

**STADIUM FINANCING AND FRANCHISE
RELOCATION ACT OF 1999**

HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

ON

S. 952

A BILL TO EXPAND AN ANTITRUST EXEMPTION APPLICABLE TO PROFESSIONAL SPORTS LEAGUES AND TO REQUIRE, AS A CONDITION OF SUCH AN EXEMPTION, PARTICIPATION BY PROFESSIONAL FOOTBALL AND MAJOR LEAGUE BASEBALL SPORTS LEAGUES IN THE FINANCING OF CERTAIN STADIUM CONSTRUCTION ACTIVITIES, AND FOR OTHER PURPOSES

**WASHINGTON, DC; WASHINGTON, DC; PHILADELPHIA,
PA**

JUNE 15, JUNE 22, AND SEPTEMBER 13, 1999

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(II)

CONTENTS

STATEMENTS OF COMMITTEE MEMBERS

	Page
Specter, Hon. Arlen, U.S. Senator from the State of Pennsylvania	1, 52, 109
Thurmond, Hon. Strom, U.S. Senator from the State of South Carolina	51
Feinstein, Hon. Dianne, U.S. Senator from the State of California	54
Schumer, Hon. Charles E., U.S. Senator from the State of New York	55
Feingold, Hon. Russell D., U.S. Senator from the State of Wisconsin	56
Kennedy, Hon. Edward M., U.S. Senator from the State of Massachusetts	57
Hatch, Hon. Orrin G., U.S. Senator from the State of Utah	58
Leahy, Hon. Patrick J., U.S. Senator from the State of Vermont	72
Biden, Hon. Joseph R., Jr., U.S. Senator from the State of Delaware	110

PROPOSED LEGISLATION

S. 952, a bill to expand an antitrust exemption applicable to professional sports leagues and to require, as a condition of such an exemption, participation by professional football and major league baseball sports leagues in the financing of certain stadium construction activities, and for other purposes	2
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CHRONOLOGICAL LIST OF WITNESSES

JUNE 15, 1999

Panel consisting of Hon. Thomas M. Finneran, speaker, Massachusetts house of representatives, Boston, MA; Hon. Edith G. Prague, assistant majority leader, Connecticut State senate, Hartford, CT; John Moag, Jr., Legg Mason Wood Walker, Inc., Baltimore, MD; Hon. Jean B. Cryor, delegate, Maryland house of delegates, Annapolis, MD; D. Bruce Poole, former delegate, Maryland house of delegates, Annapolis, MD; Andrew Zimbalist, Robert A. Woods professor of economics, Smith College, Northampton, MA; and Mark S. Rosentraub, professor, School of Public and Environmental Affairs, Indiana University, Indianapolis, IN	13
--	----

JUNE 22, 1999

Panel consisting of Jerry Richardson, owner and founder, Carolina Panthers, Charlotte, NC; Benjamin Klein, professor of economics, University of California at Los Angeles, Los Angeles, CA; Gene Upshaw, executive director, National Football League Players Association, Washington, DC; Paul Tagliabue, commissioner, National Football League, New York, NY; and Richard Horrow, president, Horrow Sports Ventures, Miami, FL	61
--	----

SEPTEMBER 13, 1999

Statement of Hon. Rick Santorum, U.S. Senator from the State of Pennsylvania	112
--	-----

ALPHABETICAL LIST AND MATERIALS SUBMITTED

Carn, Hon. Andrew: Testimony	128
Cryor, Hon. Jean B.: Testimony	30
Finneran, Thomas M.: Testimony	13
Prepared statement	18

IV

	Page
Horrow, Richard:	
Testimony	93
Prepared statement	95
Katz, Sam: Testimony	131
Klein, Benjamin:	
Testimony	66
Prepared statement	67
Moag, John, Jr.: Testimony	25
Poole, D. Bruce:	
Testimony	33
Prepared statement	35
Prague, Edith G.:	
Testimony	20
Prepared statement	23
Rendell, Hon. Ed: Testimony	114
Richardson, Jerry:	
Testimony	61
Prepared statement	62
Letter from Jerry Richardson to Senator Thurmond, dated June 9, 1999	63
1999 Resolution G-3-As Amended	64
Rosentraub, Mark S.:	
Testimony	42
Prepared statement	44
Saidel, Jonathan A.: Testimony	124
Santorum, Hon. Rick: Testimony	112
Tagliabue, Paul:	
Testimony	76
Letters from:	
Joe Browne, National Football League, to Marc Morial, Mayor of New Orleans, dated June 11, 1999	78
Marc H. Morial to Paul Tagliabue, dated June 21, 1999	79
Prepared statement	79
Upshaw, Gene:	
Testimony	73
Prepared statement	74
Zimbalist, Andrew:	
Testimony	37
Prepared statement	40

APPENDIX

QUESTIONS AND ANSWERS

Responses of Professor Benjamin Klein to questions from Senator Leahy	143
Responses of Jerry Richardson to questions from Senator Feingold	144

**STADIUM FINANCING AND FRANCHISE
RELOCATION ACT OF 1999**

TUESDAY, JUNE 15, 1999

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 12:04 p.m., in room SD-226, Dirksen Senate Office Building Hon. Arlen Specter presiding.

Also present: Senator Feingold.

**OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S.
SENATOR FROM THE STATE OF PENNSYLVANIA**

Senator SPECTER. Good afternoon, ladies and gentlemen. We will proceed with the hearing on S. 952, which involves the conditioning of the antitrust exemptions enjoyed by baseball and revenue-sharing on football on the major leagues and the National Football League contributing to new stadium construction. And another part of the legislation would give the National Football League an anti-trust exemption to control franchise moves.

[The text of the bill follows:]

106TH CONGRESS
1ST SESSION

S. 952

To expand an antitrust exemption applicable to professional sports leagues and to require, as a condition of such an exemption, participation by professional football and major league baseball sports leagues in the financing of certain stadium construction activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 4, 1999

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To expand an antitrust exemption applicable to professional sports leagues and to require, as a condition of such an exemption, participation by professional football and major league baseball sports leagues in the financing of certain stadium construction activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Stadium Financing
5 and Franchise Relocation Act of 1999".

1 **SEC. 2. EXPANSION, MODIFICATION, AND CLARIFICATION**
2 **OF ANTITRUST EXEMPTIONS.**

3 (a) DEFINITIONS.—Section 5 of Public Law 87-331,
4 commonly known as the “Sports Broadcasting Act” (15
5 U.S.C. 1295) is amended to read as follows:

6 **“SEC. 5. DEFINITIONS.**

7 “In this Act:

8 “(1) ANTITRUST LAWS.—The term ‘antitrust
9 laws’—

10 “(A) means antitrust laws, as that term is
11 defined in section 1 of the Clayton Act (15
12 U.S.C. 12); and

13 “(B) includes antitrust Acts, as that term
14 is defined in section 4 of the Federal Trade
15 Commission Act (15 U.S.C. 44).

16 “(2) CONSTRUCTION.—With respect to a play-
17 ing facility, the term ‘construction’ means the con-
18 struction of a playing facility that is not in existence
19 at the commencement of the construction.

20 “(3) LOCAL GOVERNMENTAL ENTITY.—The
21 term ‘local governmental entity’ means—

22 “(A) a State; or

23 “(B) a county, city or other unit of local
24 government.

25 “(4) PERSON.—The term ‘person’ means any
26 individual, partnership, corporation, or unincor-

1 porated association, or any combination or associa-
2 tion thereof.

3 “(5) PLAYING FACILITY.—The term ‘playing fa-
4 cility’ means a stadium or ballpark designed to seat
5 a minimum of 35,000 spectators.

6 “(6) RENOVATION.—With respect to a playing
7 facility, the term ‘renovation’ means the renovation
8 of an existing playing facility.

9 “(7) SPONSORED TELECASTING.—The term
10 ‘sponsored telecasting’—

11 “(A) except as provided in subparagraph
12 (B), includes all over-the-air, cable and satellite
13 transmissions; and

14 “(B) does not include pay-per-view broad-
15 casts.”.

16 (b) EXPANSION, MODIFICATION, AND CLARIFICATION
17 OF EXEMPTIONS.—The first section of Public Law 87-
18 331, commonly known as the “Sports Broadcasting Act”
19 (15 U.S.C. 1291) is amended to read as follows:

20 **“SECTION 1. EXEMPTIONS FROM ANTITRUST LAWS OF**
21 **AGREEMENTS COVERING THE TELECASTING**
22 **OF SPORTS CONTESTS, THE COMBINING OF**
23 **PROFESSIONAL FOOTBALL LEAGUES AND**
24 **THE RELOCATION OF SPORTS FRANCHISES.**

25 “(a) EXEMPTIONS.—

1 “(1) IN GENERAL.—Subject to subsection (b),
2 the antitrust laws shall not apply to any joint agree-
3 ment described in paragraph (2).

4 “(2) JOINT AGREEMENTS DESCRIBED.—A joint
5 agreement described in this paragraph is a joint
6 agreement—

7 “(A) by or among persons engaging in or
8 conducting the organized professional team
9 sports of football, baseball, basketball, or hock-
10 ey, by which any league of clubs participating
11 in that professional sport sells or otherwise
12 transfers all or any part of the rights of the
13 member clubs of that league in the sponsored
14 telecasting of the games of that professional
15 sport that are engaged in or conducted by those
16 member clubs;

17 “(B) by which the member clubs of 2 or
18 more professional football leagues described in
19 section 501(e)(6) of the Internal Revenue Code
20 of 1986 and that are exempt from taxation
21 under section 501(a) of the Internal Revenue
22 Code of 1986 combine their operations in an
23 expanded single league that is exempt from in-
24 come tax by reason of such section 501(a), if
25 that agreement—

1 “(i) increases the number of profes-
2 sional football clubs operating; and

3 “(ii) contains provisions that are di-
4 rectly relevant to the combination of oper-
5 ations for such an expanded single league;
6 or

7 “(C) by which any league of clubs partici-
8 pating in a professional sport referred to in
9 subparagraph (A) denies a member club the
10 right to transfer the location of the franchise of
11 that member club.

12 “(b) CONDITIONS ON EXEMPTIONS.—

13 “(1) IN GENERAL.—The exemption under sub-
14 section (a) for a joint agreement described in sub-
15 section (a)(2)(A) shall apply, with respect to a foot-
16 ball league or major league baseball league only if
17 the league of football or major league baseball clubs
18 involved—

19 “(A) agrees—

20 “(i) to meet the requirement under
21 paragraph (2);

22 “(ii) not later than 90 days after the
23 date of enactment of the Stadium Financ-
24 ing and Franchise Relocation Act of 1999,
25 to establish a special trust fund into which

1 the league will deposit an amount equal to
2 10 percent of the amounts received under
3 that joint agreement for the sale or trans-
4 fer of the rights in sponsored telecasting of
5 the games of the professional sport of that
6 league in the United States, on the condi-
7 tion that any funds in the trust fund that
8 are not obligated during the 10-year period
9 beginning on the date on which those
10 funds are deposited in that trust fund shall
11 be withdrawn from that trust fund and
12 treated as gross revenues of the league;

13 “(iii) to use the amounts in the trust
14 fund established under clause (ii) only for
15 financing, in accordance with this section,
16 the construction or renovation of playing
17 facilities from which games of the teams of
18 that league will be televised; and

19 “(iv) to make available to a local gov-
20 ernmental entity, upon request of that en-
21 tity, from the amounts in the trust fund
22 established under clause (ii), assistance for
23 the cost of the construction or renovation
24 of playing facilities to be used by a mem-
25 ber club in that league (if that construc-

1 tion or renovation was not completed prior
2 to the date of introduction of the Stadium
3 Financing and Franchise Relocation Act of
4 1999), up to a maximum of one-half of
5 that cost, if—

6 “(I) the local governmental entity
7 makes a commitment, under a lease
8 or other written agreement entered
9 into between the member club in-
10 volved and the local governmental en-
11 tity, to provide funds in an amount
12 equal to at least one-half of the
13 amount of funds to be provided for
14 that purpose by the league; and

15 “(II) the amounts requested by
16 the local governmental entity are
17 available or become available for obli-
18 gation from the trust fund established
19 under clause (ii); and

20 “(B) not later than the date specified in
21 subparagraph (A)(ii), notifies the Attorney Gen-
22 eral that the league will establish a trust fund
23 in accordance with subparagraph (A).

24 “(2) ADDITIONAL REQUIREMENT.—If a league
25 establishes a trust fund under paragraph (1)(A), as

1 a condition to receiving an exemption under sub-
2 section (a)(2)(A), the league shall exclude the
3 amounts deposited in the trust fund from designa-
4 tion as defined gross revenues of the league, or as
5 any other similar designation that describes revenues
6 that are to be shared by the member clubs or the
7 players of the league.

8 “(3) MAJOR LEAGUE BASEBALL.—

9 “(A) IN GENERAL.—The requirements of
10 paragraphs (1) and (2) shall apply to a league
11 of major league baseball clubs in the same man-
12 ner as they apply to a league of professional
13 football clubs.

14 “(B) OTHER EXEMPTIONS.—Nothing in
15 this subsection is intended to affect any exemp-
16 tion from the antitrust laws that may apply to
17 major league baseball with respect to activities
18 that are not covered under this Act.”.

19 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

20 (1) AREA TELECASTING RESTRICTION LIMITA-
21 TION.—Section 2 of Public Law 87-331, commonly
22 known as the “Sports Broadcasting Act” (15 U.S.C.
23 1292) is amended—

24 (A) by striking “SEC. 2. Section” and in-
25 serting the following:

1 **“SEC. 2. AREA TELECASTING RESTRICTION LIMITATION.**

2 “Section”; and

3 (B) by striking “described in the first sen-
4 tence of such section” and inserting “described
5 in subsection (a)(2) of that section”.

6 (2) INTERCOLLEGIATE AND INTERSCHOLASTIC
7 FOOTBALL CONSENT LIMITATIONS.—Section 3 of
8 Public Law 87–331, commonly known as the
9 “Sports Broadcasting Act” (15 U.S.C. 1293) is
10 amended by striking “SEC. 3. The first sentence of
11 section 1 of this Act” and inserting the following:

12 **“SEC. 3. INTERCOLLEGIATE AND INTERSCHOLASTIC FOOT-
13 BALL CONSENT LIMITATIONS.**

14 “The exemption under section 1(a)”.

15 (3) STATUTORY CONSTRUCTION.—Section 4 of
16 Public Law 87–331, commonly known as the
17 “Sports Broadcasting Act” (15 U.S.C. 1293) is
18 amended by striking “SEC. 4. Nothing” and insert-
19 ing the following:

20 **“SEC. 4. STATUTORY CONSTRUCTION.**

21 “Nothing”.

○

Senator SPECTER. Senator Hatch is on the floor at the moment and we have been asked to proceed. The chairman will be here shortly, but we have a very distinguished array of panelists and we will move ahead at this time.

The crux of the problem might be categorized by the request for National Football League teams for publicly-financed stadiums at a time when they enjoy an antitrust exemption which has enabled them to have enormous revenues, some \$17.6 billion over a multiyear television contract, and that is by virtue of the exemption which the Congress has granted.

And a fundamental proposition of the proposed legislation is that in that context, the NFL ought to be giving something back, like paying for its own stadiums, or at least a major share of its own stadiums, as this legislation proposes, for the NFL and Major League Baseball to pay for half of new stadium construction, with a quarter coming from the team owners and a quarter coming from public financing. Some of you have even protested that that is too much coming from public financing, and this is an initial proposal and all subject to revision.

The situation, as well-known, is that America has had a long-standing love affair with sports, and I must confess to having been a participant in that since I was 8 years old and became interested in the Chicago Cubs when I lived in Wichita, KS, and gravitated to the Cubs because I traveled to Chicago to see the World's Fair. As a youngster, I studied the box score assiduously in the Wichita Beacon.

I later moved to Russell, KS, the home of Senator Dole, who made one of his famous quips that in Russell the most popular Saturday night entertainment is watching the paint dry, so that when the box scores would come in in the morning, that was a major source of interest.

And I can recall as an 11-year-old going to the local baseball field to see an exhibition game between the Philadelphia Athletics and the Pittsburgh Pirates, and got the autographs of Connie Mack, the original one, not the No. 3, who is my colleague in the Senate, and Honus Wager, the famous Hall of Fame Pirate third basemen.

And I was one of millions of Americans who were troubled in 1958 when the Dodgers moved to Los Angeles. I think Los Angeles should have had a baseball team, but not Brooklyn's. And San Francisco should have had a baseball team, but not the New York Giants.

And we have seen the proliferation of legalized extortion—and I am not going to bandy any words about it—when teams move from one city to another in order to get enormous subsidies from stadium construction or stay in the town on the threat of moving away, getting stadium construction from the city which is there.

The financing of major league teams implicates necessarily some collateral issues such as free agency and revenue-sharing for baseball, and there are growing rumbles in America of public concern on these issues. Just last week, I noted a commentary by Frank DeFord, of Sports Illustrated, on National Public Radio last Wednesday, and it encapsulates the problem in a nutshell and I shall read a small excerpt from Mr. DeFord's statement.

Even if you aren't a fan of the current best team, you have faith that someday soon your team will rise from the ashes, only baseball, in its greedy shortsightedness, has managed to destroy that sweet reverie. Of course, it's not just the owners of the wealthy, big-market teams who are responsible for this estate, but a filthy-rich share and unlikely alliance with the proletariat, the Players Union, which remains absolute in its position that no limits should be placed on a player's right to remuneration and residence, even if this threatens the very essence of the sport, that faith that tomorrow may be a better day.

Our initial two hearings are going to involve football only, but we will be moving to baseball as well and we will be taking up the issues, as I say, which implicate revenue-sharing and free agency. For the record, we will make a list of a great number of witnesses who have been invited to today's hearings who have declined. We have sought witnesses in opposition to the legislation, as well as witnesses who might have a favorable stance.

Next Tuesday, on the 22d, we will hear from NFL Commissioner Paul Tagliabue, Players Representative Gene Upshaw, and Carolina Panthers owner Mr. Jerry Richardson. And perhaps other NFL representatives will testify as well according to a letter which I just received from the National Football League.

Well, at this time let us proceed to our very distinguished panel of witnesses. We are joined by the well-known Speaker of the Massachusetts House of Representatives, the Honorable Thomas Finneran. He has been a member of the Massachusetts House since 1979. He has been a leading figure in the situation with the Patriots, in a classic struggle of the home area seeking to retain the team against a very substantial bid, \$375 million, by Hartford to move the Patriots down.

And then when it looked as if Hartford had the team, the National Football League came into the picture and the Patriots are remaining in Massachusetts, in significant part due to Speaker Finneran's persistence and steadfastness in refusing to up the ante. And part of that arrangement was some funding by the National Football League, and it is just possible that some of that might have been influenced by the pending legislation. This bill was introduced relatively recently, but I have been jawboning with Commissioner Tagliabue on this subject for several years, and also with the representatives of Major League Baseball.

So thank you for joining us, Speaker Finneran. The floor is yours.

PANEL CONSISTING OF HON. THOMAS M. FINNERAN, SPEAKER, MASSACHUSETTS HOUSE OF REPRESENTATIVES, BOSTON, MA; HON. EDITH G. PRAGUE, ASSISTANT MAJORITY LEADER, CONNECTICUT STATE SENATE, HARTFORD, CT; JOHN MOAG, JR., LEGG MASON WOOD WALKER, INC., BALTIMORE, MD; HON. JEAN B. CRYOR, DELEGATE, MARYLAND HOUSE OF DELEGATES, ANNAPOLIS, MD; D. BRUCE POOLE, FORMER DELEGATE, MARYLAND HOUSE OF DELEGATES, ANNAPOLIS, MD; ANDREW ZIMBALIST, ROBERT A. WOODS PROFESSOR OF ECONOMICS, SMITH COLLEGE, NORTHAMPTON, MA; AND MARK S. ROSENTRUB, PROFESSOR, SCHOOL OF PUBLIC AND ENVIRONMENTAL AFFAIRS, INDIANA UNIVERSITY, INDIANAPOLIS, IN

STATEMENT OF HON. THOMAS M. FINNERAN

Mr. FINNERAN. Thank you, Senator Specter. I appreciate the opportunity and the invitation to testify on S. 952. For the record, my name is Thomas Finneran. I live in Boston, MA, and I am, as you were so gracious enough to point out, the Speaker of the House in Massachusetts, the Massachusetts House of Representatives.

I should for the record point out also that I, as a young fellow, also fell in love with that habit of going through the daily box scores. And while we may have been rooting for different teams, I will never forget the heartbreak associated with the 1960 World Series, when Bill Mazerowski for the Pirates drove a stake into the heart of my—I was a Boston guy and I was a Yankee fan. So you try to figure out my politics or my leanings and my hungerings. I am not quite sure that I can as well.

Senator SPECTER. Mr. Speaker, I started off as a Cub fan, but my allegiance shifted to the Phillies when I became a Pennsylvanian, where I root for the Pirates as well.

Mr. FINNERAN. Well, we wish you well in your continued support and enthusiasm for the Phillies. I think they miss Mike Schmidt and folks who could really throw the ball. But hope springs eternal, although Frank DeFord apparently has come to a different conclusion, given the intransigence of the Players Union and the League.

Nonetheless, with regard to S. 952 and your proposal, I am encouraged quite frankly by your willingness to step into this public arena and into this debate, by the jawboning that you made reference to with regard to Commissioner Tagliabue. I think the proposal injects a much needed element of clarity to a debate that really suffers from remarkable economic confusion.

We have such a confusion of interests in which ordinary taxpayers are now expected to subsidize the already immense wealth of a few players, a handful of players, an even smaller handful of agents, and an indescribably small number of owners. And that, to me, seems to really turn economics and policy on its head.

The fact is that team actions all across this country range, I think—and I have examined your remarks in the Congressional Record, and I applaud them and I recommend them to anybody who hasn't yet had an opportunity to read them. Those actions range from somewhere between extortion, as you have pointed out, to seduction, and it is an attempt to, in one way or another, take

extraordinary advantage of local governments and local jurisdictions.

In Massachusetts, we just concluded a 4-year debate regarding the Patriots. Having closed that chapter, we are about to open a new chapter with regard to the Red Sox. Boston and Massachusetts are home to four professional teams—the Celtics, the Bruins, the Patriots and the Red Sox—and we host innumerable collegiate and amateur teams. It is a part of the fabric of Massachusetts, as I am sure sports are a part of the fabric of any particular community.

Senator SPECTER. Mr. Speaker, when you mention the teams—and we have scheduled this at a rather unique hour because there were many conflicts with other hearings, and I think we can be a little less formal today than we are on so many of the hearings with taking the witnesses in order in the interests of the economy of time.

But you do have quite a problem with as many teams as you have, and as a Pennsylvania Senator, we are looking at four new stadiums. Two are under construction now in western Pennsylvania for the Steelers and the Pirates, and two are in the immediate offing for the Phillies and the Eagles. And that is a \$1 billion package and the format is two-thirds public subsidy, so that I have a profound interest in this issue as a U.S. Senator, but an extraordinary interest as a Pennsylvania Senator.

Mr. FINNERAN. That is a huge package that you make reference to, Senator, and clearly the \$1 billion that is proposed, at least some part of it, if not the entirety, is probably expected or hoped for, at least by the owners of those teams, to come from the public treasury, which would clearly come at the expense of opportunities for ordinary Pennsylvania citizens with regard to education and investment in health and infrastructure and public safety and the like.

And I hope that today my remarks might prove instructive or at least give some illumination to the model that we in the end embraced in Massachusetts after a great deal of controversy. Notwithstanding the presence of those four teams and the affiliation, the affection that so many of us feel for those teams, we don't allow them to define or shape public policy in Massachusetts.

Indeed, I would say that public policy in Massachusetts, and I expect in almost every other jurisdiction, is shaped by more universally important things—investments in education, investments in infrastructure that allow the swift and rapid movement of people and products and goods and services, investments in health care and housing and other issues that I made reference to.

We also do have, quite frankly, almost a quaint recognition in Massachusetts for the limited role and responsibility of government, and we stood up and articulated that without any hesitation or equivocation for the better part of 4 years. And in the face of an awful lot of pressure both from the press and from some powerful economic interests, we said no to what we characterized as corporate welfare.

It seemed to us that this was highly unnecessary, particularly in the aftermath of the National Football League broadcasting contract, to which you have made reference. As we articulated our point of view, our frame of reference, being the taxpayers of Massa-

chusetts, and also articulated that limited role and responsibility of government, we continued to ask the question why. Why are taxpayers expected to subsidize already profitable businesses?

In no other area, in no other realm of our private sector economy are taxpayers routinely asked or expected to subsidize the profit margins of businesses.

Senator SPECTER. Speaker Finneran, don't pay attention to the red light. I have interrupted you substantially. Just proceed.

Mr. FINNERAN. OK, no problem. Let me wrap up because I am also quite aware that we have some extraordinary testimony that we will take.

