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Collection/Office of Origin:	Chief of Staff, White House Office of
Series:	Sununu, John, Files
Subseries:	Issues Files

OA/ID Number:	29171
Folder ID Number:	29171-003

Folder Title:
Savings and Loan Industry (1990) [3]

Stack:	Row:	Section:	Shelf:	Position:
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Withdrawal/Redaction Sheet
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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	From Frederick D. McClure to John Sununu Re: Rep. Schumer's Saving and Loan Amendments (1 pp.)	7/23/90	~~P5~~	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Savings and Loan Industry (1990) [3]

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Date Closed:	12/11/2004	**OA/ID Number:**	29171-003
FOIA/SYS Case #:	1998-0004-F[1]	**Appeal Case #:**	
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P-2/P-5 Review Case #:		**Disposition Date:**	
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AR Disposition:		**MR Disposition:**	
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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE

WASHINGTON

July 23, 1990

MEMORANDUM FOR JOHN H. SUNUNU

FROM: FREDERICK D. McCLURE fm

SUBJECT: Rep. Schumer's Savings and Loan Amendments

Attached is an outline of the amendment to be offered by Representative Schumer to the Democrats' crime bill to be considered today in the House Judiciary Committee. As we have discussed, the more controversial provisions relate to the National Commission on Financial Institution Reform, Recovery and Enforcement (page 4) and the creation of a Financial Institution Fraud Unit in the Office of the Deputy Attorney General, to be headed by a special counsel (page 3).

It is our understanding that Committee Republicans intend to try to extend coverage of the special counsel to former and current Members of Congress (Rep. Chuck Douglas). Although debate is expected to be very partisan, it will no doubt be tempered somewhat by the fact that much of what Schumer includes in his amendment has been taken from the Wylie/Michel legislative proposal.

As soon as we receive the analysis of how much overlap exists between the two proposals, we will get it to you.

Summary of Amendment to H.R. 5269 regarding Financial Institutions Crimes
to be offered by MR. SCHUMER

Title ___ BANKING LAW ENFORCEMENT

Subtitle A. Enhanced Criminal Penalties

Section _ _01 -- creates a new crime for concealing assets from a conservator or receiver of an insured financial institution, punishable by 5 years imprisonment or a fine of $250,000 for an individual and $500,000 for an institution or both

Section _ _02 -- bars participation in an insured depository institution of a person who has been convicted of certain banking offenses for a minimum of 10 years; after 10 years, the person may seek consent of the appropriate federal banking agency

Section _ _03 -- creates a new offense for intentionally impeding an examination of a financial institution, punishable by 5 years imprisonment or a fine of $250,000 for an individual and $500,000 for an institution or both

Section _ _04 -- increases terms of imprisonment from 20 years to 30 years for bank related offenses

Section _ _05 -- adds the following banking offenses in Title 18 to criminal RICO predicates: 215, 656, 657, 1004, 1005, 1006, 1007, and 1014

Section _ _06 -- extends statute of limitations for criminal RICO predicates

Section _ _07 -- adds the following banking offenses in Title 18 to money laundering predicates: 1005, 1006, 1007, 1014, 1341 and 1343 affecting a financial institution

Section _ _08 -- directive to the Sentencing Commission to assign the level 24 of the guidelines (51 to 63 months imprisonment for a first offense) for a banking offense where the defendant derives more than $1,000,000 in gross receipts from the offense

Section _ _09 -- gives discretion to the Attorney General to provide restitution to a victim of a banking offense from forfeited property

Section _ _10 -- overturns the Hughey decision by permitting the court to provide restitution to any person harmed by the defendant, and not just those individuals specifically named in the offenses for which the defendant was convicted (?)

Subtitle B. Protecting Assets from Wrongful Disposition

Section _ _11 -- gives the Attorney General authority to enjoin a violation of banking laws or the disposition of property obtained as the result of the banking law violation in a civil action

Section _ _12 -- gives the FDIC authority in its capacity as conservator or receiver for an insured depository institution to seek an injunction against the dissipation of assets by an institution affiliated party obligated to the institution or a debtor of the institution and to request the appointment of a trustee;

permits the RTC and appropriate federal banking agencies to seek a restraining order to prohibit the alienation of property and the appointment of a receiver to administer the restraining order

Section _ _13 -- provides that a finding of a federal or state court that an institution affiliated party has breached a fiduciary duty to an institution shall constitute a defalcation under the bankruptcy code for purposes of determining the dischargeability of any debt arising from such breach

Section _ _14 -- prohibits the discharge in bankruptcy of a commitment to maintain capital requirements of an insured depository institution;

excepts from discharge in bankruptcy any court ordered restitution, penalties, fines, forfeiture, etc., with respect to crimes or other wrongdoing relating to financial institutions

excepts from discharge in bankruptcy certain property of a debtor with respect to claims by the FDIC or the RTC

Section _ _15 -- permits the FDIC, as conservator or receiver for an insured depository institution, to void a fraudulent transfer of any interest of an institution affiliated party or a debtor of the institution within 5 years of the date of the transfer or 5 years of the date on which the FDIC was appointed conservator or receiver

Section _ _16 -- permits the FDIC to prohibit or limit the extent to which an insured depository institution may make a golden parachute payment or indemnification payment or enter into a contract or agreement to make such a payment

Section _ _17 -- amends civil forfeiture provision to include sections 1341 and 1343 of Title 18 affecting a financial institution (technical correction relating to FIRREA)

Section _ _18 -- amends civil and criminal forfeiture provisions to include certain banking offenses relating to the sale of government assets by the RTC section _ _19 -- prohibits a person convicted of a banking offense from purchasing assets of a failed depository institution where the person is in default to that institution, and the default would result in substantial loss if left unpaid

Subtitle C. Improved Procedures fro Handling Banking-Related Cases

Section _ _21 -- expands wiretap authority for bank fraud and related offenses

Section _ _22 -- permits the appropriate federal banking agency to request the assistance of any foreign banking authority in conducting an investigation and permits the banking agency to assist a foreign banking authority in its investigations

Section _ _23 -- extends the statute of limitations for civil penalties under Section 951 of FIRREA to 10 years

Section _ _24 -- expands the subpoena authority for the FDIC to investigate closed financial institutions, and establishes new subpoena authority for the RTC to investigate such institutions

Subtitle D. Structural Reforms to Improve the Federal Response to Crimes Affecting Financial Institutions

Section _ _31 -- establishes within the Office of the Deputy Attorney General, a Financial Institution Fraud Unit to be headed by a special counsel

Section _ _32 -- Special Counsel is to be appointed by the President, by and with the advice and consent of the Senate; provides for the responsibilities of the Special Counsel: supervising and coordinating investigations and prosecutions of banking crimes, etc.

Section _ _33 -- assigns such necessary personnel to the Financial Institutions Fraud Unit as determined by the A.G.

Section _ _34 -- provides that the A.G. shall establish such financial institutions fraud task forces as appropriate; directs the A.G. to establish a senior interagency group of officials from the DOJ, Treasury, OTS, RTC, FDIC, OCC and the Board of Governors of the Federal Reserve System

Section _ _35 -- provides that the A.G. may accept and the department or agency of the U.S. may provide, without reimbursement, the services of personnel to assist in investigating and prosecuting crimes in or against the savings association industry

Section _ _36 -- expands the jurisdiction of the Secret Service to include the investigation of certain banking offenses, and provides that these investigations are to be conducted under the supervision of the A.G.

Subtitle E. Reporting Requirements

Section _ _41 -- requires the A.G. to report quarterly to Congress regarding criminal referrals, investigations, and prosecutions relating to banking offenses and the resources devoted to disposing of such banking matters

Subtitle F. National Commission on Financial Institution Reform, Recover and Enforcement

Section _ _51 -- establishes the duties of the Commission: investigate the casues of the S&L crisis, recommend methods for disposing of assets by the RTC, recommend methods and procedures for regulating and supervising financial services industry, resommend methods and procedures for improving interagency coordination and strategies for law enforcement, investigate the causes of fraud and abuse in the industry

Section _ _52 -- membership: 4 individuals appointed by the President, no more than 2 from the same party; 4 individuals appointed by the House, no more than 2 from the same party; 4 individuals appointed by the Senate, no more than 2 from the same party

Section _ _53 -- powers of the Commission: hold hearings, obtain official date from agencies or departments, obtain support services from the Administrator of General Services

Section _ _54 -- provides for staffing of the Commission

Section _ _55 -- provides that the Commission may submit interim reports and that a final report is due within 1 year from the date of enactment

Section _ _56 -- provides for termination of the Commission 30 days after the final report is submitted

Section _ _57 -- authorizes $1 million for the Commission

Subtitle G. Authorization

Section _ _61 -- amends Section 966 of FIRREA and authorizes $153,000,000 for the DOJ for investigations, prosecutions and civil actions relating to banking offenses, and allocates the authorized funds as follows:

for FYs'91 and '92:
FBI -- $100 million
U.S. Attorneys -- $39 million

Criminal Division -- $3 million
Civil Division -- $10 million
Tax Division -- $1 million

for FY'93, authorizes the lump sum of $153 million

H.R.5353
Wylie/Fish
(Michel on)
pulled out what

MEMORANDUM

TO: THEODORE
FR: JOHN
DA: 7/18/90
RE: THE SCHUMER AMENDMENT

The Schumer Amendment and H.R. 5150

The Schumer Amendment to H.R. 5269, the Omnibus crime bill, includes almost every major provision that makes up H.R. 5150. Those provisions that are covered in the Schumer Amendment from the Michel bill include: 1) Amendments relating to bankruptcy proceedings that identify more clearly the types of actions in which a finding of a breach of fiduciary duty would act as a bar to a bankruptcy discharge; 2) The section that authorizes the Attorney General to accept without reimbursement, assistance from other departments and agencies to help prosecute and investigate of fraud and other criminal or unlawful activity in or against the savings association industry; 3) The section that provides that any finding that a depository institution insider has breached a fiduciary duty to the institution constitutes a defalcation for purposes of the bankruptcy code and that the resulting liability is not dischargeable in bankruptcy; 4) The section that authorizes Federal banking agencies to receive assistance from, and provide assistance to, foreign banking authorities to detect violations of banking law and regulations; 5) The section that in order to prevent the dissipation or concealment of assets prior to judgement in civil recovery cases, authorizes the FDIC, RTC and OTS to seek <u>ex parte</u> Federal Court orders to freeze the corporate and personal assets of defendants in civil money penalty cases and civil liability cases; and authorizes Federal courts to appoint receivers to administer frozen assets; 6) The section that expands the subpoena authority of the FDIC and the RTC; 7) The section that enables the FDIC and RTC to void and recover fraudulent transfers intended to hinder, delay, or defraud an insured depository institution 8) The section that, in order to prevent the dissipation or concealment of assets prior to judgement in court enforcement actions, authorizes the Attorney General to seek <u>ex parte</u> court orders to freeze the corporate and personal assets in criminal cases; and authorizes Federal courts to appoint receivers to administer frozen assets; 9) The section that makes it a Federal criminal offense, punishable by a fine of up to $1 million and imprisonment for up to 5 years, to knowingly conceal assets or property subject to a claim by a Federal banking agency; 10) The section that expands the list of crimes under which the U.S. Government can seek civil forfeitures; 11) The section that includes additional bank fraud and related offenses as predicates for wiretaps; 12) The section that would partially overcome the recent Supreme Court decision in Haghey v. U.S. by permitting the government's ability to seek restitution for victims not specifically included in a count of conviction. The Haghey decision can adversely impact the government's ability to obtain restitution in S & L enforcement actions involving multiple parties.

The Schumer Amendment and H.R. 5050

Wylie/Michel/Annunzio/Gonzalez

DOJ took, may provisions

This amendment also has many sections that were part of H.R. 5050 . Those sections include making a crime of impeding a bank examiner (Section 308), making provisions for the civil and criminal forfeiture for fraud in the sale of assets by the Resolution Trust Corporation (Section 312), and the establishment of a National Commission on Financial Institution Reform, Recovery and Enforcement(Title One, with some minor alterations. For instance, Schumer's Commission has 12 members, while H.R. 5050 has 9 members)

Schumer Amendment's Original Ideas

Mr. Schumer did have a few sections that had no counterpart in either H.R. 5150 or H.R. 5050. These ideas included the following: 1) an enhancement of the RICO laws to include financial crimes, as well as an increase in the statute of limitation on RICO abusers; 2) increased penalties in major bank crime cases; 3) regulation of golden parachutes and other benefits when they are subject to abuse; 4) extension of the statue of limitations for civil penalties; 5) the appointing of a special counsel by the President to investigate the Savings and Loan crisis; and 6) giving additional authority to the Secret Service to investigate the financial crime fraud.

COMPARISON OF H.R. 5050
FINANCIAL CRIMES PROSECUTION AND RECOVERY ACT OF 1990
AS REPORTED OUT OF THE FINANCIAL INSTITUTIONS SUBCOMMITTEE
AND THE SCHUMER JUDICIARY AMENDMENT

H.R. 5050

TITLE I - NATIONAL COMMISSION ON FINANCIAL CRIMES

Title I creates a nine member bi-partisan commission to make recommendations on how to improve inter-agency cooperation in prosecution of financial criminals.

SCHUMER AMENDMENT : Sections 61 through 66 of the Schumer amendment are virtually identical to sections 102 through 107 of H.R. 5050 except for a few key points. First, the Schumer amendment adopts verbatim the "Duties of Commission" from H.R. 5050 but adds 5 additional duties. These include investigating the causes of the S&L debacle, recommendations for RTC improvements, and recommendations for action to protect the safety and soundness of the financial services industry. Two other differences exist between the Schumer Commission and the H.R. 5050 Commission. First, the Schumer Commission would have 12 members equally split between the political parties, while H.R. 5050 would have 9 members of which the majority would be of the same party as the President. Second, the Schumer Commission would require a $1M appropriation.

