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# House of Representatives

The House was not in session today. Its next meeting will be held on Monday, March 8, 1999, at 2 p.m.

# Senate

FRIDAY, MARCH 5, 1999

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by a guest Chaplain, Father Paul Lavin of St. Joseph's on Capitol Hill Church, Washington, DC.

## PRAYER

The guest Chaplain, Father Paul Lavin, St. Joseph's on Capitol Hill Church, Washington, DC, offered the following prayer:

Listen to the word of the prophet Isaiah: ''If you remove from your midst oppression, false accusation and malicious speech; if you bestow your bread on the hungry and satisfy the afflicted; then light shall rise for you in the darkness, and the gloom shall become for you like midday; then the Lord will guide you always and give you plenty even on the parched land.''—Is. 58:9–11 NAB.

Let us pray:

Lord, we thank You and we praise You for the goodness of our people and for the spirit of justice that fills our Nation. We thank You for the beauty and the fullness of the land and for the challenge of the cities. We thank You for our work, for our rest, for one another, and for our homes.

Look with favor on the men and women who serve in this Senate. Help them to foster love and to uphold justice and right. Strengthen them and strengthen all of us with Your grace and wisdom, for You are God forever and ever.

## RECOGNITION OF THE ACTING MAJORITY LEADER

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

## SCHEDULE

Mr. JEFFORDS. Mr. President, this morning, the Senate will resume consideration of S. 280, the Education Flexibility Partnership Act. Amendments are expected to be offered this morning. Therefore, Members should expect at least one rollcall vote by 10:30 a.m.

As a reminder to all Senators, a cloture motion was filed last night to the Jeffords substitute amendment, and the vote has been set to occur at 5 p.m. on Monday. Also, under rule XXII, Members have until 1 p.m. today to file first-degree amendments to the substitute.

I thank my colleagues for their attention.

## RESERVATION OF LEADER TIME

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

## EDUCATIONAL FLEXIBILITY PARTNERSHIP ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 280, which the clerk will report.

The bill clerk read as follows:

A bill (S. 280) to provide for education flexibility partnerships.

The Senate resumed consideration of the bill.

Pending:

Jeffords amendment No. 31, in the nature of a substitute.

Bingaman amendment No. 35 (to amendment No. 31), to provide for a national school dropout prevention program.

Lott amendment No. 37 (to amendment No. 35), to authorize additional appropriations to carry out part B of the Individuals with Disabilities Education Act.

Mr. JEFFORDS. Mr. President, this week the Senate has been debating S. 280, the Education Flexibility Partnership Act of 1999. During the debate, we have heard various interpretations of Ed-Flex. I want to take a moment to remind my colleagues about the idea behind Ed-Flex.

The Department of Education, under the leadership of Secretary Riley, has stated that Ed-Flex authority will help States in ''removing potential regulatory barriers to the successful implementation of comprehensive school reform'' efforts.

Under Ed-Flex, the Department of Education gives a State some authority to grant waivers to a State, giving each State the ability to make decisions about whether some school districts may be granted waivers pertaining to certain Federal requirements.

I would like to remind my colleagues that States cannot waive any Federal regulatory or statutory requirements relating to health and safety, civil rights, maintenance of effort, comparability of services, equitable participation of students and professional

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



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staff in private schools, parental participation and involvement, and distribution of funds to State or local educational agencies. It is very limited, but very helpful.

I believe this week, working in a bipartisan fashion, we strengthen the accountability aspects of the Ed-Flex bill even beyond that of the bill that was passed out of committee last year by a vote of 17–1. The accountability features of the bill are designed to improve school and student performance, which should be the mission of every education initiative.

For a moment it appears that the debate on this bill has become mired in a debate over other education proposals not related to education flexibility but related to the Elementary and Secondary Education Act.

The Elementary and Secondary Education Act is the foundation for most Federal programs designed to assist students and teachers in our elementary and secondary schools. This year, this legislation is up for review.

As we embark on a new century, it is the perfect opportunity for us to examine the Federal role in our educational delivery system. The Senate Committee on Health, Education, Labor, and Pensions—the HELP Committee—is currently engaged in the hearing process and has been since last December.