When we articulated these principles, we were greeted with smirks, and smirks, I suppose, are part of life in the public arena. Whenever any elected official talks about principles, the wise guys begin to think that it is nothing but a rouse or a smoke screen for something else. These were the principles that are now clearly on the record and a part of any debate that will occur henceforth in Massachusetts: no public funds whatsoever for any part of a stadium facility; no public funds or subsidy to be provided directly to the team franchise, which was also proposed; no public funds for the purchase and lease-back of land which would then be used for the benefit of the franchise; no expectation that taxpayers should act as either a no-cost or low-cost bank or financing mechanism for private for-profit businesses; no recognition whatsoever, or acceptance or embrace of the so-called economic multiplier models which attempt to justify public subsidies of private business arrangements; a complete insistence that the leagues and the member teams take full responsibility for their facility financing needs; and insistence that any public funds be used solely and exclusively for infrastructure—an on-ramp, an off-ramp, a pedestrian overpass, utility or sewerage lines that might enhance public safety, public access and public health purposes; and finally an insistence that any infrastructure expenditure that primarily benefits a private interest would also have a revenue stream coming back to, in our case, the Commonwealth in order to assist and help support part of that debt service.

With regard to two specific suggestions I might make for S. 952, you might consider trying to utilize the Massachusetts model, recognizing that this is subject to debate and great negotiation back and forth. But our insistence that the team and or the league take exclusive responsibility and bear that cost solely on its own shoulders rather than on the shoulders of the taxpayers has been borne out and now embraced by the league.

As you pointed out, the league changed its bylaws in February or March, and I think it might be, quite frankly, in combination to the bill that you had filed and to the resistance that we were able to mount in Massachusetts. If that first proposal can't make it or garner majority support in the legislative process, I would suggest the following that minimally with regard to this two-for-one match mechanism that you propose, you might want to make sure that you give local governments full financial credit for any infrastructure expenditure they are going to make. Those infrastructure expenditures are of substantial economic value and worth to the franchise, and I think it should be weighed and given full credit to the

local government so that the local taxpayers again aren't picking up the lion's share of the expenses associated with this.

Let me close just by thanking you once again, Senator, not only for the invitation but for the courage to enter the fray on this public debate. I think it is long overdue and I wish you well.

Senator SPECTER. Well, thank you, Speaker Finneran. You have certainly shown a tenacious approach in Massachusetts. It is different from what happened with the Buffalo Bills when they threatened to move. There was a subsidy of \$180 million for renovations of the stadium. The Cincinnati Bengals threatened to move, stadium approved with a public subsidy of \$400 million.

The Denver Broncos threatened to move. A stadium was approved with a public subsidy of \$260 million. The Detroit Lions got \$240 million in subsidies. The Seattle Seahawks threatened to move, a \$325 million public subsidy. The Tampa Bay Buccaneers threatened to move, a \$300 million-plus subsidy.

But let me ask you one threshold question. You were prepared to have the Patriots move. I have a little different view, and I have noted your testimony with admiration about what defines Massachusetts and what defines Boston, as you have articulated it. There was a real problem in Pittsburgh with the threatened move of the Pirates, and I have publicly thanked before Commissioner Selig and Major League Baseball for helping to keep the Pirates in Pittsburgh and I do so again today.

And I worked very hard, along with many others, to keep the Pirates in Pittsburgh, Senator Santorum and then Senator Wofford both crossing party lines, because I thought the Pirates were really important to Pittsburgh. It is a small-market city and they are struggling to make it. They have got a vigorous, able young owner who is working very hard, and I really wanted to keep the Pirates there. You were willing to take a chance on losing the Patriots.

A two-part question. How would your constituents have responded had you lost the Patriots? And, secondly—well, take that one up first and I will ask the second one later.

Mr. FINNERAN. My constituents and I think the overall citizenry of Massachusetts were pleasantly surprised that somebody would stand up and speak for them. They found it both rare and refreshing. There is a small segment of the public, obviously very enthusiastic fans and some people who are patrons of sports radio talk shows, and they tend to work themselves up into a lather, some mild form of hysteria from time to time.

Ordinary citizens, however, would literally stop me in the subway outside the church and the supermarket and say thanks for standing up and injecting an element of common sense into this debate.

Senator SPECTER. Did any stop you to the contrary?

Mr. FINNERAN. Yes, some did stop me to the contrary and some told me that they thought I was a complete fool. My wife occasionally tells me that as well, as they have company.

But the Frank DeFord article that you made reference to, I think, is again instructive. Sports has lost its connection in many ways to common fans and to common citizens or ordinary taxpayers. We still root for the home team. When they win, there is

a buoyancy to our everyday conversations. We rise and fall with the pennant race or how the local team is doing.

But nonetheless, the extraordinary salaries, the extraordinary negative attitudes that are reflected by the players, by the agents, by the owners, the selfishness and the greed that so evident has turned off a great number of people. And they literally, I think, are encouraged by public officials or leaders who will stand up and say, look, enough is enough. We will help, we will assist with infrastructure, but if you want us to be a partner, count us in on the equity share, too. We don't want to take all the financial risk without assuming some of the reward.

Now, of course, when you talk like that, which is the normal language or lexicon of a capitalist and an investor, the capitalists and investors who have bought these teams run from the room. They want some form of communism in which literally the public will provide all the dough to them. It is somewhere between socialism and communism that they want for their own league and for their own profits and their own benefits.

Senator SPECTER. I thought I was tough on the issue, Mr. Speaker. [Laughter.]

I think I am mild when you have characterized them as socialists and communists.

Mr. FINNERAN. Well, they actually make the commies look good.

Senator SPECTER. Well, the other half of the question is what so many cities respond to—I know Seattle has, as well as Pittsburgh and Cincinnati and Buffalo—not wanting to lose big-league status. How did that influence you, if at all?

Mr. FINNERAN. It is relevant and it is important, in all honesty, to give appropriate deference and respect to the value and importance of any of these franchises. It is probably more important psychologically than it is economically. If I had to choose, I would rather not make this type of choice, but I would rather lose a pro sports franchise than Gillette or Raytheon or some major employer who employs thousands of people in a range of ordinary occupations rather than a handful of multi-million-dollar salaries.

But there is a legitimacy to that observation.

One of the things that I thought we had going for us in Boston, particularly with regard to the National Football League and the Patriots franchise, was a recognition on our part, long before any other people commented on it, that we are either the No. 5 or No. 6 major media market, and that the jurisdictions which were likely to attract the attention of the owner and the league were something less than that. And, truly, it is the broadcast revenue that is the oxygen to this league.

It is when we finally stood up—and I suspect that when you filed S. 952, the league itself huddled back and decided to rearrange their bylaws and provide financing because if I was the broadcast executive having just entered into that contract for \$17.6 billion for 8 years and now saw the market shifting from No. 5 or 6 to the Hartford, CT market which is somewhere in the 20's, I would be on the phone right away with Commissioner Tagliabue and say, "Hey, that is not the benefit of the bargain that I drove and paid for."

We recognized in Massachusetts that we had that card in our hand and that it was unlikely that they were going to be able to move to New York, because you would have the Jets and the Giants contesting that, or Chicago or San Francisco or Los Angeles. The other major media markets that surpass and eclipse even Boston and New England were not likely competitors for us. And all the competitors were on the downside and we thought the broadcasters would do—I don't know whether they actually did it or not, but clearly the NFL changed its bylaws and they had never even contemplated that action or that behavior until we stood our ground.

Senator SPECTER. Well, I am inclined to agree with your analysis. We will never know for sure, and changes are frequently the result of a great many factors, but I think the pendency of the legislation, the so-called jawboning over the years, and the growing concern about the greed of players' salaries and the free agency all, in combination, are going to move the envelope here.

Mr. FINNERAN. I agree. It is absolutely out of control, and we should keep in mind these are all self-inflicted wounds and yet the owners continue to turn to the taxpayers in every jurisdiction and say essentially, save us from ourselves. They don't show the discipline or restraint that they show in every other business that they control. And the players themselves, the employees, won't show any restraint.

And until public leaders such as yourself help change the rules and level the field, and the rest of us stand up and articulate what are the essential interests of our taxpayers, those owners would continue to reach into the public till. I think we have changed the model here not just based on Massachusetts, but clearly based upon this legislation which you have advanced.

Senator SPECTER. Well, thank you very much, Speaker Finneran.

Mr. FINNERAN. Thank you, Senator.

[The prepared statement of Mr. Finneran follows:]

PREPARED STATEMENT OF THOMAS M. FINNERAN

Thank you, Mr. Chairman.

For the record, my name is Thomas M. Finneran. I live in Boston, Massachusetts and I serve as the Speaker of the Massachusetts House of Representatives.

I am honored to appear before the Committee on the Judiciary of the United States Senate relative to Senate No. 952, entitled the "Stadium Financing and Franchise Relocation Act of 1999." I thank you, Mr. Chairman, Senator Specter, the sponsor of the legislation and all the Members of the Committee for such a generous and unique opportunity to present testimony in support of this legislation which is consistent—although not entirely in alignment—with the approach articulated and adopted in the Commonwealth of Massachusetts.

I am proud to say that in Massachusetts we have resisted the pressure brought by the owners of professional sports teams who have directly or indirectly threatened to move their franchise to another city or to sell their team if significant taxpayer money was not appropriated to construct a new ballpark or stadium. Far too many teams have taken advantage of the unique loyalty held by many fans, who out of a love of the game and of sport, champion the cause of team owners who do not share or reciprocate such loyalty.

Massachusetts is home to four major professional sports franchises—the Celtics, the Red Sox, the Bruins and the Patriots. Massachusetts has a storied sports history and its people are passionate about sports—both amateur and professional. We are quite proud of our hometown teams but they most emphatically do not constitute the essence of the social, cultural, or economic fabric of Massachusetts. We truly cherish our historical role in the birth and development of our nation; we boast of the fact that we house over 80 colleges and universities, including some of the most

prestigious in the world; we value our many artistic and theatrical companies and we enjoy as frequently as possible the mountains and forests of western Massachusetts, the waters of Boston harbor, and the natural beauty of Cape Cod. Professional sports do not and will not define us or shape us.

Education, research, health care, financial services, banking, investment, trade, tourism, history, art, culture, drama and the natural beauty and bounty of our Commonwealth are precious to our heritage and our future. Contrary to their self-serving assertions, professional sports teams are not the engines that drive local economies. I encourage legitimate economic development as an appropriate governmental objective, but multiple independent studies—including those given by scholars that have testified before you over the last several years, such as Andrew Zimbalist and Robert Baade—show no significant positive net economic impact derived from professional sports franchises.

I think it is crucial to bear in mind that the money which fans spend on tickets, concessions, and team apparel is purely discretionary. Rational economic theory suggests that housing, transportation, tuition, food, clothing, and utility expenses are essential to every household and therefore claim an economic grounding and status which surpasses that of any dollars spent on the options of diversion and entertainment. For example, Robert Baade, and Alan Sanderson write that during the 1994 major league baseball strike, "September 1994 [was] the most successful September in history for movies. With no baseball to watch in person or on television, fans and their families went to movies, rented videos, ate out more often, and visited amusement parks. Very few if any dollars were "lost" as a result of the baseball strike; they just appeared on other ledgers. A sports team's "multiplier effect" and contributions to a region's economy, trotted out so often by chambers of commerce and team owners * * * are invariably gross overestimates, maybe even by a factor of ten." Intellectual ammunition. The Heartland Institute, March/April 1996.

I applaud Senator Specter for recognizing the need to address the distasteful "city-shopping" by professional sports teams.

I must respectfully take exception to the legislation's encouragement of taxpayer money actually being used for ballpark and stadium construction. This provision puts local governments in hock and in harness for up to one third of the cost of stadium construction. Such a result is troubling.

In Massachusetts, we have declared that the only appropriate use of taxpayer money is for infrastructure improvements. This includes the cost of roads, bridges, sewer pipes and traffic controls that have a definitive "public purpose" to promote and enhance public access, public safety, and public health. There is no state taxpayer money for "brick or mortar" to build a new ballpark or stadium. There is no state taxpayer money to purchase land or engage in any creative land-swap or lease-back scheme. In Massachusetts, we recognize that infrastructure improvements which carry a valid "public purpose" are appropriate public expenditures.

Many leagues talk of "public-private" partnerships between the professional sports team and the host municipality. To date, such relationships have consisted of the municipality assuming the burdens of expensive, long-term debt while receiving no stake in the exponential increase of the value of the team with whom they are a "partner." These sports teams are extremely profitable private business enterprises. They enjoy astronomical revenues. You are all aware of the current National Football League television contract that yields that league 17.6 billion dollars over 8 years. When any business negotiates such a private transfer of private wealth, there is no public injury. However, there should be no confusion regarding franchise demands and expectations for public subsidies. Based upon that television contract, the National Football League could build every single team a brand-new \$300 million stadium and still share over 1 billion dollars a year for 8 years!

Team owners often argue that there exists a "psychological value" to a community that hosts a professional sports franchise. Such claims are the ego-driven bunk of billionaires and their acolytes. Some communities might indulge such superficial and irrational economic and psychic claims, but they do so at the obvious expense of essential and fundamental public responsibilities. Any "psychological value" that may be derived from hosting a professional sports team does not pay for crumbling school buildings, Social Security, prescription drug programs for impoverished seniors, early childhood education, obsolete infrastructure, innovative housing programs, public safety, or public health. The list of legitimate public responsibilities is lengthy and I dare say that all of them are more important than financing a stadium for the competitive advantage and benefit of any privately-owned business venture.

In Massachusetts, we rejected the notion that taxpayers are obligated to subsidize stadiums for professional sports franchises. The Massachusetts House of Representatives has consistently articulated a set of principles, which are as follows:

- No public funds for any part of a stadium facility;
- No public funds or subsidy for the team franchise;
- No public funds for the purchase and lease-back of land for the benefit of the franchise;
- No expectation that taxpayers should act as a no-cost or low-cost bank for private, for-profit businesses;
- No recognition, acceptance, or embrace of “economic multiplier models” which attempt to justify public subsidies of private business arrangements;
- An insistence that the leagues and member teams take full responsibility for their facility financing needs;
- An insistence that any public funds be used solely for infrastructure needs which serve public access, public safety, and/or public health purposes;
- An insistence that any infrastructure expenditure which primarily or exclusively benefits the individual franchise owners be accompanied by an annual revenue stream back to the taxpayers in order to help support such an expenditure.

I believe that these principles represent a balanced, thoughtful approach to any public participation in stadium development with professional sports franchises. The application of these principles to S. 952 would require that monies from the “special trust fund” be used to pay the entirety of all stadium costs in order to maintain certain anti-trust privileges presently enjoyed. At a minimum, the legislation should allow local governments full financial credit for infrastructure costs in order to trigger the \$2 for \$1 match. The value of infrastructure improvements is of substantial economic significance and should be factored in to the overall construction costs of any new facility. Such factoring would give due recognition to the costs and burdens borne by local governments on behalf of immensely wealthy individuals and highly profitable enterprises.

I thank you for this opportunity to testify before you. I commend your willingness to address and resolve this perverse abuse of the nation’s taxpayers, and I welcome any questions you might have.

Senator SPECTER. We now turn to the Honorable Edith Prague, elected to the Connecticut Senate in November 1994. Prior thereto, Senator Prague was a member of the State House of Representatives for four terms, and also the Assistant House Majority Leader.

We very much appreciate your joining us, Senator Prague, and look forward to your testimony.

STATEMENT OF HON. EDITH G. PRAGUE

Ms. PRAGUE. Thank you, Senator Specter, and thank you for the invitation to come and tell you about the Hartford experience. I am certainly here in support of S. 952, the Stadium Financing and Franchise Relocation Act of 1999. I want to tell you about the Hartford deal with the Patriots.

“TOUCHDOWN,” blasted the headlines across the front page of the Hartford Courant on November 19, 1998. Governor John Rowland and Robert Kraft, owner of the New England Patriots, had negotiated a memorandum of understanding, secretively, I might add, that would give Robert Kraft what would become known as the richest, most egregious deal in the history of professional sports, a deal that would put the taxpayers of Connecticut in the most unenviable position of paying all the bills for 30 years while Mr. Kraft reaped all the profits.

The deal became known as the biggest giveaway in the history of professional sports. The new rent-free stadium for the New England Patriots was estimated to cost more than \$1 billion, and the governor was quoted as saying he didn’t care how rich the State makes the Patriots; he just wanted the Patriots to come to Hartford.

And the excitement surrounding these headlines was phenomenal. It was really madness. The governor and the legislative lead-

ers completely ignored the research done by economists such as Professor Andrew Zimbalist, Professor of Economics at Smith, and Professor Roger Noll, Professor of Economics at Stanford, both of whom are experts in the field of economic impact of sports team and stadiums. Both had clearly documented after extensive research that a new sports facility has an extremely small, perhaps even negative effect on the overall economic activity and employment of a city, and that no recent facility appears to have earned anything approaching a reasonable return on the investment. The economic benefits of sports facilities are really *de minimis*. Sports stadiums are clearly not the economic engine that would drive a poverty-ridden area to revitalization.

The deal itself was given to the legislators on December 18, in a 77-page document, 20 minutes before the time to vote. The governor had called a special session on December 18. No committee hearings in which legislators could examine the details and the public could participate were ever held. Absent the public hearings, time was not afforded the elected officials to examine the details privately and the deal followed no prescribed path of democratic government.

When the details emerged, the shock of its content began to take hold. The deal contained a \$374 million stadium for Mr. Kraft that would be turned over to him rent-free and tax-free, and it was a 30-year commitment. The State of Connecticut would pay for preparing the site and building any needed infrastructure.

The stadium would have 150 luxury suites and 6,000 club seats. The luxury suites would sell for \$100,000 to \$125,000, and the club seats for \$5,000. The State guaranteed a minimum of \$13 million a year toward any shortfall in the sale of these seats. The State would provide 25,000 parking spaces. The State would provide \$15 million for a practice facility. The State would provide a stadium capital replacement cost fund of \$115 million over the 30-year period. The State would pay every year \$250,000 for insurance, \$750,000 to move the team from Boston to Hartford. The State would even pay \$125,000 a year for the agency expenses incurred by this deal. After 30 years, we would have paid an additional \$212 million in interest on the bond.

The one big unanswered question was the \$100 million cost to clear the site by moving a steam plant. It was clear Mr. Kraft was not going to pay, but just who was remained an open question. All this while the city of Hartford is the 10th poorest city in the United States of America, according to the U.S. Department of Housing and Urban Development statistics, a city where 35.2 percent of the residents live in poverty.

In our State of Connecticut, one out of every five children live in poverty. We have the highest property taxes in the Nation and the greatest bonded indebtedness. 11.3 percent of our \$23.8 billion bi-annual budget goes to debt service.

In return for the so-called luxury of having the Patriots come to Hartford—and I really thank Mr. Finneran for the fact that they are going back to Massachusetts—Mr. Kraft would receive all revenues from the stadium operations, including all ticket sales and luxury seat sales, concessions, food and souvenirs from all func-

tions at the stadium except for the University of Connecticut football games.

The stadium would be owned and operated by Mr. Kraft and he would receive the revenues from the naming rights, the television contracts, and the 5,000 parking spaces abutting the stadium. A Hartford Courant article claimed that Mr. Kraft would pocket \$100 million per year by the fifth year of this deal. The State would receive a 10-percent tax on ticket sales. And to add insult to injury, if the construction costs came in below estimates, Mr. Kraft would pocket the savings. This is the deal that Mr. Kraft walked away from on April 30, 1999.

The Federal Government played a role in this deal and in every other deal around the country according to the Brookings Review position paper "Are New Stadiums Worth the Cost," a copy of which I have submitted for your review. I would like to draw your attention to the \$7 billion that will be spent on new facilities for sports teams before the year 2006. Of that, the majority is in public financing. The Federal Government allows States to issue tax-exempt bonds costing the Federal Government millions of dollars in taxes annually. When these bonds are issued for such things as roads or schools, that is fine. But to allow these bonds to be used for stadiums to make the team owners even wealthier is totally inappropriate.

S. 952 is very timely. However, I have one suggestion. Taxpayers should not bear 25 percent of the cost of any stadium unless 25 percent of the profit is returned to those taxpayers.

Thank you for this opportunity to tell you about the Hartford story.

Senator SPECTER. Well, I think it appropriate at this point to note for the record that both Governor Rowland and Mr. Kraft were invited to come and testify today and both declined.

Senator PRAGUE, you characterized the total cost at \$1 billion. How do you aggregate to that figure?

Ms. PRAGUE. Well, the cost of the stadium, the \$374 million; the \$212 million in interest on the bonds; the \$13 million guarantee every year for 30 years for any shortfall in the sale of those seats; the cost of the practice facility; the \$800,000 that it would cost in legal fees; the \$750,000 that it would cost to move the team from Boston to Hartford; and the \$100 million that was in question about who was going to pay for the removal of a steam plant where the stadium was going to be located. You know, I am sure if you add that up, that is very close to \$1 billion.

Senator SPECTER. I did some mental computation, and depending on the contingencies it does get there.

Senator PRAGUE, you characterized Mr. Kraft's response as walking away from the deal. As you articulate it, the natural question arose in my mind—I am not saying you are the proper person to ask this question to, but you are the only one I have available and you said he walked away. Any speculation as to why he walked away from such a lucrative deal?

Ms. PRAGUE. I think there were a number of contributing factors, but I think the biggest reason he walked away from the deal was that basically he really wanted to stay in Boston. That is where his

heart is, that is where his family is, and I think that is where his loyalty is.

No. 2, there was a question of whether he would get into this stadium by the year 2002, when there were tremendous environmental issues involved in clearing the site. Moving the steam plant was the next thing to a nightmare, with having to move underground pipes that heated and cooled all the office buildings in the city of Hartford.

He was advised by his advisers that it was very unlikely that he would get into play in the stadium in the year 2002, and I think that that, combined with the opposition that was growing amongst the citizens of the State of Connecticut, just made his decision for him.

Senator SPECTER. Senator Prague, thank you very, very much.

Ms. PRAGUE. You are very welcome.

[The prepared statement of Ms. Prague follows:]

PREPARED STATEMENT OF HON. EDITH G. PRAGUE

Good Afternoon, Senator Hatch—members of the Judiciary Committee, for the record, I am State Senator Edith Prague of Connecticut and am here at the invitation of Senator Arlen Specter to testify on S. 952 “Stadium Financing and Franchise Relocation Act of 1999.”

“TOUCHDOWN” blasted the headlines across the front of the page of the Hartford Courant on November 19, 1998. Governor John Rowland and Robert Kraft, owner of the New England Patriots, had negotiated a memorandum of understanding (secretly, I may add) that would give Robert Kraft what would become known as the richest, most egregious deal in the history of professional sports. A deal that would put the taxpayers of Connecticut in the most unenviable position of paying all the bills for 30 years, while Mr. Kraft reaped all the profits.

The deal became known as the biggest giveaway in the history of professional sports—the new, “rent-free” stadium for the New England Patriots was estimated to cost more than a billion dollars and Governor Rowland was quoted as saying “he did not care how rich the state makes the Patriots.”

It was madness. The Governor and legislative leaders ignored the research done by economists such as Andrew Zimbalist, Professor of Economics at Smith College, and Richard Noll, Professor of Economics at Stanford, both of whom are experts in the field of the economic impact of sport teams and stadiums. Both had clearly documented after extensive research that a new sports facility has an extremely small (perhaps, even negative) effect on the overall economic activity, and employment of a city, that no recent facility appears to have earned anything approaching a reasonable return on investment. And the economic benefits of sports facilities are *de minimis*. Sports stadiums are clearly not the economic engine that would drive a poverty-ridden area to revitalization.

The proponents claimed that the stadium would improve the local economy in three ways: First, building the facility creates construction jobs. Second, people who attend games or work for the team generate new spending in the community, expanding local employment. Third, a team attracts tourist and companies to the host city further increasing local spending and jobs.

The Governor and Legislative Leaders argued that the stadium would spur so much economic growth that it would be self-financing. The investment of state dollars would be offset by revenues from the ticket sales tax, taxes on concessions and other spending outside the stadium, along with property tax increases arising from the stadium’s economic impact.

The deal was given to the legislators in a seventy-seven (77) page document twenty minutes before the time to vote. No committee hearings in which legislators could examine the details and the public could participate were ever held. Absent the public hearings, time was not afforded the elected officials to examine the details privately. The deal followed no prescribed path of democratic government.

When the details emerged, the shock of its content began to take hold. In short, the deal contained:

1. \$374 million for a stadium which when completed would be turned over to Mr. Kraft. It would be rent-free and tax-free. It was a thirty-year commitment.

2. The State of Connecticut would pay for preparing the site and building any needed infrastructure.

3. The stadium would have 150 luxury suites and 6,000 club seats. The luxury suites would sell for \$100,000 to \$125,000 and the club seats for \$5,000. The state at first guaranteed \$17.5 million a year for 30 years toward any shortfall in sales. That figure was lowered to \$13 million, a reduction presented as a breakthrough in negotiations.

4. The state would pay \$15 million for a practice facility for the Patriots.

5. The state would provide 25,000 parking spaces, 5,000 adjoining the stadium, 1,000 within a mile and the rest within a reasonable distance.

6. Mr. Kraft would pay \$70 million for a hotel attached to the Pavilion. He would be free at any time to sell the hotel and make millions in profit.

7. The state would provide a Stadium Capital Replacement Costs Fund of \$115 million available over the 30-year period.

8. The state would pay \$250,000 per year for insurance.

9. The state would incur \$125,000 per year for agency expenses.

10. The state would pay \$750,000 to move the Patriots to Hartford.

11. At the end of 30 years, we would have paid an additional \$212 million in interest on the bonds.

12. And the state did pay \$800,000 in legal fees to hammer out the deal.

13. The one unanswered question was the \$100 million cost to clear the site by moving a steam plant—and the attendant environmental cleanup costs. Mr. Kraft certainly was not going to pay and who was remained an open question.