TITLE II - IMPROVEMENTS IN ADMINISTRATION OF DOJ

Section 201. Establishment of Local Financial Crimes Strike Forces Required - Mandates that the Department of Justice establish strike forces under the control of local U.S. Attorneys to deal strictly with financial crimes.

SCHUMER AMENDMENT : The Schumer amendment would set up strike forces under the direct control of the Attorney General. This is similar to what DOJ has begun to do now administratively as part of the Bush plan announced June 22nd.

Section 202. DOJ Employment Provision Relating to Attorneys on Financial Crimes Strike Forces - This section would make the salaries of attorneys working on a financial crimes strike force equivalent to comparably trained attorneys at the bank regulatory agencies.

SCHUMER AMENDMENT : No comparable provision.

Section 203. DOJ Merit System for Employees Involved in the Investigation and Prosecution of Financial Crimes - This provision would require the DOJ to establish a merit system to adequately recognize and reward individuals involved in financial crime matters.

SCHUMER AMENDMENT : No comparable provision.

Section 204. Case Management Requirements with respect to Financial Crimes - This provision requires DOJ to take into account certain factors in managing financial crime cases and set a priority on such cases.

SCHUMER AMENDMENT : No comparable provision.

Section 205. Availability of Certain Civil Money Penalties to the Attorney General - This section provides that civil money penalties prosecuted and collected by DOJ shall be available without fiscal year limitation to the Attorney General for any expenses incurred in bringing such suits.

SCHUMER AMENDMENT : No comparable provision.

Section 206. Administrative Subpoena Authority - This section grants administrative subpoena authority to the FBI to enhance the Bureau's ability to conduct investigations.

SCHUMER AMENDMENT : No comparable provision.

Section 207. Additional Resources for the Secretary of the Treasury and the Attorney General - This section authorizes appropriations in each of the fiscal years 1991 and 1992 of $16M to the Secretary of Treasury for 160 IRS agents and an additional $61M to the Attorney General for the purpose of investigations, prosecutions, and civil proceedings involving financial institutions. This combined with the $75M already authorized by FIRREA would authorize a total of $152M to combat fraud at financial institutions. The Bush Proposal requested an additional $25M beyond the FIRREA $75M for a total of $100M.

SCHUMER AMENDMENT : Authorizes a total of $153M in resources including the $75M already authorized under FIRREA. The Schumer amendment would break down the authorization in far greater detail. The amendment would require $100M for the FBI; $39M for U.S. Attorneys; $3M for the DOJ criminal Division; $10M for the DOJ Civil Division; and $1M to the DOJ Tax Division. It apparently excludes $16M for IRS agents that the President has asked for and that is contained in H.R. 5050.

Section 208. Interagency Coordination - This provision permits the Attorney General to accept the services of employees of other agencies to act as temporary DOJ employees. Part of Bush Administration Plan.

<u>SCHUMER AMENDMENT</u> : Section 35 of the Schumer amendment virtually identical with minor language differences.

Section 209. Savings Association Law Enforcement Improvement- Requires the Attorney general to take appropriate action on a certain percentage of pending criminal referrals. Neal Amendment at Financial Institutions markup. Taken from H.R. 4990 sponsered by Congressman Neal that has bi-partisan support.

<u>SCHUMER AMENDMENT</u> : No comparable provision.

Section 210. Appearances before Congress - Requires the Attorney General to make quarterly appearances before the House and Senate banking Committees to report on progress in prosecutions and investigations at financial institutions. Part of Neal Amendment at Financial Institutions markup. Taken from H.R. 4990 sponsered by Congressman Neal that has bi-partisan support.

<u>SCHUMER AMENDMENT</u> : Schumer Section 41 requires quarterly reports to Congress that contain similar information as required in H.R. 5050's Section 210. The Schumer Amendment does not specifically require the Attorney General to appear.

TITLE III - IMPROVEMENTS IN THE ADMINISTRATION OF THE FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER

Section 301. Subpoena Authority for FDIC and RTC Acting as Conservator or Receiver - This provision would expand the FDIC and RTC's subpoena authority under the FDI Act to expressly apply to closed as well as open institutions. Part of Bush Administration Plan.

<u>SCHUMER AMENDMENT</u> : Virtually identical to H.R. 5050. The Schumer provision slightly broadens the authority by allowing the FDIC/RTC Board of Directors to delegate the subpoena authority to FDIC/RTC staff. This was the original proposal for H.R. 5050 but was cut back in the Banking Committee at the request of Chairman Gonzalez.

Section 302. RTC/FDIC Access to IRS Records - This provision would permit the IRS to release agency records to the RTC and the FDIC. Certain procedural protections would exist to ensure that this authority was not abused. Further, the FDIC or RTC would have to demonstrate a "substantial need" for access to IRS records.

SCHUMER AMENDMENT : No comparable provision.

Section 303. Foreign Investigations by Federal Banking Agencies, the RTC and FDIC and Investigations on behalf of Foreign Banking Agencies- This provision grants specific authority to the federal banking agencies to request the assistance of their foreign counterparts in conjunction with enforcement activities. The section would also Congressionally sanction an office at the RTC and the FDIC to deal with foreign governments in tracing funds overseas. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Identical to Schumer Section 22.

Section 304. Clarification of FDIC Corporate Powers- This provision would expressly clarify the established principle of the FDIC's independent litigating authority and help to streamline its litigation activities.

SCHUMER AMENDMENT : No comparable provision.

Section 305. Priority of Claims - This provision would grant the RTC and FDIC's legal claims priority in litigation over other litigants. The provision would apply prospectively and is not intended to affect any litigation currently pending. Part of Bush Administration Plan.

SCHUMER AMENDMENT : No comparable provision.

Section 306. Fraudulent Conveyances Avoidable by Receivers- This provision would establish a uniform federal statute that would permit the RTC and the FDIC to unwind fraudulent conveyances dating back over a 5 year period. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Similar provision in Schumer Section 15. The Schumer provision broadens the criterea for determining whether a conveyance is fraudulent. However, Schumer does not adopt the provision giving the FDIC a priority in bankruptcy over other debtors in the case of a fraudulent connveyance. Both H.R. 5050 and Schumer protect bona fide purchasers.

Section 307. Prejudgement Attachments - This provision would permit the RTC, FDIC, DOJ and appropriate banking agencies to place under the control of a court appointed trustee the assets of individuals that may be held culpable at a troubled or failing financial institution. This would prevent miscreants from dissipating their assets. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Sections 11 and 12 of the Schumer bill are virtually identical.

Section 308. Concealment of Assets from FDIC or RTC established as a Criminal Offense - This provision would make it a crime to conceal assets from the RTC or FDIC. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Similar in concept. H.R. 5050 uses a "knowingly conceal assets" standard while Schumer requires "intent to impede the functions of the FDIC or RTC". A simple "knowing" standard for concealment seems to be a tougher approach and easier to prove by a prosecutor as opposed to having to prove a specific intent to impede the functions of the FDIC or RTC. Also, Schumer reduces the maximium fine from $1M to $250,000 for an individual or $500,000 for a corporation. In FIRREA, the Administration set the precedent that all fines related to financial institutions would not have a cap less than a $1M.

Section 309. Mandatory Education for Directors of Depository Institutions - This provision would require that directors at insured financial institutions to periodically certify that they have taken an educational course on the duties of directors at a financial institution.

SCHUMER AMENDMENT : No comparable provision.

Section 310. Grand Jury Secrecy - This provision would slightly relax certain FIRREA procedural restrictions on the financial institution regulatory agencies' access to grand jury information.

SCHUMER AMENDMENT : No comparable provision.

Section 311. Effect of Bankruptcy Proceedings on Duty to make Restitution - Certain court cases recently have limited the scope of restitution orders. This provision would reverse these decisions. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Similar to Schumer Section 10.

Section 312. Amendments Relating to Civil Forfeiture - This provision would extend current law related to civil forfeitures to mail fraud and wire fraud violations affecting a financial institution. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Virtually identical to Schumer Section 17.

Section 313. Amendments relating to Civil Penalties - This provision requires that the financial institution regulators will be reimbursed for administrative costs out of the proceeds from a civil money penalty generally paid to the Treasury's general fund.

SCHUMER AMENDMENT : No comparable provision.

Section 314. Breach of Fiduciary Duties - Prohibits liabilities of institution-affiliated parties arising from a breach of fiduciary duty from being dischargeable in bankruptcy. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Virtually identical to Schumer Section 13.

Section 315. Technical Amendments to Title 18, U.S. Code, Relating to References to Banking Institutions and Agencies - This provision makes technical amendments to the criminal code including criminal provisions on moneylaundering. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Schumer Section 7 appears similar in concept but seems to be more specifically drafted to expand moneylaundering penalties to financial crimes.

Section 316. Wiretap Authority for Bank Fraud and Related Offenses - Authorizes the use of wiretaps in bank fraud investigations. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Virtually identical to Schumer Section 21.

Section 317. Whistleblower Protections for Federal Reserve Bank and Federal Home Loan Bank Employees - Extends whistleblower protections generally given to all federal employees to the employees of Federal Reserve District banks and Federal Home Loan banks.

SCHUMER AMENDMENT : No comparable provision.

Section 318. Regulation of Golden Parachutes and Other Benefits Which are Subject to Misuse - Grants the FDIC the authority to regulate golden parachutes and similar types of payments at troubled financial institutions. Derived from legislation sponsered by Congressman Price with broad bi-partisan support.

SCHUMER AMENDMENT : Virtually identical to Schumer Section 16.

TITLE IV - TAXPAYER RECOVERY ACT OF 1990

Section 401. Short Title - This title may be cited as the Taxpayer Recovery Act of 1990.

Section 402. Exception to Discharges For Certain Debts Connected with Losses to Depository Institutions - This section prevents the bankruptcy courts from discharging criminal restitution and certain other liabilities of individuals who have caused losses to a financial institution due to fraud or reckless disregard. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Schumer Section 14 virtually identical in effect.

Section 403. Definitions, Procedures, and Special Rules- Provision makes conforming amendments to relevant parts of the Bankruptcy Code. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Schumer Section 14 virtually identical in effect.

Section 404. Conforming Amendments and Homestead Exemptions- This provision would prevent those who have committed acts involving fraud or reckless disregard of the law against any financial institution now in receivorship from taking advantage of generous state homestead exemptions. Part of Bush Administration Plan.

SCHUMER AMENDMENT : Schumer Section 14 virtually identical in effect.

PROVISIONS OF SCHUMER JUDICIARY AMENDMENT NOT IN H.R. 5050

Section 2 - Bars participation in an insured institution of a person convicted of certain banking offenses for a minimum period of 10 years.

Section 3 - Creates a new criminal offense for intentionally impeding an examination of a financial institution.

Section 4 - Increases terms of imprisonment for bank related offenses from 20 to 30 years.

Section 5 - Adds certain banking offenses to criminal RICO predicates.

Section 6 - Expands statute of limitations for RICO predicates.

Section 8 - Amends sentencing guidelines to increase punishment for certain banking offenses.

Section 9 - Gives the Attorney General discretion to provide restitution to victims of banking offenses from forfeited property.

Section 14(a) - Prohibits the dischaarge in bankruptcy of a committment to maintain capital requirements of an insured depository institution. [Remainder of Section 14 virtually identical in result to H.R. 5050]

Section 18 - Amends civil and criminal forfeiture provisions to include certain banking offenses relating to the sale of government assets by the RTC.

Section 19 - Prohibits a person convicted of a banking offense from purchasing assets of a failed depository institution.

Section 23 - Extends the statute of limitations for civil penalties under section 951 of FIRREA to 10 years.

Section 31 - Establishes Special Counsel under Attorney General to head Financial Institutions Fraud Unit. **[Bush plan currently being administratively implemented by DOJ]**

Section 32 - Special Counsel appointed by President. **[Bush plan]**

Section 33 - Special Counsel given necessary personnel. **[Bush plan]**

Section 34 - Administration required to establish a senior inter-agency working group. [Bush plan]

Section 36 - Use of Secret Service to investigate banking offenses.

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON

July 28, 1990

The Honorable Terry E. Branstad
Governor of Iowa
State Capitol
Des Moines, IA 50319

Dear Governor Branstad:

This is in response to your request for information regarding the origin of the savings and loan crisis.

This is a question which the Administration, academicians, economists, and the Congress have been exploring for some time. The Treasury Department is pleased to share our information with you because we believe it is important that as many people as possible have a thorough understanding of the events which began long ago and led to the current crisis.

The savings and loan industry was created in the early 1930's through charters which restricted their activities to fixed-rate, long-term mortgage loans and the acceptance of short-term deposits. Without a diversified portfolio, thrifts were, from their very inception, particularly vulnerable to the "ups and downs" of the real estate market and any substantial increases in interest rates. Because the interest rates these savings and loan institutions charged were primarily locked into long-term residential mortgage loans, significant increases in market rates meant thrift institutions would likely be paying out more in interest to depositors than they were receiving in interest payments from loans.

In 1966, Congress attempted to address the industry's particular vulnerability to increasing interest rates by creating "Regulation Q." This regulation imposed ceilings on the amount of interest that S&Ls could pay on deposits. But as market interest rates increased, depositors who had their money in low-rate S&L accounts began to take their money out of S&Ls and put their savings in other financial instruments, which were paying market interest rates (higher than S&L rates). S&Ls were then faced with massive deposit outflows, while their assets were primarily tied up in long-term, fixed-rate, low-interest mortgage loans.

