FLOOR STATEMENT OF SENATOR PROXMIRE
ON THE CONFERENCE REPORT ON H.R. 27
THE COMPETITIVE EQUALITY BANKING ACT OF 1987
AUGUST 4, 1987

Mr. President, I rise to address the Senate today with pride in my colleagues on both sides of the aisle; with pride in the product of our mutual efforts, the Competitive Equality Banking Act of 1987; and with pride in the spirit of compromise that made this legislation possible.

As we all know, this legislation closes the nonbank bank loophole, thereby reinforcing the longstanding separation between banking and commerce. It also recapitalizes the Federal Savings and Loan Insurance Corporation in order to restore public confidence in that crucial Federal institution. These are just two of the most critical components of the twelve titles comprising this important legislation.

ACKNOWLEDGMENTS

Before reviewing those titles, I want to recognize some of the Members whose efforts this year and in years past made this legislation possible. The man on my right, my friend and colleague Senator Jake Garn, merits my sincerest appreciation. Despite his deep reservations about some elements of the bill, he has steadfastly supported -- and through his efforts improved -- numerous other elements of the bill, particularly the FSLIC recapitalization. We should not forget that much of the bill now before us was passed by the Senate in 1984 and 1986 under the

leadership of Senator Garn, who was then Chairman of the Banking Committee. We must also not forget the crucial role Senator Garn has played during the past few weeks in helping construct a compromise that strengthened the legislation and averted a veto. Senator Garn, for myself and, I believe, for the other Members of the Senate also -- thank you for your help.

Appreciation must also be extended to the Senate conferees on this complex and important legislation -- Senators Cranston, Riegle, Sarbanes, Dodd, and Dixon, for the Majority, and Senators Heinz, Armstrong, D'Amato, and Gramm, for the Minority. Through the long hours of conference negotiations, they were patient, tough, and constructive. Their individual contributions are reflected again and again in the provisions of this important bipartisan legislation. For your efforts, gentlemen, on behalf of us all, thank you.

The other distinguished Members of the Senate Banking Committee, the Members of the House Banking Committee, and the House conferees also merit our highest appreciation. To House Banking Committee Chairman St Germain and Ranking Minority Member Chalmers Wylie we owe a particularly large debt of gratitude. The efforts of these two distinguished legislators in past Congresses as well as this one helped immeasurably in bringing this legislation to fruition.

Our appreciation, however, is not limited to Members of Congress. The efforts of several Administration officials,

particularly those of Treasury Secretary James Baker, have been pivotal. For their contribution to the enactment of this legislation, I extend to these officials my deepest appreciation.

Last but by no means least, I would like to thank the staff of both the Senate and the House, majority and minority, for the hard work and long hours they put in on this important and complex legislation. We owe a particular debt of gratitude to Rob Dugger and Rick Carnell on the majority staff and John Dugan on the minority staff for their excellent work.

WHAT THE THIS LEGISLATION DOES

Mr. President, the Competitive Equality Banking Act represents truly the best in bipartisan efforts and addresses a wide variety of financial institution issues. Let me now review the more important of them.

Title I closes the nonbank bank loophole and places restrictions on existing nonbank banks. By reinforcing the separation of banking and commerce, it:

-- helps ensure that banks allocate credit impartially and without conflicts of interest;

-- strengthens bank supervision and reduces the risk that banks will become entangled in the problems of nonbank affiliates;

-- helps protects the payments system;

-- reduces the unfair advantages that commercial companies controlling nonbank banks have over regulated bank

holding companies and over commercial companies that have no nonbank bank; and

-- reduces the potential for excessive concentration of economic power.

Title II imposes a temporary moratorium on Federal regulatory approval of certain new powers for banks and bank holding companies in order to give the Congress time to make basic decisions about the future structure of financial services. To lay the groundwork for those decisions, the Banking Committee is already holding comprehensive hearings on the issues involved, and I expect that we will bring a bill to the Floor later this year.

Title III recapitalizes the Federal Savings and Loan Insurance Corporation. It authorizes the FSLIC Financing Corporation to borrow $10.825 billion which, together with deposit insurance premiums, can be used to resolve problem cases.

Title IV seeks to facilitate the recovery of thrift institutions that are troubled but viable and well-managed. It represents a substantial amelioration of the forbearance provisions passed by the House. Title IV also requires thrift institutions to use generally accepted accounting principles in place of the discredited system of regulatory accounting. I want to commend Senator Phil Gramm for his energetic and successful efforts to improve the the House bill.