Through the hearing process, we are evaluating currently authorized programs and exploring new ideas. The first hearing the committee held this year in regard to education examined various initiatives that have been introduced by Members of this body. The Elementary and Secondary Education Act is the most important education legislation we will consider this year, and probably the most important one we have. There are a lot of good ideas that are being discussed in and out of this Chamber that deserve a thorough review.

It is for this reason that we should not be debating these issues as amendments to the Ed-Flex bill but should be debating these proposals in the context of the Elementary and Secondary Education Act, so that they can receive adequate attention in determining their merits.

For this fiscal year, the Federal Government is currently spending approximately $15 billion on programs related to elementary and secondary education. This figure excludes special education and vocational education.

How are these dollars being spent? Who is being served? Is student performance improving? What types of professional development programs are helpful to our classroom teachers? Are those teacher training activities translated into better teaching methods? What are the proper roles for the various levels of government? These are questions that must be, and will be, addressed in the coming months during the Elementary and Secondary Education reauthorization.

I urge my colleagues to work with me and the other members in the committee in finding the answers to these questions through the reauthorization process. Do not attempt to short circuit the process by offering those proposals to the Ed-Flex bill.

The Education Flexibility Partnership Act is not meant to serve as the sole solution to improving school and student performance. However, it does serve as a mechanism that will give States the ability to enhance services to students through flexibility with real accountability. I urge my colleagues to support immediate passage of S. 280.

Now, we have had, over the past few days, the desire—and I can understand that desire—to move ahead of the schedule of hearings and thorough review of the present Federal programs, to introduce the programs basically that have been recommended by the President for the purposes of trying to add them to this Ed-Flex bill way ahead of when they should be offered after a thorough examination and review of the problems we are facing as well as what the recommended programs would do to solve those problems.

It is the unenviable position I am placed in of trying to pass a bill called the Ed-Flex bill which will immediately give help to the States in better utilizing those resources that are already available and not to encumber it in the process by amending and trying to create programs which will hold up the passage of this bill not only here in the Senate but through the Government in the legislative process. So I don't know why we should or would like to do that.

I also point out where we are and will take a few minutes just to point out where we are presently with respect to our attempts and ability to be able to try to improve the educational process.

Back in 1983 during the Reagan years, Secretary Bell held a Senate hearing on the status of education in the United States. As a result of that, a report, ''A Nation at Risk,'' was handed down in 1983 and, with words which are incredibly, I would say, looking towards the future in examining our educational system, said, ''If a foreign nation had imposed upon this Nation our educational system we would have considered it an act of war.'' Those were incredibly strong words. We didn't fully understand what they meant for years.

In 1988, the Governors met in Virginia, in Williamsburg, and they agreed, after examining where we were not within ourselves, the tendency we have in this country is to try to compare ourselves among ourselves. In Vermont we say, ''Oh, my gosh, we are doing better than most of the other States. We must be in good shape. We don't have to do anything.'' But it did prevail throughout Vermont and the country for some time. But gradually we recognized the problems.

One of the most, I think, poignant demonstrations of that problem was by the Motorola company when they had a real problem with the quality of their production in this country. They found that the Japanese were moving ahead of them in the area the United States should have been the leader in—cell phones. The president of Motorola at that time brought his leaders together, the board of directors, and said, ''What do we do?'' The recommendation was, first of all, we ought to find out what our problem is in education, and secondly—I think the tone of it was—we ought to look elsewhere, to other countries, to find the educated population that we need in order to produce in competition with the Japanese.

The CEO did not like the thought or the idea of sending our jobs overseas because they were better educated. So he asked to have an examination of his own employees to see what could be done in order for them to produce the quality that was necessary. The results were amazing. They did not have the capacity in math. But that wasn't the basic problem. They found out—this is amazing in a corporation like Motorola—that the people who were given the math problems couldn't understand the math problems because they couldn't read. Wow. That sent a shudder through them. But the CEO went on, saying, ''I don't care. We can do it.''