In the late 1970's, inflation and interest rates soared, and eventually the prime interest rate skyrocketed as high as 21 percent. The combination of high inflation and high interest rates, along with Regulation Q, put extreme financial pressure on the thrift industry. During the period 1978-80, thrifts suffered significant declines in deposits, and their capital positions deteriorated to the point where a substantial part of the industry was bankrupt on a mark-to-market basis.

In 1979, President Carter formed a special Task Force to study the problem. The Task Force recommended deregulation. In 1980, President Carter proposed, and the Congress passed, the Depository Institutions Deregulation and Monetary Control Act (DIDMCA). The principal features of that Act included:

- Providing for the phased elimination of Regulation Q, allowing thrifts to attract more deposits with higher interest rates.
- Increasing deposit insurance from $40,000 to $100,000 per account.
- Expanding the ability of federally-chartered thrifts to engage in commercial lending, including commercial real estate loans.
- Lowering capital requirements for thrift institutions.

The huge increase in deposit insurance coverage -- a leap of 150 percent -- increased the U.S. Government's liability should an institution fail.

In another significant decision in 1981, the Federal Home Loan Bank Board (FHLBB), an independent regulatory agency, loosened restrictions on the ability of S&Ls to use brokered deposits. This provided S&Ls with new access to large pools of money formed by aggregated deposits. In 1984, the FHLBB reversed itself and proposed regulations limiting the use of brokered deposits. When the courts overturned the FHLBB regulations, Congress refused to provide the authority needed for FHLBB to proceed with the regulations.

Higher interest rates caused more thrifts to become unprofitable and seriously depleted their capital, but they were allowed to stay in business. Thrifts with low capital had a perverse incentive to make riskier investments in order to gain higher returns. Any profits from the riskier investments could be used to shore up their capital, while any losses from these same investments would be covered by the higher insurance coverage. Huge pools of money -- made available through brokered deposits and deposit insurance -- added to the motivation for thrift operators to expand their risk of loss.

However, even with interest rate deregulation, increased deposit insurance, and brokered deposits, thrifts continued to struggle because the bulk of their assets were still held in low-interest mortgage loans.

In response, Congress passed the Garn-St Germain bill in 1982. The bill allowed federally-chartered thrifts to become more like banks and further expanded authority granted in the 1980 act to make commercial loans. It also continued the 1980 practice of lessening capital requirements. Many believed these actions were necessary in order for thrifts to make higher returns on investments to offset lower returns on mortgage loans. Prior to the passage of Garn-St Germain, states began to greatly broaden the powers of state-chartered, but federally-insured, thrifts to make direct equity investments in speculative ventures, from windmill farms to precarious real estate developments.

As early as 1984, the FHLBB attempted to curb abuses by state-chartered savings associations. The FHLBB was opposed by many in Congress, and in particular by the House of Representatives. For example, in 1985, a resolution calling on the FHLBB to delay its tighter regulation of direct real estate and equity investment by state-chartered institutions was co-sponsored by over one-half of the House of Representatives. In 1987, amendments in the House Banking Committee to regulate these aggressive real estate practices of state-chartered institutions were defeated by overwhelming margins.

Now S&Ls could attract more deposits because they could pay higher interest rates on those deposits, offer higher insurance levels, and attract depositors from across the country. And thrift institutions, particularly state-chartered thrifts, could invest those deposits in highly risky ventures, particularly commercial real estate ventures. And all the time, the U.S. Government's promise to insure every depositor's savings up to $100,000 kept looming as a larger and larger potential liability.

In 1984, then-Vice President Bush led an Administration task force on regulation of financial services. The task force recommended comprehensive reform of the regulatory system:

-- Higher capital and accounting standards for S&Ls making riskier loans and elimination of phony accounting standards. (The task force report noted that low capital levels encouraged insured institutions to engage in high-risk speculative activities.)

-- More effective regulation through the elimination of archaic and overlapping regulatory structures.

-- Strengthened ability for the FDIC to oversee deposit insurance, and authorization for FDIC to institute risk-based insurance premiums. (The task force report noted that the current flat-rate premium system forced prudently managed institutions to subsidize high risk institutions.)

The task force recommendations were endorsed by the Reagan Administration's Cabinet Council on Economic Policy in 1985 and forwarded to the Congress.

Meanwhile, sharp declines in oil prices and weakness in the agricultural sector contributed to devastating economic declines in certain regions, particularly the southwest. Real estate values plunged. Large numbers of thrifts that had invested in commercial real estate and other ventures became insolvent, requiring deposit insurance protection from the federal insurance (FSLIC) fund. When the FSLIC insurance fund ran low, the Reagan Administration requested $15 billion to recapitalize FSLIC in the spring of 1986.

The request encountered strong opposition on Capitol Hill. Some Members of Congress feared that providing $15 billion in deposit insurance funding would encourage S&L regulators to close down more unsafe institutions. The savings and loan industry forcefully lobbied the Congress in opposition to this legislation, and it was killed at the end of 1986.

Finally, in 1987, Congress passed a bill which provided $10.8 billion for recapitalization of the insolvent FSLIC -- a year and a half after the Administration requested $15 billion. The final amount authorized was only two-thirds of the amount requested by the Administration. In addition, Congress added forbearance provisions making it harder for regulators to close down high-flying S&Ls. Specifically, those provisions permitted additional questionable accounting techniques which allowed thrifts in trouble to make their levels of capital look better than they were. They also allowed thrifts to count "goodwill" toward meeting capital requirements.

The delay in funding the FSLIC prevented regulators from closing insolvent institutions when the cost of protecting depositors would have been much less. Instead, the problem continued to grow, and so did the U.S. Government's liability to make good on its promise of insurance coverage for deposits.

In February 1989, just 18 days after taking office, President Bush proposed a comprehensive and permanent solution to the savings and loan industry crisis -- The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Four principles have guided the Administration in developing and implementing the savings and loan cleanup effort:

-- Protecting the savings of Americans who made deposits in thrift accounts, relying on the U.S. Government's promise of deposit insurance.

-- Restoring safety and soundness to the thrift industry, especially through tougher capital requirements.

-- Aggressively prosecuting the crooks who stole the taxpayers' money through fraud and mismanagement.

-- Cleaning up the S&L mess as expeditiously and responsibly as possible.

After seven months of debate, Congress passed FIRREA, and President Bush signed the bill into law on August 9, 1989.

FIRREA provided not only the initial funds for remedying the current crisis in the industry and protecting depositors' savings, but the legislation also put into place the mechanisms needed to prevent similar occurrences in the future.

With these protections in place, as well as additional provisions proposed by the Administration to enhance the Government's ability to prosecute those guilty of financial fraud and mismanagement, we believe we have the basic framework necessary to clean up the savings and loan crisis in an expeditious and responsible manner.

In the year since FIRREA was enacted, the government has paid out $62.5 billion in deposit insurance obligations, representing 5.8 million accounts -- about $10,000 per account. The RTC has seized 463 insolvent thrifts -- more than one per day; closed or sold 211 bankrupt thrifts -- one every 48 hours; and sold or liquidated more than $65 billion of assets -- $178 million per day. By moving expeditiously and responsibly to quarantine sick thrifts, the Administration has stemmed the losses and given the healthy segment of the industry an opportunity to succeed.

Since October 1988, the Justice Department has obtained more than 200 convictions for savings and loan fraud. Settlements and judgements from civil cases during the first half of 1990 will produce recoveries in excess of $200 million.

Let me reiterate that the purpose of the cleanup effort is not to bail out financially unsound S&Ls or S&L executives responsible for the crisis. The sole purpose is to protect the savings of those Americans who have insured deposits in savings and loan institutions. The U.S. Government made a promise to insure those deposits, and the Government is now living up to that promise.

We hope this is useful in tracing the causes of the thrift crisis and describing the considerable progress made under FIRREA to address the problem and prevent its recurrence.

Sincerely,

John E. Robson

John E. Robson

DRAFT

July 26, 1990

1990 JUL 26 PM 2:53

THE S&L PROBLEM: One Year After FIRREA

President Bush tackled the S&L problem and produced legislation within 18 days of taking office to comprehensively, and for the first time, find solutions after years of neglect, forbearance and unfounded optimism by all branches of government.

President Bush and Secretary Brady have established four guiding principles for S&L "Solutions":

1. <u>Cut Taxpayer Losses</u>.

   Put the thrift industry's [700-850]* money losing thrifts out of business ("Resolutions") to stop the losses. Provide adequate funds so that thrift regulators can proceed rapidly to close institutions without being forced to use "1988 FSLIC deal" expensive financial giveaways such as yield maintenance, capital loss protection and tax benefits to induce persons to acquire assets they don't want. Verify that the resolution and asset sale process is "open, competitive and fair" so insiders don't profit.

   First year results:

   o [211] insolvent S&L's (155 last quarter) were resolved. Such institutions were collectively losing [$2.3] billion per quarter.

   o S&L's were taken over by the government for resolution.

   o Savings of approximately [$1] billion were realized by selling "core" deposits versus paying them off.

   Second year goals:

   o Resolve [300] insolvent institutions.

   o Aggressively restructure 1988 FSLIC deals to save taxpayer dollars.

   o Test the Accelerated Resolution approach which would sell thrifts prior to conservatorship where they lose value and incur losses.

*[ ]= Number subject to change

- o Achieve during the year a more rapid sales pace of assets approximately equal to the same pace as new assets enter receivership so that the inventory of assets in receivership doesn't increase.

- o Expose assets to the maximum number of buyers using creative techniques to get the best price, put private capital at risk and minimize potential disruption of markets (dumping): e.g. bulk sales, largest auction in history; and seller financing.

- o Place at least [90%] of all assets into the hands of private asset managers with correct incentives via an open, competitive and fair process.

2. <u>Protect depositors</u>.

When institutions are resolved, the government must make good on its promise to insured depositors -- to pay the difference between a thrift's deposit liabilities and the market value of assets it holds.

First year results:

- o 6 million depositors and $62 billion of deposits protected.

- o Less than $10,000 average account balance protected shows that the program protects the savings of all Americans.

- o Many out-of-state depositors are protected because of the heavy reliance on IRA/Keogh and other out-of-state deposits.

Second year goals:

- o By the end of the current quarter, expect to have protected 10 million depositors and $100 billion of deposits.

- o [more]

3. <u>Prosecute and seek restitution from thrift crooks and bunglers</u>.

FIRREA greatly increased the government's criminal and civil enforcement powers. It added civil money penalties of up to $1 million per day and forfeitures for thrift fraud. Up to 20 year jail sentences were provided.

First year results:

- o Since October, 1988, there have been 213 convictions for major thrift crimes out of 329 defendants indicted. That number increased to 791 in 1989 alone including bank convictions.

- o The Dallas Fraud Task Force achieved 55 convictions of 80 defendants charged. Good example: Woody Lemons, CEO of Vernon Savings who got a 30 year sentence.

- o RTC identified possible criminal misconduct in 1/2 of all RTC thrifts and referred same to the Department of Justice.

- o The RTC has over 500 civil suits pending and in the first six months of 1990 has recovered more than $200 million for financial institution fraud and negligence.

Second year goals:

- o Immediately commence prosecution of the 100 worst cases of thrift fraud and expand the number of active criminal investigations of financial institutions (currently 530).

- o Use new OTS authority to seek restitution for fraud - e.g. Tom Spiegel of Columbia Savings in Beverley Hills from whom the Office of Thrift Supervision is seeking $23 million for jets, ski condos, etc.

- o Launch criminal investigations against owners, directors and managers in up to 40% of RTC thrifts and civil damages actions against such persons in up to 55% of RTC thrifts as well as against attorneys, brokers and other professionals in 20% of the cases. Janet Faye McKinzie of North American Savings was recently sentenced to 20 years; ordered to pay $13.4 million in restitution and sued for $40 million based on fraud and negligence. North American will cost taxpayers up to $118 million.

- o Achieve longer jail sentences for bank and thrift fraud cases.

- o Increase money recoveries on judgments to the government by freezing and liquidating assets before they can be sent to Swiss accounts, etc.

4. <u>Restore and Promote Safety and Soundness</u>.

FIRREA contained proposals to strengthen the entire banking system including S&L's. OTS was created to regulate thrifts. FIRREA required thrift owners to increase capital at risk and also required S&L's to keep 70% of their assets in residential assets. It also limited commercial investments; barred thrifts from holding junk bonds and required S&L's to pay higher deposit premiums than banks to reduce taxpayer costs and to fund a large portion of the thrift industry losses.

First year results:

- 80% of all thrifts with nearly $1 trillion in deposits are now operating on a <u>solvent</u> basis; and 66% of the industry meets current (increased) capital standards.

- OTS has created incentives such as (i) the right to distribute dividends and (ii) greater lending authority to reward institutions meeting fully phased in capital standards.

Second year goals:

- Encourage solvent thrifts to add more capital, concentrate on residential lending and community reinvestment; operate safely and help drive out bad thrift operators.

- Complete at least 300 resolutions which will remove unfair competition by government subsidized sick thrifts. Such competition drives up interest costs and lowers industry standards. Create an industry firewall against the bad thrifts and promote the healthy thrift industry.

