "a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings," 12 U.S.C. 1829b * * * It is estimated that a minimum of 20 billion checks—and perhaps 30 billion—will have to be photocopied and that the weight of these little pieces of paper will approximately 166 million pounds a year * * * It would be highly useful to governmental espionage to have like reports from all our bookstores, all our hardware [416 U.S. 21, 85] and retail stores, all our drugstores. These records too might be 'useful' in criminal investigations.
>
> One's reading habits furnish telltale clues to those who are bent on bending us to one point of view. What one buys at the hardware and retail stores may furnish clues to potential uses of wires, soap powders, and the like used by criminals. *A mandatory recording of all telephone conversations would be better than the recording of checks under the Bank Secrecy Act, if Big Brother is to have his way* [emphasis added]. The records of checks—now available to the investigators—are highly useful. In a sense a person is defined by the checks he writes. By examining them the agents get to know his doctors, lawyers, creditors, political allies, social connections, religious affiliation, educational interests, the papers and magazines he reads, and so on ad infinitum. These are all tied to one's social security number; and now that we have the data banks,

these other items will enrich that storehouse and make it possible for a bureaucrat—by pushing one button—to get in an instant the names of the 190 million American who are subversives or potential and likely candidates.

It is, I submit, sheer nonsense to agree with the Secretary that all bank records of every citizen "have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings." That is unadulterated nonsense unless we are to assume that every citizen is a crook, an assumption I cannot make," Justice Douglas concluded.

CASABLANCA OPERATION WORSENS SITUATION

The police "sting" operation has caused international problems since such operations are illegal in Mexico with some referring to it as "a debacle for U.S. diplomacy." Rosario Green, Mexico's foreign minister, says, "This has been a very strong blow to binational cooperation, especially on matters of drug trafficking." (*Wall Street Journal,* May 28, 1998) U.S. banks named in the investigation were left untouched. She claims to have evidence that U.S. agents broke Mexican law and Mexico may demand their extradition; she termed the operation a "violation of national sovereignty."

The illegal string operation will make only a paltry dent in money laundering activities. Since it is estimated that $300 billion to $500 billion is cycled through the U.S. financial system on an annual basis, the operation will have little real effect. Federal officials expect to seize as much as $152 million in more than 100 accounts in the United States, Europe and the Caribbean (*Washington Post,* May 20, 1998).

"In general, U.S. government sting operations have failed to produce many convictions. Of 142 cases filed and 290 defendants charged as the result of bank stings between 1990 and 1995, only 29 were found guilty," the *Journal of Commerce* (December 10, 1996) article continues. And drugs are still available on the schoolyard.

OPPOSE REGULATIONS OF GOLD AS MONEY

The Financial Action Task Force (FATF) on Money Laundering (based at the Organization for Economic Cooperation and Development), *1997–1998 Report on Money Laundering Typologies* (12 February 1998), suggested expanding still further the reach of governmental police intervention—this time in the gold market. "The FATF experts considered for the first time the possibilities of laundering in the gold market. The scale of laundering in this sector, which is not a recent development, constitutes a real threat.

Gold is a very popular recourse for launderers because of the following characteristics:

—a universally accepted medium of exchange;

—a hedge in times of uncertainly;

—prices set daily, hence a reasonably foreseeable value;

—a material traded on world markets;

—anonymity;

—easy changeability of its forms;

—possibility for dealers of layering transactions in order to blur the audit trail;

—possibilities of double invoicing, false shipments and other fraudulent practices.

The FATF report continued, "Gold is the only raw material comparable to money." While the FATF experts are clearly right in concluding that gold is money, we should steadfastly oppose the report's consideration of an expanded governmental reach to control gold.

"It is impossible to grasp the meaning of the idea of sound money if one does not realize that it was devised as an instrument for the protection of civil liberties against despotic inroads on the part of governments. Ideologically it belongs in the same class with political constitutions and bills of rights," Ludwig von Mises wrote in *The Theory of Money and Credit.*

CONGRESS SHOULD SAFEGUARD OUR FREEDOMS AND PRIVACY

In Supreme Court Justice Thurgood Marshall's dissent in *California Bankers Assn* v. *Shultz,* 416 U.S. 21 (1974), he wrote:

"As this Court settled long ago in *Boyd* v. *United States,* 116 U.S. 616, 622 (1886), 'a compulsory production of a man's private papers to establish a criminal charge against him * * * is within the scope of the Fourth Amendment to the Constitution * * *.' The acquisition of records in this case, as we said of the order to produce an invoice in Boyd, may lack the 'aggravating incidents of actual search and seizure, such as forcible entry into a man's house and searching amongst his papers * * *,' ibid., but this cannot change its intrinsic character as a search and seizure. We do well to recall the admonishment in Boyd, id., at 635:

> It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure.

First Amendment freedoms are 'delicate and vulnerable.' They need breathing space to survive * * * More importantly, however slight may be the inhibition of First Amendment rights caused by the bank's maintenance of the list of contributors, the crucial factor is that the Government has shown no need, compelling or otherwise, for the maintenance of such records. Surely the fact that some may use negotiable instruments for illegal purposes cannot justify the Government's running roughshod over the First Amendment rights of the hundreds of lawful yet controversial organizations like the ACLU. *Congress may well have been correct in concluding that law enforcement would be facilitated by the dragnet requirements of this Act. Those who wrote our Constitution, however, recognized more important values* [emphasis added]," Justice Marshall explained.

"Congress should block the proposed regulations and repeal the Bank Secrecy Act, under which such rules are possible," wrote Richard Rahn, president of Novecon Corp. and an adjunct scholar at the Cato Institute (*Investor's Business Daily,* August 12, 1997). "Our freedoms and our privacy are much too important to be com-

promised merely to make money-laundering more costly and inconvenient for criminals."

I agree.

RON PAUL.

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