

every tool at my disposal and I will also do everything publicly I can to make sure people understand who is not being cooperative in this effort.

I observe the absence of a quorum.

Mr. NICKLES. Will the majority leader withhold that request? One of the things we probably should have done a little earlier—I didn't know we were going to get stuck in this mess—would the majority leader go ahead and propound the unanimous consent request that we go ahead and vote tomorrow morning at 9:30 on the Religious Freedom Act, because I don't think there is any objection to that. I don't know how long this little debate will go, but I want to make sure we get that request made.

Mr. LOTT. I ask unanimous consent that the recorded vote on religious persecution occur at 9:30 on Friday morning.

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

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

Mr. LEVIN. Will the majority leader withhold just for a moment?

Mr. LOTT. I will be glad to.

Mr. LEVIN. During this quorum call, would anyone be inconvenienced if some of us who want to speak as in morning business be allowed to speak?

Mr. LOTT. There is a problem with doing that until we get this agreement worked out. We would actually go to H.R. 10, as I understand it. I would like for us to use this time, but both sides are still apprehensive about it. I asked for this time as majority leader and got it but I think, beyond that—we cannot do it.

Mr. LEVIN. Again, reserving the right to object, I obviously won't, would the majority leader then, in the UC that you are working on, make provision, then, for 30 minutes for morning business for me at the end of whatever else is going to be done here?

Mr. LOTT. I will be glad to do that. And I would like for other Senators who might have a need for morning business time to get that time. We will block that in before we finish up with the UC.

Mr. LEAHY. Mr. President, reserving the right to object, I will not, but will we also at sometime before the chariots suddenly disappear on Sunday or Monday or whenever it happens—will we go to some of the judges?

Mr. LOTT. We are working now to go to No. 597, which is a State Justice Institute position. And we are working to try to go to the nomination of Mr. Paez. There are those who want time to talk about that. I hope we could do that tonight and tomorrow. But we will continue to try to get agreement on Paez. That is the one we are working on right now. We will either get to debate and vote on that tonight or, more likely, it looks like now, tomorrow.

Mr. LEAHY. If I may comment further, Mr. President, I will not delay this further. We have about 25 on the calendar itself—judges. I hope during

the next few hours, or early tomorrow, the majority leader and I and a couple of others who are interested in this—Senator HATCH I am sure is—and others, that we might have a chance to talk about moving some of these other judges.

Mr. LOTT. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that H.R. 10 now be the pending business, and immediately following the reporting by the clerk, the Senate resume H.R. 2431—that is the religious persecution bill—and that following the conclusion or yielding back of the time, the previous consent governing H.R. 2431, commence. I further ask that following the disposition of time on H.R. 2431 this evening, the clerk then report H.R. 10, and the Senate then proceed immediately to a period for morning business.

Mr. SARBANES. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I would like to inquire of the majority leader, I take it, then, that it is not the intention of the majority leader to file a cloture motion on H.R. 10 this evening.

Mr. LOTT. It is not my intention to do that.

Mr. SARBANES. It is, therefore, the intention of the majority leader to let this day pass and go over into another day; in other words, we lose a day on a cloture motion if one were to be filed.

Mr. LOTT. We do, because as I have assessed the situation, there are enough opportunities for cloture votes and delays that it would take us into next week. If you just look at the math, that is where it would go. You can go back and examine how we got in this position, and the answer is very simple: We have been trying to do other bills.

The only way we are going to get H.R. 10 now is by concession and by consensus, which is quite often the way the Senate works. We are going to have to see if we can find a way for Democrats who have worked on this bill and Republicans who have worked on it, some who have problems with it on both sides, can come together. There is also a concern from Secretary Rubin about a provision in the bill. But I would like to get it done. But we are not going to get it done by cloture motions. Therefore, I have no problem with going over another day and continuing to work and hope that we can

find a way to come to an agreement on this bill.

Mr. SARBANES. I simply point out to the majority leader that the bill came out of the committee 16 to 2; that the relevant cloture vote we had where people differed was 88 to 11. There is extremely strong support for this legislation. It is obviously being frustrated and thwarted by a handful of people.

It was my concern that the opportunity to file this cloture motion not pass. In view of the statement of the majority leader that he has no intention to do that, to file the cloture motion, I am not going to object to the consent request, and then we move over until tomorrow. I wanted to keep this window of opportunity available, and now that I know that the majority leader has no intention of availing himself of it, I am prepared to agree to this consent request.

Mr. LOTT. If the Senator from Maryland is trying to get the majority leader to take full responsibility for not filing cloture today, I accept it. It is my goal to get a bill, and I concluded that another cloture motion at this time on this bill is fruitless. I am perfectly willing to accept that responsibility.

Mr. SARBANES. Let me also point out to the majority leader that the effort to try to develop accommodations has to be a broad-based effort.

Mr. LOTT. It surely does.

Mr. SARBANES. When we come in with 88 people on one side of the equation, if the 11 are going to hold us hostage or some of the 11 hostage—actually the word "extortion" was used in another context in the debate on the floor of the Senate.

Mr. LOTT. You wouldn't want to use that word. I think I have a card here I can call you on.

Mr. SARBANES. People are going to be highly resistant, I might say to the majority leader.

Mr. LOTT. I want to remind the Senator from Maryland, I was one of the 88, not one of the 11, but the 11 is on both sides of the aisle. We are never going to get an agreement until we get the 11 to feel comfortable that they have the opportunity that they are entitled to under the rules to make their point. It is the wonderful way the Senate works.

Mr. SARBANES. I know, but a lot of us have given at the committee over and over again to get the bill where it is.

Mr. LOTT. That is the price you pay for that wonderful assignment. It is a great committee to be on. You get all that good stuff. We did the credit union bill this year. A lot of credit goes to everybody for that.