DRAFT

1990 JUL 26 PM 2:53

July 24, 1990

THE SAVINGS AND LOAN CLEANUP

THEMES

1. President Bush inherited the S&L problem that was over a decade in the making.

2. Only 18 days after taking office, President Bush stepped forward with a comprehensive solution to the S&L crisis.

3. The solution is working; the job is getting done.

4. S&Ls are now required to operate under tough new rules to protect safety and soundness.

5. The cleanup is proceeding expeditiously and responsibly (and at least cost to taxpayers).

6. This is no bailout of S&Ls or owners. We are making sure that insured depositors get their money back.

7. Crooks are being prosecuted.

TALKING POINTS

o Only 18 days after taking office, President Bush proposed a comprehensive and permanent solution to the savings and loan industry crisis.

o One year after enactment of the savings and loan depositor rescue legislation, the cleanup is working; the job is getting done.

FOUR PRINCIPLES HAVE GUIDED THE ADMINISTRATION:

1. PROTECT DEPOSITORS.

   o Make sure all government-insured depositors get their money back.

   -- The government is not bailing out thrifts; in fact, hundreds of bankrupt thrifts are being closed down.

   -- The money goes to millions of Americans who put their savings in insured financial institutions.

   -- In the first year, the government has reimbursed $62.8 billion held in 5.8 million accounts.

   -- The average account protected is about $10,000.

2. REQUIRE SAFETY AND SOUNDNESS

   o Reform the system and require a new level of accountability so the mistakes of the past are not repeated.

   -- Tough new capital standards require thrift operators to put their own money at risk ahead of the taxpayers'. Two-thirds of the industry now meet those tougher standards.

   -- Thrifts were barred from holding junk bonds and required to keep 70% of assets in residential real estate.

-- The Office of Thrift Supervision (OTS) has "quarantined" S&Ls that were not operating in a safe and sound manner, requiring 664 institutions to enter into binding agreements terminating unsafe and unsound banking practices.

3. PUT THE CROOKS IN JAIL

- o Aggressively prosecute the crooks who stole the taxpayers' money.

  -- Tougher civil penalties -- up to $1 million per day -- and 20-year jail sentences for S&L fraud were enacted.

  -- Since October 1988, the Justice Department has obtained more than 200 convictions for cases of major savings and loan fraud.

  -- The FBI currently is conducting 530 active investigations of fraud in both banks and thrifts. This is an increase of 88 percent from 1987.

  -- Settlements and judgments by FDIC/RTC from civil cases during the first half of 1990 will produce recoveries in excess of $200 million.

4. GET THE JOB DONE EXPEDITIOUSLY

- o Clean up the S&L mess expeditiously and responsibly so that taxpayer costs are minimized.

- o In the past year:

  -- Seized 463 insolvent thrifts.

  -- Closed or sold 211 bankrupt S&Ls, an average of one every 48 hours.

  -- Sold or liquidated more than $65 billion worth of assets.

- o By moving quickly and dependably, we have "grounded the unsafe aircraft" to ensure that additional fraud, mismanagement and misuse of depositors' money cannot occur.

THE DEPUTY SECRETARY OF THE TREASURY

WASHINGTON

July 28, 1990

The Honorable John Ashcroft
Governor of Missouri
State Capitol
Jefferson City, MO 65101

Dear Governor Ashcroft:

This is in response to your request for information regarding the origin of the savings and loan crisis.

This is a question which the Administration, academicians, economists, and the Congress have been exploring for some time. The Treasury Department is pleased to share our information with you because we believe it is important that as many people as possible have a thorough understanding of the events which began long ago and led to the current crisis.

The savings and loan industry was created in the early 1930's through charters which restricted their activities to fixed-rate, long-term mortgage loans and the acceptance of short-term deposits. Without a diversified portfolio, thrifts were, from their very inception, particularly vulnerable to the "ups and downs" of the real estate market and any substantial increases in interest rates. Because the interest rates these savings and loan institutions charged were primarily locked into long-term residential mortgage loans, significant increases in market rates meant thrift institutions would likely be paying out more in interest to depositors than they were receiving in interest payments from loans.

In 1966, Congress attempted to address the industry's particular vulnerability to increasing interest rates by creating "Regulation Q." This regulation imposed ceilings on the amount of interest that S&Ls could pay on deposits. But as market interest rates increased, depositors who had their money in low-rate S&L accounts began to take their money out of S&Ls and put their savings in other financial instruments, which were paying market interest rates (higher than S&L rates). S&Ls were then faced with massive deposit outflows, while their assets were primarily tied up in long-term, fixed-rate, low-interest mortgage loans.

In the late 1970's, inflation and interest rates soared, and eventually the prime interest rate skyrocketed as high as 21 percent. The combination of high inflation and high interest rates, along with Regulation Q, put extreme financial pressure on the thrift industry. During the period 1978-80, thrifts suffered significant declines in deposits, and their capital positions deteriorated to the point where a substantial part of the industry was bankrupt on a mark-to-market basis.

In 1979, President Carter formed a special Task Force to study the problem. The Task Force recommended deregulation. In 1980, President Carter proposed, and the Congress passed, the Depository Institutions Deregulation and Monetary Control Act (DIDMCA). The principal features of that Act included:

-- Providing for the phased elimination of Regulation Q, allowing thrifts to attract more deposits with higher interest rates.

-- Increasing deposit insurance from $40,000 to $100,000 per account.

-- Expanding the ability of federally-chartered thrifts to engage in commercial lending, including commercial real estate loans.

-- Lowering capital requirements for thrift institutions.

The huge increase in deposit insurance coverage -- a leap of 150 percent -- increased the U.S. Government's liability should an institution fail.

In another significant decision in 1981, the Federal Home Loan Bank Board (FHLBB), an independent regulatory agency, loosened restrictions on the ability of S&Ls to use brokered deposits. This provided S&Ls with new access to large pools of money formed by aggregated deposits. In 1984, the FHLBB reversed itself and proposed regulations limiting the use of brokered deposits. When the courts overturned the FHLBB regulations, Congress refused to provide the authority needed for FHLBB to proceed with the regulations.

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However, even with interest rate deregulation, increased deposit insurance, and brokered deposits, thrifts continued to struggle because the bulk of their assets were still held in low-interest mortgage loans.

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As early as 1984, the FHLBB attempted to curb abuses by state-chartered savings associations. The FHLBB was opposed by many in Congress, and in particular by the House of Representatives. For example, in 1985, a resolution calling on the FHLBB to delay its tighter regulation of direct real estate and equity investment by state-chartered institutions was co-sponsored by over one-half of the House of Representatives. In 1987, amendments in the House Banking Committee to regulate these aggressive real estate practices of state-chartered institutions were defeated by overwhelming margins.

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-- Higher capital and accounting standards for S&Ls making riskier loans and elimination of phony accounting standards. (The task force report noted that low capital levels encouraged insured institutions to engage in high-risk speculative activities.)

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The task force recommendations were endorsed by the Reagan Administration's Cabinet Council on Economic Policy in 1985 and forwarded to the Congress.

Meanwhile, sharp declines in oil prices and weakness in the agricultural sector contributed to devastating economic declines in certain regions, particularly the southwest. Real estate values plunged. Large numbers of thrifts that had invested in commercial real estate and other ventures became insolvent, requiring deposit insurance protection from the federal insurance (FSLIC) fund. When the FSLIC insurance fund ran low, the Reagan Administration requested $15 billion to recapitalize FSLIC in the spring of 1986.

The request encountered strong opposition on Capitol Hill. Some Members of Congress feared that providing $15 billion in deposit insurance funding would encourage S&L regulators to close down more unsafe institutions. The savings and loan industry forcefully lobbied the Congress in opposition to this legislation, and it was killed at the end of 1986.

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-- Restoring safety and soundness to the thrift industry, especially through tougher capital requirements.

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Let me reiterate that the purpose of the cleanup effort is not to bail out financially unsound S&Ls or S&L executives responsible for the crisis. The sole purpose is to protect the savings of those Americans who have insured deposits in savings and loan institutions. The U.S. Government made a promise to insure those deposits, and the Government is now living up to that promise.

We hope this is useful in tracing the causes of the thrift crisis and describing the considerable progress made under FIRREA to address the problem and prevent its recurrence.

Sincerely,

John E. Robson

John E. Robson

THE WHITE HOUSE
WASHINGTON

Date: 7/30/90

TO: THE CHIEF OF STAFF

FROM: **JAMES W. CICCONI** Jim
Assistant to the President and
Deputy to the Chief of Staff

The attached has been forwarded to the President.

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02a. Note	From James Cicconi to POTUS Re: Secretary Brady's letter (1 pp.)	7/30/90	~~P~~5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Savings and Loan Industry (1990) [3]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 4/10/08

Date Closed: 12/11/2004	**OA/ID Number:** 29171-003
FOIA/SYS Case #: 1998-0004-F[1]	**Appeal Case #:**
Re-review Case #: 2005-0426-S	**Appeal Disposition:**
P-2/P-5 Review Case #:	**Disposition Date:**
AR Case #:	**MR Case #:**
AR Disposition:	**MR Disposition:**
AR Disposition Date:	**MR Disposition Date:**

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
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(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

[redacted]

THE WHITE HOUSE

WASHINGTON

July 30, 1990

MR. PRESIDENT:

[redacted]

Secretary Brady's memo is in response to the Lud Ashley letter at TAB A.

I also showed this to Mike Boskin. He agrees with Brady's memo, though he is a bit more concerned about the problem. Mike says tight credit is becoming a somewhat more pervasive problem, and is not just confined to the Northeast.

Jim

Jim Cicconi

[redacted]

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02b. Letter	From Nicholas Brady to POTUS Re Tight credit conditions in building industry (1 pp.)	7/26/90	P/5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Savings and Loan Industry (1990) [3]

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AR Disposition:	**MR Disposition:**
AR Disposition Date:	**MR Disposition Date:**

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THE SECRETARY OF THE TREASURY
WASHINGTON

July 26, 1990 1990 JUL 30 AM 2 4

Dear Mr. President:

George Kettle's comments about tight credit conditions in the building industry represent a legitimate concern.

- The tightening of credit is caused by both demand and supply conditions. The slower pace of economic activity during the last nine months has reduced the demand for new credits. Financial institutions have tightened their lending standards, which has reduced the supply of credit, particularly for commercial real estate projects.

- Credit conditions are tight in the Northeast and Mid-Atlantic areas reflecting the sluggish pace of the economy.

- Some banks and thrift institutions apparently have overreacted to regulatory concerns about the quality of credit causing some reduction of credit flows even to worthy borrowers.

- The Comptroller of the Currency, Chairman of the Federal Deposit Insurance Corporation, and Chairman of the Federal Reserve System Board of Governors have met with the board of directors of The American Bankers' Association, and other financial institutions to emphasize the importance of continuing to make good loans even during the current period of slow economic activity.

- Chairman Greenspan has publicly announced that an unplanned tightening of credit has occurred and apparently the Fed has initiated a modest easing of monetary policy to offset the credit restraint effects.

- While the Fed's action is welcome, it is unlikely that a small decline in the Federal funds rate will have much impact on credit flows to the specific sectors of the economy and geographical regions that are experiencing the most difficulty.

- The overall credit conditions will require monitoring to avoid an unwanted impact on the general economy during the next few months.

Sincerely,

Nicholas F. Brady

[redacted]

THE WHITE HOUSE
WASHINGTON

DATE: 7-26-90

FROM THE PRESIDENT

TO: John S/ Nick Brady

Lud Ashley sent me the attached. Soon we should talk about all this. What do you think of his idea on page 2? Please reply.

GB

[redacted]

ASSOCIATION of BANK HOLDING COMPANIES

THOMAS LUDLOW ASHLEY
PRESIDENT

730 FIFTEENTH STREET, N.W., WASHINGTON, D.C 20005
(202) 393-1158

July 25, 1990

To: President Bush

From: Lud Ashley

Important changes in the Federal deposit insurance system, and presumably in the regulatory structure of our financial services industry, are scheduled to be announced by Treasury early next year, but they already are in trouble. Here's the situation and a suggestion.

Your top financial industry policymakers/regulators — Brady, Darman, Breeden, Greenspan, Clarke and Seidman — all agree on the urgent need to modernize the U. S. financial regulatory system. So does a strong bipartisan core in the Congress and a major cross section of the financial services industry itself — securities and insurance firms as well as commercial banks and financial conglomerates. All recognize that our current system increasingly acts as a brake on efficiency and competition, imposing significant unnecessary costs on U. S. financial service firms (and ultimately on the users of those financial services), and these costs have become increasingly damaging to our overall competitiveness since they are not incurred by our European and Japanese competitors.

It is already clear, however, that strident Democratic partisans in Congress, with an eye to 1992, will scoff at Administration proposals for the Federal deposit insurance system that rely more on market discipline and effective supervision, and less on pervasive regulation, to mitigate taxpayer liability. In the current environment these same partisans also are certain to deride market-oriented changes in banking structure as "more of the same deregulation that brought down the thrift industry."

As we see from the attached clipping from today's AMERICAN BANKER, the media already is expanding its preoccupation with the thrift debacle by probing into the health of the Federal Deposit Insurance Corporation. So are the politicians. Annunzio, for example is planning to release in September a study authored by consultant Dan Brumbaugh of Stanford, who claims the FDIC has been covering up the real magnitude of the banking industry's problems and asserts the "100% probability that taxpayers' dollars are going to be needed for the closure of commercial banks unless there is a miraculous recovery in the economy." Annunzio plans to give this study appropriate pre-election publicity and to introduce a bill to increase bank insurance premiums. As luck would have it, the likelihood seems to be that the Bank of New England will go under before the end of the year at a cost of $2 billion, adding fuel to the alleged fire.