All this while Hartford is the tenth poorest city in the United States of America, according to United States Department of Housing and Urban Development statistics—a city where 35.2 percent of the residents live in poverty. In our state of Connecticut, one out of every five children lives in poverty. We have the highest property taxes in the nation and the greatest bonded indebtedness. Eleven percent of our \$4.5 billion budget goes to debt service.

In return, for the luxury of having the Patriots come to Hartford, Mr. Kraft would receive:

1. All revenues from stadium operations, including all ticket sales and luxury seat sales, concessions—food and souvenirs—from *all functions* at the stadium except for University of Connecticut football games. The stadium would be owned and operated by Mr. Kraft and he would receive the revenues from the naming rights, television contracts and the 5,000 parking spaces abutting the stadium. A Hartford Courant article claimed that Mr. Kraft would pocket \$100 million per year by the fifth year of this deal.

2. The state would receive a 10 percent tax on ticket sales. And to add insult to injury, if the construction costs came in below estimates, Mr. Kraft would pocket the savings.

That is the deal Mr. Kraft walked away from on April 30, 1999.

The federal government played a role in this deal and in every other deal around the country—according to the Brookings Review position paper, “Are New Stadiums Worth the Cost?” a copy of which I am submitting for your review. I would like to draw your attention to the \$7 billion that will be spent on new facilities for professional sports teams before the year 2006. Of that the majority is in public financing. Unfortunately the federal government allows states to issue tax-exempt bonds, costing the federal government millions of dollars in taxes annually.

S. 952 is very timely. However, I have one suggestion. Taxpayers should not bear 25 percent of the cost of a stadium unless 25 percent of the profit is returned to the taxpayers.

Again, thank you for this opportunity to testify. It has been a pleasure. I am available for questions.

Senator SPECTER. I would like now to turn to the situation with the Cleveland Browns and Baltimore Ravens, and we are going to turn first to Mr. John Moag, who has a somewhat different perspective of the arrangements.

By way of introduction, the representations I have, subject to what Mr. Moag may have to say, are that, well, first of all, a problem arose when the Colts left in the middle of the night to go to Indianapolis. And I thought Indianapolis should have had a football team, but not the Colts. The Colts had a long, glorious history in Baltimore with Johnny Unitas and some great, great teams.

And then when Mr. Art Modell had his differences with Cleveland, the bidding occurred and Baltimore agreed to a \$223 million stadium, financed, as I have it, with 89 percent public funds. The Ravens were required to pay no rent during the 30-year lease, but do pay operating expenses in the range of \$3 to \$4 million a year.

And this was an extraordinary provision which I would be interested in your comments on, Mr. Moag, among others, that the Baltimore Ravens paid the Maryland State Stadium Authority \$10 million for the right to sell the name of the team's new stadium, and Mr. Modell eventually sold the name to PSINet for \$105 million. It is a little surprising to me on a number of aspects of that transaction.

We thank you very much for joining us, Mr. Moag, and look forward to your testimony.

STATEMENT OF JOHN MOAG, JR.

Mr. MOAG. Thank you, Senator. I am the former chairman of the Maryland Stadium Authority up until this past January. The Maryland Stadium Authority owns and operates Oriole Park at Camden Yards and the Ravens stadium. We had a statutory directive actually to go out and get an NFL football team, either through the expansion process, which we lost, or in bringing another team to our city.

And it is a pretty extraordinary piece of legislation which directed the chairman of the Stadium Authority to enter into any and all agreements necessary or convenient to carry out the purpose of this subtitle, which was bring football back.

Senator SPECTER. A statutory directive?

Mr. MOAG. With \$200 million attached to that directive.

Senator SPECTER. Were you limited in how much you could spend?

Mr. MOAG. No. There is a fund that is funded by the Maryland Lottery. We created a scratch-off lottery game. The stadium is funded by Art Modell, in part, as you mentioned; by the stadium scratch-off game, which people obviously voluntarily purchase; bonds which are retired through the lottery and through an admissions tax on the fans. So it is the fans, the lottery tickets and Mr. Modell, and also Mr. Angelos in the case of the Orioles.

Senator SPECTER. Edward Bennett Williams was quoted as saying as the owner of the Redskins way back that he hired a new head coach and gave him an unlimited budget which was exceeded.

Mr. MOAG. He was quite an owner.

In addition to being the former chairman of the Stadium Authority, I am the managing director of Legg Mason's sports industry group in our corporate finance department and we have been engaged in about 18 different sports transactions, different arenas and stadium, both baseball and football, around the country. If there is any common denominator to those 18 deals, it is that none of them are the least bit alike. They differ in four major aspects.

Politics is different everywhere. The politics in Arizona are different from your politics in Philly and Pittsburgh and Boston and California. Voters react differently and the politicians react differently. Second, the financing issues are all different. How are you going to pay for these? Is there money to pay for them? Do you

have bonding capacity? Do you have flush budgets? Do you have a tax you can impose? Do you have a lottery like we did in Maryland?

Third, team revenues vary dramatically. We hear over and over again about greedy owners holding up cities. The fact remains that there are very few franchises that make a lot of money. I can tell you certainly that the Pirates and the Phillies are not making much money, which helps explain the product that is out on the field on Philadelphia.

They tried to get that budget balanced and they, believe me, want to put good product out there because if they have product on the field, they generate revenues. But to get that product—and it is a circular issue—they need the revenue. And, of course, they look to the new stadium for that.

Finally, franchise revenues are different. All four leagues operate differently. The NFL is definitely a socialistic organization. Major League Baseball is not, and Major League Baseball, like hockey, has some very challenging financial issues ahead of it. I like to paraphrase Tip O'Neill that, like politics, all sports is local. Because of all those reasons, I would unfortunately oppose this legislation, although I applaud your intent.

And let me also mention two other issues, I think, that the legislation raises. One is, is it adequate to do what you want to do in the first place. In the NFL, I think your legislation might raise on the order of \$200 million a year, \$180 million, that you could put in this pot. The NFL is actually already doing this in the form of revenue forgone. They are saying money the team would normally have to pay into the league to visiting share can now be used to build the stadiums. So the money the league is allotting for that purpose is actually going to be significantly higher than your legislation would raise.

In baseball, you would raise \$34 million, something like that, not enough to make a dent in some of the projects out there. In hockey, you would raise about \$12 million. And, of course, that doesn't get you anywhere for a \$200, \$300 million building.

Finally, frankly, I think it is unnecessary. I believe we are heading into an era of stabilization in sports. We are going to see within about 5 years the completion of most of these buildings around the country. The arenas are pretty much there. You look at Comcast and MCI here in Washington, DC. Pittsburgh has an issue obviously with the Penguins, but there aren't many of these left, believe it or not. We are flushing out old stadiums that didn't work economically and were bad, frankly, for the sports experience.

We built buildings like the Vet, like Three Rivers in the 1970s, some of them in the 1980s, that were not functional for watching both baseball and football. We thought we were being real smart about it. And, of course, the municipalities were saving money, but they weren't providing a good arena, if you will, to watch a sport. And, of course, they were not generating the revenues that had to be generated to keep up with these increasing player costs.

I think again we are getting through that and we are now approaching an era where we are going to see very few moves. I think there may be a couple left, maybe one or two possibly in football.

We have a situation in Montreal, obviously, a baseball situation, but there are not many of those left around the country.

That is all I had to say and I would be glad to respond to any of your questions.

Senator SPECTER. Well, Mr. Moag, what do you anticipate with respect to Los Angeles, an expansion team, not a team moving in?

Mr. MOAG. Going back to the issue of all sports is local and all politics is local, I am pretty familiar with the Los Angeles situation and it is a mess. It is a real mess. They have basically decided as a community that they are not going to put any public money into a facility out there.

So you have a contest, if you will, between the economics of the sport and the politics of Los Angeles. To get into the Los Angeles market could very well cost \$1 billion, and it is a market that the NFL does not want to lose. But the building, redoing that Coliseum out there, is probably a \$350 million issue. There are parking spaces that are needed that are probably another \$200 million issue. And, again, the public is reticent about doing that.

Well, that begs the issue, then, obviously who pays. Is a new expansion owner going to pay for that, and can he pay for it. Right now, you have a situation in Los Angeles where the expansion entity, if you will, is probably not financeable on the private side because there is just too much of a nut to bite off and not enough income.

Senator SPECTER. What is going to happen with Houston?

Mr. MOAG. I think Houston gets a team. Again, you have a contribution in Houston from the local government down there. They have stepped up to the plate. In combination with the rodeo, the economics of building that stadium with a roof over it will work, and I suspect Mr. McNair and the people of Houston are going to have a football team and it may very well be before Los Angeles has a football team.

Senator SPECTER. Well, there are many other cities which aspire to be NFL cities. I can't begin to pick them out, but there are plenty of them around. Notwithstanding Senator Prague, Hartford may yet have aspirations. Birmingham has aspirations. You can run over the map. It is big status to be in the NFL. You have got a competing league coming in. The USFL tried to crack in in the 1980s.

It seems to me that football is going to have to look at their expansion issues and how they handle their matters. I know that both baseball and football have their representatives here today, very confident people who are going to be dissecting all the innuendoes as to what we have to say.

Senator Feingold has joined us. The floor is yours.

Senator FEINGOLD. Thank you, Mr. Chairman. I just wanted to thank everyone for being here today and make a brief statement. I want to commend you for holding a hearing on this important topic that has an impact on sports fans all across the country. I want to especially commend you, Chairman Specter, for your efforts to try to think of creative ways to deal with this issue.

I share your desire to alleviate the burden on the taxpayers for the financing of stadium renovation and construction projects. We have seen some communities pay a very high price when their

beloved team threatens to leave town unless they agree to help fund a stadium project. Of course, not all owners are like this. In fact, my colleague from Wisconsin, Senator Kohl, who helped keep the Milwaukee Bucks from leaving Wisconsin, is a good counter-example, where he was able to do this despite the small size of the market.

But while I agree with the bill's laudable goal, I do have some concerns about the method that Senator Specter has chosen to achieve that goal. The National Football League made a wise decision years ago to enter into a revenue-sharing agreement with all of its member teams to the television rights to their games. This revenue-sharing agreement has enabled teams like our team, the Green Bay Packers, which play in smaller media markets to be viable teams.

As you may know, the Packers operate quite differently from other NFL teams. The Packers are not owned by a billionaire or a corporate entity. Rather, the Packers are a community-owned team. In fact, I have one share of the Packer stock and when I, on my financial disclosure report, had to list the value of it, I put down "infinite" for that.

The fans of Green Bay, Titledown USA, own the team, but because they don't have the ready access to a revenue stream that a wealthy or corporate owner brings, they are in a tighter financial situation compared to other NFL teams. The Packers are also different because they don't have the kind of luxury boxes that generate high revenues per year, like the luxury boxes in many of the glamorous new stadiums.

The average club box at Lambeau Field generates \$30,000 a year, at best, while the average club box at other NFL stadiums generates \$60,000 per season, that's twice as much. In the newer NFL stadiums, luxury boxes typically generate even more revenue and can command as much as \$165,000 per person. As a result, the Packers are dependent chiefly on their share of the television revenues from the NFL. In fact, 60 percent of the Packers' operating revenues are derived from these funds.

What this means is that this bill's trust fund provision will severely hurt the ability of the Packers to survive. The Packers have obviously done amazing things, and I am not just talking about their two recent trips to the Super Bowl. The Packers have managed to thrive as the NFL's only truly community-oriented team in an era when teams are going to the highest bidder and sometimes losing any sense of connection to the cities they once called home.

The Packers have maintained their rich history and a passionate base of followers precisely because they are a 100-percent community-owned team. I don't think we should threaten the viability of the Packers or any other small-market team that heavily relies on its share of media revenues.

So, Mr. Chairman, I do support the goals of the bill, and I think we may need to think of another way to assist communities and teams with stadium construction. I certainly thank you for letting me interrupt at this point to make this statement.

Thank you, Mr. Chairman.

Senator SPECTER. Well, thank you very much, Senator Feingold. The goose that lays the golden egg, of course, on revenue-sharing comes from the 1961 exemption. So it is a special privilege for revenue-sharing in the NFL. But you and I have worked together on a great many projects and we will put our collective thinking together on this one as well.

Senator FEINGOLD. Thank you, Mr. Chairman.

Senator SPECTER. Just one or two more questions, Mr. Moag. Some of the stadiums have been privately financed—the Miami Stadium. How were they able to work it out contrasted with, let's say, Baltimore?

Mr. MOAG. You are talking about what was the Joe Robbie Stadium. Actually, the Robbies unfortunately were bankrupted by that project. It was way too early for a project like that to happen because the media income that the league enjoys simply wasn't there.

Senator SPECTER. Is the time right now?

Mr. MOAG. You are getting close, but neither baseball nor football are really totally there. They are getting close. If you have a basketball team and a hockey team, you can do it, as evidenced here with the MCI building. That is enough revenue to make it work.

Football—you know, again you are seeing owners who are able to contribute \$100, \$150 million. In baseball, the same thing, so we are getting there, but the revenues are still not quite there. The politicians are smart now about sports. They weren't so smart 5 years ago. They are asking to look at the balance sheets. They are looking to see what these teams end up with and that bottom line after you build these buildings, and then they are kind of working backwards into the contribution, which is a smart and fair thing to do.

You know, again, the good news about this whole process is that we are talking about financing buildings now that are old or in bad shape that were by and large, every one of them, built with public money. And we are in a new era where we are able to go to these owners and they are saying back to us, "Yes, you know, we understand, we will make more money and we will contribute". The Red Sox are generously talking about \$300 million up in Boston.

Senator SPECTER. Well, I am glad to hear you say that you think it is a fair question for the political leaders to ask about the financial status of the teams because if the teams are asking for public assistance on the ground that they can't afford it, that raises the obvious question of their profits and their financial ability to afford it.

Recently, a controversy was publicized in Philadelphia about the Phillies with a national publication printing a figure of profitability for the Phillies and the Phillies management denying it. It is easy to put it in print, and what has to be done is the facts have to be ascertained. But I am glad to hear you say you think that is a fair question.

Mr. MOAG. And Mayor Rendell, I believe, has seen the Phillies' books. And I am aware of the Phillies' books and they are not making any money right now. They will make money in a new stadium. I was up there in your city this week.

Senator SPECTER. They had a pretty good crowd on Sunday.

Mr. MOAG. They had actually two good crowds in a row with the Yanks.

Senator SPECTER. I was there on Sunday. They had terrific crowds in Baltimore.

Mr. MOAG. Yes. We had our largest sellout ever the weekend before, and it was Pennsylvanians all over the place spending their money in our town, which is what we like. [Laughter.]

Senator SPECTER. Thank you, Amtrak.

Mr. MOAG. Thank you, sir.

Senator SPECTER. We turn now to the Honorable Jean Cryor, a Delegate in the Maryland House of Delegates since 1995. She was very heavily involved in the issue on the Baltimore Ravens. And on a personal note her husband, Dan Cryor, used to cover the local district attorney in Philadelphia for TV 10.

Thank you, Delegate Cryor, and the floor is yours.

STATEMENT OF HON. JEAN B. CRYOR

Ms. CRYOR. Thank you very much. It is obviously a great honor to be asked to testify about this question. I am most grateful.

The anger and resentment felt by the taxpayers over the expenditure colors, the political environment. It detracts truly from the work that is being done by government. And worst of all, I think it fuels this idea that government is just out of touch with its own citizens. It brings forward the question of how did government get in the business of entertaining its citizens, as opposed to educating them, building roads, building bridges.

In Maryland, we have a football stadium built with terrible controversy. The anger felt by the citizens of Maryland when they learned that the Cleveland Browns were coming to Baltimore to play in a stadium not built by private funds dominated our news for months and months. From columnist Jonathan Yardley of the Washington Post, who usually writes of a very genteel world, to every call-in radio show, everyone weighed in in opposition.

The statewide anger was apparently unexpected by our Governor. After all, Baltimore, as you referred to, is a city where its professional football team, the Colts, slipped out of town one miserable night and never came back. And years later, some fans still meet and wear their Colts T-shirts to buoy their spirits. And as one Colt fan explained to me at a hearing in Annapolis concerning the new team, she said to me when people come to visit you from other States, it gives you something to brag about; your city has a professional football team.

But bragging only carries the issue so far, and frankly there are just not enough tough-minded braggarts to go around. Real anger centered on the use of public funds being funneled to a privately-owned football stadium. It mattered little that the State government hustled out news releases on a steady basis that the stadium was really being financed by State lottery. And if you do not want to support the stadium, they said, then don't buy the tickets.

Well, people may not understand every nuance of spending affordability provisions or education funding formulas, but they knew that public money was headed to the stadium. After the feel-good arguments fell flat, the governor, who probably and justifiably, I

think, felt the citizens were treating him pretty shabbily—after all, he had brought a team back to Baltimore—tried to tie the stadium to economic development.

And critics loved that argument. They pointed out the cost of building the stadium, in excess of \$200 million. The people hurling the peanuts and the fellow pointing out where to park your car would have to earn about \$80,000 a year to make this argument.

The economic argument then turned to the size of the wallet of the fan. It was argued people would come to Baltimore City, see the games, be so euphoric and giddy about the joy of seeing live football that they would lavishly spend their money on meals, expensive trinkets, and stay overnight. The city would be engulfed in a wave of tourism money. Unfortunately, geography was not with that argument. It quickly dissolved with the realization that most fans would drive to Baltimore to see the game and then drive home.

A singular problem Baltimore had that would not be shared by most cities is that the people felt guilty about the way the town was gaining a team. The Browns were leaving Cleveland, a town that loved them. Baltimore found it hard to celebrate with Cleveland's gloom hanging over them. It did not help when a Cleveland magazine article reported the owner of the Cleveland Browns telling his wife to pack and leave town before Cleveland fans found out about the move. The good feeling balloon was definitely coming down.

And the news kept getting worse. The State would build the stadium, but it would not get any proceeds from other events held there. Every economist, I believe, in the State of Maryland wrote to us legislators to tell us this is a bad deal.

I would suggest that if public money is being used to build a stadium, the lion's share of the money netted by the stadium from parking to rent for rock concerts be returned back to the city or the State, and not just by the sales tax. The State should get a generous cut from any license to sell seats to ticket purchasers. And the lucrative naming of the stadium should remain the property of the people who build the stadium.

Threats made by team owners that they will go elsewhere if they do not have a new publicly-funded stadium needs Federal legislation to put a limit on the public financial help. Today, team owners are holding the baby captive and waiting for ransom. They are using the fear of losing everything to force the ransom payment. It is time to rescue the States and cities. Only the Federal Government can out-muscle the team owners.

If the owner is so eager for a new stadium, then let the owner build it, for while the public was footing the bill in Baltimore City, at the same time Jack Kent Cooke was building a stadium in Prince George's and he only asked for road assistance. If the business community of the city or State wants a new stadium, let them put together a good chunk of financing. I support your legislation, and I particularly support your comments made in the Congressional Record. It is not a good feeling for the State of Maryland.

Senator SPECTER. Thank you very much, Delegate Cryor. Are your views as to the issue with the Ravens similar as to the construction of Camden Yards for the Orioles?

Ms. CRYOR. I must tell you I was not in office when Camden Yards was built. And, of course, Camden Yards has been very successful in many, many ways. Camden Yards did not face the kind of problems that the Ravens stadium faced. I just heard someone say earlier that all stadiums are publicly funded. That may be so, but not with a great amount of money.

I want to remind you Baltimore City is a city where only three elementary schools have enough books in their libraries to meet the State requirements. We have children who literally can't read in the city of Baltimore. Those parents came to my colleague and myself to talk about why this shouldn't happen. This kind of expenditure—no matter how you look at, the people say this is out of touch, this is not what we are looking for.

And I want to remind you of the difference between Camden Yards and a football stadium. They play baseball all the time. They hardly ever, it seems to me, play football. It is a very few weeks in the fall. That makes an enormous difference when you figure out how many weeks are actually being devoted to the sport for which this is being built. That is one of the other things that drove people crazy.

Looking at this, it was a very elitist idea, when we have other problems. And I think the government tried its best in our State to work with the problem. But, frankly, we are dealing with goliaths all over the place coming at you from no end of different directions. As it was said earlier, they all have a different plan, they all have a different platform, and we are there trying to hold back we don't know what—a hurricane, a typhoon, a storm, a fire. We are not sure, but one thing we do know is we are in trouble.

Senator SPECTER. What weight, if any, will you give to the sense that you have to have an NFL team if you are going to be a big-league city?

Ms. CRYOR. I find that to be one of the most curious comments ever because it is the final argument. In other words, everything else falls before. When you look at the arguments of economic development and you look at everything, you end up with only one argument: we want to feel good about ourselves.

Senator SPECTER. You have a pretty strong argument if only three libraries have enough school books to comply with State law.

Ms. CRYOR. The libraries, yes, have enough. I think the arguments are very strong. I have to tell you the feel-good argument to me and to many of my colleagues is pathetic. It is not what we are talking about at all. And if people want to build things, let the rich build what they want to build. They have that right, but don't turn to the citizens, who frankly will never be able to buy a ticket to this. It is out of their range, and yet they—and whether you want to say it is lottery proceeds or anything else like that—I am on Ways and Means. The lottery comes under Ways and Means. We have people tell us all the time they don't want to buy lottery tickets because of the stadium. It is a very small number, but you shouldn't have people and the citizens of a State turn to you and say why couldn't you have stopped it, when to them it is obviously not enough to feel good. There are not enough people to feel good about this.

Senator SPECTER. Thank you very much, Delegate Cryor.

Ms. CRYOR. Thank you.

Senator SPECTER. We turn now to Bruce Poole, former delegate to the Maryland House of Delegates; served as the House majority leader from 1991 to 1994, one of the youngest ever elected to that position. Delegate Poole is now a partner in the firm of Poole and Poole, P.A.

Welcome, Mr. Poole, and the floor is yours.

STATEMENT OF D. BRUCE POOLE

Mr. POOLE. Thank you very much. It is a real honor to be here today, and I wish to testify in favor of S. 952. I guess preliminarily I would disagree—I feel like it is old home week because I have got Jean Cryor here, who I fought the fight with, and I have somebody I admire greatly and like, John Moag, who I fought against.

Once again, John and I, I think, disagree on a very fundamental issue. I think John says that the legislation now may not be needed because stability is coming to the forefront in this area. And that may be so, but I would ask that the committee do further investigation on the issue because of two reasons.

First of all, I would suspect that even if John's premise is true that the construction of these stadiums is now about finished and that we have reached going through the cycle, I will submit to you that there will come a time when yet again that cycle will go full measure and we will find ourselves again with stadiums that are deemed to be outmoded, and so once again we will find this problem.

However, I would suspect that even prior to that—the truth of the matter is this is not just a question about construction of a stadium; it is the question of a whole package, and that is really what it is. We are not just talking about, will you build me a stadium. We are talking about, how much is the stadium going to cost and then, in turn, who gets the money that is generated from that.

And I would like to go through my remarks today, but if I may follow forward, I think you will see where I am coming from. I was a member of the Maryland General Assembly at the time that the debate came, and I was actually the person who offered the amendment on the House floor to block taxpayer funding of the Ravens stadium in Baltimore. And after rancorous debate, we lost by just a handful of votes. It was very, very close.

And I would submit to you that as you go through this process, probably the thought process that we followed then is very helpful as the committee considers the bill before it. Now, I will say to you today the Baltimore Ravens stadium is a beautiful stadium. Truly, John Moag does a great job. He does a great job every time that I have seen him in action. But I still don't think that the taxpayers should have built the stadium. And it supplements Oriole Park at Camden Yards, as we know, another taxpayer-funded stadium.

To me, there really are two questions that are fundamental to the debate, and if you understand these two questions, the rest of the debate flows easily. No. 1, are we really generating revenues or are we shifting revenues? And No. 2, if there is value-added to the equation, where is that value-added and who receives it?

Now, let me answer the first question, the question of whether or not there is, in fact, a revenue generation. We are going to hear

all sorts of talk as this debate ensues about multiplier effects. Everybody is nodding their head on this side; we have already heard it. You are going to hear all sorts of talk, spin about ripple effects and everything else. And the premise is made time and again from those who are proponents that, in fact, stadiums create revenues.

I look at it this way. In terms of the Maryland government, there were only two ways that that could have been the case. Either the stadium was going to cause people who lived in Maryland who traditionally would have spent that money outside of our boundaries, outside of our borders, to now spend it in Maryland or, on the other hand, it was going to cause people outside the State of Maryland to come in and spend money here in our State of Maryland which they otherwise would have spent outside the State.

That is not really what stadiums do. Yes, it is true that on any given day you will find people from Philadelphia coming down to an Orioles, and you will find people going back and forth. But the same is true that Maryland citizens, in turn, go over to Philadelphia and spend their money there, and it probably all balances out.

Really, what stadiums do is they tend to make people make a choice about how they are going to spend money, and it is money that is finite in quantity. I guess that if we really were ever able to pull back the veneer and look at the true effect, the truth of the matter is that the Ravens stadium has made people choose as to whether or not they want to spend money on the Ravens or whether they want to go golfing, whether they want to go to the sports bar that is in the stadium or whether they want to go to a pub or a restaurant, whether they want to go on some other outing inside the State of Maryland or whether, in fact, on that particular day they want to go see NFL football. That is really what it is about.