So they set up remedial education programs in reading so they could get their employees up to skills in reading sufficiently to be able to understand the math problems. Then they had the training in math. Although the staff still recommended that they ought to send the jobs overseas to Malaysia, the CEO said, ''We will do it here.''

It turned out that with the proper remedial training and upgrading of math, they not only were able to produce on a par with the Japanese but were also superior to them. Therefore, they were able, after considerable problems getting into the Japanese market, to outperform the Japanese and kept the jobs at home.

In 1988 it was established that we had a problem by the Governors. But it took until 1994 before the Congress reacted and passed what is referred to as the ''Goals 2000'' bill. We took a look. Here it is now, 15 years after the ''Nation At Risk'' report and a goals panel which Senator BINGAMAN and I sat on with respect to the Senate, and we found, to our alarm, that we had no measurable improvement in the 15 years since the Nation was put on notice we had to improve—no measurable improvement, except our children were coming to school healthier. In other words, when they reached the sixth grade, they were healthier than they were 15 years ago. That still is not a very successful thing.

Then the thing we learned this last time, which was even more amazing, was that the data we were using to determine whether or not our young people were improving was 1994 data. We did not even have the capacity in this

Nation, after 15 years, to find out where we were. This is very extreme and a key element of the reauthorization of the Elementary and Secondary Education Act as to why we could not as of yet find out in an expeditious way where our young people stand as well on the kind of standard we need to be competitive internationally.

Mr. FRIST. Mr. President, will the Senator yield for a question?

Mr. JEFFORDS. I am happy to yield for a question.

Mr. FRIST. Mr. President, the bill we have been discussing for the last several days is a bipartisan bill entitled ''Ed-Flex.'' It really aims at a fundamental issue, I believe, which is how we improve education for our children, kindergarten through the 12th grade.

This particular bill, which is sponsored by myself and RON WYDEN, is a bipartisan bill. It is a bill that is very simple.

My question is: It seems that over the last several hours of yesterday that a number of extraneous amendments which have nothing to do with my bill, the Ed-Flex bill, a very specific bill which gives flexibility to schools and to teachers and to local communities to accomplish education goals—all of these amendments seem to be well intended, seem to be great programs, but I ask: Is it not appropriate, or more appropriate, so that we can deliver a bipartisan bill supported by the American people, supported by all 50 Governors, supported by the President of the United States, supported by the Department of Education—why can't we in this body come to agreement to pass this bill as written with several germane or relevant amendments, which we have been dealing with very appropriately, in a clean way without trying to attach all of these other programs—all of these other programs, I might add, which have huge price tags. My bill doesn't cost a single cent, has bipartisan support, and will help the children within weeks or months of passage.

Why not—this is the question to my distinguished colleague—address all of these other issues, well intended, which do cost money, which are new programs, why not address them through the Elementary and Secondary Education Act, which is the most appropriate forum where we are considering all of these education programs as we go forward? Why can't we proceed with our bill as written, as appropriately modified, without having to consider every one of these other major issues that come forward that need to be addressed elsewhere?

Mr. JEFFORDS. In answer, I say that the Senator is right, absolutely right. What we need to do is to get this country in a position where the Governors have the flexibility to assist us as we move forward.

I would point out that what we have done also as a fallback in that sense is, with second-degree amendments, to point out that the best thing we can do right now for the Governors and the Nation is to fully fund IDEA, which is the largest expense that local schools have in doing what is constitutionally required; that is, to provide a child with an appropriate and free education.

A recent Supreme Court decision just the other day points out how important that is now, where, under the 1988 Americans with Disabilities Act, the schools are now responsible to ensure that health care, which is necessary in order to allow the child to be able to obtain the maximum they can, is to be paid for by local governments.