From the foregoing it is apparent that an Administration strategy must be put in place now to promote favorable action on crucial legislation next year. Inasmuch as Treasury already is preparing recommendations (as called for in FIRREA) for the overhaul of deposit insurance, the White House focus should be on changes in a 55-year old regulatory structure needed to assure a safe, sound and competitive financial services industry for the decades ahead.

One option would be for you to call to the White House the chief Administration policymakers, i.e., Brady, Darman, Breeden (and Boskin), plus Greenspan (and perhaps Clarke and Seidman). After whatever comments might be considered necessary or appropriate to fortify public confidence in our financial system, you would direct this team to give priority attention to the deposit insurance reform recommendations mandated by FIRREA and similar priority to the requirements of a modern financial services regulatory structure (perhaps <u>the</u> essential component of deposit insurance reform) that will enhance the competitiveness and profitability of U. S. financial firms, as well as their safety and soundness.

Whatever the vehicle, the basic requirement is to identify this as an area of government responsibility that needs attention and to provide the leadership essential to get the job done. There are risks involved but, as we know from the thrift experience, real dangers arise when needed regulatory overhaul is neglected.

"The people are basically in the dark of what I consider to be the 100% probability that taxpayer dollars are going to be needed for the closure of commercial banks."

R. Dan Brumbaugh
Stanford University

it would have to lose $22 billion, he noted.

"The banking industry isn't coming close to losing that kind of money, 90% of the banks are making money," Mr. Ely said. In 1989, FDIC-insured banks had aggregate net income of $16 billion, down 34% from the 1988 level as many of the largest banks added to reserves for developing-country loans.

Furthermore, the FDIC is dealing head-on with its problems, Mr. Ely said, and has not swept them under the rug as the Federal Savings and Loan Insurance Corp. was accused of doing.

"The FDIC, as far as we can tell, is not engaged in masking over the problems," Mr. Ely said.

But R. Dan Brumbaugh, a senior research scholar at Stanford University's Center for Economic Policy Research, who was one of the first to trumpet the problems in the S&L industry, disagrees. He charges that the FDIC has been covering up the true magnitude of the banking industry's problems.

"We have been in [a banking crisis] since 1987, and we are now just begining to realize it," he said. "The people are basically in the dark of what I consider to be the 100% probability that taxpayer dollars are going to be needed for the closure of commercial banks unless there is a miraculous recovery in the economy."

The acknowledgement that the FDIC fund could lose as much as $2 billion by yearend is evidence that problems among banks are growing, Mr. Brumbaugh said.

"You can see the change in the political tenor in the last couple of months," he said. "That deterioration in confidence is the kind of admission of trouble one gets belatedly from the regulatory apparatus." □

Wednesday, July 25, 1990 AMERICAN BANKER

VOL. CLV NO. 144

Health of FDIC Being Exposed To the Spotlight

By BILL ATKINSON

As barometers of the political mood, the Sunday morning television interview programs have latched onto banking industry issues with a vengeance.

The programs have turned a spotlight on the savings and loan crisis and the impact of declining real estate markets, both tarnishing the image of bankers.

But now the interview shows – and the media in general – are confronting what could be the most damaging issue of all: the health of the Federal Deposit Insurance Corp.

ANALYSIS: *Follow-up on the news*

Whereas the thrift debacle affected only one segment of the financial industry, and real estate problems have been viewed as regional, the FDIC insures virtually every depository institution in the country.

Washington lawmakers, among others, are beginning to wonder if the crisis that led to the demise of the Federal Savings and Loan Insurance Corp. may repeat itself in the FDIC's much bigger commercial bank fund.

Two Kinds of Worry

Bankers worry that they may be assessed higher premiums to replenish the bank insurance fund, but consumers may feel a very different kind of alarm about the safety of their deposits.

On July 15, at least four major news programs discussed banking and thrift-related issues, with the FDIC question moving to the forefront.

FDIC Chairman L. William Seidman made comments that members of the general public might have found most startling. He acknowledged that the $13 billion fund that insures deposits at more than 13,000 commercial banks is under "considerable stress" and could be hurt in the event of a long recession.

Worst-Case Scenario

Several days before Mr. Seidman made his appearance on CBS News' "Face The Nation," a senior FDIC official said before a group of savings and loan executives that the bank insurance fund could lose as much as $2 billion in a worst-case scenario. And last Wednesday, Mr. Seidman returned to an NBC morning news program to say, "If we had a long and deep recession, [the bank insurance] fund might not be able to handle it."

Industry observers say that in the wake of bad loans to developing countries, in real estate, and in highly leveraged transactions, the public is beginning to expect worse to come.

"People are madly looking around to find the next problem," said Bert Ely, an Alexandria, Va.-based financial consultant. "I think it is a widely perceived problem."

A Perception Problem

Thomas Bloom, former chief accountant with the Federal Home Loan Bank System and now a partner at Kenneth Leventhal & Co., a real estate accounting and consulting concern, said the attention being given to banking industry problems was beginning to feed on itself.

> **"I don't think Bill Seidman was saying the sky is falling, but it is kind of an unstable environment."**
>
> **Thomas Bloom**
> *Kenneth Leventhal & Co.*

In the eyes of some analysts, the pressure cooker has already begun to heat up, especially on Capitol Hill.

Two weeks ago, the Senate voted 99 to 1 in favor of an amendment to a crime bill that sets stringent penalties for S&L and bank executives who break the law.

"The witch hunt is on," said Karen Shaw, president of the Institute for Strategy Development, a Washington-based consulting firm. "We are going to see son of FSLIC – the general mood of let's get the FDIC – on the political front."

Banks' problems are much different than those suffered by the S&Ls, Ms. Shaw and other industry followers noted. Banks have avoided the trap that ensnared thrifts – depending on short-term borrowings to make long-term loans – and banks' growth rates have been much more moderate.

"Borrowing short to lend long really creamed the [thrift] industry," Mr. Ely said.

Crisis Not Close

In 1981 and 1982, the S&L industry lost a combined $8.2 billion, Mr. Ely said. For the commercial banking industry to have a comparably dismal year,

THE WHITE HOUSE

WASHINGTON

Dear George:

Thank you for sharing your concerns about credit availability for the building industry. As you know, in recent months there has been considerable press attention to the possibility of a "credit crunch," as shown by the article you enclosed.

The Administration shares your concerns about the potential effect of such a credit tightening on the health of the building industry and on other sectors of the economy.

Recent surveys by the Federal Reserve Board do show that commercial banks have reduced their willingness to finance some activities, including real estate acquisition and development. In addition, a number of banks appear to have tightened borrowing terms.

These developments, however, are not unusual during phases of slower economic growth. As you pointed out, some banks may be overreacting to efforts on the part of bank regulators to promote safe and sound banking practices. While we do not believe that this is a pervasive problem, it does need very careful watching.

Thank you again for your letter.

Sincerely,

Mr. George Kettle
Regional Owner
Real Estate of the
Mid-Atlantic States, Inc.
Suite 200, 1951 Kidwell Drive
Vienna, Virginia 22182

REAL ESTATE OF THE MID-ATLANTIC STATES, INC.
1951 Kidwell Drive, Suite 200
Vienna, Virginia 22182
(703) 821-3121

GEORGE F. KETTLE
Regional Owner

May 11, 1990

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

I think it is important for you to know from someone who is out in the field and working in the economy on a daily basis just what's happening and how severe the excessive regulatory pressure on the building industry is and what it is doing to those in that business. If something is not done within the next 30 to 60 days, please be assured that many of the builders that are so vital to our economy will be in bankruptcy.

In the past six months and particularly in the last 30 days bank regulators have refused to recognize the dramatic difference between capital users involved in real estate with the result that the flow of capital not merely to new project proposals but to ongoing solid developments has been either terminated or severely restricted. In my discussions with bankers and builders it is not a question of cutting back 20% or 30% but it is just no money available for development - no matter how credit worthy the borrower is, no matter how long a relationship they have had with the bank. An example might be pertinent at this point: I know a builder that is a major regional builder whose business is the sale of a home, the takedown of a finished lot and the delivery, usually within 90 days of the sale. This particular builder sales in the first quarter of 1990 were 30% above the last quarter of '89. But the builder is in serious financial jeopordy because the credit lines which are absolutely vital to his operation have been so severely restricted that he is unable to build the houses which he has already <u>sold</u> to the customer - incredible! It is abundently clear that bank regulators responding to legitimate concerns have adopted a punitive attitude, even towards the most legitimate and sound real estate capital requirements.

In the three prior economic downturns which we have experienced, prudent bankers with the latitude to assist the customers and in a few cases seek new customers who demonstrated promise were the essential ingredient of stability during the downturn and early solid recovery. The current situation is entirely different and very dangerous. Prudent bankers are unable to continue to exercise their banking judgement in the regulatory atmosphere now existing. In many regions of the country and certainly in the Washington region the building industry remains a major employer and user of the product. When the building industry is in trouble the regional economy will be in trouble.

Dear Mr. President, please give this letter to the proper person. Someone up there has to focus on this or the crisis in the building industry will not only be in the metropolitan area but all over the country, if, in fact, it already is not.

Looking forward to seeing you at the White House on June 19th with the Dreamers and sponsors. Many thanks for including us in your busy agenda. We are all looking forward to it.

Love and best wishes,

George F. Kettle

GFK:lbf

P. S. Had Marvin as a partner in tennis the other day. We really did well - he is not only a great tennis player but a fine young man.

[redacted]

The Washington Post

FRIDAY, MAY 11, 1990

Regulators Urge Banks Not to Choke Lending

3 Officials Warn Industry of 'Crunch' if It Overreacts to New Rules

By Jerry Knight
Washington Post Staff Writer

In an unprecedented private meeting with industry leaders, the government's three top banking regulators yesterday urged bankers not to trigger a "credit crunch" by cutting back on lending to businesses because of troubles in the real estate market and tightened regulation.

Sending a signal that the government is not trying to put a squeeze on lending, the regulators said bankers "should not overreact" to the strict standards being enforced by banking examiners and should keep making loans—including real estate loans—to qualified borrowers.

The message was delivered to a meeting of the board of directors of the American Bankers Association at its Washington headquarters by Federal Reserve Board Chairman Alan Greenspan, Comptroller of the Currency Robert L. Clarke and Federal Deposit Insurance Corp. Chairman L. William Seidman.

ABA officials said the regulators asked for the meeting, which was the first time the heads of all three banking agencies had held such a joint session with leaders of the group that represents more than 90 percent of the nation's banks.

Complaints that bank examiners were using stricter standards in looking at lending practices have been heard from banks throughout the country. A number of Washington-area financial institutions, for example, have been [illegible] by regulators to increase [illegible] for loan losses and [illegible] the

[illegible]

[redacted]

[redacted]

[redacted]

REAL ESTATE OF THE MID-ATLANTIC STATES, INC.

[illegible] MAY 24 [illegible] 8 51

GEORGE F. KETTLE
Regional Owner

5/21/90

Dear Mr. President,

Enclosed is a follow up of my letter of last week - regarding the regulators & the banks. Bill Hazel is one of the largest developers in the State. Thought you should see this note to me. George

[redacted]

[redacted]

BILL HAZEL

May 18

Dear George

Thanks for writing Bush. The Credit policy in force at this time is bringing business to a halt- I can't understand ~~was~~ what they are trying to prove or do- [redacted]

Bill

P.S. we have over 500 people laid off an will lay off more-

[redacted]

THE WHITE HOUSE

WASHINGTON

May 23, 1990

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRENT SCOWCROFT

SUBJECT: Response to Your Question About U.S. Economic Assistance to Costa Rica

You have asked that the NSC staff prepare a memorandum outlining the Administration's position on economic assistance levels to Costa Rica. Attached at Tab A is a memorandum from Bill Pryce to me on this subject which you could use as the basis for a phone conversation.

In the memorandum, which could be released to the Costa Ricans, we note the ESF figure presented to the Congress ($40 million). We do not mention other assistance which is projected at around $28 million including $15 million P.L. 480 food aid and $9-10 million Development Assistance because these figures are not final and have not been discussed with the Congress.

Attachment
Tab A Pryce Memorandum to Scowcroft

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

May 22, 1990

MEMORANDUM FOR BRENT SCOWCROFT
Assistant to the President for National Security Affairs

FROM: WILLIAM T. PRYCE
Senior Director for Latin American Affairs

SUBJECT: U.S. Aid for Costa Rica

At your request, I have looked into U.S. aid levels for Costa Rica. As you know, we want to support Costa Rica's economic efforts as much as possible. Costa Rican President Calderon is very much market-oriented, and has announced a policy of cutting the government budget and privatizing some government parastatals. The President in his March 20 meeting with President Calderon said we would do what we could to help Costa Rica on the economic front -- and we have been trying -- but we have been unable to identify more ESF funds than presently scheduled.

TOTAL U.S. ASSISTANCE TO COSTA RICA
IN PREVIOUS FISCAL YEARS AND
PROJECTED 1990 ASSISTANCE

FY 1988	$117.0 million	($90.0 million ESF)
FY 1989	$113.7 million	($90.0 million ESF)
FY 1990	$ 90.8 million	($63.5 million ESF)

ESF levels are projected to drop in FY 1991 and it will be very difficult to reverse this trend, despite our best efforts. The Administration's final Security Assistance request for Costa Rica, as it appears in the FY 1991 Congressional Presentation Document, is $40 million ESF.

Our own budgetary constraints are one reason for these declining aid levels, and Congressional earmarking of funds continues to restrict our ability to direct funds to the areas of greatest need. Nevertheless, the greatly improved Costa Rican economy is an even more important explanation for the recent trend.