Now, the second question, I guess, that needs to be answered then is, is value added, and if so, to whom. The value that is added is added after the stadium is built. Effectively, the taxpayers pay the mortgage, and the gold then goes to the owners, to the franchises. And the reason it does so is because they largely get the benefits.

Senator I see the light taking off there. I will try to speed through this, but let me get some figures at hand. These are figures that were compiled from data available through Maryland Legislative Services and these are some of the costs to the taxpayer: Gift of the land, \$50 million; construction of the stadium—and when I say gift, fee simple was not transferred to the Ravens, but effectively that is land that we could have used for something else is now a football stadium; construction of the stadium, \$223 million; concession stands and equipment, \$6 million; light-rail walkway, \$5 million; debt service, \$101 million; relocation expenses paid to the Ravens, which includes transferring what we would call personal seat licensing, which actually gives you the right to buy tickets in the first place, \$68 million; naming rights value transferred over to the owner—actually, I wish to amend the testimony. It states in here \$15 million, and the Senator is correct. If you deduct out the payment that was made, in fact, that is \$5 million, not \$15 million, although the Ravens will receive \$105.5 million

from PSINet so that it can be a presenting sponsor of the team as part of the name sale agreement.

Finally, for the deliberations of the Senate, I submit that there is one other question that we really didn't have to ask and answer but would be appropriate here, and that is the question of who can say no. Certainly, there are several people here who have shown valor under fire and have said no. But, largely, public officials are unwilling to say no to an NFL football team, whether it is a question of whether it should stay or whether it should come. And the reason is because of the perspective.

Today, we live in a world where you are defined as a metropolitan area as to whether or not you have a professional sports team. If you lose that team or you fail to get a team, you are deemed to have suffered losses in many scales. It is seen as being a loss of favorable exposure.

Senator SPECTER. How do you evaluate that, Delegate Poole? I have asked the other witnesses that question. My recollection is that at one time Baltimore did not have a baseball team. You had the Orioles in the old days with Wee Willie Keeler, but you went through a long period of time when Baltimore did not have a baseball team. At that time, Baltimore did have a football team, so you have never been without one or the other and big-league status.

Mr. POOLE. Yes.

Senator SPECTER. How do you evaluate that?

Mr. POOLE. Well, part of the problem, is that you cannot quantify that. So, sure enough, the proponents are going to come in and say, "Look, if you lose this team, you are going to be branded a loser". Certainly, Baltimore received a blow to the ego at the time that the Colts left. And I have to tell you, sure enough, if we had blocked the Ravens stadium and the Ravens had not ended up being in Baltimore, there would have been all sorts of rancor about whether or not we should have had the team and what it means for Baltimore now.

Senator SPECTER. Well, there is an enormous impetus if you take the Pirates with world championship teams and Willie Stargell, or the Steelers and the Iron Curtain, or the 1980 Phillies and the world championship. I was there in 1960—I am sorry Senator Feingold has left—when the Eagles beat the Packers. That is the last time the Eagles did it. It has been a long time. I started off being an Eagles season ticket-holder in 1958, and I go to the Phillies regularly on Sundays, like I did 2 days ago, when I am in town and they are in town. So you have that intangible that is hard to quantify.

Mr. POOLE. Yes, sir, and it pulls at the heart strings and it is an emotional argument, and it is what is trotted out and it is a very effective argument.

[The prepared statement of Mr. Poole follows:]

PREPARED STATEMENT OF D. BRUCE POOLE

Mr. Chairman, Members of the Committee, it is a great honor to be here today. I have come to support S. 952.

I was a member of the Maryland House of Delegates from 1987 until 1999. In 1995, I was the person who offered the Amendment on the House floor to block taxpayer funding of construction of the Baltimore Ravens football stadium. After rancorous debate, that Amendment failed by a handful of votes.

Four years later, we have a new football stadium in Baltimore, which supplements Oriole Park at Camden Yards. The facility is state of the art and testament to the fact that the State of Maryland produces top quality. Having said that, I still believe it was a bad idea to use public funds to build the Ravens stadium and submit to you that virtually the same thought process I used in concluding I would oppose the Ravens stadium should guide your consideration of the Bill before you.

In my deliberations, I concluded there were two fundamental questions. Answer these questions, and the rest of the debate flows easily. First, do stadiums create revenue or do they shift revenue? Second, at what point is value added?

Let me answer the first question. For all of the talk about “ripple effects” and “multipliers”, the truth of the matter is that stadiums do not make much new revenue. For Maryland government purposes, there were two ways the stadium could have created new revenue: either keep money inside Maryland that otherwise would have gone elsewhere or bring money into the state that would otherwise not have come in.

That is not what stadiums do. Stadiums tend to simply cause people in an area to make a new choice. The choice is how to spend the finite amount of money that the people have. In Maryland, citizens who now spend their money on the Ravens probably had spent their money at a restaurant or pub in Maryland, golfing in Maryland or on some other activity in Maryland. So, when the Ravens came to town, their true effect was not to generate spending but to substitute spending, not to create new revenue, but instead shift monies spent mostly around the state and concentrate that spending to the vicinity of the stadium.

This leads me to my second question: Where in the equation is value added? The answer, clearly, is that the value is added to the franchise, after the stadium is built. For owners, this really is the most ingenious part of the whole trend. Since public funding of professional stadiums has become the vogue, effectively, the taxpayers incur the costs and the franchises reap the rewards. The rewards, of course come from ticket sales, seat licenses, marketing and copyright use, but the real money comes from television viewing rights. Since the owners control viewing privileges, they make the rules and they get the gold. By being allowed to pool broadcasting revenues, the owners now get a lot of gold.

On the other hand, taxpayers get the mortgage. Let me quote for you some of the true costs of ownership for the Ravens stadium. These figures were compiled from data available through Maryland Legislative Services:

Gift of Land	\$ 50 million
Construction of Stadium	223 million
Concession Stands and Equipment	6 million
Light-rail Walkway	5 million
Debt Service	101 million
Relocation Expenses, etc., paid to Ravens (includes seat licensing)	68 million
Naming Rights Value of Owner:	¹ 14.9 million

¹ Estimated (although the Ravens will receive \$105.5 million from PSINet so that it can be “Presenting Sponsor” of the team as part of the sale of the naming rights)

Finally, for your deliberations, I have one last question: Who can say “No”? Where are the public officials who are willings to walk away from having professional sports teams in their city or state at any cost? By that I am not speaking of state legislators—I am speaking of mayors and governors who ultimately have to make a very tough decision, knowing that if they do not get or keep a team, their jurisdiction will be marred. Loss of a professional sports team has become synonymous with loss of status, loss of prestige, loss of favorable exposure, and loss of opportunity at many levels.

In Maryland’s case, this quandary became most evident in the 1998 Gubernatorial race. While voters were angry at the incumbent for backing the stadium, his primary and general election challengers were noticeably silent on the issue. Purportedly, this was because polling indicated that attack ads on this issue would anger two sets of voters—one for the candidate and one against the candidate. It was a no-win situation, which was fitting. I say that because no-win situations are precisely what public officials and taxpayers contemplating the construction of professional football stadiums face in this environment. Thank you.

Senator SPECTER. We now turn to the first of two very distinguished authors on this subject, our expert witnesses, so to speak.

Dr. Andrew Zimbalist is the Robert A. Woods Professor of Economics at Smith College, in Northampton, MA, where he has been since 1974. He has published two major books on sports economics, "Baseball and Billions" and "Sports Jobs and Taxes." He has also written articles on sports economics and is a contributor columnist to the Sports Business Journal.

Thank you for joining us, Dr. Zimbalist, and what is the answer?

STATEMENT OF ANDREW ZIMBALIST

Mr. ZIMBALIST. Thank you for having me, Senator. One of the advantages of going toward the end is that a lot of the things I was going to say have been said. Let me depart from my formal remarks and make some comments on what has been said and then a few comments on your bill.

Let me begin by noting that I agree wholeheartedly with the tenets of equity financing that Speaker Finneran suggested to us, and I applaud Speaker Finneran for the heroism and tenacity that he displayed with regard to the Patriots. But I also think it is important to point out—and Speaker Finneran recognized this—that Boston is the sixth largest media market in the United States, and that gave Boston a good deal of leverage that most other sports cities won't have.

That is why it is very important for there to be some kind of national policy with regard to stadiums. We cannot depend on the Thomas Finnerans around the United States to do what happened in Boston.

Senator SPECTER. Not enough of them?

Mr. ZIMBALIST. There are not enough of them in the sixth largest media market in the United States.

Second, a topic that often comes up in these discussions is that there are companies in the United States that get subsidies from cities to move their plants into their cities, and if private companies can sometimes do this, why shouldn't sports teams do it as well?

Well, first of all, it is not at all routine for that to happen for manufacturing companies. But there is a very large difference between the manufacturing company that comes into town, builds a plant, hires 500 or 1,000 workers, produces a good and then sells that good to the rest of the country and the rest of the world. They are exporting their product. They are bringing money from the rest of the world into the city.

As some of the speakers have pointed out, most recently Mr. Poole, most of the money that gets spent at a sports arena or sports facility is recirculated money within the town. It does not generate new value-added.

A third comment—this is just to improve the record—is on the issue about \$1 billion being spent on the stadium deal in Hartford. Senator Prague gave a very exhaustive list, but she left out one important item, which is that there was a provision in the agreement for approximately \$170 million to go into a stadium improvement fund. Then that amount would be increased by the rate of inflation, as would several of the other amounts that she alluded to.

Fourth, you asked Mr. Moag about expansion in the NFL, and I would like to remind you and remind your colleagues in the Sen-

ate that when Commissioner Rozelle testified before this body in the late 1960s, asking for permission to have an exemption from antitrust so that the AFL and the NFL could merge, one Senator asked Mr. Rozelle, he said the NFL has been expanding in the last several years. In fact, it had just expanded on two occasions by two teams in the previous 4 years.

And he said, Mr. Rozelle, can you guarantee to us if we allow this merger that you won't abuse your monopoly power and that you will continue to expand? And Mr. Rozelle said absolutely, and he committed himself to an ongoing process of expansion. They got two teams in 1976, after Mr. Rozelle intimated that they would come in 1970, and then the NFL didn't expand again until 1995.

Senator SPECTER. What is the Senate's remedy now, Professor Zimbalist?

Mr. ZIMBALIST. Well, let me say that an economist has no difficulty—before you talk about remedies, you have to talk about the root of the problem. An economist has no difficulty in identifying monopoly as the root of the problem. The sports leagues that we are talking about are monopoly sports leagues. There is only one National Football League that provides top-level professional football in the United States, and the same for the other professional team sports leagues in the United States.

There are two ways that economists say you can deal with monopolies. One is to break them up, to have a bill that would force divestiture, put the NFL back into the AFL, make them compete on business grounds, let them cooperate on playing rules, let them cooperate on the post-season, let them have a Super Bowl, to be sure, but make them compete. In baseball, make the AL and the NL two different leagues, make them compete on business terms. If you had the AL and the NL competing in business terms in baseball, you wouldn't have had Washington, DC, one of the 10 largest media markets in the United States, without a baseball team since 1972. So, that is one possible remedy, divestiture.

The other remedy is some kind of regulation, which your bill provides, and I think it is a good effort. But by the same token, I think that there are some weaknesses in your approach. I think that you are, No. 1, looking for a single formula to apply to very distinct circumstances and very distinct leagues.

As it has been pointed out, the NFL has a tremendous amount of revenue-sharing, whereas baseball and the other leagues have very little. That means that all of the owners of football teams can benefit if there is a new stadium in Boston or a new stadium in Hartford. That revenue spreads out to the whole league, and when there is one team that is doing very poorly, that is a loss that is absorbed by the whole league. So, to have a mandated funding program from the league is much different, carries much different economic incentives from one league to another.

Another problem—I agree with John Moag that the financing provision, particularly as it applies to Major League Baseball, is inadequate. If you take a \$340 million yearly TV contract and take 10 percent of that and put it into a stadium fund, you are not going to have enough money to get anywhere near the 50 percent that you are looking for.

Third, and I think this is very important, the National Football League Players Association and the owners have come to an agreement which provides for the Players Association to contribute in any financing that is done by league funds for new stadiums. They have already handled that and they are already discussing and negotiating means to extend that with regard to the new bylaw in the NFL. So they are doing that particular thing on their own, and I don't think it is necessary for your bill to insert the Federal Government into a collective bargaining relationship, particularly a collective bargaining relationship that has been so successful.

Fourth, I agree with Senator Feingold. I think you have got the wrong punishment in your bill. I think it would be perfectly appropriate, for instance, to remove the Federal exemption on municipal bonds for a league that didn't comply. I think you are going to wreak havoc and financial disarray if you take away the Sports Broadcasting Act powers from the sports leagues.

You simply can't take \$71 million from the coffers of the Jacksonville Jaguars or the Carolina Panthers and expect them to play NFL football. You are going to create similar kinds of problems, not quite as severe but similar kinds of problems if you take the \$14 million away that goes to each of the major league baseball teams that comes from the Federal contract.

Let me lastly say that with regard to the bylaw change in the NFL that they are, as Mr. Moag suggests, taking a step in the right direction. They are not nearly going far enough with that, and they are particularly not going far enough in the medium-sized and small cities.

Senator SPECTER. What should they do if they are going to follow their current path?

Mr. ZIMBALIST. Well, the problem here is that they are going to make a very large contribution in New England because Robert Kraft is going to spend about \$250 million and the NFL is going to contribute \$125 million. But one of the reasons why Robert Kraft has to spend \$250 million is because Boston is the sixth largest media market. When you go to smaller media markets, without legislation similar to the one that you are proposing, the medium and smaller-sized cities are not going to get that kind of private financing. So the NFL is going to be contributing a smaller share, less than 50 percent, to a much, much smaller commitment from the private sector. So I think that you need to do more.

In terms of what the NFL should do, I wouldn't put the burden on them. They are a monopoly sports league. They are going to maximize their profits the best they can. I think again we need Federal action, we need Federal policy, and I think either divestiture or a bill that moves toward the direction that yours moves is appropriate.

Senator SPECTER. Well, thank you very much, Professor Zimbalist. One further question. Washington is the tenth largest media market with no baseball team. Not enough political clout in this town?

Mr. ZIMBALIST. Well, I think that that is a question that you could provide more insight to than I could. There have been powerful owners of the Baltimore Orioles and Baltimore football teams which have lobbied effectively in the past to keep professional base-

ball out of Washington. But, again, I think there are probably nuances to your question that you could provide more insight for than I could.

Senator SPECTER. Thank you very much, Dr. Zimbalist.
[The prepared statement of Mr. Zimbalist follows:]

PREPARED STATEMENT OF ANDREW ZIMBALIST¹

Good afternoon. I would like to begin by commending Senator Specter for making an earnest effort at ameliorating what has been a growing problem in our country, the most recent instance of which was the unsavory competition between Connecticut and Massachusetts over the New England Patriots. For over four decades U.S. states and cities have used increasing public subsidies to compete with each other over professional sports teams, only to see ever higher franchise values. Modern stadium architecture and new revenue-generating accoutrements have led to an explosion in both the number and cost of publicly-financed facilities during the 1990s.

With few exceptions, the competition among our states and cities over sports teams is supported by the U.S. Government which grants tax exemption on the interest from the municipal bonds which are floated to finance sports facility construction. An effort to limit the use of this exemption for publicly-funded sports facilities in the 1986 tax reform only backfired, as financing loopholes were discovered which actually led to lower team rental payments.

Although teams and leagues often hire consulting firms to publicize purported positive economic impact from sports stadiums, all independent academic studies have found that there is no statistically significant positive effect from having a new team or stadium on an area's economy. This fact alone does not mean that there should be no public subsidization of new stadium construction. If the voting public in an area believes that having a new facility or team would enhance the local culture and create a positive consumption value for its citizens, then the public may very well decide to expend tax dollars in support of sports teams—much the same way they may decide to use public funds to park construction (albeit in the case of sports teams the subsidies are eventually appropriated by the private owners of the franchises). The voters, however, need to understand that they are voting for cultural, not economic, value. The voters are also entitled to make this election without the threat of extortion by the monopoly sports leagues.

Economists have no difficulty identifying the source of this problem. Both the National Football League (NFL) and Major League Baseball (MLB) are monopolies. As such, they artificially limit output (i.e., the number of teams) below the demand for teams from economically-viable cities. With excess demand for teams, cities are thrust into competition with each other.

Economists also have no difficulty identifying the possible remedies. There are two choices. Either create competition or regulate. The easiest way to create competition is to force league divestiture. That is, the league could be broken up into two competing business entities while being allowed to set common playing rules and post-season competition. If baseball had two competing leagues, the American League and the National League, it would be inconceivable that Washington, D.C. would go 27 years without a team. It is one of the ten largest media markets in the country and the two leagues would be tripping over each other to occupy it. Similarly, cities like New York would have more than two teams and the competitive advantage Mr. Steinbrenner derives from his MSG contract would attenuate. Compelling divestiture via legislation, however, is not something the U.S. Congress is likely to embrace.

Another route, heretofore spurned by the Congress, is meaningful regulation of the monopoly abuses perpetrated by the major sports leagues. Senator Specter's present bill is but the most recent of several failed efforts at partial regulation of the sports industry.

The Senator's goal—to obligate MLB and the NFL to put aside 10 percent of their national television contracts in order to finance up to 50 percent of new ballpark construction—is admirable. Senator Specter also suggests in his floor statement that of the remaining 50 percent, half should be public money and half should come from the team owner.

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I am supportive of the Senator's ends but a bit skeptical of his means. Let me explain. First, specifying a single formula for distinct situations, especially when the lease terms for the new facility have not been spelled out, is problematic. Second, the present size of MLB's network contract renders it insufficient to meet the financing expectations of the bill.

Third, while franchise geographic stability has its virtues, in the present context extending the NFL an antitrust exemption with regard to franchise relocation is potentially perilous. If the NFL is allowed to decide when teams move, then it also is allowed to prevent two or more teams seeking to move to the same city from competing with each other. Such competition would give the city a modicum of bargaining leverage in setting the financing arrangements and lease terms for the new stadium. Moreover, although it might limit the actual frequency of team relocations, it would not prevent teams from threatening their host city. No baseball team has relocated since 1972, but many franchises have threatened to move and, thereby, obtained tens or hundreds of millions of dollars in public subsidies. While it is probable that granting the NFL this exemption would reduce the amount of litigation against the league, and this is certainly desirable, it is simply too dangerous to grant a monopoly league still greater economic power.

Fourth, the Senator's bill mandates that any monies put into the stadium trust fund will be excluded from the NFL's defined gross revenue (DGR) and, hence, not subject to the 63 percent sharing with the players implied by the league's salary cap. While there is a reasonable logic behind this provision, it is inappropriate for the U.S. Congress to insert itself into the collective bargaining relationship between the owners and players. It would be equally inappropriate, for instance, for the bill to require the abolition of the NFL's salary cap as a means to bypass its automatic sharing provisions and to encourage player contribution to stadium construction. In fact, the NFLPA recognizes the value to the players from new facilities and already has, on its own accord, entered into agreements with the owners that allow the exclusion of certain league financing of stadium construction from DGR. This is not an area where the NFL and NFLPA have failed. It would set a destructive precedent if Congress were to mandate a particular collective bargaining outcome, especially on a subject where the league and players have accomplished much the same on their own.

Fifth, Senator Specter's bill proposes to punish a league's failure to establish a stadium trust fund by removing its member teams' ability to join together to sign a leaguwide network television contract. The NFL derived its ability to do this in the 1961 Sports Broadcasting Act. MLB claims to have derived its ability from its presumed blanket exemption from the nation's antitrust laws granted by the Supreme Court in 1922, and MLB is also covered by the Sports Broadcasting Act. But if Congress proscribes leaguwide television deals, yet continues to allow the NFL and MLB to function as monopolies in other regards, it is courting disarray. Revenue from network television are shared equally among all the teams. If each NFL team signed its own television deal, then the \$71 million per team annual average under the current contract would disappear. Certain popular, big-city franchises, like the New York Giants and Dallas Cowboys, might earn larger contracts, but the Charlotte Panthers and Jacksonville Jaguars might find themselves \$60-\$70 million in the hole. League financial stability would disappear and competitive balance may be undermined. Less dramatically, a similar pattern would affect baseball. Thus, the punishment for non-compliance is too draconian and certainly would not be in the fans' interests.

Further, the punishment does not fit the crime. It is a bit like punishing a child who steals candy by not letting her go to school. Non-compliance in stadium finance would more appropriately be sanctioned by removing the opportunities for federal financing of stadium construction, i.e., not allowing the interest on municipal stadium construction bonds to be exempt from federal income taxation.

The NFL, in an effort to maximize its long-term television revenues, has passed a policy providing league support for financing new facility construction. In the case of the six largest NFL markets, the league will provide an interest-free loan to a team owner for up to half of the owners commitment to stadium financing (with proportionately smaller amounts going to teams in smaller markets). The loan is repaid by monies that the owner would otherwise have to share with the league. Since large cities have more bargaining leverage around stadium issues, they are likely to extract a larger component of financing from the team owner. This policy is a step in the right direction, but it does not go far enough and provides too little support for the 25 smallest markets in the league. MLB has no policy at all that provides league financing support of facility construction.

Thus, more needs to be done to bring sports industry welfare under control. Senator Specter's effort is to be commended. The task now is to make appropriate re-

finements to the bill and to overcome the ever-so-effective lobbying efforts of the NFL and MLB by enlisting support for the measure among members of Congress from outside the few cities and states currently being extorted for large public stadium subsidies.

Senator SPECTER. We now turn to Professor Mark Rosentraub, Professor and Associate Dean in the School of Public and Environmental Affairs at Indiana University in Indianapolis. Dr. Rosentraub's research focuses on the relationships between sports and economic development in the public sector. He is the author of "Major League Losers: The Real Costs of Sports and Who Is Paying for It."

Thank you for joining us, Professor Rosentraub, and the floor is yours.

STATEMENT OF MARK S. ROSENTRAUB

Mr. ROSENTRAUB. Senator, thank you very much for the honor to be here, and I will also just briefly summarize a couple of points, and batting cleanup gives you that opportunity.

First, Senator, I want to let you know that—

Senator SPECTER. When does the seventh hitter bat cleanup? [Laughter.]

Mr. ROSENTRAUB. Our lineup is so deep, I guess everybody is a cleanup hitter.

It has been honor also—I just want to add one thing that is not in my testimony—to work with the city controller in Philadelphia on the situation dealing with the Phillies and the Eagles, and I continue to enjoy that association. And this is just an issue that Mr. Moag and I will differ on very sharply, including the profitability of the Philadelphia Phillies. Having had the opportunity to work through those numbers with the Phillies and with the city, I can tell you there is a real divergence of opinion there.

I also want to point out for the record that I have assessed the issue of the intangible benefits that you have spoken about, and written and published on that. Part of what I am going to recommend today in terms of a solution deals with user fee charges that is based on intangible benefit research. But let me just highlight five or six points and then turn to you for some questions.

No. 1, it is clear we need to change the financing of professional sports facilities because it is the result, unfortunately, of actions that the Congress has taken to protect the monopoly status of professional sports. But as many of my colleagues have spoken to, looking at the media is not the right source, given the different sources of income that the leagues enjoy. It would perhaps be better to simply develop legislation that gave the leagues the 50-percent responsibility that you seek and let them choose the revenue sources. As many have pointed out, including Andy, the NFL has already gone that route. We need to see similar action from the other sports leagues.

It is imperative, though, in your legislation, Senator, that you also specify and discuss the repayment of any funds that get utilized in terms of local government shares. Part of the problem that we will face is that certain communities, including Philadelphia, are seeking to use user fees as a way because of the very lucrative nature of the Philadelphia market for both the Phillies and the Ea-

gles. They should not be precluded from passing local taxes that hit fans only and users of the facility, as opposed to general revenue or gaming funds.

As we go through, in terms of my written testimony for the record, I have identified several funds that you ought to specify cannot be used by local governments to finance their share of facilities, but specify the funds that can be used and circulate those basically on what occurs at the facility or adjacent to the facility itself.

The Senate bill needs to go a little further, in my view, on defining total cost, as many of the State representatives have already spoken about. The infrastructure and environmental remediation costs of these facilities are quite substantial, and if they are not included in the bill, it becomes a mandated cost on local governments or it leaves it open to the negotiation between teams and State and local governments. And as many have talked about, this is not a level playing field in which State and local governments can negotiate with it. They play in a monopoly world where the cards are held with the leagues.

I talk in my testimony a great deal about using user charges as a way to do that. User fees that are paid, whether it is a fee for tickets, whether it is a special sales tax of all consumption around the area, these are not taxes paid by the fans. These are taxes that get split between the players and the owners relative to the revenue-sharing agreements that go on in those leagues because owners, in the absence of a tax, will simply price all products, including tickets, to the maximum they can. The tax simply freezes or puts a ceiling on it, with a chunk of that money going to facility development. And I talk about that extensively.

I also want to touch on one point which I think no one here has yet dealt with, and that is the question of a loophole, as I see it, in S. 952. If, for example, the city of Philadelphia, Senator, would decide to present to the Eagles and to the Phillies a revenue package that included the one-third share, as you well know, that the State legislature requires from local government to be collected from a series of user fees, the owners of both teams might receive more lucrative offers from other communities that would be willing to pass a property tax or a sales tax or a gaming tax to fund that one-third, and hence they would lose the team.