Now, we promised to pay 40 percent of that bill when it was passed. I was on the committee, so I feel a little personally responsible. We said we would pay 40 percent. If you look at the chart behind me here, you can see that we are far from doing that. The total cost now—and that is going to go up significantly with the Supreme Court decision—is $40.5 billion a year. The Federal Government, in order to take up its share, which would obviously be around $10 billion—well over $10 billion, right. But we are far from that. Right now we are still $11 billion short

Mr. FRIST. If the Senator will yield for one more question about where we stand as of this morning, again, the bill I have proposed, which passed through your committee last year by a vote of 17 to 1, which passed through your committee this year, which has bipartisan support, is Ed-Flex, flexibility given to local communities with strong accountability—that is the bill that we are discussing. Is what you have just pointed out, and what was pointed out yesterday, that before we consider a number of other programs—which may be important and which will be considered in your committee over the course of the next year—before we should fund new programs, however good they might be, we have an obligation to fulfill the promises that we made in the past, promises to fund a very good program—the Disability Education Act; special education? You pointed out that we have not fulfilled that promise yet and before we should dedicate specific funds to new programs, we should fund that unfunded promise that we made, that we guaranteed in the past.

Mr. JEFFORDS. That is absolutely correct. I praise the Senator for raising that issue and for the introduction on the Ed-Flex bill, because that is a no-cost measure. In fact, it is a ''no-brainer'' in the sense of passage. It ought to be passed. All it does is give the States flexibility to maximize the utilization of Federal funds. That should be on the books before we add any new programs and have the Governors have the maximum flexibility.

Mr. President, I want to also alert people about the program for this morning. We have promised that we will have a vote before 10:30 in order to accommodate several Senators. So I want to continue to expand on where we should be going right now. I am hopeful that we can be finished with another amendment in the next 20 minutes so we can call the vote before 10:30 to accommodate those Senators. I again urge that the only amendments I will consider on this bill with respect to education will be those that will not encumber this bill with programs which should appropriately be on the Elementary and Secondary Education Act, which we will be discussing, and on which we are already holding hearings. We may accommodate amendments, but not those that will interfere with an orderly process of this legislation going forward, unencumbered, on bills that should be appropriately brought before the committee with respect to education and other matters.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

UNANIMOUS-CONSENT REQUEST

Mr. GRAMM. Mr. President, I ask unanimous consent the pending Ed-Flex bill be temporarily set aside and the Senate now proceed to the consideration of Calendar No. 26, S. 508, a bill to prohibit implementation of ''Know Your Customer'' regulations by the Federal banking agencies. I further ask consent that there be 20 minutes for debate on the bill equally divided in the usual form, there be no amendments in order, and following that debate the bill be read a third time and the Senate proceed to vote on passage of the bill with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, on behalf of Senators on this side, I will have to object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 40

(Purpose: To prohibit implementation of ''Know Your Customer'' regulations by the Federal banking agencies)

Mr. GRAMM. Mr. President, I call up amendment 40.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM], for Mr. ALLARD, for himself, Mr. SANTORUM, Mr. ENZI, Mr. BENNETT and Mr. GRAMM, proposes an amendment numbered 40 to the language in the bill proposed to be stricken by amendment No. 31.

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:

In the language proposed to be stricken, insert the following:

**SEC. . ''KNOW YOUR CUSTOMER'' REGULATIONS RESCINDED.**

(a) IN GENERAL.—None of the following proposed regulations may be published in final form and, to the extent that any such regulation has become effective before the date of the date of the enactment of this legislation, such regulation shall cease to be effective as of such date:

(1) The regulation proposed by the Comptroller of the Currency to amend part 21 of

title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(2) The regulation proposed by the Director of the Office of Thrift Supervision to amend part 563 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(3) The regulation proposed by the Board of Governors of the Federal Reserve System to amend parts 208, 211, and 225 of title 12 of the Code of Federal Regulation, as published in the Federal Register on December 7, 1998.

(4) The regulation proposed by the Federal Deposit Insurance Corporation to amend part 326 of title 12 of the Code of Federal Regulations as published in the Federal Register on December 7, 1998.

(b) PROHIBITION ON SIMILAR REGULATIONS.—None of the Federal Banking Agencies referred to in subsection (a) may prescribe any regulation which is substantially similar to, or would have substantially the safe effect as, any proposed regulation described in paragraph (1), (2), (3), or (4) of subsection (a).