In the early 1980's, Costa Rica experienced a severe economic crisis, and our primary objective was to stabilize the Costa Rican economy. We believe that this goal has been largely achieved:

-- Economic growth averaged almost 5 percent since 1986.

-- The official unemployment rate is less than 6 percent, among the lowest in Latin America.

-- Costa Rica's per capita income of more than $1600 is the highest in Central America.

-- The value of nontraditional exports is rising 20 - 30 percent a year, a sign of a vigorous and healthy economy.

Our FY 1990 ESF funds will provide support for the Calderon government's efforts to reinforce economic policy reforms which emphasize broad-based and sustainable growth. Three-fourths of the ESF allotment will be used for debt buy-back under the Brady Plan. The Costa Rican government knows that the United States has made great efforts to facilitate the buy-back in other ways, although this has not been publicized.

Multilateral donors are providing more aid to Costa Rica with our encouragement. Last year, the World Bank provided a $100 million structural adjustment loan, which was matched by $100 million in Japanese co-financing. A number of countries provided enhancement funds to the Costa Rican debt buy-back program.

OPIC continues to be active in Costa Rica, and we continue to mention Costa Rica favorably to the other international donors and sources of investment capital. The President told President Calderon on March 20 that he had already spoken to Prime Minister Kaifu about providing greater economic assistance to Latin America, but that he had not been country-specific. I am informed that Undersecretary of State Kimmitt did raise Costa Rica at the G-7 meeting in April in San Francisco. We are hopeful that these efforts will be helpful when President Calderon visits Japan later this year.

The President told President Calderon on March 20 during their meeting at the White House that we would do what we could for Costa Rica. We will continue to explore actively means to help, both bilaterally and in our dealings with the international financial institutions, but realistically, the prospects for avoiding the projected decrease in Costa Rica's ESF for 1991 are not good.

DICK THORNBURGH

ATTORNEY GENERAL OF THE UNITED STATES

U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20530

(202) 633-2001

Department of Justice

"BOX SCORE ON THE SAVINGS AND LOANS"

REMARKS

BY

DICK THORNBURGH
ATTORNEY GENERAL OF THE UNITED STATES

TO THE

NATIONAL PRESS CLUB

WASHINGTON, D.C.
WEDNESDAY, JULY 25, 1990

Today I want to talk about a serious white-collar crime very much on the country's mind -- and I know, yours -- financial institution fraud. I realize, right off, that there is some public bitterness -- coupled with much public confusion -- over how or where or whom to assign guilt for the S & L Collapse. And big questions make big headlines. How many billions of dollars were actually lost -- One hundred? Two hundred? Half a trillion? How much was institutional incompetence, how much was financial fraud? Where did all that money go, and since each and everyone of us will have to pay for the losses, who is to blame?

Yes, the whole mess is plenty complicated. But as many of you know, I happen to be a baseball fan, and we are notorious for digging deep into the complexities of the game. And I've been thinking how we might examine the S & L mess in the same terms we use to explore our national pastime. So, bear with me, while we step up to the plate -- to take a cut at this thing.

In my view, there are three basic approaches you can take to explaining baseball. And I'd like to go briefly through them -- with an eye to how each might help people better understand the S & L Collapse.

I

First, there is always the fan who can give you all the "stats." Any lover of baseball is part statistician. We pride ourselves on memorizing line-ups, batting averages, and other minutiae of the game. Many of us, indeed, belong to the Society for American Baseball Research to recreate the days of such past greats as Xavier Rescigno, Cardan Gillenwater and Rene Monteagudo.

But you have to know how to read a box score, and understand what real actions all the symbols stand for -- out there on the diamond -- before you can argue what the "stats" really show. To know, for example, that two-point-five-o may be a whale of an ERA, but is no great shakes as a batting average. And at that rudimentary level, I don't think many people yet know how to "read the stats" on the S & L Collapse.

Let me give one example. When we started our effort to explain what was happening in law enforcement by putting out the statistics on the S & L Rip-Off, it was said we'd had 21,000 "referrals" from all the agencies involved. That came to sound like an astronomical record of crimes committed, all in furtherance of serious bank fraud. But that is far from the true statistical record. Those 21,000 referrals refer to <u>any</u> suspected illegal act at a financial institution, all the way down to the teller who slips a five dollar bill out of the cash drawer, and more than 80% of them involve less than $25,000. You might say those referrals correspond to 21,000 "at bat's." What we then need to know is what happened at the plate, and recognize that the guys we are really after are the ones who tried to steal first base.

Some of them did steal first base, and kept right on digging for home, pounding their cheating way around the bases, while they fixed the scoreboard as well. That meant they had to corrupt others who knew how the score should really read. They did that with kickbacks at home and bribes away, and by the time this home-and-away series was over, they'd corrupted that many more players -- almost worse than the Black Sox. But they didn't just ruin their own team. They bankrupted the franchise, and left it to those of us in the bleachers to pay.

That is the kind of understanding you need of the stats on the S & L Rip-Off. Take Dallas where our Bank Fraud Task Force, has been working on the S & L's since 1987. One of the most notorious offenders was Vernon Savings & Loan. After the bank board closed down Vernon, we convicted all five top executives who ran that franchise. Their CEO Woody Lemons has just gone to jail for thirty years, and nobody from Vernon plays ball anymore in Dallas.

The stats drily state that our Dallas Task Force, to date, has secured 80 indictments and 56 convictions. Altogether, the stats nationwide show 310 individuals indicted since 1988 -- 211 convicted and only five acquitted. But you also need to know that three quarters of those defendants who have been sentenced have received prison terms. And not only are these crooks "going away," but some of the money is coming back. Almost $60 million in restitution from these cheats has been ordered by the courts.

That is a solid statistical base on which to build a clean-up. Early last month, we sat down with the bank regulators to winnow through those referrals, and prioritize the most significant remaining cases.

As a result, we are able to allocate our best available resources to address the 100 most significant bank fraud cases. That is more than simply a round number. It is our informed judgment, based on the stats, of where and how widespread the worst criminality is. Among these hundred cases, twenty offending institutions, mainly in Texas and Southern California, perpetrated the overwhelming majority of the serious victimization of depositors -- and the tax-paying public.

We are working to bring those criminal enterprises -- and their fraudulent entrepreneurs -- to face justice in the courts. And that is how you make proper use of the stats to refine your prosecutions -- by skillfully assessing potential criminality revealed by careful box scores kept on these S & Ls.

II

Now there is a second approach to baseball that is frequently called "inside baseball." I doubt I need explain. We see enough of "inside baseball" around Washington. The idea is to treat the game solely as strategy, and control the outcome by clever hustle and squeeze plays, umpire-baiting, even protests against too much pine tar on the bat handle. Its heyday was Billyball, and its spirit is still blame.

No question that "inside baseball" has lately entered into the S & L Crisis. Highly partisan players -- in both parties -- have tried to tie every instance of financial fraud to the electoral fate of some politician. Instead of helping make cases, they are making political hay out of past political associations or painful family ties.

Now I am not denying that the S & L Collapse has uncovered substantial misuse of political influence to salvage many questionable thrift institutions. The stats, again, prove that, and leading Congressmen have actually resigned or been removed over just such abuse of their office. As for their rule book, I need only point to an observation by Don Dixon, former owner of Vernon Savings & Loan: "Our job is to grease the political skids," said he.

But clearly, I don't much care to engage in "inside baseball", as I properly must not comment upon any pending investigation. However, there is one bit of "inside baseball" I should notice, since somebody is clearly throwing right at my head. That is this charge about a "do-nothing Justice

Department." That has beanball written all over it. So I'm going to crowd the plate, and try to knock that one right back at somebody's knees.

Here is the true inside story, as I shared it with the Senate Judiciary Committee yesterday. Immediately following my confirmation as Attorney General in August, 1988, I undertook a comprehensive review of our white collar crime effort -- long a priority of mine. I found we were woefully understaffed to deal with thrift fraud and directed that we double the number of investigators and prosecutors to go after those crooks responsible for some 25 to 30% of the S & L Collapse.

We needed money from Congress to do this. So three weeks after his inauguration, President Bush sent to Congress our request for a $50 million increase to go after S & L Rip-Offs. On February 9, 1989, I testified before the Senate that our cadre of FBI agents and federal prosecutors were "not sufficient to address all the serious criminality called to the attention of the Department of Justice." Shortly thereafter, we asked for a $36.8 million supplemental appropriation to "jump-start" our vastly stepped-up but still understaffed effort in 1989.

Congress did not provide us that $36.8 million. And the additional $50 million was not appropriated until late last year, when funds became available to us only in December. By that time

-- if you want it in terms of "inside baseball" -- the 1989 season was pretty far gone. We were playing all-out, everywhere we could -- we'd been doing that for two years -- but sometimes with barely nine men on the field.

III

That is not how I see playing this game. And that comes from my own approach to baseball -- the one I believe all true fans share. That is, great respect for professional performance out there on the diamond, out of deep love of the game itself. And that approach offers us, I suggest, some basic insights into how to play hard and rough but fair -- in other words, how we are going to have to run this clean-up of the S & L Collapse.

First, we must maintain the integrity of these investigations. Everyday that seems to fall under some challenge, especially from "inside baseball" cranks. But I can assure you that our investigators will follow the trail of evidence wherever it leads, and our prosecutors will try those legally found suspect, whatever the consequences for whomever in power.

We are also asking Congress to tighten the rules of the game, to ensure that wrong-doers do not escape through past loopholes. New legislation would prohibit the abuse of bankruptcy by S & L crooks to avoid penalties and forfeitures, authorize federal agencies to seek help from foreign banks to catch such crooks, and allow stolen assets to be frozen, even fraudulent conveyances to be undone, dating back five years. We are further asking for court-authorized wiretaps to investigate on-going bank fraud, a tool of potential use in proving false statements and bribery.

Second, we need to field real talent. We have asked Congress for an additional $25 million for investigators and prosecutors to attack financial institution fraud and related tax fraud. That will make a total of $100 million for seasoned talent by 1991. And, even without reimbursement, we are already mobilizing attorneys, accountants, and other skilled personnel around the government.

In our push to recover stolen assets, our Civil Division is cooperating with the financial regulators to divide the labor on an array of court remedies. Cooperation on these actions will maximize recovery, at the least cost to the taxpayer -- the only way we will ever see any of that money again.

Third, what is most required -- something the public too often mistakes for delay -- is patience. A baseball fan will sit through many a dull inning because he understands the game -- and the ever present chance of a game-winning home run or a ninth-inning rally. But I am here to tell you that -- just as too few comprehend the stats on S & L Rip-Off -- still fewer can track these long cases, or seem willing to await the just outcome of these S & L prosecutions.

These cases are, I'm sure you recognize, difficult and complicated. They all go many extra innings. Investigation requires unravelling complicated paper trails to expose highly sophisticated schemes that mask wrong-doing under a veneer of legitimate business. These complexities must be thoroughly investigated before even a threshold determination can be made that a crime has been committed.

Time-consuming grand jury proceedings are then necessary to obtain essential documentary evidence and witness testimony. Next may follow a complex, protracted, multi-week criminal trial, requiring prosecutors to expend literally thousand of hours before the jury reaches a verdict. That verdict can come, the FBI estimates, at the end of a criminal process that may last as long as four years -- with no seventh-inning stretch.

That is why I say that patience is so important -- along with better public understanding of what legal remedies are possible. The public still has trouble recognizing the big inning in the S & L Clean-Up even when we have one, for example, a major conviction, a long prison term plus a multi-million-dollar fine, or the occasional bonanza of forfeited funds and assets. Instead, the public -- justifiably angry over taxes we must all pay to clear these cooked books -- wants it all done, and everybody jailed -- now.

But I say to you that if we ensure integrity, which we have -- advance talent, which we will -- above all, keep patience, which we must -- we can clean up the white-collar crime connected with the S & L Collapse. We stand ready to provide you with all the stats -- along with explanation at any length that would prove helpful -- so that you are kept apprised of progress over what we should both recognize will be a very long, legal haul.

I trust we can help you tell the difficult, even abstruse, story of the S & L Clean-Up in all its vivid and fascinating detail. And I'll start you off with this final bit of baseball trivia. Remember, it was first baseman George Bush who threw out the first ball in this game, and he is not going to let me, or anybody else drop it.

[redacted]

RECʼd COS

THE WHITE HOUSE
WASHINGTON

JUL 27 1990

9:00 AM

DATE: 7-26-90

FROM THE PRESIDENT

[redacted]

TO: John S/ Nick Brady

Lud Ashley sent me the attached. Soon we should talk about all this. What do you think of his idea on page 2? Please reply.

GB

[redacted]

ASSOCIATION of BANK HOLDING COMPANIES

THOMAS LUDLOW ASHLEY
PRESIDENT

730 FIFTEENTH STREET, N.W., WASHINGTON, D.C 20005
(202) 393-1158

July 25, 1990

To: President Bush

From: Lud Ashley

Important changes in the Federal deposit insurance system, and presumably in the regulatory structure of our financial services industry, are scheduled to be announced by Treasury early next year, but they already are in trouble. Here's the situation and a suggestion.

Your top financial industry policymakers/regulators — Brady, Darman, Breeden, Greenspan, Clarke and Seidman — all agree on the urgent need to modernize the U. S. financial regulatory system. So does a strong bipartisan core in the Congress and a major cross section of the financial services industry itself — securities and insurance firms as well as commercial banks and financial conglomerates. All recognize that our current system increasingly acts as a brake on efficiency and competition, imposing significant unnecessary costs on U. S. financial service firms (and ultimately on the users of those financial services), and these costs have become increasingly damaging to our overall competitiveness since they are not incurred by our European and Japanese competitors.