I would ask that you think about including in S. 952 the provision that if any local government came forward with a matching funding formula based on users fees and a team left that because of monopoly status the NFL or Major League Baseball be required within 24 months to award an expansion franchise through a bidding process, as they have done in Cleveland as they have gone through in Los Angeles, in a way that would award a franchise so that a community that believes, because of its market size, like Boston—and Philadelphia clearly fits into this mode—that if Philadelphia could come forward with a user fee basis and if the teams left that Philadelphia would be assured of the fact that it would, in fact, have a new franchise within 24 months. I talk about that in my written testimony, how that would work, because the stadiums would not be as subsidized, but, in effect, that would be handled in that fashion.

Senator SPECTER. Professor Rosentraub, for the fans that is totally insufficient to get a new team.

Mr. ROSENTRAUB. Senator, I agree with you, and I think Andy and I have both written about different ways to handle it in terms of a set of issues about how you deal with a monopoly. But let me point out, Senator, that if the NFL and Major League Baseball knew that if a team moved that they had to, in effect, expand immediately, you would get pressure not to allow the movements to occur.

We have seen this happen, in fact, when we dealt with the situation of the New England Patriots where the loss to the media partners and to the NFL were sufficient to encourage them to seek a solution to the Boston problem, together with the excellent political leadership provided. If, in fact, Major League Baseball and the NFL knew that if the Phillies and the Eagles left Philadelphia that within 24 months both would have to expand, that would create a very powerful incentive for the leagues to help explore the solutions.

So where I agree with you, Senator, that, in effect, the fans don't receive the kind of protection that you and I would like to afford them, what I would say is that S. 952 could create a set of incentives that would require the leagues' participation. And based on what we saw in New England, I think your legislation and your discussions had an impact. I know that the Speaker's work had a great impact, but I also know, Senator, that the fear of losing a team's presence in a very large media market was something that the media partners were not willing to accept and that creates the incentive for a solution. If you required expansion, then, in fact, you would have an incentive.

And the last point I will make, adding on to some things Andy said, is in 1966 Commissioner Rozelle came before this committee and not only did he promise to expand, he also guaranteed that there would be no movement of teams from the smaller markets and from their existing stadiums. Within 15 years, that commitment to the Senate Judiciary was left in shambles. So it is critical that the bill specify rules for expansion and what is expected in return for the monopoly status that this committee has been generous in extending to professional sports.

Senator SPECTER. Well, thank you very much for those ideas and for those suggestions, Professor Rosentraub.

[The prepared statement of Mr. Rosentraub follows:]

PREPARED STATEMENT OF MARK S. ROSENTRAUB

INTRODUCTION

Thank you for the opportunity to address the Committee on Senate Bill 952, the Stadium Financing and Relocation Act of 1999.

Across the past several years there has been an unprecedented level of activity in the building of new facilities for professional sports teams. The changing economics of the sports business has driven this construction boom. While television revenue is still crucial, team owners have learned that they can earn substantial amounts of money from in-stadium or arena sources including luxury seating and the sale of food, beverages, advertising, and souvenirs. Ballparks and arenas built in the 1970s did not have luxury suites and club seats; nor did they have the concourses needed for a large number of quick sales and a variety of food and souvenir outlets. The provision of luxury seating also attracts a caste of fans that are highly

desired by firms that seek to identify themselves in the minds of business leaders and consumers.

The modern ballpark is much like today's airports and the Internet. They are filled with glitzy shops, first class seating, exclusive clubs and seating areas, and the opportunity to capitalize on the disposable wealth of a captive population. Advertising adorns all available space, and as technology is coupled with facility design, advertising appears on personal video screens along with menus and the latest statistics and replays.

The building of these new facilities should be greeted with uniform joy. After all, projects of this nature provide short-term construction jobs, other limited service sector employment opportunities, and fans generally enjoy the new facilities while eagerly spending far more money at the ballgame than they did years ago. Amidst all this good news why are some people joyless when plans for new facilities are usually announced? It is because team owners want more than a new stadium or ballpark. They generally want someone else to pay for their new facilities.

In the vast majority of instances when a plan is announced for a new facility state and local taxes rise. State and local governments are expected to enter into public/private partnerships with teams. These partnerships are somewhat peculiar. Governments provide part and sometimes all of the funds for the new facilities, but the teams keep the overwhelming majority of the revenues collected at the facility. Why do governments agree to these deals? The sports leagues are permitted to control the supply of teams and their locations. There are always one or two cities without teams, and these areas are used to insure that adequate subsidies are provided. If a city fails to provide the required subsidy a team just moves to a more pliant area.

Many have argued that this is not a matter with which the federal government or any government ought to concern itself. After all, any community is free to decide to assist in the financing of a new stadium or ballpark or let a team move to another community that is willing to offer what is demanded. State and local governments make decisions of this nature every day in the provision of abatements, the establishment of tax increment financing districts, and the provision of other incentives to influence the locational decisions of firms and households. Why do professional sports—and in the case of Senate bill 952, the National Football League (NFL) and Major League Baseball (MLB) require special treatment or federal legislation?

THE SPECIAL STATUS OF PROFESSIONAL SPORTS

Sports are separated from other businesses by at least two characteristics. First, sports require organized competition and competitors to be successful. Ford, Microsoft, or American Airlines can operate without the existence of other carmakers, software firms, or airlines. Baseball and football teams, however, must have competitors to be financially successful as fans are attracted to games between teams where the outcome is uncertain and both teams are following the same rules and procedures to build a winning franchise. Sports entrepreneurs did experiment with "barnstorming" teams that went from city to city playing local athletes. This framework was not as successful or profitable as organized leagues of "conjoint competitors" seeking a championship. Teams do compete with each other for players (economic competition) and on the field for championships (athletic competition). Yet, every team owner knows the profitability of any single franchise depends on the success in staging competitive games with unsure outcomes. The success of any sports league comes from a form of self-regulation or conjoint competition to insure competitive balance. However, self-regulation can under certain circumstances create a powerful imbalance in the relationship when leagues control a desired resource.

Second, while all corporations that produce goods and services are important and valuable, there is a social dimension to sports that elevates it to a different position. Sports are, and have been for almost 4,000 years, an organizing element of society upon which people place extreme value. The Greeks, Romans, and Mayans among ancient societies used sports to define critical religious, political, and social aspect of their societies. The importance placed on sports was no less critical in the time of the Ottoman Republic and the reign of the Sultans than it is today for the celebration of American holidays and events. Patriotism and civic virtues are tied to athletic events today as they have been for thousands of years. The Olympics are frequently used to establish political objectives, and teams across the US are critical elements in the establishment of a national and international identity. Finally, leaders in virtually every city believe that hosting a baseball or football team is a necessary prerequisite for establishing themselves as a real or "major league" community. The presence of a large manufacturing plant, bank, or resort complex did not

mean the same thing to the people of Jacksonville or Charlotte when they received a NFL franchise. The extreme steps taken by Connecticut and Hartford, as well as St. Louis and Nashville, are representative of the importance our society places on sports. The subsidies teams receive are the most recent examples of the importance people believe everyone places on sports. Without a team a city is not seen as being "major league" and "serious" or "real" players in the American economy. Without a team communities do not believe they are "real players" in American society.

In this environment the power of the supply of teams is not market-driven but controlled by small groups who use their ability to establish the number of teams to secure subsidies. And, unlike an automobile plant or airline maintenance facility, if a community loses in the subsidy race to get a NFL or MLB team, there are no other suppliers of these goods and services with whom the community can negotiate.

How Much Are State and Local Governments Paying for Ballparks and Stadia?

It is estimated that \$7 billion has been spent by state and local governments since the mid-1980s to build facilities for teams in the four major sports leagues. The financing tools used by state and local governments to support this investment have led to increased taxes. New sales and property taxes have been used as well as special taxes on hotel stays and the rental of cars. Table 1 details the subsidies received by each team.

Table 1.—A Selected Overview of Public Subsidies for the Facilities Used by Professional Sports Teams

League/Team	Situation	Resolution
Major League Baseball:		
Arizona Diamondbacks	New Stadium Part of Expansion Bid	\$238 Million Subsidy from County (sales tax)
Baltimore Orioles	Demanded New Stadium	Camden Yards, \$200+ Million Subsidy, 1992
Chicago White Sox	Threatened to Move to Florida	New Stadium, 1991, 100% Public Subsidy, \$125+ million
Cincinnati Reds	Threatened to Move	New Stadium Approved, 1996; \$250 million subsidy
Cleveland Indians	Threatened to Move Out of Region	New Stadium, 1994 Public Subsidy In Excess of \$150 Million
Colorado Rockies	New Stadium Part of Expansion Bid	\$215 Million Subsidy (sales tax)
Detroit Tigers	Threatened Move to Suburbs	New Stadium Approved, 1997; public subsidy \$240 Million
Houston Astros	Threatened to Leave the Region	New Stadium Approved, 1997; \$180 Million public subsidy
Milwaukee Brewers	Threatened to Leave the Region	New Stadium Approved, 1997; \$232 Million in subsidy
Seattle Mariners	Demanded New Stadium	\$360 Million Public Subsidy For New Stadium
Texas Rangers	Threatened to Leave Arlington	New Stadium, 1994 Public Cost \$135 Million
Toronto Blue Jays	New Stadium Opened In 1989	Public Cost In Excess of \$262 Million (Canadian)
National Basketball Association:		
Atlanta Hawks	Demanded New Arena	\$62 Million In Infrastructure From Public Sector
Charlotte Hornets	New Arena for Expansion Bid, 1988	100 Percent Public Financing (\$52 Million)
Cleveland Cavaliers	New Arena To Bring Team Downtown	Public Subsidy In Excess of \$100 Million
Dallas Mavericks	Threatened to Move to Arlington, Texas ...	Public Subsidy of \$125 Million Approved, 1998
Indiana Pacers	New Arena Approved in 1996	\$107 Million Public Subsidy
Miami Heat	New Arena Approved in 1996	Public Pays \$6.5 million per year and \$34.7 million for land
Orlando Magic	New Arena For Expansion Bid in 1989	Publicly Financed \$98 Million Arena
Phoenix Suns	New Arena in 1992	Public Subsidy Exceeds 50 Percent of \$90 Million Costs
Sacramento Kings	Remodeled Arena in 1997/98	Public Loan of \$70 Million
Seattle Supersonics	Remodeled Arena 1995	Arena Revenues For Public Sector's \$110 Million Investment
National Football League:		
Baltimore Colts	Moved to Indianapolis	Received Excellent Lease in 1984; revised 1998
Baltimore Ravens	Received New Stadium To Relocate	Public Subsidy In Excess of \$200 Million
Buffalo Bills	Threatened To Move	Public Subsidy, \$180 Million for Renovations; Operating Subsidy
Cleveland Browns	New Stadium for 1999 Season	Public Subsidies Exceed \$200 Million

Table 1.—A Selected Overview of Public Subsidies for the Facilities Used by Professional Sports Teams—Continued

League/Team	Situation	Resolution
Cincinnati Bengals	Threatened a Move	New Stadium Approved, public subsidy; \$400 Million subsidy
Denver Broncos	Threatened a Move	New Stadium Approved, 1998; public subsidy of \$260 Million
Detroit Lions	New Stadium Approved in 1996	\$240 Million in public subsidies
Houston Oilers	Moved to Nashville	New Stadium in 1999; \$292 Million Package to Move
Indianapolis Colts	Moved from Baltimore in 1984	New Lease With Expanded Subsidies in 1998
Jacksonville Jaguars	Renovated Stadium for Expansion Bid	\$121 Million public subsidy
Los Angeles Raiders	Moved to Oakland	New Stadium Lease, Remodeled Stadium; \$100 Million subsidy
Los Angeles Rams	Moved to St. Louis	New Stadium in St. Louis; \$280 Million+ public subsidy
Miami Dolphins	New Stadium in 1987	Privately Financed
Minnesota Vikings	Want New Stadium	Unresolved
New England Patriots	Threatened to move to Hartford, Connecticut.	Connecticut offered a subsidy of more than \$350 million; team accepted new infrastructure from Massachusetts and assistance from the NFL to remain in Foxboro, Massachusetts
San Diego Chargers	Renovated Stadium, 1997	\$60 Million public subsidy plus ticket sale guarantee from city
San Francisco 49ers	New Stadium Approved 1997	\$100 Million subsidy
Seattle Seahawks	Threatened a Move	New Stadium Approved, 1997, \$325 Million Public Subsidy
Tampa Bay Buccaneers ..	Threatened a Move	New Stadium 1998, \$300 Million+ Subsidy

While it is undeniable that there is a level of intangible benefits secured by communities from the presence of a team, these benefits do not translate into any form of economic gain. Across more than two decades a number of researchers from our most acclaimed universities and from the federal agencies have studied the economic development effects of professional sports. There is no evidence that a team's presence generates economic development for a region. Sports facilities largely re-shuffle existing spending for recreation among activities in a region. In other words, in the absence of a team, the money spent by people will continue to be expended for other recreational pursuits. To be sure teams do attract a number of visitors to a community to attend games. In addition, the presence of a team does encourage people to spend their discretionary income on local events as opposed to games or activities in other regions. The combination of economic development from both of these sources has been found to be quite small.

LEVELING THE FIELD

The Congress, through past actions has provided the NFL with protection from market forces that has increased the value of each team, the profits earned by team owners, and the salaries earned by players. Congress approved the merger of the NFL with its rival AFL and commitments made by the NFL and its owners to secure that approval have not been honored. When the Congress permitted the NFL to merge with a competitive league, the NFL gave assurances that teams would remain in their existing locations and new franchises would be created. The NFL did create one franchise in the aftermath of the merger, but additional expansions would not occur for several decades. Today, Los Angeles and Houston, still compete for a sole NFL expansion franchise. In addition, while the league committed to keep teams in existing markets, less than 15 years after the merger franchise movement became commonplace. The Sports Broadcast Act of 1961 (Public Law 87-331, 15 U.S.C. 1292) also had the effect of increasing the value of the NFL. Protecting the interests of cities and abating the ability of individual owners to stage unfair competitions for franchises whose value the Congress has protected and supported in exchange for unmet assurances regarding franchise location is not only appropriate, but serves to level the bargaining field between cities and teams.

MLB also has received protection from market forces through its limited exemption from anti-trust legislation and the reluctance of the Congress to eliminate the special status accorded to baseball. MLB also profits from the Sports Broadcast Act, although the NFL enjoys a larger concentration of the benefits from this act.

Towards these ends, then, Senate Bill 952 is both warranted and takes important strides to correcting the imbalances between communities and teams created as a result of past laws. However, there are some additions or changes that I would like to suggest that the committee consider.

First, it is appropriate that revenues from the broadcast of games be used to establish a pool for the financing of facilities. However, the legislation must make it clear the entity responsible for the repayment of any facility financing loans generated by this important pool of resources. As written, the proposed legislation does discuss the availability of revenue for financing a new stadium or the rehabilitation of an existing facility, but it is unclear on the issue of repayment. Is the intention of Senate Bill 952 to establish a revolving loan fund? Or is the intent to establish a source of funds to provide matching grants to build facilities? There are ways to make both systems work to reach the goals that seem to be the objective of Senate Bill 952, but clarification is required to be sure the intent is clear and the repayment method specified.

Second, it is also imperative that the source of funds for repayment of any load be specified. A failure to identify the source of funds could lead to larger tax burdens for local communities.

Third, it may be more efficient to simply specify that the leagues are responsible for 50 percent of all stadium construction costs rather than specifying the specific source of the funds to be used. Given that the proportion of team income from media varies by sport, leaving the issue of revenue sources to the leagues may be more equitable and far more practical.

Fourth, Senate Bill 952 still leaves open the issues of defining the total cost of a stadium project and the share of these total costs that should be shared between a team and the local community. The next section of my testimony touches on each of these matters.

MATCHING GRANTS OR A REVOLVING LOAN FUND?—METHODS FOR PROTECTING TAXPAYERS

Matching Grants. If a league was responsible for financing 50 percent of the cost of a facility in exchange for a commitment of participation by a local government, then these funds could be considered a grant with any requirements for repayment to the fund left to the leagues and their members. If this were the intent of Senate Bill 952 then I would recommend that the Committee consider more specific language to clarify its intent. A matching grant would, in effect, require the league to develop procedures for sharing the cost of the grant.

Revolving Loan Fund. The same objectives relative to insuring that a league use its revenues to fund half the cost of a facility can still be achieved by treating the funds in the pool as a source of loans if the methods of repayment are carefully specified. If any repayments of these funds are to be made Senate Bill 952 should require that the money used to repay a loan must be generated at the facility. Specifically excluded from repayment programs should be broad-based or general sales or property taxes. In addition taxes on the short-term rental of vehicles, stays in hotels, or citywide or countywide food and beverage taxes or taxes on the consumption the tobacco and alcohol products should also be deemed inappropriate. I would also ask that repayment from gaming revenues (e.g., lotteries or betting pools) also be prohibited to insure that income generated only from stadium or ballpark-related activities are used for repayment. This would insure that the repayment to a loan fund would be the responsibility of a team or the league and would not be shifted to taxpayers. In the case of utilizing gaming revenues, a reliance on this unpredictable revenue stream would constrain its use for other infrastructure projects. In addition, if gaming revenues declined a state or local government might be required to substitute other funds from their general revenues.

The NFL has already indicated a willingness to consider such an option and to use its own revenues to insure repayment. To help finance a new stadium for the New England Patriots the NFL loaned the team half of the money for the new facility. Repayment is to be made from revenues the Patriots would have had to share with visiting teams (luxury seating income). As a result no tax revenues are being used to fund this half of the facility's costs. The NFL has also agreed that in smaller markets a financing plan of this nature will be used to support 34 percent of the cost of a new stadium. The cap on financing new stadia in large markets is 50 percent to dissuade owners from relocating to smaller areas.

The NFL's actions have been prompted by the movement of teams to smaller market areas that have offered large subsidies. The owners that accept these subsidies increased their own profits, but the failure to have teams in the largest markets is unacceptable to the NFL's media partners who have paid large sums of money

and want home teams in America's largest television markets. Senate Bill 952 would insure that the NFL's commitment to financing new facilities continues beyond the current wave of construction. Given the changing economics of sports, it would be wise to insure that there is an on-going and continual requirement for league participation in financing new construction and the rehabilitation of existing structures.

Broadening the Base to Include MLB and Protect Small Market Teams in MLB. The Judiciary Committee might also wish to consider the stipulation that 50 percent of the cost of facility financing (construction or rehabilitation) is the responsibility of the league with repayment required from the leagues' existing revenue sources. Removing the requirement that media funds are used would simply mean that the leagues themselves must develop plans irrespective of the source of revenues they identify. The key elements of any proposed legislation must be that (1) the league provides the funds and (2) repayment must be from facility-related revenues and not from any form of taxation related to activities that occur outside of the facility (or beyond a one mile radius). This would preclude the possibility of shifting the leagues' cost of facility construction to state or local tax bases or reducing the level of gaming revenues available to state and local governments.

A requirement of this nature could then be extended to MLB. Specifying television revenue works to the disadvantage of MLB teams located in smaller television markets. Income from the national media contract for MLB is a far smaller portion of total team revenues than the national media contract is for teams in the NFL. In MLB the difference in revenues earned by teams is partially related to the contracts some teams have negotiated for the broadcast of their games in local markets. Some teams earn in excess of \$45 million while others earn less than \$5 million. In addition, media-related corporations own some teams and it is difficult to accurately account for their income from the broadcast of games. As such, a simple solution could be to require the NFL and MLB to establish a funding pool for facility construction or rehabilitation that insures that league revenues are used to support at least 50 percent of the cost of all construction. Repayment of any loans received from this fund will be from facility-related income. Revenues from broad-based taxes, taxes on hotel usage or vehicle rentals, and gaming revenues would be exempt from any repayment plan.

ONE OTHER ISSUE

In developing Senate Bill 952 there is at least one other complex issue that I would suggest that the Judiciary Committee consider. This issue involves both the total cost of constructing a ballpark or stadium and the source of local government funds to support the 50 percent investment required by Senate Bill 952. These issues are related and that interrelationship can help forge a solution to a complex issue.

First, as relates to total project cost the required infrastructure that is needed for a stadium or ballpark as well as any environmental remediation or protection can substantially raise the total cost of a facility. A possible interpretation of Senate Bill 952 is that these expenses are not part of the construction costs and this could expose local communities to the very real possibility that they pay more than 50 percent of the cost of a project. Virtually every stadium and ballpark project requires the investment of millions of dollars in new infrastructure or the expenditure of funds to meet environmental issues. A failure to include infrastructure and environmental costs in estimating the expenses associated with a new facility will increase the proportion the public sector pays.

Second, if a local government would elect to finance their share of construction costs for a new stadium or ballpark by administering a ticket tax or some other user fee, a new round in the subsidy war could actually be instigated by Senate Bill 952. For example, if a city agrees to the terms specified in Senate Bill 952, but opts to implement a ticket tax to fund their portion of the construction cost of a stadium, a team owner could elect to move his team. Ticket taxes (or any sort of stadium or ballpark user fee) reduce the income earned by teams. Hence to increase their income an owner might well be attracted to a community that guaranteed to use a broad-based tax or tax on unrelated activities (e.g., vehicle rentals, hotels, etc.) instead of a ticket tax or other tax on stadium operations. A city in a large market that believes its area affords a team owner an exceptional opportunity to earn profits and that elects to fund its portion of the investment with a ticket tax or rental charge could lose the team to another area willing to provide general tax support. In Massachusetts for example, the state will spend but \$70 million for infrastructure costs while the team pays \$1 million in rent and is responsible for all other construction costs. In addition, the state will receive some revenue from the oper-

ation of parking lots. Senate Bill 952 should not preclude deals of this nature and these options for state and local governments.

This dilemma or conundrum can be at least partially addressed by requiring the leagues to be responsible for 50 percent of the construction cost of a facility while the individual team and the city must equally share the remaining construction AND infrastructure costs. In addition, and most importantly, if a community implements a user fee or other facility-related taxes to support its share of the investment, and a team leaves the area, the community must be afforded an immediate opportunity to receive an expansion franchise. The award of an expansion franchise must be made within 24 months of a team's announced intention to relocate. To select a new owner a competitive bidding process administered by the league will be held. The league of course keeps all revenues from the franchise purchase. However the new team's owners must be guaranteed and full and immediate share of all revenues pooled by that league.

The bids received will reflect the structure of the public sector's offer to fund its share of the stadium costs. A less subsidized stadium creates a team of less value and the bids for prospective owners will reflect this outcome. However, if the new owners pay less for their team and still share in the pool of league revenues with other owners, it will be possible to operate a competitive team and earn a rate of return similar to other owners. In this manner if a city has a team and meets the requirements of Senate Bill 952 they are assured of a team even if they elect to provide less of a subsidy than another community.

Again, I thank the committee for the opportunity to comment on Senate Bill 952 and I hope my suggestions help enhance the discussion and add to the bill's abilities to achieve the public policy goals established by its authors.

Senator SPECTER. We want to really structure it so that we don't get expansion teams and you don't put a Cleveland through the trauma. We had hearings back in 1982 when the National Football League came to the Judiciary Committee, and I was consulted because I had two teams. Senator Matthias was one of the others. And we had in this room really a phenomenal debate between Mr. Rozelle and Mr. Al Davis on those issues.

It seemed to me at that time, and I said that sports were affected with a public interest, that the fans really had a significant ownership interest in the team. The Brooklyn Dodgers fans had a big ownership interest, aside from Walter O'Malley, who got all that real estate in Los Angeles.

Well, this has been very helpful to me. There have been quite a number of suggestions as to how we can sharpen up the legislation. I regret we didn't have more of our colleagues, but at the noon hour on Tuesdays we have caucus meetings. And I had anticipated initially this would be a 10 o'clock hearing, and instead we had Mr. Gates down and the entrepreneurs in town to coincide with a big event they are having. So there is always a lot of competition, but we very much appreciate your coming.

That concludes our hearing.

[Whereupon, at 1:37 p.m., the committee was adjourned.]

STADIUM FINANCING AND FRANCHISE RELOCATION ACT OF 1999

TUESDAY, JUNE 22, 1999

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 11:12 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Arlen Specter presiding.

Also present: Senators Hatch, Thurmond, Kennedy, Feinstein, Feingold, and Schumer.

Senator SPECTER. Senator Hatch has sent word that while he is on his way that it would be appropriate for us to begin the hearing.

The senior Senator here, the senior Senator anywhere, Senator Thurmond.

OPENING STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator THURMOND. Thank you very much. Today, the Judiciary Committee is continuing its consideration of S. 952, the Stadium Financing and Franchise Relocation Act. I am pleased to have this distinguished panel of witnesses with us today. I would like to especially welcome Mr. Jerry Richardson, the owner and founder of the Carolina Panthers, which joined the NFL in 1995.

Mr. Richardson, stand up and let them see you.

[Mr. Richardson stood.]

Senator THURMOND. The team is based in Charlotte, NC, just across the border from my State. It is a fine regional team and serves many, many loyal fans in South Carolina as well.

I share the concerns of Mr. Richardson and others regarding the legislation we are considering today. Stadiums are extremely expensive to build, and I appreciate the frustration that many local communities face in their efforts to finance the stadiums. However, the question before us today is whether the Federal Government should involve itself in regulating the financing of stadium construction. I have serious reservations about this approach.