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

Mr. GRAMM. Mr. President, we now find ourselves in a situation where the Federal Reserve Board, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, or FDIC, have introduced a regulation called ''Know Your Customer.'' This regulation has a 90-day public comment period which will end on March 8. On behalf of the Banking Committee, Senator BENNETT and I sent a letter to each of the regulators, urging them to drop this proposed regulation. I would like to briefly tell our colleagues what this regulation does.

Under these regulations imposed on every bank and every thrift in America, banks and thrifts would have to set up a program to document a system of internal controls for compliance with the regulation including independent testing, monitoring of day-to-day compliance, and annual personnel training.

What all this would be geared toward is looking at the bank account of every single American who has an account, large or small, in any thrift or any bank in America, to determine the identity of any new customers, to determine the customer's source of funds in bank transactions, to determine the particular customer's normal and expected financial transactions, to monitor account activity for transactions that are inconsistent with the normal and expected transactions, and to report transactions of customers that are determined to be suspicious to the regulatory authority.

If you ever wondered what happened to all those people in the former Soviet Union who used to run things there and now are permanently out of work, the answer is they are all in the Clinton administration and they are running the banking authorities of this country. Can you imagine having in place in America regulations so if your mama doubles the contribution she makes on Sunday to the church, her banker looks at it to see if it is out of the ordinary?

I don't doubt that somewhere, somebody had some good intention. The objective here is to look at money laundering. But the problem is, this is such a broad-reaching regulation that it infringes on our constitutional rights.

I would like to call the attention of my colleagues to amendment IV in the Constitution. Amendment IV says:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated. . . .

Our Federal Government has no right to routinely monitor your bank account. Our Federal Government has no right to keep records on where your money comes from, or how you write checks, or how you spend your money, unless there is some clear, compelling case that you are violating the law. What these bank regulators have done is not only run afoul of public opinion—over 135,000 Americans have filed comments in opposition to this process—but they have run afoul of something more important than public opinion. They have run afoul of the Constitution of the United States.

As a result, not having heard a definite answer from the regulators, members of the Banking Committee are here today to begin our process of engaging in oversight to be sure that when we pass laws, as we did setting up these agencies, that those laws are adhered to.

I believe our committees spend too much time writing law and too little time seeing that regulatory agencies abide by that law.

I have two colleagues here today who have been leaders in this effort to introduce the bill that we were unable to call up because a unanimous consent was objected to. Let me first yield to Senator ALLARD.

Mr. ALLARD. I thank the Senator for yielding for the purpose of a question. I just want to be clear that we are talking about the same issue here. My understanding is that these are the same rules and regulations proposed by the Federal Reserve, the FDIC, the Office of Thrift Supervision and the Office of the Comptroller of the Currency on December 7. As I understand, the regulations are going to require banks to set up customer profiles. I cannot imagine anything more intrusive than looking into somebody's banking account any time there is a little bonus that they get in their paycheck or they give a contribution somewhere. Then they suddenly become subject to scrutiny, not only by their banker but by law enforcement agencies and by the regulators. I think that is extremely intrusive. I just wanted to clarify that.

The regulations that are being proposed are extremely vague and are certainly a threat to our privacy in this country. The regulations, as I understand, were drawn up to fight fraud, tax evasion, and combat money laundering, but I do believe that they are reaching entirely too far. I think these regulations are unnecessary and, frankly, I think these regulations ought to be scratched.

One other thing that I want to clarify with Senator GRAMM from Texas is that credit unions, security firms and insurance firms are exempt from these regulations. Again, we have one part of the financial industry being regulated and none of the other parts being regulated. I think the proposed regulations would create a lot of imbalance.

Mr. GRAMM. If the Senator would allow me to reclaim my time, very briefly, not only is it an unconstitutional, unjustified, and unwarranted search and seizure, but wisely, the Securities and Exchange Commission and the National Credit Union Administration have not promulgated such rules. While we are being critical, and justifiably so, of the agencies that have, we should point out that these agencies did not follow suit, and I think they deserve some credit.

The point is, if I know that the Federal Government is going to be spying on my little bank account that might have $1,100 in it, and I can take it and put it in a credit union or put it in a mutual fund and have some degree of privacy, every little bank, every savings and loan or community bank in America ends up being disadvantaged, because the Federal Government is using them to snoop on their customers. As a result, they lose customers.