Mr. SARBANES. We did the housing bill.

Mr. LOTT. Housing bill, you have done a lot of good stuff.

Mr. SARBANES. A lot of good work.

Mr. LOTT. I think I want on that committee next year.

Mr. SARBANES. We would welcome you. You would be a valuable addition

to the committee, and you can see the inner dynamics of the committee that result in the kind of problem we are now facing on the floor of the Senate. It would be welcomed for you to be in that cockpit seeing what takes place.

Mr. LOTT. I appreciate that invitation, but I want to assure the Senator from Maryland that Senator DASCHLE and I get to see the dynamics of such meetings every day in more ways than you would ever want to know.

(Laughter.)

Mr. SARBANES. That may be, but I don't think unless you are actually there to see it firsthand you can fully appreciate exactly what takes place.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I withdraw my objection.

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

Mr. LOTT. I thank my colleagues on both sides of the aisle. I say to Senator NICKLES, thanks for your diligent work. I say to Senator SARBANES, Senator GRAMM and Senator SHELBY thanks for your cooperation at this time. And we hope we will have it again tomorrow.

I yield the floor.

FINANCIAL SERVICES ACT OF 1998

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following: **SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Financial Services Act of 1998".

(b) **PURPOSES.**—The purposes of this Act are as follows:

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.

(2) To ensure the continued safety and soundness of depository institutions.

(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.

(4) To avoid duplicative, potentially conflicting, and overly burdensome regulatory requirements through the creation of a regulatory framework for financial holding companies that respects the divergent requirements of each of the component businesses of the holding company, and that is based upon principles of strong functional regulation and enhanced regulatory coordination.

(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.

(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.

(7) To enhance the competitiveness of United States financial service providers internationally.

(8) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens and communities, including underserved communities and populations.

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

Sec. 1. Short title; purposes; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.

Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.

Sec. 103. Financial holding companies.

Sec. 104. Operation of State law.

Sec. 105. Mutual bank holding companies authorized.

Sec. 106. Prohibition on deposit production of offices.

Sec. 107. Clarification of branch closure requirements.

Sec. 108. Amendments relating to limited purpose banks.

Sec. 109. Reports on ongoing FTC study of consumer privacy issues.

Sec. 110. GAO study of economic impact on community banks and other small financial institutions.

Subtitle B—Streamlining Supervision of Financial Holding Companies

Sec. 111. Streamlining financial holding company supervision.

Sec. 112. Elimination of application requirement for financial holding companies.

Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.

Sec. 114. Prudential safeguards.

Sec. 115. Examination of investment companies.

Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

Sec. 117. Interagency consultation.

Sec. 118. Equivalent regulation and supervision.

Sec. 119. Prohibition on FDIC assistance to affiliates and subsidiaries.

Subtitle C—Subsidiaries of National Banks

Sec. 121. Permissible activities for subsidiaries of national banks.

Sec. 122. Misrepresentations regarding depository institution liability for obligations of affiliates.

Sec. 123. Repeal of stock loan limit in Federal Reserve Act.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

Sec. 131. Wholesale financial holding companies established.

Sec. 132. Authorization to release reports.

Sec. 133. Conforming amendments.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

Sec. 136. Wholesale financial institutions.

Subtitle E—Preservation of FTC Authority

Sec. 141. Amendment to the Bank Holding Company Act of 1956 to modify notification and post-approval waiting period for section 3 transactions.

Sec. 142. Interagency data sharing.

Sec. 143. Clarification of status of subsidiaries and affiliates.

Sec. 144. Annual GAO report.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

Sec. 151. Applying the principles of national treatment and equality of competitive opportunity to foreign banks that are financial holding companies.

Sec. 152. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions that are wholesale financial institutions.

Sec. 153. Representative offices.

Subtitle G—Federal Home Loan Bank System Modernization

Sec. 161. Short title.

Sec. 162. Definitions.

Sec. 163. Savings association membership.

Sec. 164. Advances to members; collateral.

Sec. 165. Eligibility criteria.

Sec. 166. Management of banks.

Sec. 167. Resolution Funding Corporation.

Subtitle H—Direct Activities of Banks

Sec. 181. Authority of national banks to underwrite certain municipal bonds.

Subtitle I—Deposit Insurance Funds

Sec. 186. Study of safety and soundness of funds.

Subtitle J—Effective Date of Title

Sec. 191. Effective date.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

Sec. 201. Definition of broker.

Sec. 202. Definition of dealer.

Sec. 203. Registration for sales of private securities offerings.

Sec. 204. Sales practices and complaint procedures.

Sec. 205. Information sharing.

Sec. 206. Definition and treatment of banking products.

Sec. 207. Derivative instrument and qualified investor defined.

Sec. 208. Government securities defined.

Sec. 209. Effective date.

Sec. 210. Rule of construction.

Subtitle B—Bank Investment Company Activities

Sec. 211. Custody of investment company assets by affiliated bank.

Sec. 212. Lending to an affiliated investment company.

Sec. 213. Independent directors.

Sec. 214. Additional SEC disclosure authority.

Sec. 215. Definition of broker under the Investment Company Act of 1940.

Sec. 216. Definition of dealer under the Investment Company Act of 1940.

Sec. 217. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.

Sec. 218. Definition of broker under the Investment Advisers Act of 1940.

Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.

Sec. 220. Interagency consultation.

Sec. 221. Treatment of bank common trust funds.

Sec. 222. Investment advisers prohibited from having controlling interest in registered investment company.

Sec. 223. Conforming change in definition.

Sec. 224. Conforming amendment.

Sec. 225. Effective date.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

Sec. 231. Supervision of investment bank holding companies by the Securities and Exchange Commission.