Today, stadiums are financed in many different ways based on economic and other factors in the local community. Many are financed in public-private partnerships. Others such as the Carolina Panthers are financed by the private sector. The key is that these are primarily local questions, based on local needs and local interests. I do not believe the Federal Government should impose a tax that dictates how financing is achieved.

Recent franchise additions located in smaller markets such as the Carolina Panthers could be seriously harmed by this legislation. This legislation would create a trust fund for stadium construction, and the money for the fund would come from television revenue which is currently shared among all teams. Teams like the Carolina Panthers depend heavily on this revenue-sharing to field competitive teams because their local television markets do not provide sufficient revenue.

I am concerned about the impact that this loss of revenue would have on teams in small markets. Moreover, the NFL has recently passed a resolution increasing its contribution to stadium projects. I believe that this will help foster public-private partnerships to address stadium issues. I am pleased to have our witnesses here to discuss this important matter.

Senator SPECTER. Thank you very much, Senator Thurmond.

While we are awaiting Senator Hatch—

Senator THURMOND. Have the witnesses all come up.

Senator SPECTER. Senator Thurmond suggests that the witnesses come up and I think that is a good idea. After an opening statement, we can begin the testimony.

Senator THURMOND. We can just start down at the end with Mr. Richardson and follow through.

Oh, Senator Specter, do you have a statement? Excuse me.

**STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM
THE STATE OF PENNSYLVANIA**

Senator SPECTER. I do have an opening statement.

I think there is a great deal to be said for leaving the Federal Government out of professional football.

Senator THURMOND. I have got another appointment and have got to leave. Take charge.

Senator SPECTER. OK. Senator Thurmond said I should take charge. I will take charge.

Senator THURMOND. I have another appointment and I have got to go.

Senator SPECTER. I would be willing to leave the Federal Government out of any dealings with the National Football League, and that is, in effect, what my bill says, Senate bill 952, that the National Football League would not be the beneficiary of the antitrust exemption which enables the NFL to share television receipts which has produced a multi-year \$17.6 billion television contract.

If the NFL wants to function like any other business in America and be subject to the antitrust laws, I think that would be a perfectly good arrangement. But the point that Senate bill 952 makes is that if the National Football League is to be the beneficiary of this antitrust exemption that the NFL ought to help pay for the football stadiums which are being constructed across America.

The bill is constructed to require the NFL to establish a fund to pay for 50 percent of stadium construction, 25 percent by the Governmental entities and 25 percent by the teams. And it may be that the NFL in this bill is being asked for too little, considering what the NFL is getting by way of television revenues.

This is a problem for America, but it is a special problem for Pennsylvania, where we have four new stadiums going up at a cost

of about \$1 billion, with two-thirds of them being paid for by the State and by local governments, at a time when we are very hard-pressed on education and health care and highway construction and the whole panoply of what government has to do.

So it seems to me that where professional sports—and this includes baseball as well—has a total antitrust exemption, and football has the limited antitrust exemption which I have mentioned, the taxpayers ought not to be asked to pay for these stadiums.

When you take a look at the stadium construction costs across America, they are astronomical. Cincinnati projects a new stadium in the year 2000 at a total cost of \$240 million, and the public contribution is \$190 million. Baltimore has a total stadium construction cost of \$224 million, \$200 million paid by the public contribution. It goes on and on and on, without reading the entire chart.

I think that Baltimore ought to have a football team; it ought to be the Colts. They had a great football team. Mr. Richardson was a player on that team. Mr. Tagliabue points out that Mr. Richardson is the first owner to have played professional football since George Halas, and Carolina has great potential. I really enjoyed their season the year before last, and I think he may duplicate what George Halas has done or hasn't done, or may exceed it. But the Colts should have been in Baltimore.

I just said to Mr. Richardson privately that I think that Federal Government ought to put a prohibition on teams moving between midnight and 5 a.m. Maybe Senator Thurmond wouldn't object to that limited Federal intervention, just those 5 hours. Any other time, they can move out if they want to, if they can avoid the sheriff. But between midnight and 5 a.m., they ought to be prohibited from moving out.

Last week, we heard about the fandango in New England, with Hartford putting up \$375 million to steal the Patriots, and Massachusetts worked it out to the contrary. And I haven't minced any words. I think it is legalized extortion for football teams to threaten to move and get these giant public contributions. And I compliment Mr. Richardson, who is the only team on this list which the NFL graciously provided—when it comes to public contribution, there is a zero as to what Carolina did. Maybe Miami was in that category as well.

But I compliment you, Mr. Richardson, for doing that. I don't want any of your money for the Eagles and the Steelers or the Pirates and the Phillies from baseball. If you can pay for it yourself, that is fine, but that is not the pattern as to what goes on in America. And it is a very complicated picture and I know it.

I have been a sports fan forever. I bought my first season tickets to the Eagles in 1958, and studied the box scores when I was a kid growing up in Wichita, and lamented the move of the Dodgers to Los Angeles and the Giants to San Francisco. With all due respect to Senator Feinstein, San Francisco and Los Angeles should have had teams; they just shouldn't have had New York's and Brooklyn's teams, in my opinion.

[Senator Schumer applauds.]

Senator SPECTER. Senator Schumer hasn't been around too long. That is the first he has agreed with me on anything. [Laughter.]

It is tied up with free agency and with salary caps and revenue-sharing in baseball and a lot of things. I just said to Mr. Upshaw, whom I have enjoyed as a witness, not as much as I enjoyed him as a football player, that the Eagles have a terrific bunch of players. The problem is too many of them are playing for Green Bay and Miami and every other team in the league.

I love professional sports, and I am just one of millions of Americans who do. Americans have a love affair with football and baseball and I would like to help preserve the game, and I would like to help preserve education and health care in Pennsylvania and America as well.

That is not all I have to say, but that is a starter.
Senator Feinstein, your turn.

**STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR
FROM THE STATE OF CALIFORNIA**

Senator FEINSTEIN. Well, I thank you very much, Mr. Chairman. This bill, I must say, presents a kind of Hobson's choice for me because I do believe that all professional sports should have an anti-trust exemption to prevent franchise relocation. And I say this as a former mayor with a professional baseball team and a professional football team, and particularly the world champion, some of the time, 49ers.

I have been through the stadium wars and have watched them evolve throughout many places in the country. My own view on that part of the bill is that the people are going to take care of the issue themselves without Federal legislation. The reason I say this is because most local jurisdictions finance new stadiums by bond issues, and increasingly voters are reluctant to pass these bond issues, with the belief that it really is the franchisee's responsibility.

I watched this happen in my own city, San Francisco. I watched it happen in San Jose. San Francisco barely eked through a stadium bond issue recently for the 49ers, connected with a mall which may or may not be built. I don't know. But I think the people themselves in each community can make the decision with respect to the passage of a stadium bond that really can decide this.

I feel a little differently. I think there is a tremendous public desire, receptiveness, for professional sports in their communities. I have seen them put a "there" there. I saw what happened when the San Francisco 49ers won the Super Bowl in 1981. I was a new mayor and there were over a million people on the streets and it was one of the greatest bringing together of a city I have ever seen. So, I have been a staunch proponent of professional sports and of the nexus between the sports and the communities in which they reside.

This bill has a couple of troubling effects. I see Mr. Upshaw here. I am delighted to welcome him. I suspect he is going to talk on the effect on collective bargaining. As a matter of fact, my staff did call specifically Dean Spanos, who is the son of the owner of the San Diego Padres, and he mentioned that his two biggest concerns with the bill were, No. 1, the effect on collective bargaining, and that under the league's collective bargaining agreement with the play-

ers, the players now get a set percentage, approximately 63 percent of the league's designated gross revenues.

By removing 10 percent of the league's national TV revenues, Mr. Spanos was concerned that the bill would lead to the collective bargaining agreement having to be renegotiated, and that that would certainly undermine the stability that has been gained and the labor peace and the continuity that has been gained since the negotiation of that latest collective bargaining agreement.

The second point that was mentioned was that this bill would disadvantage small-market teams, in that the league's national television revenue is shared equally among each of the NFL teams. So teams in smaller markets like San Diego are dependent on this revenue, as it represents a much greater share of their income than it does for larger-market teams. By tabbing this shared revenue to fund the proposed stadium construction fund, the burden imposed would be felt disproportionately by small-market teams and would be a consequential disadvantage for them. These are two very real points, the effect on collective bargaining and the disadvantage to small-market teams, that I hope these panelists will speak to.

By and large, though, just to summarize, I think each community really has to settle for itself the degree to which it wants to become the funding mechanism for new stadiums. As I said, the bond issue is generally the source of public funding, and here the people themselves make a decision. I think if the people of the local jurisdiction want to support a stadium bond, they should have that right and ability to do. If they don't, they speak at the polls and so state.

So, I am very interested to hear the testimony before us today and I would like to welcome the distinguished panel.

Thanks, Mr. Chairman.

Senator SPECTER. Thank you very much, Senator Feinstein.

In order of appearance under the early bird rule, Senator Schumer.

**STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR
FROM THE STATE OF NEW YORK**

Senator SCHUMER. Well, thank you, Senator Specter, and I want to thank you for holding this hearing, and particularly thank you for bringing the issue of sports stadium financing once more to our attention. I believe that my colleague from Pennsylvania is asking some questions that really need to be asked in this era of sports as mega business first, and everything else seems to be second.

The simple question is this: what about the fan? What about the taxpayer given the choice of anteing up for a new stadium or watching his or her favorite team depart for greener—and I underline greener—pastures? That question has to be asked and I think this hearing is a salutary way to do that.

You know, I have seen over my years five major professional sports teams leave my State—the baseball Giants, the Dodgers, the football Giants, the Jets and the Nets, with particular affection for me with the Dodgers. I am one who believes in what Pete Hamill has written that the three most evil men of the 20th century were Hitler, Stalin and Walter O'Malley, Sr. He moved the Dodgers, and my father almost lost his job as a result of it, too. And I think even Mets fans would, at least in the confines of their own homes, shud-

der at the thought of the Bronx Bombers becoming the Meadowland Monsters. So this is a real question.

You know, we have seen this in other areas as well. This is not just over sports franchises. Our States go into competition for businesses and the lowest common denominator prevails. First, they say any business can come that pays no taxes. Then they say we will give you lots of money to do this, and it is sort of a bidding war that has no bottom and hurts the citizens throughout the country.

We frankly have not come up with a good way to deal with this issue in the macro sense, not just with sports teams but with all businesses. And every one of our States engages in it; we have no choice. My State of New York watched hundreds and thousands of businesses be lured with these huge packages. And at first we said this is wrong, this not free-market enterprise when States, public entities, are forced to just bid and bid and bid, but then we had no choice and we joined in and now our package of incentives, we brag, equals any other.

And we have no choice and it is a good package, but I wish that none of that happened to begin with and people made their moves on purely economic grounds, not political economic grounds, such as which community could give the best incentives to any ongoing business.

And so I know what Senator Specter is trying to do here. He is simply trying to require sports leagues to do something for the fan, to repay years of fan loyalty, the goodwill of this business by contributing to the costs of keeping a franchise in its current home. And I know that the NFL accepts that it has some responsibility in this regard, and I commend the league for doing so.

What we are really debating here is how to ensure that a sports league's obligation to its fans—and, again, an obligation that we all concede exists—will be fulfilled. To leave it up to each State again gets us into that horrible bidding war that nobody likes, and we just saw between Boston and Hartford didn't have good effects, no matter what the outcome was going to be.

So, Senator Specter, you have offered a creative and thoughtful proposal to this effect and I am studying it carefully. I look forward to learning more about this issue from today's witnesses, and look forward to working with my colleague from Pennsylvania to try and move something that will deal with this problem through the legislative process because I think if you look at what our constituents feel, it is too important an issue to ignore.

Senator SPECTER. Thank you very much, Senator Schumer.

Under the early bird rule, Senator Feingold.

**STATEMENT OF HON. RUSSELL D. FEINGOLD, A U.S. SENATOR
FROM THE STATE OF WISCONSIN**

Senator FEINGOLD. Thank you, Mr. Chairman. As I did at the subcommittee hearing, I reiterate my support of your effort to deal with the issue of stadium financing and franchise relocation in a creative way. I also want to commend you for including witnesses from all sides on the issue. It is absolutely vital that we hear from everyone—the communities, the sports leagues, and the players—and I want to thank all the witnesses for agreeing to be here today.

As I stated last week, I agree with the goal of Senator Specter's bill, but I disagree with the means to the end. I believe that the burden and responsibility of constructing stadiums should rest predominantly with the professional sports leagues and the particular team involved. But at the same time, we need to be careful with how we attempt to legislate greater team responsibility for stadium construction.

I am particularly concerned with how this legislation would impact small media market teams like the Green Bay Packers. It is a little known historical fact, but I know it to be true, that one member of this committee was actually recruited by the Green Bay Packers. I will not identify him unless he wants to be identified, but there are even connections to that.

The NFL was wise to enter into a television revenue-sharing agreement years ago. That revenue-sharing agreement has allowed the Packers to survive over the years and has allowed small media markets like Green Bay to develop world champions. And, of course, this is terribly serious business to us in Wisconsin, and to illustrate it I actually have a piece of the Green Bay stadium, Lambeau Field, with me today.

Lambeau Field is a special place. I keep a little piece of it right in my office. And if you look at this jar of Green Bay Packer dirt from Lambeau Field, you will see a picture of our old stadium filled with a sea of devoted Packer fans. What you won't see, Mr. Chairman, is a lot of revenue-generating luxury boxes. Without that luxury box revenue, the Packers have to rely on TV revenue.

So, I think the goals are admirable, but we do need a different approach, and I do thank Senator Specter for his leadership on this issue.

The CHAIRMAN. Senator Kennedy.

**STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR
FROM THE STATE OF MASSACHUSETTS**

Senator KENNEDY. Thank you, Mr. Chairman, and I want to also join in thanking Senator Specter for raising this issue in terms of football. We have also reviewed antitrust issues with regard to baseball.

I have always felt that with regard to football that this whole system has really worked, worked very effectively with the shared revenues. All we have to do is look at the competitive aspects in the leagues and see how they have shifted and altered and changed, and seen where some teams are on top and able to stay on top for a period of time, but other teams are able to come through a kind of process. And this has worked and worked very effectively, I think, for the fans. It has really worked very well for the fans.

I think there is always the issue of the movement of the various teams, and it is being done really for the sole issue and question, where teams have had lifelong associations with different communities—and as pointed out earlier, they move for reasons totally financial in terms of those that are the owners. And I suppose a case can be made in terms of we are a free country; they put the resources up and they ought to be able to move.

But I am also mindful that the league on this issue has taken steps to indicate that they would have to be able to get three-quarters of the owners of the league in order to be able to move. And I think that this is a very, very strong indication of the desire to try and make sure that in different parts of the country, representing an urban area where the numbers are there and where the sports fans are there, people are going to have some kind of assurance of continuity. Representing an area where there has been speculation that the team would be moving in any year, at any time, it has had an enormous impact, unfortunately, in terms of the kind of morale generally of the community on this issue.

I have been enormously impressed, Mr. Chairman, by the actions that have been taken in terms of the league with regard to their willingness to support the proposal for the Patriots situation. That, I think, has been something that, as I understand it, is going to be a part of that whole league policy, and it seems to me to represent a balance in terms of both the league and the owners. And I think it has been a very encouraging action, and I think it is something that should be supported.

So, I am enormously interested in the proposal that is before the committee, but I am also impressed by what has happened in the past in the league and the determination of the league now in terms of these issues and the leadership that is being provided in the league to address these questions in terms of the construction, as well as in terms of the movement.

I think the final issue is the difficulty that we all see in terms of the accessibility and the availability of access to the games. On the one hand, you have the sale of the super boxes, and on the other hand we have seen the continued escalation in terms of the cost for the average family to be able to go to these games.

I welcome the fact that the sky boxes and others are going to be picking up the heavy lifting in terms of the financing, and am always interested in what is being done to continue to assure the availability and the accessibility of families to take their kids to football games, which is certainly a part of the whole tradition in terms of the sport of football and American athletics generally. This is an area that is of very considerable interest to me.

I thank the Chair for having these hearings and look forward to the witnesses.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

The CHAIRMAN. Well, thank you, Senator Kennedy.

Good morning, and we are happy to welcome all of you to today's hearing on the Stadium Financing and Franchise Relocation Act of 1999. I want to thank Senator Specter for his leadership in this area and hard work on this important issue. I know this is a matter of great interest to Senator Specter and others on this committee.

I would also like to recognize that today is Senator Feingold's birthday. I won't mention how many years, but it is 46, I believe.

Congratulations. You have made it through this far.

Senator FEINGOLD. Regrettably, it was March 2.

The CHAIRMAN. I thought it was today.

Senator FEINGOLD. No.

Senator FEINSTEIN. It is my birthday.

The CHAIRMAN. It is your birthday?

Senator FEINSTEIN. Yes.

The CHAIRMAN. Oh, I am not going to touch that. [Laughter.]

Senator KENNEDY. These presidential aspirations sometimes affect one's judgment. [Laughter.]

I can tell you that from practical experience.

The CHAIRMAN. It shows how it discombobulates your mind. I have recognized that many years in Senator Kennedy, let me tell you. [Laughter.]

Is it really your birthday, Senator Feinstein?

Senator FEINSTEIN. Yes.

The CHAIRMAN. Well, happy birthday.

Senator FEINSTEIN. I am 46. [Laughter.]

Why is everybody laughing?

The CHAIRMAN. I thought you were going to be mad at me for saying 46. In any event, happy birthday.

Senator SCHUMER. And to anyone else.

The CHAIRMAN. Yes, and anybody else in the room.

Let me just say that this is an important issue to all the sports communities because how this turns out, I think, could have a dramatic impact. I am just concerned about whether we should be legislating in this area. On the other hand, I am looking at it very carefully.

As I noted in my statement last week, I have been interested in the public financing of stadiums and, of course, its impact on local communities and their respective economies. Professional sports play an ever-increasing role in our society today and in communities across the Nation, whether through direct involvement in local charities or their economic impact on revitalization of the immediate communities.

Also, more and more professional athletes serve as possible role models for our young people. So it is very important, and I recognize that. I look at Gene Upshaw here and he has been a role model for me for many years. I don't think you knew that and you may not want to own up to that, but the fact is that I have admired you for many years.

And when Tagliabue played basketball here—and that was a long time ago—

Mr. TAGLIABUE. Too long.

The CHAIRMAN. But I kind of admired you. The way you played ball was very good. It is good to see you still in professional athletics after doing all those important legal things that you did all those years.

We are going to examine in this the impact of professional sports, and specifically professional football on local economies. Last week's hearing shed some light on this matter. I was interested in what the distinguished panel had to say. We heard mostly from public officials and economists who generally supported the underlying objectives of Senator Specter's legislation. For instance, Speaker Thomas M. Finneran, of the Massachusetts House of Representatives, referring to the NFL, asked, "Why are taxpayers ex-

pected to subsidize already profitable businesses?" It is a question that has to be answered.

As far as I am concerned, we could not have a more distinguished panel than we have today. I welcome each of you, and I think you, for the most part, should provide us with another point of view and we should listen to you very carefully. We want to come to the best possible resolution, and it is important to have the benefit of all views on this particular issue.

We all need to work together with the local communities, the mayors, the sports leagues, and most importantly the sports fans in arriving at a mutually beneficial and fair solution. So I look forward to working with Senator Specter and others on this committee and others in the Senate to carefully and thoroughly examine the issue of stadium financing and franchise relocation.

I particularly am looking forward to the testimony today. I won't be able to stay, but I am going to read each of your statements today. And I am following this very, very closely and we will try to do what is best under the circumstances. I think you can count on that. So I just want to welcome you all here and tell you we are very honored to have you here.

So I am going to turn the hearing over to Senator Specter, and I know that that may be of some worry to you, but he will handle it very well. Thanks for being here.

Senator SPECTER [presiding]. Thank you very much, Senator Hatch, and thank you for scheduling the hearing and for cosponsoring the bill.

We turn now to the witness list. We have a very distinguished panel. Our first witness is Mr. Jerry Richardson, the owner and founder of the Carolina Panthers, the 29th franchise to enter the NFL. Ericsson Stadium in Charlotte, where the Panthers play, was privately funded and opened in 1996. The stadium featured the innovation of permanent seat licenses as a way of financing stadium construction.

Mr. Richardson is also the chairman of the NFL's Stadium Committee. Mr. Richardson, as noted before, played with the Baltimore Colts as a wide receiver, receiving passes from Johnny Unitas at that time. In May 1995, Mr. Richardson retired as chairman of the Flagstar Company, which is one of the largest food service companies in the United States, to shift his emphasis to another goal, to bring the people of the Carolinas a Super Bowl championship within the next 10 years.

We welcome you here, Mr. Richardson, and look forward to your testimony. All statements will be made a part of the record, and the committee procedure is to put a green light up for 5 minutes, with the yellow going on at 1 minute and the red at the conclusion.

Mr. Richardson, the floor is yours.

PANEL CONSISTING OF JERRY RICHARDSON, OWNER AND FOUNDER, CAROLINA PANTHERS, CHARLOTTE, NC; BENJAMIN KLEIN, PROFESSOR OF ECONOMICS, UNIVERSITY OF CALIFORNIA AT LOS ANGELES, LOS ANGELES, CA; GENE UPSHAW, EXECUTIVE DIRECTOR, NATIONAL FOOTBALL LEAGUE PLAYERS ASSOCIATION, WASHINGTON, DC; PAUL TAGLIABUE, COMMISSIONER, NATIONAL FOOTBALL LEAGUE, NEW YORK, NY; AND RICHARD HORROW, PRESIDENT, HORROW SPORTS VENTURES, MIAMI, FL

STATEMENT OF JERRY RICHARDSON

Mr. RICHARDSON. Thank you. Mr. Chairman and members of the committee, as has been stated, my name is Jerry Richardson and I am the owner and founder of the Carolina Panthers. I do have a written statement that has been submitted for the record, but I would like to briefly make a few more remarks, if I could.

It was also stated earlier that we operate our team out of Charlotte, NC, even though we call our team the Carolina Panthers and we represent both States with great pleasure and enthusiasm.

In addition to my role with the Panthers, I am also chairman of the Stadium Committee, as you stated, and in that role I have been involved in stadium projects throughout the country and have worked with team owners, State and local governments, lenders, and the Commissioner and his staff. Our goal has been to promote sensible stadium alternatives that serve the interests of our teams, their fans, and their communities, and promote franchise stability.

I am here today, Mr. Chairman, in response to the request that you and Senator Hatch made of me, but also would like to make clearly known that I support the position that has been submitted to you by the Commissioner in regard to the bill that you propose.

If my work with the Stadium Committee has taught me any one thing, it is that there are as many different solutions to stadium issues as there are communities in the country. Cities use stadiums to facilitate and accomplish a wide variety of purposes beyond simply securing or maintaining a professional franchise. In many cases, stadiums will serve as the centerpiece of a broader urban renovation plan, and play an important role in enhancing local communities and their economies.

Communities and teams have recognized that benefit, and that the burden of construction is properly shared between the teams and the communities. As a result of this, a number of creative public-private financial partnerships have been developed which, in turn, have served the league in the building of some 23 new stadiums in the NFL. There are many different ways to pay for these products, and each community and team must weigh the alternatives available and select or create the one that works the best for that particular community.

I have also learned that stadium products are among the most hotly contested and closely scrutinized issues that come before local governments. In each case, stadium proposals face a great deal of publicity and spirited public debate, particularly when bonds or taxes are involved. And it is both wrong and unfair to suggest that voters throughout America will just leave their good senses at the door and give the NFL whatever it is that we ask for. Given these

realities, I don't see any reason why Congress should take on the responsibility of trying to determine for communities what the communities themselves think is best for them.

I am happy to be here today and I would be happy to answer any questions that you may have at a later date or now.

Senator SPECTER. Thank you very much, Mr. Richardson. We will complete the testimony of all the witnesses and then go to the rounds of questions.

[The prepared statement of Mr. Richardson follows:]

PREPARED STATEMENT OF JERRY RICHARDSON

Mr. Chairman and members of the Committee, good morning.

My name is Jerry Richardson, and I am the owner and founder of the Carolina Panthers. Although we play our home games in Charlotte, North Carolina, we call ourselves the "Carolina Panthers" because we serve the fans of the entire region, and we're proud to say that our home includes both North and South Carolina. Indeed, when the Panthers joined the NFL in 1995, we played our first season at Clemson University in Clemson, South Carolina, before opening our new stadium in Charlotte.

In addition to my role with the Panthers, I am also the Chairman of the NFL's Stadium Committee. In that role, I have been involved in stadium projects throughout the country and have worked with team owners, state and local government officials, lenders, and the Commissioner and his staff. Our goal has been to promote sensible stadium alternatives that serve the interests of our teams, their fans, and their home communities, that are sound economic investments, and that promote franchise stability. I am here today, Mr. Chairman, both in response to the invitations from Senators Hatch and Specter, but also to make clear that I fully endorse the views expressed by the Commissioner in his testimony and that I, too, urge the Committee not to proceed further with this bill.