Title V strengthens the authority of the Federal banking agencies to arrange interstate sales of failed or failing banks. It also authorizes regulators to operate failed banks for up to three years while seeking to find purchasers for those institutions.

Title VI restricts banks and other depository institutions from placing excessive holds on money deposited by check. It is the fruit of years of diligent effort by Senator Dodd and others.

Title VII gives the National Credit Union Administration additional flexibility in its supervision of credit unions.

Title VIII, authored by Senator Dixon, permits agricultural banks to amortize losses on certain agricultural loans.

Title IX reaffirms the sense of the Congress that federally insured deposits are backed by the full faith and credit of the U.S. Government.

CONCLUSION

Mr. President, our financial system faces many acute difficulties and challenges. The conference report before us represents our best, bipartisan effort to ameliorate those difficulties and to prepare to meet the challenges of financial modernization. The conference report touches the foundations of our financial structure because the problems and challenges are profound. It is complex because those problems and challenges are complex.

Mr. President, this is not the bill I would have written if I had my way. It is not the bill Senator Garn would have written if he had his way. Indeed, it is not the bill that any member of the House or Senate would have written if he or she had their way. It is a product of compromise and like all compromises, it has its good points and its bad points. But on balance, I believe it represents a constructive first step towards solving some of the underlying issues in financial and banking legislation that have stalemated our efforts over the last several years.

I believe the most important and significant contribution made by the legislation is to remove the politically divisive issue of the non-bank bank loophole from our Congressional deliberations. The non-bank bank loophole has dominated our agenda far too long. It has pitted bank against bank and made it difficult for the Congress to focus on the broader issue of financial restructuring. With the non-bank bank loophole issue now behind us, I am confident we can move on to the broader issues of financial restructuring.

In particular, Mr. President, I belive we need to take a close look at our policy of separating commercial banking from investment banking in the light of today's financial technology and marketplace. The Glass-Steagall Act may have made some sense 54 years ago when it was put on the books although there is a growing body of historical evidence that the Congress may have over-reacted to abuses that were prevalent among all securities

firms and not just bank affiliates. In any event, a lot has happened since 1933 and the Congress needs to face up to the policy implications of these changes. The distinction between commercial lending and securities underwriting is rapidly eroding under the pressure of the marketplace. Our task as legislators is to examine these changes and design a system that will serve our economy for the last decade of this century and well into the next century.

We want a system that will provide maximum economic growth and competition consistent with safety and soundness. It is no small task. I look forward to working with the members of the Banking Committee and with Secretary Baker to help achive this long overdue modernization of our financial system.

Proposed by Jim Sivon
Not used

COLLOQUY ON SECURITIES MORATORIUM IN SECTION 201

SENATOR GARN: I would like to engage the Chairman of the Committee in a colloquy regarding the securities moratorium contained in section 201. I rise as a member of the Conference Committee which labored over the final language of this important bill and its accompanying report. I want to address in particular the moratorium provision, section 201(b)(2). First, the explanation of the securities moratorium contained in the Statement of Managers which appears in the Conference Report reflects an agreement which was reached by all interested parties.

SENATOR PROXMIRE: That is correct. The explanation of the securities moratorium which appears in the Conference Report is an accurate explanation of that provision of the bill. As passed by the Senate, the effect of the securities moratorium as to prevent the Federal Reserve Board from making effective, until March 1, 1988, any approval of an application by a bank holding company to underwrite bank-ineligible securities through a non-bank subsidiary if the approval required a determination that the subsidiary was not "engaged principally" in those new activities. The Conference Committee agreed to this moratorium and also agreed to extend the moratorium to the approval of new securities activities by the Comptroller of the Currency.

SENATOR GARN: It is very clear from the history, purpose, and text of this moratorium that it is simply a short-term freeze and suspends the effective date of approval of new securities activities by the Federal bank regulatory agencies. If an activity was found to be permissible for banks or bank holding companies before March 5, 1987, the moratorium does not affect it. Any banking institution can continue to engage, or begin to engage, in that activity, subject to existing laws unaffected by the moratorium, regardless of whether the particular bank or bank holding company or affiliate itself engaged in the activity before that date.

SENATOR PROXMIRE: That is correct. Section 201(b)(2)(B) is not intended to make any changes in the substantive law regarding the legality of a particular securities activity. In other words, we are not intending to affect those securities activities which were legally authorized before March 5, 1987. We are taking no position on what was or was not legal before March 5, 1987. It is also not our intent that section 201(b)(2) be construed as a Congressional judgment on whether existing law does or does not permit a bank or bank holding company affiliates to engage in particular securities activities.