Mr. ALLARD. These are unbelievably intrusive. I congratulate the chairman of the Banking Committee for his hard work, and, in particular, my colleague from Pennsylvania. He has really stepped forward on this issue, doing a great job on the Banking Committee. It is a pleasure to work with both of you on this issue.

Mr. GRAMM. Senator SANTORUM.

Mr. SANTORUM. Thank you, Mr. Chairman. I would like to return the compliment to my colleague from Colorado, Senator ALLARD, who has been magnificent in introducing legislation, working with Senator ENZI from Wyoming, and coauthoring a letter with myself and sending a correspondence a couple of weeks ago complaining about this regulation.

He mentioned a couple of the concerns. Actually, an interesting concern was brought up yesterday. If you are not aware or are you aware, Mr. Hawke, who is the head of the OCC, testified before the House Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, yesterday and raised a concern. These are his regulations, but he raised some concerns, from all the feedback he had received, that he believed that these regulations were inadvertently undermining confidence in the banking system, because it violated the trust and the right of privacy between the banker and the customer. There are serious consequences to this. It is not just moving it from your bank to your savings and loan, but literally, it undermines the customer-banker relationship and that privacy relationship that is expected.

I will quote Mr. Hawke:

Law-abiding citizens . . . will understandably be apprehensive that their banks will report any transactions that may be the least out of the ordinary . . .''

A widespread loss of confidence in the privacy of bank accounts could lead to widespread withdrawals and ''do lasting damage to our banking system. . . .''

That is from the regulator who has proposed these. I think he has now understood. Over 140,000 people have written, with, to my understanding, 33 in favor, and the other 139,900-plus were against it. I can tell you, in my office we have received 200 to 300 letters, all against, and almost all from individuals. The few thrifts and banks that have written us did not write us to complain about the regulatory burden, but wrote us to reflect all the complaints they are getting from their customers about the invasion of privacy here. This has some serious constitutional issues, and, I think, very serious ramifications for the banking industry. I would like your comment on that.

Mr. GRAMM. First of all, I would guess that those 33 people who were for it are the people who are going to sell all the management services and the training programs and the computer programs for enforcement. It is a foul breeze that doesn't blow somebody some good.

The point is, you have 260 million Americans who lose a constitutional right, when you have financial institutions that have every confidence that people have in the security of their deposits, not that they are going to lose the money but that they are going to lose their freedom to take their paychecks, deposit in their bank without people knowing how much they have deposited, and spend their money on things they want to spend it on without being second guessed as to whether this expenditure was out of the ordinary, with language like ''determine the particular customer's normal and expected transaction.''

Mr. SANTORUM. They are going to do a profile on every individual's transactions within their bank?

Mr. GRAMM. Take a bank in a medium-sized town and take the personnel they have, how in the world could they possibly comply with this outrageous regulation without it costing, on a nationwide basis, literally billions of dollars?

I think one of the complaints that we have on this issue is a very simple one, not only is it unconstitutional, not only is it outrageous, but it shows, again, how callous Federal regulators are about the costs that are imposed on American business, and the loss of freedom for American consumers. It is sort of the idea that if someone has a social experimentation, it is the job of Americans to comply with their experiment and it is the job of business to pay for it.

Nowhere in the regulation does it suggest that the Government is going to pay the bank in your hometown or the bank that is in a shopping center near where you live in Colorado; there is nothing in the regulation that says they are going to pay for all these costs. Who do you think is going to pay for it? You are going to pay for it with fees on your checking account. You are going to pay for it with lower rates of return on your CD. You are going to pay for it when you borrow money to buy your home or buy a car or borrow money on a guaranteed student loan to send your child to college. You are going to pay for these regulations in higher costs.

I am delighted that the Comptroller of the Currency has become concerned, but why didn't they think about this before they promulgated this regulation?

The point is, our job on the Banking Committee is to stop this kind of thing from happening.

Mr. ALLARD. Will the Senator yield?