If my work on the Stadium Committee has taught me anything, it is that there are as many different solutions to stadium issues as there are communities in this country. Cities use stadium facilities to accomplish a wide variety of purposes beyond simply securing or maintaining a professional franchise. In many cases, stadiums serve as the centerpiece of a broader urban renovation plan, and play an important role in enhancing the local economy. Communities and teams have recognized that the benefit and burden of stadium construction is properly a shared one. As a result, a number of creative public-private financial partnerships have been developed, which have in turn resulted in the successful new construction or significant renovation of stadiums in twenty-one NFL communities. There are many different ways to pay for stadium projects, and each community and team must weigh the alternatives available and select—or create—the one that works best.

I have also learned that stadium projects are among the most hotly contested and closely scrutinized issues that come before local governments. In each case, stadium proposals face a great deal of publicity and spirited public debate, particularly where bonds or taxes are involved. And it is both wrong and unfair to suggest that voters leave their good sense at the door and give NFL teams a blank check when it comes to stadiums. Just last month, the voters in Arizona rejected a proposal that would have included a new stadium for the Arizona Cardinals. Voters in Pittsburgh rejected a stadium proposal for the Steelers, and required the team and government to come up with a new proposal that was less costly to the taxpayers. Voters in Minneapolis did the same in respect to the Minnesota Twins.

Given these realities, I cannot understand why the members of this Committee would feel they need to impose a uniform federal approach on what is so clearly a local issue. I do not understand what national problem requires a Congressional act to override the carefully considered judgments of state and local governments, many of which have been the subject of direct action by the voters themselves. In effect, this bill tells mayors, city and county councils, and even voters that they do not know what they are doing, they cannot be trusted to decide for themselves how to spend their money, and that Washington must make those decisions for them.

I have previously expressed my views on this bill in a letter to Senator Thurmond, dated June 9, 1999. I have attached a copy of that letter to my statement and respectfully request that it be included as part of the hearing record.

Because I know that our time here today is limited, let me summarize briefly a few other points.

First, focusing on the 1961 statute is, in my opinion, precisely the wrong approach. That statute is not the problem and it should be left alone. Indeed, if it were not for the 1961 statute and the television revenues that we share equally in the NFL, I do not believe that a team based in our part of the country could effectively compete in the NFL. Although we have received superb fan support in the Carolinas, Charlotte is still only the twenty-eighth largest television market in the country, and it is of great significance to us that the Panthers share television revenues equally with teams located in far larger communities.

Second, taxing away 10 percent of our television revenues every year would be a very substantial economic blow to a team like the Panthers. We would experience no reduction in our player costs, in any other operating expense, or in our debt service costs. But millions of dollars would be taxed away from one of the smaller markets in the League, and it would be virtually impossible for us even to come close to making up that lost revenue. Such a tax would impose a very significant threat to our team's well being.

Third, as written, the bill would apply retroactively to any stadium project not yet completed. I can see no justification for undoing settled financing arrangements, many of which were specifically approved by voters. As I understand it, one premise for this legislation is the new set of television contracts entered into by the NFL in 1998. But the bill purports to use that money to refinance stadium projects that had been approved and had been underway well before a single dollar of those television revenues were received. That does not seem appropriate and I hope, if nothing else, the Committee rejects that approach.

Fourth, I am gravely concerned about the effect that this legislation may have on our collective bargaining arrangements. As a smaller market club, the Panthers benefit considerably from stable labor relations and a bargaining agreement that gives all teams an opportunity to be competitive. I know that you will hear directly from Mr. Upshaw, but I can only assume that the union would oppose an effort to rewrite our collective bargaining agreement without its consent. If this bill becomes law, it would be the NFL teams, and our fans, who would pay the price in future labor unrest.

Finally, I want to comment briefly on Ericsson Stadium in Charlotte, where the Panthers play. It is true that the stadium itself—as opposed to related costs, such as land and infrastructure—was privately financed. Whether that model can work in other communities is very much an open question. One reason why it worked in the Carolinas is because that was a new market and we were able to sell substantial amounts of personal seat licenses, or PSL's, to finance the stadium construction. But there is often significant resistance to PSL's in established communities, where fans have held season tickets for many years and do not believe that they should have to purchase PSL's to come to the stadium. I think there are some communities where PSL's can be marketed successfully, at least to a limited extent. Cleveland and Pittsburgh are examples. I believe there may be others where PSL's could not be marketed successfully. For that reason, the experience in Charlotte is of limited use in trying to formulate a national policy. Indeed, the experience in Charlotte no more means that stadiums should be fully financed by the private sector than the experience in Baltimore or Nashville means that they should be fully financed by the public sector.

Mr. Chairman, and members of the Committee, I appreciate the opportunity to speak with you today. I hope that my comments have been helpful and I look forward to responding to your questions.

CAROLINA PANTHERS,
Charlotte, NC, June 9, 1999.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR THURMOND: On behalf of the Carolina Panthers, I write to express my strong opposition to S. 952, which was recently introduced by Senator Specter. This bill addresses the financing of baseball and football stadiums, and would impose a federal "solution" on what is a particularly local "problem." *I urge you to take whatever steps you can to prevent this unnecessary and negative proposal from proceeding past a planned June 22 hearing.*

In addition to being the principal owner of the Panthers, I also serve as Chairman of the NFL Stadium Committee. In that capacity, I have worked with clubs throughout the League, and with state and local officials throughout the country, on issues relating to the construction and renovation of stadiums. It is apparent to me that

the issues surrounding a stadium project will almost inevitably differ from one community to the next and that each community must have the Freedom to address these issues in its own way.

I also know that stadium projects face the most thorough evaluations from local and state authorities. Often, these projects do not go forward without direct approval from the voters themselves. In every case, there is a great deal of publicity and spirited public debate on all aspects of the proposal, particularly where bonds or taxes are involved. Voters have shown they know how to protect their interests when they believe a project is unwarranted. Just last month, the voters in three Phoenix-area communities rejected a proposal that would have included a new stadium for the Arizona Cardinals.

In an effort to foster public-private partnerships to address stadium issues, the League and its member clubs have collectively invested hundreds of millions of dollars in projects throughout the country. Recently, the clubs approved a resolution expanding the League's contribution to stadium projects. Under the new resolution (copy enclosed), the League will provide a loan at the onset of a stadium project that will cover between 34 and 50 percent of the private contribution toward a stadium. Last month, in keeping with this resolution, the League's members approved new financial commitments of well over \$300 million toward stadiums in Denver, New England, and Philadelphia. We strongly supported this stadium proposal because it represents a League investment in our communities and benefits all involved in the NFL.

Charlotte, the nation's 28th ranked television market, is one of the smaller markets in the NFL. However, under the NFL television plan, the Panthers receive the same amount of money from network television as do teams located in far larger communities. While we have extraordinary support from fans in both South Carolina and the Greater Charlotte area, the Panthers depend on national television revenues for the resources needed to field a competitive team. *It would be a very substantial blow if we were to lose 10 percent of our television revenues every year (as prescribed by the Specter bill), particularly since there would be no corresponding reduction in player salaries or other operating costs.*

We also strongly object to the approach taken by S. 952, which would condition the League's rights under the 1961 Sports Broadcasting Act on the creation of a stadium fund. But the 1961 Act is not the problem and limiting its applicability is not the solution. Under the 1961 Act, the NFL has created the most pro-consumer television plan in sports today. As you may know, every regular season and playoff game is televised on free over-the-air television. (Even the Sunday night cable games, televised nationally on ESPN, are shown on over-the-air stations in the home communities of the participating teams.) No other league provides this level of service to its fans. The revenues generated from those contracts are, in turn, equally shared and assist teams in communities of widely varying size and circumstances in competing successfully on the field. The Sports Broadcasting Act has worked in the manner intended when you and other members of Congress passed it in 1961. There is no justification for tampering with it.

Two aspects of S. 952 are deserving of consideration and would advance our shared interest in promoting team stability and competitive balance throughout the League:

- Congress should confirm that the antitrust laws do not prohibit leagues from making decisions on where member clubs will be located. The abuse of the antitrust laws first precipitated in the early 1980s, through the Raiders litigation, remains the root cause of franchise instability.
- Congress should confirm that the 1961 broadcasting statute extends to all forms of television, other than pay-per-view, so long as the revenues are equally shared among the League's member clubs.

Both of these provisions are constructive, and we would strongly support them being enacted into law.

I appreciate your consideration of these views. I hope that, once the June 22 hearing concludes, you will oppose any further action on this bill. Should you have any questions, please feel free to call me.

Sincerely,

JERRY RICHARDSON.
Owner/Founder.

1999 RESOLUTION G-3—AS AMENDED

Whereas, it is appropriate to improve the League's current policies to support new stadium construction through club seat sharing exemptions, as reflected in the club

seat sharing exemption guidelines adopted by the League in 1994 (the "Guidelines"), and through PSL sharing exemptions;

Whereas, a revised policy can facilitate new stadium construction projects by (1) making upfront League loans in support of Clubs' private contributions to such projects (rather than annually exempting from sharing the visiting team share ("VTS") of club seat premiums over a period up to 15 years), and (2) assuring that League loans will amount to at least 34 percent of an affected Club's private contributions to a project;

Whereas, such League loans should be subject to member club approval on a case-by-case basis;

Be it Resolved:

(1) That for any stadium construction project involving a private investment for which an affected Club makes a binding commitment from now through the 2002 NFL season (through March 31, 2003), the League shall make a loan to the affected Club to support such project based on the amount that the affected Club has committed to such project as a private contribution (the "Private Contribution");

(2) That the amount of such League loan shall range from 34 percent to 50 percent of the Private Contribution, determined on a case-by-case basis based on the size of the Private Contribution, with incremental League loans in excess of 34 percent generally to be made available to facilitate stadium construction projects in the largest markets that are home to an NFL Club, and with the League loans in smaller markets generally limited to 34 percent of the Private Contribution;

(3) That the Commissioner is authorized to make arrangements for the League to borrow from commercial or institutional lenders funds to make such League loans, with the funds to be repaid to such lenders over an appropriate time period (10 years or such other period as may be determined by the Finance Committee);

(4) That the specific borrowings from commercial or institutional lenders related to any stadium construction project must be approved as part of the League's approval of a League loan to such project, with the borrowings to be repaid principally from the VTS of club seat premiums generated by such project, and, to the extent that the VTS of club seat premiums is insufficient to repay such loans, with any incremental funds needed for repayment to be assessed against the League's network television revenues;

Further Resolved:

(1) That if PSL's are sold with respect to a particular stadium construction project, such PSL's shall be eligible for an exemption from sharing in accordance with current policies;

(2) That the amount of VTS exempted in respect of PSL's sold shall be offset against the principal amount of League loans available for the project; and

(3) That for purposes of determining whether a project is eligible for incremental League loans, only the first \$75 million of PSL proceeds shall be treated as a portion of the Private Contribution;

Further Resolved:

(1) That any League loan under the League policy adopted by this resolution, as between an affected Club and the League, shall be forgiven over the term of the aforementioned League borrowing on an equal annual basis; and

(2) That, if an affected Club that receives a League loan under the League policy adopted by this resolution (or a controlling interest therein) is subsequently sold other than to a member or members of an owner's immediate family (as defined in the NFL Constitution and Bylaws) before the final maturity date of the League loan, then the selling party shall repay to the League from the sale proceeds at closing an amount equal to the outstanding principal balance on the League loan; and

Further Resolved, that in order for a stadium construction project involving a Private Contribution to qualify for a League loan, the conditions set forth in Attachment A to this resolution must be satisfied.

SUBMITTED BY FINANCE COMMITTEE AND STADIUM COMMITTEE

Reason and Effect: To modify and simplify the League's policies with respect to stadium construction projects to provide for, among other things, (1) a standard 34 percent League loan towards the private contribution to such projects, (2) such League loan to be made upfront at the beginning of such projects from funds to be borrowed by the League, and (3) an incremental League loan (in excess of 34 percent) in respect of such projects in the largest markets.

VOTE	DISPOSITION
For 29	Adopted
Against 2	
Abstain 0	

Senator SPECTER. Our next witness is Professor Benjamin Klein, Professor of Economics at UCLA, a position he has held since 1968, and president of Economics Analysis LLC, an economics consulting firm located in Los Angeles. He has had extensive consulting and litigation experience, made numerous presentations to various governmental agencies, is widely published on stadium financing, and has been a consultant to the U.S. Federal Trade Commission and the Antitrust Division of the Department of Justice.

Welcome, Professor Klein, and the floor is yours.

STATEMENT OF BENJAMIN KLEIN

Mr. KLEIN. Thank you, Senator and members of the committee, for this opportunity to address you. I have covered in my submitted written testimony a number of reasons why S. 952 is defective from an economic point of view, but I would like to make here just three points.

First, I want to correct the mistaken impression that stadium projects should be looked at primarily as jobs-creating programs. This is much too narrow a perspective. One must take into account what economist call the public good consumption benefits of these projects. In particular, citizens of a community get benefits from a team even if they don't attend the games, as Senator Feinstein was mentioning.

They listen to the games on radio. They talk to their friends about the team. They read about the team in the newspaper. They identify with the success or failure of the team. And these benefits that consumers receive without paying directly for the product is what economists refer to as public goods, and economists generally recognize that it is legitimate for local governments to support the provision of such public goods. It is analytically similar to deciding to have park land or an opera house or waterfront development. These are quality-of-life type public goods, and the expenditures that localities make on these goods should not be judged solely on their job-creation benefits.

Second, this proposed legislation is not market-driven and, in fact, it creates significant economic distortions. In particular, more stadiums will be built and these stadiums will not be economic; that is, they will not be in the league's and the community's joint interest to build.

Now, the basic economics here is relatively simple. From the individual team's point of view, this legislation would lower the cost of stadiums 50 percent, paid for by the other team owners, so that every individual team will find it in its own narrow interest to get the city to ask for the funds for the largest and most elaborate stadium renovation or construction, even in cases where city and team benefits together don't exceed the costs. And there is no mechanism in the legislation for the league to allocate projects in terms of

overall priorities; for example, an important project to keep a team in an existing relatively large media market.

Third, and finally, it is not clear that local communities will be made better off by the proposed legislation. In my written testimony, I go through a number of cases where basically from an economist's point of view, what is likely to happen is that the league contribution is just going to offset or substitute for the private contribution and not augment the total contribution.

And I guess the basic economics—I see I still have the green light—the basic economics is that the city is willing to pay a certain amount for the stadium project, and they don't really care where the rest of the money is coming from. And that willingness to pay will remain the same and the team will just get the money from the league, and it is not clear in most cases that there will be any decrease in the public contribution because of this legislation.

In conclusion, S. 952 would provide few benefits to local taxpayers, while creating significant economic distortions.

Thank you.

Senator SPECTER. Thank you very much, Mr. Klein.

[The prepared statement of Mr. Klein follows:]

PREPARED STATEMENT OF PROFESSOR BENJAMIN KLEIN*

Thank you for the opportunity to address the Committee on Senate Bill 952, the Stadium Financing and Franchise Relocation Act of 1999.

I would like to begin by noting that sports teams provide substantial benefits to citizens of local communities, including the ability of local residents to follow and enjoy a home team. To an economist it is important to recognize that these valuable benefits also are enjoyed by individuals who do not attend the teams' games. Local citizens identify with the success of the team, follow the team on television and radio, read about the team in the newspapers, and talk with their friends about the success or failure of the team. Indeed, there are few activities that appeal to such a wide cross section of demographic and socio-economic groups as do professional sports. Most analysts of stadium projects today agree that professional sports teams can confer significant economic value on a community in terms of such consumption benefits.¹

The type of consumption benefits that many people in the local community and surrounding region receive from the presence of a professional sports team are frequently termed "public good" benefits by economists. When private providers of a product can only charge consumers directly for a portion of the total benefits the consumers receive from the product, it is widely recognized in the economics literature that it may well make economic sense for citizens, via their government, to contribute to the provision of the product. Hence, there is a strong economic rationale for local public support of sports teams. Efficient local subsidization does not require that the activity provide economic development benefits, as would roads or bridges. In this regard, stadium contributions from the public sector are analogous to public contributions toward other consumption goods, such as parks, golf courses, swimming pools, zoos, concert halls, and museums.

Many critics claim that stadium projects are poor public investments because they do not create many jobs per dollar of expenditure. However, while sports stadiums do provide economic benefits to local communities in the form of increased local em-

*Benjamin Klein is a Professor of Economics at UCLA and President of Economic Analysis LLC, an economic consulting firm. He has written a wide range of articles in the areas of anti-trust economics and industrial organization and recently has published research on stadium financing. He has served as a consultant to various government agencies, including the Antitrust Division of the U.S. Department of Justice, the Federal Reserve Board of Governors, the New Zealand Treasury and the U.S. Federal Trade Commission Bureau of Competition and Bureau of Consumer Protection, and to numerous business firms, including several sports leagues.

¹For example, Roger Noll and Andrew Zimbalist discuss these consumption benefits as a classic "externality" arising from a major league sports event. See Roger G. Noll and Andrew Zimbalist, "Economic Impact of Sports Teams and Facilities," in "Sports, Jobs & Taxes: The Real Connection," in *Sports, Jobs, & Taxes: The Economic Impact of Sports Teams and Stadiums* at 58.

ployment, taxes, regional development and the potential to re-invigorate a downtown or other deteriorated area, they are not primarily development or jobs programs and should not be judged solely on that basis. The primary economic purpose of sports teams is to provide consumption benefits to the community.

There is an extensive political process by which local communities make decisions about which activities provide the greatest net benefits to their citizens. Within this political process citizens and their elected representatives decide how to allocate public funds among many alternative uses, such as parks, museums and golf courses. In fact, new stadium proposals that involve significant public funding today typically face substantial scrutiny and often must pass a voter referendum. There is no reason to believe that this political process is less effective in evaluating stadium projects than other public investments.²

Many of the largest and most visible of the recent stadium projects have been associated with actual or proposed relocations of teams. One part of S. 952 would reduce the ability of teams to unilaterally relocate in order to extract large stadium contributions. The proposed legislation would give the league the ability to prevent such team relocations that were not in the league's interest. This feature of the legislation is economically desirable. Economic analysis implies that the incentive for an individual team to relocate is much greater for the team than for the league as a whole. From the team's perspective, the economics of the relocation decision involves a relatively straightforward comparison of the expected income from operating in one location versus another. If the new location is offering a new stadium with substantially more lucrative revenue opportunities, such as luxury boxes and club seats, naming rights, pouring rights, and so forth, it will frequently be in the team's interest to move.³

In contrast, even though such moves may raise the moving team's income, they are often not in the league's interest. The effect of a team relocation on league income depends on a variety of other factors that the team generally will not take into account. For example, team relocations frequently anger many fans in the original city, thereby damaging the public image of the league and reducing the total demand for the sport. Some relocations may also disrupt the leagues' optimal geographic coverage for broadcasting and other purposes. For example, while the relocation of the Los Angeles Rams to St. Louis made financial sense for the team because of the attractive financial package offered by St. Louis, the NFL as a whole was left without a team (and with many disgruntled fans) in the nation's second largest media market.

From an economic perspective, sports leagues attempt to internalize these adverse effects of team relocations to a far greater extent than individual team owners do. Consequently, many recent team relocations would not have occurred if sports leagues had the unambiguous legal authority provided under S. 952 to prevent relocations by individual teams that are contrary to league interest. For example, the NFL engaged in costly and protracted litigation to prevent the Raiders move from Oakland to Los Angeles. After the Raiders decision, the NFL was largely helpless to prevent the Colts move from Baltimore to Indianapolis, the Rams move from Los Angeles to St. Louis, and the Browns move from Cleveland to Baltimore.⁴

The proposed legislation recognizes the divergence between team and league interests and would implement a constructive change by giving the leagues an anti-trust exemption for preventing franchise relocations that are contrary to the league's interest. This legislation would have a substantial positive effect in reducing relocations and would mitigate some of the perceived problems with the current stadium financing situation.

The legislation also would take the productive step of expanding the leagues' anti-trust exemption for negotiating national broadcast contracts to include cable and

²This is particularly true after the Tax Reform Act of 1986, which has ensured that issuance of federally tax exempt bonds is only available for projects that have significant value to many of the residents of a local community by requiring that repayment of such bonds be funded at least 90 percent by general as opposed to stadium specific revenue sources. Therefore, the Tax Reform Act of 1986 has generated a substantial increase in the frequency with which stadium proposals must be tested by voter referenda and has resulted in significant increases in private funding and decreases in public contributions of sport facility construction. In fact, several recent stadiums are now being financed primarily with private funds, such as those in Carolina, Washington and Philadelphia.

³The fact that many of these revenue streams are not shared among teams, as are gate receipts and television revenues, increases the attractiveness of such deals to an individual team.

⁴In his testimony before this Committee last week, Professor Rosentraub argued that the NFL "renege" on an agreement with Congress to prevent team relocations. He ignores the fact that the courts effectively eliminated the league's ability to control team relocations after the Raiders' decision.

satellite (non-pay per view) television. This action would expand the availability of sports programming and provide additional options to consumers. The NFL's "Sunday Ticket" package for satellite television, for example, allows football fans in any city to choose from the games of all NFL franchises, in addition to those of their local team. As with network television broadcasts, the antitrust exemption would allow the league to negotiate these contracts without the risk of potentially disruptive and inefficient conflicts between team and league interests. Since these television revenues are shared equally among all of the league's teams, the legislation would also benefit small market teams and promote the goal of competitive balance. The legislation achieves these procompetitive benefits without risking anticompetitive effects, since this programming clearly competes in a broad and highly competitive market for television programming.

While the proposed legislation recognizes the differences between team and league interests and would take productive steps to ameliorate these distortions by granting the antitrust exemptions discussed above, the stadium financing proposal included in the legislation would create new economic distortions. First of all, since S. 952 would require the league to provide an automatic contribution of up to 50 percent for all stadium projects, it would lower by as much as 50 percent the cost of stadium projects that must be borne by the individual team and state and local governments collectively. By thus lowering the cost of stadium construction to local decision-makers, both public and private, the proposed legislation would substantially increase the incentives for individual teams and state and local governments to build and/or renovate stadiums. This is basic economics. Rather than reducing the incentives to build new stadiums, as many stadium critics have advocated, the legislation would substantially increase the incentives to build more and more costly stadiums by creating an incentive for individual teams and for state and local governments to use the league's money for their own purposes.

This distortion of economic incentives would lead to significant economic inefficiencies. For example, consider a hypothetical new stadium project that is only expected to generate benefits to the team and the local community equal to 60 percent of its construction costs. If the team and the city were bearing 100 percent of the costs, such a project would not be built. However, since they can collectively demand that the league finance 50 percent of the project, it will be in each team's and community's narrow interest to build the new stadium, even though it is not a project that is in the league's, or the economy's, interest to build.

As a result, total public spending on stadium projects would likely increase under S. 952. From an economic perspective the proposed legislation is equivalent to a large reduction to teams and local governments taken together in the price of building stadiums. When the price of any product falls, the ultimate effect on total spending depends on how strongly consumers respond to the price decline. If there is an elastic demand for stadiums, total public spending on stadium projects will increase, even if localities end up paying a smaller share of the costs, which they very well may not.

While it will clearly increase the overall level of spending on stadiums, economic analysis indicates that S. 952 is likely to have little or no effect on reducing the contributions of state and local taxpayers to the costs of stadium projects. First of all, consider cases where the local governments would have provided less than 25 percent of the financing without the legislation. In such cases, public spending on stadium construction would be likely to increase because the legislation requires public authorities to provide a minimum of half of the league's contribution. Any increase in the public contribution up to 25 percent would automatically trigger an increase in the league contribution equal to twice the public contribution. Accordingly, the gain to an individual team from convincing its city or state government to support the project up to at least 25 percent would become very large. Therefore, individual teams would have increased incentives to negotiate for at least the 25 percent public contribution that would guarantee the maximum league funding of 50 percent.

For stadium projects where the public contribution would have been between 25 and 50 percent absent the legislation, we could expect the locality to continue to make that contribution if S. 952 were in effect. There is nothing in the proposed legislation, nor should there be, that would limit the local contribution to 25 percent. And there is no economic reason for the stadium financing proposals in the legislation to affect the bargaining positions of the locality and the team. In particular, the communities' underlying benefits from having the team would not be reduced by the proposed legislation and, therefore, individual teams would likely receive the same state and local government contributions they would have received in the absence of the legislation. For example, if a city were willing to provide a contribution of 50 percent to a stadium project before the legislation (with the team

paying the other 50 percent), the city would still be willing to do so after. All that would happen is that the league would replace the team as the source of the private contribution. But the city would not care where the team obtains its funds. Of course, as noted above, the team would not be indifferent to whether it or the league pays the private contribution and would always seek league financing for the largest and most elaborate stadium, regardless of economic efficiency.

Even for stadium projects where the public contribution would have been greater than 50 percent in the absence of the legislation, say 60 percent of the project, and therefore the league's 50 percent contribution would more than replace what would have been the team's 40 percent contribution in the absence of S. 952, it is not clear that the local contribution to the project would be reduced by the proposed legislation. This is because individual teams would seek alternative ways to get state and local governments to continue to make the same dollar contributions they were willing to provide in the absence of the legislation, but in a different form. Since the communities' underlying benefits from having the team have not been reduced by the proposed legislation, there would always be strong economic forces leading teams and cities to "undo" any reductions on public contributions to stadiums by providing the benefits to teams in other ways. For example, teams and local governments could respond to the reduction in the public's up front contribution to stadium costs by reducing or eliminating the team's rent, by allowing the team to retain a larger portion of stadium related revenues, or by increasing the size and cost of the stadium project and infrastructure investments, such as, parking facilities or road improvements. Hence, even in those cases where it appears that the proposed legislation will provide significant cost savings to taxpayers, the magnitude of these benefits may very well be non-existent.