It is already clear, however, that strident Democratic partisans in Congress, with an eye to 1992, will scoff at Administration proposals for the Federal deposit insurance system that rely more on market discipline and effective supervision, and less on pervasive regulation, to mitigate taxpayer liability. In the current environment these same partisans also are certain to deride market-oriented changes in banking structure as "more of the same deregulation that brought down the thrift industry."

As we see from the attached clipping from today's AMERICAN BANKER, the media already is expanding its preoccupation with the thrift debacle by probing into the health of the Federal Deposit Insurance Corporation. So are the politicians. Annunzio, for example is planning to release in September a study authored by consultant Dan Brumbaugh of Stanford, who claims the FDIC has been covering up the real magnitude of the banking industry's problems and asserts the "100% probability that taxpayers' dollars are going to be needed for the closure of commercial banks unless there is a miraculous recovery in the economy." Annunzio plans to give this study appropriate pre-election publicity and to introduce a bill to increase bank insurance premiums. As luck would have it, the likelihood seems to be that the Bank of New England will go under before the end of the year at a cost of $2 billion, adding fuel to the alleged fire.

From the foregoing it is apparent that an Administration strategy must be put in place now to promote favorable action on crucial legislation next year. Inasmuch as Treasury already is preparing recommendations (as called for in FIRREA) for the overhaul of deposit insurance, the White House focus should be on changes in a 55-year old regulatory structure needed to assure a safe, sound and competitive financial services industry for the decades ahead.

One option would be for you to call to the White House the chief Administration policymakers, i.e., Brady, Darman, Breeden (and Boskin), plus Greenspan (and perhaps Clarke and Seidman). After whatever comments might be considered necessary or appropriate to fortify public confidence in our financial system, you would direct this team to give priority attention to the deposit insurance reform recommendations mandated by FIRREA and similar priority to the requirements of a modern financial services regulatory structure (perhaps <u>the</u> essential component of deposit insurance reform) that will enhance the competitiveness and profitability of U. S. financial firms, as well as their safety and soundness.

Whatever the vehicle, the basic requirement is to identify this as an area of government responsibility that needs attention and to provide the leadership essential to get the job done. There are risks involved but, as we know from the thrift experience, real dangers arise when needed regulatory overhaul is neglected.

"The people are basically in the dark of what I consider to be the 100% probability that taxpayer dollars are going to be needed for the closure of commercial banks."

R. Dan Brumbaugh
Stanford University

it would have to lose $22 billion, he noted.

"The banking industry isn't coming close to losing that kind of money, 90% of the banks are making money," Mr. Ely said. In 1989, FDIC-insured banks had aggregate net income of $16 billion, down 34% from the 1988 level as many of the largest banks added to reserves for developing-country loans.

Furthermore, the FDIC is dealing head-on with its problems, Mr. Ely said, and has not swept them under the rug as the Federal Savings and Loan Insurance Corp. was accused of doing.

"The FDIC, as far as we can tell, is not engaged in masking over the problems," Mr. Ely said.

But R. Dan Brumbaugh, a senior research scholar at Stanford University's Center for Economic Policy Research, who was one of the first to trumpet the problems in the S&L industry, disagrees. He charges that the FDIC has been covering up the true magnitude of the banking industry's problems.

"We have been in [a banking crisis] since 1987, and we are now just begining to realize it," he said. "The people are basically in the dark of what I consider to be the 100% probability that taxpayer dollars are going to be needed for the closure of commercial banks unless there is a miraculous recovery in the economy."

The acknowledgement that the FDIC fund could lose as much as $2 billion by yearend is evidence that problems among banks are growing, Mr. Brumbaugh said.

"You can see the change in the political tenor in the last couple of months," he said. "That deterioration in confidence is the kind of admission of trouble one gets belatedly from the regulatory apparatus." □

Wednesday, July 25, 1990 AMERICAN BANKER

VOL. CLV NO. 144

Health of FDIC Being Exposed To the Spotlight

By BILL ATKINSON

As barometers of the political mood, the Sunday morning television interview programs have latched onto banking industry issues with a vengeance.

The programs have turned a spotlight on the savings and loan crisis and the impact of declining real estate markets, both tarnishing the image of bankers.

But now the interview shows – and the media in general – are confronting what could be the most damaging issue of all: the health of the Federal Deposit Insurance Corp.

Whereas the thrift debacle affected only one segment of the financial industry, and real estate problems have been viewed as regional, the FDIC insures virtually every depository institution in the country.

ANALYSIS: *Follow-up on the news*

Washington lawmakers, among others, are beginning to wonder if the crisis that led to the demise of the Federal Savings and Loan Insurance Corp. may repeat itself in the FDIC's much bigger commercial bank fund.

Two Kinds of Worry

Bankers worry that they may be assessed higher premiums to replenish the bank insurance fund, but consumers may feel a very different kind of alarm about the safety of their deposits.

On July 15, at least four major news programs discussed banking and thrift-related issues, with the FDIC question moving to the forefront.

FDIC Chairman L. William Seidman made comments that members of the general public might have found most startling. He acknowledged that the $13 billion fund that insures deposits at more than 13,000 commercial banks is under "considerable stress" and could be hurt in the event of a long recession.

Worst-Case Scenario

Several days before Mr. Seidman made his appearance on CBS News' "Face The Nation," a senior FDIC official said before a group of savings and loan executives that the bank insurance fund could lose as much as $2 billion in a worst-case scenario. And last Wednesday, Mr. Seidman returned to an NBC morning news program to say, "If we had a long and deep recession, [the bank insurance] fund might not be able to handle it."

Industry observers say that in the wake of bad loans to developing countries, in real estate, and in highly leveraged transactions, the public is beginning to expect worse to come.

"People are madly looking around to find the next problem," said Bert Ely, an Alexandria, Va.-based financial consultant. "I think it is a widely perceived problem."

A Perception Problem

Thomas Bloom, former chief accountant with the Federal Home Loan Bank System and now a partner at Kenneth Leventhal & Co., a real estate accounting and consulting concern, said the attention being given to banking industry problems was beginning to feed on itself.

> **"I don't think Bill Seidman was saying the sky is falling, but it is kind of an unstable environment."**
>
> **Thomas Bloom**
> *Kenneth Leventhal & Co.*

In the eyes of some analysts, the pressure cooker has already begun to heat up, especially on Capitol Hill.

Two weeks ago, the Senate voted 99 to 1 in favor of an amendment to a crime bill that sets stringent penalties for S&L and bank executives who break the law.

"The witch hunt is on," said Karen Shaw, president of the Institute for Strategy Development, a Washington-based consulting firm. "We are going to see son of FSLIC – the general mood of let's get the FDIC – on the political front."

Banks' problems are much different than those suffered by the S&Ls, Ms. Shaw and other industry followers noted. Banks have avoided the trap that ensnared thrifts – depending on short-term borrowings to make long-term loans – and banks' growth rates have been much more moderate.

"Borrowing short to lend long really creamed the [thrift] industry," Mr. Ely said.

Crisis Not Close

In 1981 and 1982, the S&L industry lost a combined $8.2 billion, Mr. Ely said. For the commercial banking industry to have a comparably dismal year,

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON

July 28, 1990

The Honorable John Ashcroft
Governor of Missouri
State Capitol
Jefferson City, MO 65101

Dear Governor Ashcroft:

This is in response to your request for information regarding the origin of the savings and loan crisis.

This is a question which the Administration, academicians, economists, and the Congress have been exploring for some time. The Treasury Department is pleased to share our information with you because we believe it is important that as many people as possible have a thorough understanding of the events which began long ago and led to the current crisis.

The savings and loan industry was created in the early 1930's through charters which restricted their activities to fixed-rate, long-term mortgage loans and the acceptance of short-term deposits. Without a diversified portfolio, thrifts were, from their very inception, particularly vulnerable to the "ups and downs" of the real estate market and any substantial increases in interest rates. Because the interest rates these savings and loan institutions charged were primarily locked into long-term residential mortgage loans, significant increases in market rates meant thrift institutions would likely be paying out more in interest to depositors than they were receiving in interest payments from loans.

In 1966, Congress attempted to address the industry's particular vulnerability to increasing interest rates by creating "Regulation Q." This regulation imposed ceilings on the amount of interest that S&Ls could pay on deposits. But as market interest rates increased, depositors who had their money in low-rate S&L accounts began to take their money out of S&Ls and put their savings in other financial instruments, which were paying market interest rates (higher than S&L rates). S&Ls were then faced with massive deposit outflows, while their assets were primarily tied up in long-term, fixed-rate, low-interest mortgage loans.

In the late 1970's, inflation and interest rates soared, and eventually the prime interest rate skyrocketed as high as 21 percent. The combination of high inflation and high interest rates, along with Regulation Q, put extreme financial pressure on the thrift industry. During the period 1978-80, thrifts suffered significant declines in deposits, and their capital positions deteriorated to the point where a substantial part of the industry was bankrupt on a mark-to-market basis.

In 1979, President Carter formed a special Task Force to study the problem. The Task Force recommended deregulation. In 1980, President Carter proposed, and the Congress passed, the Depository Institutions Deregulation and Monetary Control Act (DIDMCA). The principal features of that Act included:

-- Providing for the phased elimination of Regulation Q, allowing thrifts to attract more deposits with higher interest rates.

-- Increasing deposit insurance from $40,000 to $100,000 per account.

-- Expanding the ability of federally-chartered thrifts to engage in commercial lending, including commercial real estate loans.

-- Lowering capital requirements for thrift institutions.

The huge increase in deposit insurance coverage -- a leap of 150 percent -- increased the U.S. Government's liability should an institution fail.

In another significant decision in 1981, the Federal Home Loan Bank Board (FHLBB), an independent regulatory agency, loosened restrictions on the ability of S&Ls to use brokered deposits. This provided S&Ls with new access to large pools of money formed by aggregated deposits. In 1984, the FHLBB reversed itself and proposed regulations limiting the use of brokered deposits. When the courts overturned the FHLBB regulations, Congress refused to provide the authority needed for FHLBB to proceed with the regulations.

Higher interest rates caused more thrifts to become unprofitable and seriously depleted their capital, but they were allowed to stay in business. Thrifts with low capital had a perverse incentive to make riskier investments in order to gain higher returns. Any profits from the riskier investments could be used to shore up their capital, while any losses from these same investments would be covered by the higher insurance coverage. Huge pools of money -- made available through brokered deposits and deposit insurance -- added to the motivation for thrift operators to expand their risk of loss.

However, even with interest rate deregulation, increased deposit insurance, and brokered deposits, thrifts continued to struggle because the bulk of their assets were still held in low-interest mortgage loans.

In response, Congress passed the Garn-St Germain bill in 1982. The bill allowed federally-chartered thrifts to become more like banks and further expanded authority granted in the 1980 act to make commercial loans. It also continued the 1980 practice of lessening capital requirements. Many believed these actions were necessary in order for thrifts to make higher returns on investments to offset lower returns on mortgage loans. Prior to the passage of Garn-St Germain, states began to greatly broaden the powers of state-chartered, but federally-insured, thrifts to make direct equity investments in speculative ventures, from windmill farms to precarious real estate developments.

As early as 1984, the FHLBB attempted to curb abuses by state-chartered savings associations. The FHLBB was opposed by many in Congress, and in particular by the House of Representatives. For example, in 1985, a resolution calling on the FHLBB to delay its tighter regulation of direct real estate and equity investment by state-chartered institutions was co-sponsored by over one-half of the House of Representatives. In 1987, amendments in the House Banking Committee to regulate these aggressive real estate practices of state-chartered institutions were defeated by overwhelming margins.

Now S&Ls could attract more deposits because they could pay higher interest rates on those deposits, offer higher insurance levels, and attract depositors from across the country. And thrift institutions, particularly state-chartered thrifts, could invest those deposits in highly risky ventures, particularly commercial real estate ventures. And all the time, the U.S. Government's promise to insure every depositor's savings up to $100,000 kept looming as a larger and larger potential liability.

In 1984, then-Vice President Bush led an Administration task force on regulation of financial services. The task force recommended comprehensive reform of the regulatory system:

-- Higher capital and accounting standards for S&Ls making riskier loans and elimination of phony accounting standards. (The task force report noted that low capital levels encouraged insured institutions to engage in high-risk speculative activities.)

-- More effective regulation through the elimination of archaic and overlapping regulatory structures.

-- Strengthened ability for the FDIC to oversee deposit insurance, and authorization for FDIC to institute risk-based insurance premiums. (The task force report noted that the current flat-rate premium system forced prudently managed institutions to subsidize high risk institutions.)

The task force recommendations were endorsed by the Reagan Administration's Cabinet Council on Economic Policy in 1985 and forwarded to the Congress.

Meanwhile, sharp declines in oil prices and weakness in the agricultural sector contributed to devastating economic declines in certain regions, particularly the southwest. Real estate values plunged. Large numbers of thrifts that had invested in commercial real estate and other ventures became insolvent, requiring deposit insurance protection from the federal insurance (FSLIC) fund. When the FSLIC insurance fund ran low, the Reagan Administration requested $15 billion to recapitalize FSLIC in the spring of 1986.

The request encountered strong opposition on Capitol Hill. Some Members of Congress feared that providing $15 billion in deposit insurance funding would encourage S&L regulators to close down more unsafe institutions. The savings and loan industry forcefully lobbied the Congress in opposition to this legislation, and it was killed at the end of 1986.