Mr. GRAMM. I would be happy to yield.

Mr. ALLARD. It is interesting how their light sort of turned on after such diverse groups as the ACLU and the Christian Coalition came together and opposed these regulations. As my colleague from Pennsylvania pointed out, the regulators have received over 100,000 objections. There are so many objections coming in, that they have a hard time keeping the number up on the web page because so many people are writing in to explain their concerns. I think the American people have caught on to this folly, and I think it is a shame that we have to bring it up in this manner to address it in the Senate.

Again, I thank the chairman of the Banking Committee for his fight to protect the Constitution and to protect the privacy rights of American citizens.

It is extremely important that we do everything possible to keep from having these rules and regulations passed. They are so invasive.

Mrs. MURRAY. Mr. President, will the Senator yield for a question?

Mr. SANTORUM. Will the Senator from Texas yield?

Mr. GRAMM. I yield, and then I will yield to the Senator from Washington for a question.

Mr. SANTORUM. As I understand procedurally what has happened, we tried to call up a bill on the floor, which I introduced with Senator ALLARD and Senator ENZI, and tried to get a vote to express the will of the Senate that we are against the ''Know Your Customer'' regulations.

My understanding is the other side objected to bringing that bill up. So you have had to offer an amendment to the Ed-Flex bill to try to get the Senate on record in opposition, because there will be some decision—the end of the comment period will be, I think, on Monday; is that correct?

Mr. GRAMM. That is correct. I also remind my colleague, we sent a letter from the committee on February 10 objecting to these regulations. The point is, when the committee of jurisdiction almost a month ago said no, the time has come for them to answer. That is why we brought this issue to the floor.

Mr. SANTORUM. So it is your desire to try to get a vote on this, have the Senate express itself in an up-or-down fashion in the next few minutes?

Mr. GRAMM. That is right. It would be nice if our colleagues would let us have an up-or-down vote on it. I don't know why anybody would be opposed to this amendment. But it would be my objective, after yielding to the Senator solely for the purpose of a question, to move to table the pending amendment and ask for the yeas and nays. But I yield to the Senator from Washington.

Mrs. MURRAY. Thank you. Mr. President, I came to the floor to talk about education. I was a little surprised we were talking about banking since we haven't been able to talk about a lot of education issues that are critical to parents, students and teachers across the country.

I ask my colleague from Texas what his intent is on this amendment. I know we are expected to go to a vote shortly. There are a number of us here who did want to talk about education before a vote occurred. Do you intend to vote in the next several minutes without yielding any Democratic time?

Mr. GRAMM. Mr. President, my intention is to move to table the amendment before 10:20 and ask for the yeas and nays. I do know we are here this morning to talk about education, and that is very important. But I say to my colleagues, in apologizing for having to disrupt their debate, that this is about education. When we have the Federal Government imposing regulations that will cost our financial institutions billions of dollars to comply and that will end up driving up the cost of loans as people borrow money to send their children to college, I think it is something with which we have to deal.

We are reaching the point where we could have a final determination. We are encouraged that the Office of the Comptroller of the Currency has raised concern about it responding to 140,000 objections. But the point is, on Monday, we are going to have, potentially, a final determination. We had hoped when we sent a letter on February 10 that we would get action. We did not get that action. As a result, we are here today.

Mr. President, I move to table amendment No. 40, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 40. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

Mr. NICKLES. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Montana (Mr. BURNS), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), the Senator from Alabama (Mr. SESSIONS), and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting, the Senator from Kentucky (Mr. BUNNING), the Senator from Montana (Mr. BURNS), the Senator from Arizona (Mr. KYL), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Alabama (Mr. SESSIONS) would each vote ''no.''

Mr. REID. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from North Dakota (Mr. DORGAN), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 0, nays 88, as follows:

[Rollcall Vote No. 33 Leg.]

NAYS—88

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

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—11

| | | |
|---|---|---|
| Bunning | Hutchinson | Mikulski |
| Burns | Inhofe | Sessions |
| Conrad | Kyl | Thomas |
| Dorgan | McCain | |

The motion to lay on the table the amendment (No. 40) was rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, the Senate now is in its third day of debate on the education flexibility bill. I think that is good. This is a subject we should all be more than happy to talk about. There has been a good debate and a number of amendments have been disposed of. But progress has begun to slow down.