Finally, in 1987, Congress passed a bill which provided $10.8 billion for recapitalization of the insolvent FSLIC -- a year and a half after the Administration requested $15 billion. The final amount authorized was only two-thirds of the amount requested by the Administration. In addition, Congress added forbearance provisions making it harder for regulators to close down high-flying S&Ls. Specifically, those provisions permitted additional questionable accounting techniques which allowed thrifts in trouble to make their levels of capital look better than they were. They also allowed thrifts to count "goodwill" toward meeting capital requirements.

The delay in funding the FSLIC prevented regulators from closing insolvent institutions when the cost of protecting depositors would have been much less. Instead, the problem continued to grow, and so did the U.S. Government's liability to make good on its promise of insurance coverage for deposits.

In February 1989, just 18 days after taking office, President Bush proposed a comprehensive and permanent solution to the savings and loan industry crisis -- The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Four principles have guided the Administration in developing and implementing the savings and loan cleanup effort:

-- Protecting the savings of Americans who made deposits in thrift accounts, relying on the U.S. Government's promise of deposit insurance.

-- Restoring safety and soundness to the thrift industry, especially through tougher capital requirements.

-- Aggressively prosecuting the crooks who stole the taxpayers' money through fraud and mismanagement.

-- Cleaning up the S&L mess as expeditiously and responsibly as possible.

After seven months of debate, Congress passed FIRREA, and President Bush signed the bill into law on August 9, 1989.

FIRREA provided not only the initial funds for remedying the current crisis in the industry and protecting depositors' savings, but the legislation also put into place the mechanisms needed to prevent similar occurrences in the future.

With these protections in place, as well as additional provisions proposed by the Administration to enhance the Government's ability to prosecute those guilty of financial fraud and mismanagement, we believe we have the basic framework necessary to clean up the savings and loan crisis in an expeditious and responsible manner.

In the year since FIRREA was enacted, the government has paid out $62.5 billion in deposit insurance obligations, representing 5.8 million accounts -- about $10,000 per account. The RTC has seized 463 insolvent thrifts -- more than one per day; closed or sold 211 bankrupt thrifts -- one every 48 hours; and sold or liquidated more than $65 billion of assets -- $178 million per day. By moving expeditiously and responsibly to quarantine sick thrifts, the Administration has stemmed the losses and given the healthy segment of the industry an opportunity to succeed.

Since October 1988, the Justice Department has obtained more than 200 convictions for savings and loan fraud. Settlements and judgements from civil cases during the first half of 1990 will produce recoveries in excess of $200 million.

Let me reiterate that the purpose of the cleanup effort is not to bail out financially unsound S&Ls or S&L executives responsible for the crisis. The sole purpose is to protect the savings of those Americans who have insured deposits in savings and loan institutions. The U.S. Government made a promise to insure those deposits, and the Government is now living up to that promise.

We hope this is useful in tracing the causes of the thrift crisis and describing the considerable progress made under FIRREA to address the problem and prevent its recurrence.

Sincerely,

John E. Robson

John E. Robson

OPINION DIGEST

BUSH APPROVAL RATING

- o After 18 months in office, President Bush remains one of the most popular Presidents in modern times. According to a recent Gallup Poll (6/15-17), 69% of Americans approve of his performance as President.

  --- This ties as the highest approval rating for a President after 18 months in office with President Kennedy's 69% approval in 1962.

RIGHT TRACK/WRONG TRACK

Public Mood Shifts

- o A May Wirthlin Group survey shows the mood of the country has become more negative -- 56% of Americans say the country is on the wrong track and 36% believe it is on the right track. This low level of optimism contrasts sharply with the President's high job approval rating.

GOP LEADS IN GENERIC HOUSE BALLOT

- o When voters nationwide were asked if they planned to vote for the Republican or Democrat candidate in their district in the 1990 election for U.S. Congress, 34% said they were going to vote for the Republican candidate, compared to 33% who plan to support the Democratic candidate -- this is the first time the Republicans have had the lead over the Democrats and represents a five point gain over Sept. 1989. [NBC News and The Wall Street Journal 6/18-22]

TAXES

Expectations

- o According to a NBC/Wall Street Journal poll (5/18-22) taken before the President's announcement that everything, including tax revenue increases, was on the table in budget negotiations, over half (51%) of voters thought a tax increase was very likely to occur this year and 38% thought a tax increase was somewhat likely to occur this year.

Ambivalence

-- American's attitudes toward higher taxes remain deeply ambivalent. May and April NBC/Wall Street Journal polls asked the question: "One of President Bush's promises was that he would not raise taxes. Do you think he should keep that promise, or do you think conditions have changed and there are some things for which he should now support a tax increase?" The results from the May and April polls follow:

	18-22 May	11-16 April
Should keep promise	48%	57%
Should raise taxes	48%	39%
Not sure	4%	7%

Budget Package

-- However, when the public was asked in the May NBC/Wall Street Journal poll, "If President Bush and the leaders of both parties of Congress support a proposal that would cut defense spending, freeze most other government programs, including Social Security benefits, and increase taxes to drastically cut the federal budget deficit during the next four years," 59% said they would **oppose** this proposal.

No New Taxes

o The voters surveyed in the May 1990 NBC/Wall Street Journal poll were also asked, "From what you have seen and read recently, do you feel that President Bush is breaking his pledge of "no new taxes?" The results follow:

	All	Republican	Independent	Democrat
Yes	51%	40%	47%	64%
No	42%	53%	44%	30%
Not sure	7%	7%	8%	6%

-- Of the people surveyed, 12% would think more of President Bush if he raised taxes to combat the deficit problem, 17% would think less of him, and over two-thirds, 69%, said a tax increase would make no difference in how they felt about the President. (NBC/Wall Street Journal 5/18-22)

Who's to Blame

-- If a tax increase occurs this year, 16% of the voters said the Bush Administration would be to blame, 30% said the Democrats in Congress would be to blame, and 36% would blame the Reagan Administration. (NBC/Wall Street Journal 5/18-22)

Congressional Vote

o A May Wirthlin Group poll indicated 54% of Americans are willing to vote against their own congressman should he support a tax increase (39% of these people strongly agree with this statement.)

What to Tax and What to Cut

o If higher taxes are needed, a New York Times/CBS poll (5/19) found that 80% of the people polled would prefer having the federal excise tax on beer, wine and liquor raised, and 78% would want to raise the tax on income over $200,000.

-- When this poll asked what should be cut from the budget, 83% said reduce foreign aid and 64% said reduce military spending.

-- When the poll asked what would be the most unacceptable area to cut from the budget, 86% named education, 82% named Social Security increases, and 74% named the environment.

DEMOCRATS IN 1992

Nolo Contendere

o When Democrats were asked in a March Gallup Poll to submit a name of a potential 1992 presidential candidate, 57% said they had no favorite person to lead their party on the presidential ticket. Then, another group of Democrats was given a list of seventeen potential 1992 presidential candidates and the frontrunners were liberal retreads:

Cuomo	15%
Jackson	14%
Dukakis	13%

1990 GOVERNORS RACES
TRIAL MATCH-UPS

State	Republican		Democrat		GOP Advan.	Poll Sponsor/Dates
AL	Guy Hunt	48%	Paul Hubbert	46%	2	Southern Opinion Research 6/19-23
AR	Sheffield Nelson	29%	Bill Clinton	53%	-24	Mason-Dixon 5/21-23
CA	Pete Wilson	37%	Dianne Feinstein	40%	-3	LA Times, 6/20
	Pete Wilson	46%	Dianne Feinstein	41%	5	Moore Information 6/8-11
CT	John Rowland	23%	Bruce Morrison (D) Lowell Weicker (I)	13% 49%	10 -26	Quinnipiac College Poll 6/11-18
ID	Roger Fairchild		Cecil Andrus		No polls	
IL	Jim Edgar	45%	Neil Hartigan	40%	5	Danville Commercial News WMBD, WREX 4/19-23
	Jim Edgar	45%	Neil Hartigan	34%	11	Jim Edgar Campaign Poll 4/17-20
IA	Terry Branstad	54%	Donald Avenson	36%	18	Des Moines Register "Iowa Poll" 3/5-13
ME	John McKernan	37%	Joe Brennan	45%	-8	Capitol News Service Poll 5/20-24
	John McKernan	39%	Joe Brennan	40%	-1	Capitol News Service 10/89
MI	John Engler	31%	James Blanchard	51%	-20	WJBK-TV Poll 3/6-12
NE	Kay Orr		Ben Nelson		No polls	
NM	Frank Bond		Bruce King		No polls	
OH	George Voinovich	34%	Anthony Celebrezze	26%	8	Akron Beacon-Journal 5/14-24
	George Voinovich	53%	Anthony Celebrezze	39%	14	Columbus Dispatch 5/12-17
OR	Dave Frohnmayer	50%	Barbara Roberts	38%	12	The Oregonian 4/23-5/1
	Dave Frohnmayer	43%	Barbara Roberts	34%	9	Willamette Week 3/23-4/3

PA	Barbara Hafer 25%	**Bob Casey** 61%	-36	Bob Casey Campaign 1/9
SC	**Carroll Campbell** 65%	Theo Mitchell 14%	51	Metromark 12/4-10/89
SD	**George Mickelson** 60%	Bob Samuelson 15%	45	KELO-TV 5/29-31
TX	Clayton Williams 46%	Ann Richards 38%	8	"Texas Poll" Early June
	Clayton Williams 50%	Ann Richards 38%	12	Clayton Williams Campaign Early May

Bold=Incumbent

The following are states with upcoming primaries:

STATE	PRIMARY
AK	8/28
AR	6/28 filing date 9/11 primary
CO	8/14
FL	7/20 filing date 9/4 primary
GA	7/17
HI	7/24 filing date 9/22 primary
KS	8/7
MD	7/2 filing date 9/11 primary
MI	8/7

STATE	PRIMARY
MN	7/17 filing date 9/11 primary
NV	9/4
NH	9/11
TN	8/2
VT	7/16 filing date 9/11 primary
WI	7/10 filing date 9/11 primary
WY	8/21

1990 SENATE RACES
TRIAL MATCH-UPS

State	Republican		Democrat		GOP Advan.	Poll Sponsor/Dates
AL	Cabaniss	23%	Heflin	68%	-45	Southern Opinion Research 6/19-23
	Cabaniss	19%	Heflin	67%	-48	Mason-Dixon 5/28-30
GA	Etchison		Nunn		No polling	
HI	Saiki	44%	Akaka	45%	-1	Political Media Research 5/20-27
	Saiki	42%	Akaka	43%	1	Political Media Research 3/22-27
ID	Craig		Twilegar		No polling	
IL	Martin	33%	Simon	52%	-19	Political Media Research 4/19-23
IN	Coats		Hill		No polling	
IA	Tauke	37%	Harkin	46%	-9	Political Media Research 5/25-28
	Tauke	40%	Harkin	51%	-11	Des Moines Register 3/15-13
KA	Kassebaum		Williams		No polling	
KY	McConnell	51%	Sloane	42%	9	Garin-Hart 6/10-14
KY	McConnell	42%	Sloane	37%	5	Garin-Hart 5/31
ME	Cohen	70%	Rolde	10%	60	Capitol News Service 5/20-24
MT	Kolstad	29%	Baucus	61%	-32	Garin-Hart 6/18-20
	Kolstad	31%	Baucus	49%	-18	"Montana Poll" 5/17-22
NE	Daub	41%	Exon	50%	-9	Wirthlin Group 6/11-12
	Daub	33%	Exon	55%	-22	Omaha World-Herald 5/9-11

NJ	Whitman		**Bradley**		No polling	
NM	**Domenici**		Venabides		No polling	
NC	**Helms**	40%	Gantt	44%	-4	KPC Research 6/6-11
	Helms	43%	Gantt	44%	-1	Mason-Dixon 5/28-30
OR	**Hatfield**		Lonsdale		No polling	
RI	Schneider	41%	**Pell**	52%	-11	WJAR-TV/Alpha Research Assoc. 5/90
	Schneider	40%	**Pell**	47%	-7	Brown University 2/4-3/1
SD	**Pressler**	65%	Meunster	15%	50	KELO-TV 5/28-30
	Pressler	66%	Meunster	15%	51	NRSC poll 4/1-7
TX	**Gramm**	57%	Parmer	28%	29	Mason-Dixon 4/2-4
WV	Yoder		**Rockefeller**		No polling	

Bold=Incumbent

Four Incumbents are unopposed:

David Pryor (D-AR)
Thad Cochran (R-MS)
Strom Thurmond (R-SC)
John Warner (R-VA)

Ten states have upcoming primaries:

STATE	REPUBLICAN	DEMOCRAT	PRIMARY DATE
AK	**Ted Stevens**		8/28
CO	Hank Brown	Carlos Lucero Josie Heath	8/14
DE	Jane Brady	**Joe Biden**	7/27 Filing date 9/8 Primary
LA	Ben Bagert, Jr. David Duke	**Bennett Johnston**	7/27
MA	Dan Daly James Rappaport	**John Kerry**	9/18
MI	Bill Schuette Clark Durant	**Carl Levin**	8/7
MN	**Rudy Boschwitz**	Paul Wellstone Jim Nichols	7/17
NH	Bob Smith Ted deWinter Thomas Christo	John Durkin Jim Donchess John Rauh	9/11
OK		**David Boren**	7/11 Filing date 8/28 Primary
TN	William Hawkins Ralph Brown Patrick Hales	**Al Gore**	8/4
WY	**Alan Simpson** Douglas Crook Nora Marie Lewis	6 little known candidates	8/21

Bold=Incumbent