I feel the need to remind our colleagues on both sides of the aisle that the appropriations season is fast approaching and that we have several important items to consider between now and the Easter recess. For instance, I presume that by the latter part of next week the emergency supplemental appropriations bill will be ready for consideration, since the Appropriations Committee reported it out unanimously yesterday; and, of course, we hope to go to the budget resolution and get it completed before we end the session at the end of March for the Easter recess. I believe there is a genuine interest on both sides of the aisle in completing both the Ed-Flex bill as well as the emergency supplemental, if that can be worked out, and the budget resolution which will be available, hopefully, within the next 10 days or so.

CLOTURE MOTION

Mr. LOTT. In order to assure that we keep moving toward passage of the Ed-Flex bill, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on amendment No. 31 to Calendar No. 12, S. 280, the education flexibility partnership bill.

Trent Lott, Jim Jeffords, John H. Chafee, Bob Smith (NH), Thad Cochran, Arlen Specter, Slade Gorton, Mitch McConnell, Richard Shelby, Bill Frist, Larry E. Craig, Jon Kyl, Paul Coverdell, Gordon Smith, Peter G. Fitzgerald, Judd Gregg.

Mr. LOTT. Again, Mr. President, it is my hope that the cloture vote will not be needed and that the Senate will be able to enter into some reasonable time agreement with respect to the Ed-Flex bill.

I know the Senator from Oregon has been working on both sides of the aisle, talking to his cosponsors, Senator FRIST and the chairman and ranking member of the committee, as well as leadership on the Democratic side of the aisle, and to the majority leader. He will continue to do that. I am hoping that he will find some way to get an agreement as to how we can proceed with amendments and get to a conclusion. But we haven't been able to get that worked out yet.

If we cannot get something worked out, then the cloture vote would occur on this cloture motion on Tuesday, March 9.

I now ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

## ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, the Senate has conducted its last vote for the week.

Several Senators, again, on both sides of the aisle, expressed concern that it was necessary to have votes on Friday. But I discussed this with Senator DASCHLE. We just are going to have to, in order to complete the work we need to do, have votes on Friday mornings and also sometime around 5 o'clock on Mondays. We will try to be as flexible as we can. But, as usual, we have Senators who would like us to be a little later or a little earlier. And it is very hard to find that narrow window.

But from now until the Easter recess, and probably in May and June, Senators should plan on having a vote on Mondays at 5 and in the morning on Fridays, but with those votes not occurring later than 12. There will be some Mondays or Fridays where that will not be the case because there is a conference on one side or the other or a conflict.

Senator DASCHLE and I will talk about that, and we will try to notify Members far in advance—hopefully a month or more—when a Friday or a Monday might be completely divided.

There was a cloture filed last night to the pending Ed-Flex bill. We are reminded that under the provisions of rule XXII all first-degree amendments must be filed by 1 p.m. today; all second-degree amendments by 4 p.m. on Monday in order to qualify under the cloture rule.

The Senate will now continue on the Ed-Flex bill for debate only for Members to make statements.

It is my hope that an agreement can be worked out on the Ed-Flex bill as we proceed. If we can, then the cloture vote could be vitiated on Monday, and we would have some other vote.

But around 5 o'clock on Monday will be the next recorded vote.

I ask unanimous consent that the Senate continue with consideration of S. 280, the Ed-Flex bill for debate only until 12 noon. I further ask unanimous consent that at 12 noon the Senate begin a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

Several Senators addressed the Chair.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I rise to agree and disagree with the distinguished majority leader. Let me point out my area of agreement first.

I believe it is important, as we begin our legislative session this year, that Senators be fully apprised of the schedule, and we understand that we have to be here on Fridays and on Mondays.

I think the majority leader is absolutely right in expecting that we have votes on Friday mornings and Monday afternoons or Monday evenings.

I hope Senators will accommodate that schedule with their own personal schedules, because that is the only