The only stadium projects for which S. 952 would have the effect of significantly reducing the public contribution would be previously negotiated projects under construction. This is because the retroactivity provisions in the proposed legislation would effectively re-write many of these agreements after the fact, without permitting any market offsets. But such retroactivity alters the financial terms agreed to by the parties after extended periods of negotiation, including in many cases direct voter approval and other extensive political processes.

S. 952 would also undermine the relationship between the leagues and their players. The NFL currently operates under a Collective Bargaining Agreement with the NFL Players Association under which approximately 63 percent of the league's "Defined Gross Revenues" (which includes network television revenues) are shared with the players. This agreement was reached after years of intense bargaining and litigation and has been credited with reducing labor conflicts between the league and its players. The proposed legislation inappropriately inserts the federal government into this collective bargaining relationship and allows state and local governments to implement large wealth transfers from the league as a whole, and from the players, to individual teams.⁵

S. 952 also lacks any mechanism by which monies from the proposed trust fund would be allocated across different stadium projects. Some process would be required to evaluate each proposal and determine funding priorities among the many competing projects. Obviously, such a process could lead to expanded federal intrusion into the industry and additional inefficiencies. In contrast to this expanded governmental role, the NFL has recently adopted a new resolution that provides substantial league-wide contributions to stadium projects, while avoiding the adverse incentive effects and other inefficiencies of the inflexible government mandate in the proposed legislation. Under the NFL's new "G-3" plan, the league has the ability to evaluate all proposed projects from the perspective of the league as a whole (taking into account the potential differences between team and league interests discussed above) and can withhold funding for inefficient projects.⁶

Yet another distortion of S. 952 is that it would put at risk the league's ability to negotiate national broadcast contracts. Since national broadcasting represents a very large source of shared revenue (particularly in the NFL where it exceeds gate receipts for many teams), the loss of these revenues would greatly exacerbate reve-

⁵In his testimony before this Committee, Professor Zimbalist agreed that this is an inappropriate role for the federal government.

⁶The G-3 plan builds on and extends existing cooperative efforts between the league and the players to assist individual teams to finance new stadium facilities. The league has contributed hundreds of millions of dollars to date under these plans and, based on current commitments, this amount will grow by an additional hundred million dollars each year.

nue disparities across teams and would be particularly adverse for small market teams. Competitive balance and fan demand for the league would suffer.⁷

Finally, I must correct the frequent but mistaken assertions that sports leagues are monopolies and that, by limiting the number of teams, they enable teams to extract stadium contributions from localities. First of all, unless one insists that a particular sport constitutes an industry, all sports leagues compete for consumers in the increasingly competitive entertainment industry. Clearly, one league's television programming competes with all other sports programming and, more generally, entertainment programming. Moreover, from the viewpoint of competing for local public contributions, sports leagues compete both with one another and with other forms of publicly provided consumption goods.

The fact that localities are willing to contribute to stadium construction costs does not mean that the sports league is a monopoly and has restricted the number of teams. Manufacturing facilities, for example, are not in arbitrarily restricted supply, yet cities and states pay significant amounts to induce the location of such facilities within their jurisdiction. For example, recent cases of privately owned and operated facilities that have received large local subsidies include Indiana's provision of tax and other incentives valued at \$300 million to lure a new United Airlines maintenance facility, Kentucky's issuance of \$140 million in tax credits to attract a steel plant and \$125 million to attract a Toyota plant, and Alabama's 1993 agreement to provide \$253 million in subsidies to Mercedes Benz.⁸ No one would claim that there has been a monopolistic supply restriction in these cases.

A locality that did not have a team or a Mercedes-Benz factory and wanted one for the benefits its local citizens would derive would have to either induce a team or a factory to relocate from another locale or to induce a new team or factory to locate in the community. One cannot infer an exercise of "monopoly power" from the fact that significant franchise fees and public funds are used to purchase teams and construct stadiums. Although some cities without teams may be willing to pay the "operating cost" of fielding a team, this is not the appropriate standard to determine if supply has been restricted. Franchise fees must compensate existing owners for the dilution in the shared revenue streams, most importantly shared TV revenues, and also pay for the established brand name of the league, created by past investments and success.

Moreover, even if one thought the leagues were monopolies, S. 952 would not ameliorate any monopoly problem. And the distortions caused by S. 952 in terms of increased construction of inefficient stadiums will be present regardless of whether the leagues are monopolies or not.

In conclusion, S. 952 recognizes the divergence between team and league interests and would take the productive step of giving the leagues an antitrust exemption for franchise relocation issues. This proposal would reduce relocations and mitigate many of the perceived problems with the current stadium financing situation. However, while the antitrust exemption for relocation issues would eliminate one economic distortion, the proposed stadium financing scheme would create several others. It would substantially increase the incentives to build new stadiums, even when such projects are not economic. In addition, the magnitude of any ultimate reduction of public funding would be small or non-existent as individual teams would undoubtedly find alternative ways for local governments to continue to provide comparable contributions. The stadium financing proposals also would undermine many previously negotiated stadium packages as well as the leagues' collective bargaining relationships with their players. In sum, the proposed legislation would provide few benefits to local taxpayers while creating significant economic distortions.

Senator SPECTER. Senator Leahy has provided a statement which will be made part of the record, in accordance with his request.

[The prepared statement of Senator Leahy follows:]

⁷In his testimony Professor Zimbalist agreed that the elimination of the broadcast exemption would have adverse consequences, and he advocated as an alternative "sanction" the elimination of tax-exempt financing for stadium projects. As I have discussed in detail elsewhere, there is no convincing economic basis for the elimination of tax-exempt financing for stadium projects. Doing so would discriminate against states and local communities that legitimately choose to support professional sports as opposed to other locally valued consumption activities. See K. Green, B. Klein and B. Lebowitz, "Using Tax-Exempt Bonds to Finance Professional Sports Stadiums," Tax Notes, March 30, 1998, pp. 1663-1687.

⁸Federal Reserve Bank of San Francisco Weekly Letter, August 4, 1995 and Time Magazine, November 9, 1998.

PREPARED STATEMENT OF SENATOR PATRICK J. LEAHY

Today, the Committee resumes hearings into a proposal to help remedy the dilemma facing many communities. The problem of scarce public resources being diverted to pay tribute to the owners of professional sports teams to build or refurbish stadiums for profitable professional sports teams places many in a no-win situation. The allocation of public funds and funding opportunities to the construction of a stadium for sports may result in less funding being available for education, infrastructure improvements and other much-needed public expenditures.

While none of us can be certain of the profit a professional sports franchise generates, the recent sale of the Washington Redskins for \$800 million supports the view that these enterprises remain highly profitable. Many of the witnesses at last week's hearing were highly supportive of Senator Specter's legislation based on their own local experience.

Senator Feingold raised an important concern, that requiring 10 percent of the revenue derived by broadcast agreements to fund stadiums would adversely affect small market teams like his beloved Packers. It would be ironic if, in our efforts to help small market communities retain their teams, Congress chose a method that had a negative impact on the competitiveness of those teams. The purpose of this proposed legislation and of our inquiry is not disproportionately or negatively to affect small market teams.

I am glad to see Commissioner Tagliabue and other representatives from the NFL today and I look forward to their testimony regarding the changes already made in NFL policies regarding loans to owners to finance stadiums improvements and construction. I think Senator Specter should be commended for making serious proposals that have had the effect of encouraging the NFL to invest more than ever before in this effort.

Although I recognize that the NFL and the owners of the respective teams are taking a constructive step forward, my initial feeling is that resolution G-3 falls substantially short of solving the dilemma. It appears that the motivating factor in enacting this resolution was the league's desire to locate teams in the largest media areas. Commissioner Tagliabue was quoted in the Boston Globe as saying "we are much better off with our teams centered in large metropolitan areas." While I understand owners' desires to be located in the most profitable areas of the country, I searched in vain through resolution G-3 for some recognition of the interests of loyal fans, the community or the public interest being considered a factor by the team owners. The resolution and NFL policy are premised on contribution by the community and the owner with the NFL serving as a financing agent for the owners' share of the project. It is hard to see how the policy increases the public's leverage. Communities are not likely to benefit significantly. So, as I have asked with respect to the proposed antitrust exemption, I must ask what guarantee we have that the enactment of resolution G-3 will prevent league owners from continuing to act simply in their own rather than in the public's best interest?

Last week I suggested an alternative approach to discourage team movement. I noted that a change in the way professional sports franchises that relocate for economic gain are treated for federal tax purposes might prove a more effective solution. If a relocation were treated as a sale, the owner could be taxed on the gain, measured by the market value of the franchise at the time of the move compared to the original cost paid by that owner. This would discourage owners from moving teams unless the situation they are leaving is extremely undesirable and unprofitable. There may be other approaches that can be explored, as well.

With the Federal Government insisting that states do more with less federal assistance, the allocation of state resources to stadium financing is creating immense pressure on important social programs. The league argues that the question of funding of sports stadiums is a local concern and that state and local governments have repeatedly shown they can address stadium issues in a way that best suits them. Citizens in Hartford on both sides of the stadium issue may disagree. According to Connecticut State Senator Edith Prague, Hartford is the tenth poorest city in America. She questioned whether spending \$374 million on a team that plays in the city eight times a year is in the best interest of the 35.2 percent of Hartford's residents and one out of every five of their children who live in poverty.

I commend Senator Specter for taking up this challenge and I look forward to working with him to forge a legal framework in which the public will be better served.

Senator SPECTER. We turn now to Mr. Gene Upshaw, executive director of the NFL Players Association since June 1983, after a successful, really spectacular 16-year career as a professional play-

er. Since then, Mr. Upshaw has worked on defending players' rights.

He was an offensive guard for the Oakland Raiders from 1967 to 1981, elected to the Pro Football Hall of Fame in 1987, played 217 league games, 6 Pro Bowls, the only player in NFL history to play in three Super Bowls in three different decades—the 1960s, 1970s, 1980s. He played against the Eagles in the Super Bowl in 1981.

Mr. Upshaw, welcome.

STATEMENT OF GENE UPSHAW

Mr. UPSHAW. Thank you, Senator Specter and the committee. Thanks for having me here. I guess the main reason that I am opposed to this legislation is that it is unprecedented intrusion by Congress on both an existing collective bargaining agreement and on antitrust settlement from a case that we filed in 1990.

We resolved with a collective bargaining agreement and with the antitrust settlement many years of strife in the National Football League. It was a very complicated settlement. It was a very complicated set of rules that we agreed upon that guaranteed that the players would get 63 percent of the revenues. As part of that resolution, we also were assured that the NFL owners would continue to share a large amount of their revenues.

Since 1992, and before that, Commissioner Tagliabue and the players, through me, have worked on many ways to try to address the problems that confront both the players, the owners, and the fans. And I think over a course of history—and history will prove that we have addressed this in the right manner.

I am glad that we have this bill before us. I don't think that there is a need for congressional intervention here because we already are doing things. We are already way ahead of this bill. I think what this bill does give us an opportunity to do, in many ways, is to let the public know and give us credit for what we are doing.

I don't particularly like the way that we are being singled out in this bill because we are not the only ones that use arenas and stadiums in our communities. I believe that we should clarify the Broadcasting Act to include the new technology that is now on board, but I am opposed to franchise relocation measures that this bill seems to touch on. So in many ways, I support a lot of the things in the bill, but some things that are in the bill I don't support.

One of the problems that I really have is that, as players and as owners, we looked at the landscape around us and we tried to come up with a set of rules and procedures that would govern the revenues that we had, and it was very, very difficult to come up with a system that has worked tremendously well for us.

Since we first instituted this agreement in 1992, we have extended it. We have another date in the year 2000 that we will have an opportunity to decide if we want to extend it again. And the only way that I am willing to go to the players and ask for a continuation of our labor peace and the growth that we have had in the National Football League is that we keep the same principles in place that have guaranteed labor peace for us over the last 10 years.

Now, having said that, I do recognize that we have a responsibility to our communities, and I think we are fulfilling those responsibilities. But on the other hand, when you are representing workers, even though they are football players and wear helmets and they are out on the field and taking a tremendous amount of risk, when we negotiate a collective bargaining agreement, I expect that collective bargaining agreement to be in place and to work for us.

We have already taken the steps that are necessary to guarantee that cities are protected, the fans are protected, and the owners and players are protected. And I feel very strongly about opposing this legislation because I don't think that it is necessary. I also believe—and I heard Senator Specter say he is not asking for money from Carolina. But he is. In this legislation, you would be taking money from Carolina because of the revenue-sharing that already exists in the National Football League. You will be destroying cities like Green Bay and Cincinnati because all of the revenue-sharing is so dependent on what makes the fiber of the National Football League work.

And that was the main reason that we agreed to the system we have in place, is because of the revenue-sharing that now currently exists. So from that standpoint, I oppose the bill and I am willing to accept any questions that you might have.

Thank you very much.

Senator SPECTER. Thank you very much, Mr. Upshaw. We will come to the questions when we finish all of the testimony.

[The prepared statement of Mr. Upshaw follows:]

PREPARED STATEMENT OF GENE UPSHAW

Good afternoon. I want to start by thanking the Committee and Senator Specter for having me here today.

I am the Executive Director of the National Football League Players Association, and have held that position since June 1983. Before then, I was an offensive lineman in the NFL and the AFL, for sixteen years, with the Oakland Raiders. I am also a member of the NFL's Hall of Fame. As Executive Director of the NFLPA, I represent all of the players in the NFL, who have worked very hard for decades to achieve a labor peace which benefits football fans all across America. The legislation that the committee is considering would put this hard fought labor peace at serious risk. I therefore strongly oppose S. 952.

The main reason I am opposed to the legislation is that it is an unprecedented intrusion by Congress into both an existing collective bargaining agreement between labor and management, and a judicially approved and monitored settlement of antitrust litigation, each of which resolved years of strife between players and owners in the NFL. The legislation would require the NFL to fund up to 50 percent of the cost of stadium projects out of network television revenues, retroactively for all stadium projects that were not completed when the legislation was introduced on May 4th of this year. Moreover, the legislation would effectively undo the terms of the antitrust settlement agreement and collective bargaining agreement in the NFL, by excluding ten percent of network television revenues—which are hundreds of millions of dollars—from the revenues upon which the amount of the NFL's player salary cap is based.

I think it would help the Committee's deliberations for me to briefly review what labor relations were like in the NFL before the current agreements between the players and owners were finally reached. In 1982, there was a strike that lasted 57 days—with nearly half of the NFL season canceled—before a new CBA was agreed to late that year. When that agreement expired in 1987, there was another labor dispute in which the owners resorted to the farce of hiring replacement players. That farce lasted for a quarter of the season before the players decided their only recourse was to return to work and seek relief under the antitrust laws.

In 1989, the players decided they had to decertify their union and end all collective bargaining in order to pursue their antitrust rights. It then took another two years, until September 10, 1992, for the players to win free agency in the *Freeman*

McNeil antitrust case. Following the verdict in *McNeil*, the players and owners were finally able to reach a class action settlement in February 1993 in what is now known as the *Reggie White* antitrust case. It was in that settlement—which was judicially approved by the court—that the current free agency/salary cap system was established in the NFL. Following the execution of the *White* settlement agreement, the players—at the urging and the insistence of the owners—reformed a union. A new collective bargaining agreement was then entered into that mirrored the free agency/salary cap terms of the *White* antitrust settlement.

The *White* settlement agreement and its companion CBA have proven to be remarkably successful. Because of these agreements, the NFL—unlike every other major league professional team sport in America—has enjoyed a period of complete labor peace since February 1993. There have been no strikes, no lockouts, and no work stoppages of any kind during this period. Indeed, the agreements have now been twice extended, with judicial approval, so that NFL fans can count on uninterrupted labor peace in the NFL through at least the 2003 season.

The agreements that the players and owners reached to achieve this unprecedented labor peace are extremely complicated and delicately balanced, totaling more than 200 pages each. As Judge David Doty—the federal judge who approved and monitors the antitrust settlement agreement—said, “it is a carefully crafted document that contains numerous compromises, trade-offs and intricate rules.” Under the agreements, the players accepted a very complicated salary cap system, but also had a guarantee that the owners would have to share a specified percentage of their revenues—today, 63 percent—with the players through the salary cap system. The negotiation of this percentage, as well as the specific categories of revenues that are included or excluded from the calculation, involved hundreds of hours of negotiations and numerous tradeoffs too countless to recite. Significantly, the most important and largest source of revenues included in the salary cap are the network television agreements entered into by the NFL and its teams.

The legislation the Committee is considering would undermine and threaten the parties’ agreements, by rewriting them to exclude ten percent of the NFL’s network TV contracts, which is hundreds of millions of dollars, from the revenues the players share through the salary cap system, and directing that money to a trust fund to pay for up to one-half the cost of new or improved stadiums. In principle, it’s the same thing as taking a collective bargaining agreement that auto workers spent decades to achieve, and having Congress decide that the hourly wage agreed to between labor and management should be reduced so that the money can go to a local government that just granted Ford a tax abatement to help build a plant. Such an intrusion into the collective bargaining process would be a terrible precedent and is contrary to the policy of the National Labor Relations Act to let labor and management compromise their differences in bargaining between them without government interference. Moreover, the legislation would improperly and retroactively interfere in a judicially approved class action settlement, in violation of fundamental principles of due process and separation of powers between Congress and the courts. If this legislation were enacted, there would be a serious risk that the entire settlement agreement and collective bargaining agreement between the owners and the players could collapse, because the players and the owners would have to start all over again to reconstruct the fundamental economic compromises that formed the foundation of their agreements. This would jeopardize the many years of labor peace that has benefited all NFL fans.

At the same time, NFL players are already supportive of Senator Specter’s idea that teams and players should collectively make private contributions to help localities build new or improved stadiums. Such stadiums benefit both local communities and the NFL and its players, making a public/private partnership the fair way to provide funding. That is why the first time the *White* settlement agreement and CBA were extended in 1996, the NFL players agreed to exclude from the salary cap revenues certain money from personal seat licenses, and premium charges on “club” seats, in order to help fund stadium construction and improvements. Importantly, however, these funding agreements by the players were made in bargaining as part of complex trade-offs of numerous issues. These agreements have already resulted in hundreds of millions of dollars being made available and used to help build new or improved stadiums all around America. Further, the NFL and the players are currently discussing new ways to jointly contribute even more money to these projects under the terms of the *White* settlement agreement and the collective bargaining agreement. These private sector agreements are a far better vehicle than new government regulation as a means of providing the public/private partnerships required to fund new stadium projects.

In fact, I don’t understand why the NFL and its players are being singled out in this legislation, since I believe we have done far more than any other sport to con-

tribute to the building of new or improved facilities, and we have had more labor peace than any other professional team sport in the 1990's. I think the Committee will find out that the NFL players and the owners are doing a pretty good job of meeting our responsibilities in this area, and I believe we will continue to do so in the future.

Apart from the stadium financing aspect of the legislation, S. 952 also would give NFL owners a new antitrust exemption on franchise relocations. I think this would be a mistake. Under current law, the antitrust laws apply to the NFL's restrictions on franchise relocation, but, under the "rule of reason," any restrictions that the NFL imposes that are reasonable and procompetitive are legal. On the other hand, if the NFL owners were to act arbitrarily in an anticompetitive way, they would be subject to antitrust consequences just like any other business. The NFL is not a regulatory agency. It is a private association of competing businessmen who sometimes act reasonably, but who also have been repeatedly found to have violated the antitrust laws in a wide variety of areas, including franchise relocation. I don't see any reason to grant the NFL owners a new antitrust exemption in this area, which is unnecessary, and which can only lead to mischief.

Finally, while the players do not object to updating the Sports Broadcasting Act to make it clear that it applies to new technology, such as satellite television, we do think it is very dangerous to condition the grant of this limited antitrust exemption on the NFL making a specified level of contributions for stadium financing. The very limited antitrust exemption provided by the Sports Broadcasting Act has generally worked well, because it has made every NFL game available on over-the-air television and enabled the NFL to equally share television revenues, which has provided the economic foundation for the current free agency/salary cap system. If this exemption were suddenly ended, chaos in the broadcasting of America's favorite team sport would result, and the agreements between players and owners—which have brought labor peace—would be jeopardized.

I thank the committee for its time, and I'd be happy to answer any questions you have.

Senator SPECTER. We turn now to Commissioner Paul Tagliabue. He has been there for 9 years, took over in November 1989, succeeding Commissioner Rozelle. At the time of his election, Commissioner Tagliabue was a partner in the Covington and Burling law firm, which was the NFL's principal counsel, and appeared before the committee on many occasions as counsel. Earlier, he served as defense policy analyst in European and North Atlantic Affairs at the Department of Defense. There has been substantial expansion during his tenure and he has provided very vigorous leadership.

Commissioner Tagliabue, thank you for joining us and the floor is yours.

STATEMENT OF PAUL TAGLIABUE

Mr. TAGLIABUE. Mr. Chairman and members of the committee, thank you for inviting me to appear today on behalf of the league to testify in respect of Senate bill 952.

The core element of S. 952 is its proposed requirement that each NFL club and each club from Major League Baseball, alone among professional sports teams, contribute 10 percent of its national television revenues each year to a fund that would finance 50 percent of the cost of any new or renovated stadium. Indeed, the bill would impose such a requirement retroactively to all stadium projects that had not been completed on the day the bill was introduced.

We strongly oppose these provisions. The provisions are unnecessary, in our judgment, and would have significant negative, unintended effects. They unfairly ignore the very substantial contributions that NFL clubs today make toward stadium construction. They would improperly interfere with State and local decision-making on sports facilities, and by decreasing the amount of equally shared revenue received by each NFL team, they would threaten

lower-revenue clubs. Finally, if enacted into law, these provisions would risk undoing what is currently the most successful labor-management partnership in professional sports.

Needless to say, it is both prudent and common for soundly-managed businesses to use increased current revenues which may or may not be recurring over the long term to invest in new facilities that will help to secure the business' success for the long term. The NFL and its clubs, together with the NFL Players Association, have been doing just that with respect to the investment of current revenues into new stadiums.

We have been working in numerous communities with State and local governments and business leaders to resolve stadium issues on a win-win basis. The league and its teams, together with the Players Association, have implemented programs for league-wide financial support to individual clubs seeking to construct new stadiums or make major improvements in existing stadiums.

In this decade alone, NFL club and league representatives have worked with State, county and city governments in 17 different States on 23 successful projects for the construction, renovation or improvement of stadiums used principally by NFL teams. Each of these projects involved in one measure or another public and private sector cost-sharing and financing partnerships.

These 23 successful projects involve not only a wide range of types of stadiums, but also a wide variety of arrangements for allocating stadium and related infrastructure costs among public and private parties. Each tailored to the specific needs of the involved community, they range from the largely privately financed Washington Redskins stadium and the Carolina Panthers stadium, to the largely publicly financed multi-purpose domed facilities used by the Atlanta Falcons and the St. Louis Rams. And they include new or renovated stadiums in communities as diverse as Denver, Detroit, Jacksonville, Nashville, New York, Oakland, Pittsburgh, Seattle, Tampa, and elsewhere that involve public-private sector sharing of construction and financing costs.

The success of these efforts and the diversity of cost-sharing and financing arrangements involved in these projects demonstrate, in our judgment, why the rigid stadium financing features of S. 952 would not serve any necessary purpose and should not be enacted.

Second, by forcing all NFL clubs annually to contribute 10 percent of their equally shared national television revenues to a stadium fund, the bill would seriously disadvantage the lower-revenue clubs that are already struggling to make their revenues meet their expenses. The bill would exacerbate existing pressures on teams whose revenues in 1998 were anywhere from \$10 to \$20 million below the league-wide average.

These clubs, which would experience no corresponding decrease in their fixed operating costs, depend on equally shared revenues to remain competitive. Far from promoting stability and competitive balance, the bill would therefore sacrifice the interests of the weaker teams and communities, and undermine the NFL's long-standing and successful revenue-sharing policies.

Indeed, by reducing the equally shared television revenue of all teams, the bill would sharply magnify a serious problem for the league—the substantial disparity in overall revenues between the

league's higher-revenue and lower-revenue clubs. Despite our revenue-sharing efforts, these disparities result from a variety of factors, including differences in market size and market demographics, adequacy of stadiums, team performance, and the extent of other competitive sports and entertainment offerings.

League-wide efforts to address this issue include a supplemental revenue-sharing pool by which the league distributes revenue to the lower-revenue teams in order to assist them in dealing with player and other costs. There nonetheless continues to be a very substantial gap between the unshared revenues of the better-situated and performing teams and the bottom quarter of the league which this bill would seriously aggravate.

In contrast to S. 952, the league's program for contributing financial assistance to individual teams for stadium construction directly ties the largest portion of the contributed assistance to revenues generated in the new stadium itself. Thus, the focus of our current program has been to use revenues that are not equally shared as a source of private funding for stadiums and to avoid undermining the effectiveness of the league's television revenue-sharing arrangements.

I think Mr. Richardson and Mr. Upshaw have both spoken about the local governmental prerogatives and the labor relations aspects of this. On the local government point, I would simply mention that we have worked for several years with the U.S. Conference of Mayors and come to an understanding on issues of franchise movement.

Mr. Chairman, I ask to insert in the hearing record a recent exchange of correspondence between the league and the Conference of Mayors that reflects this working relationship.

Senator SPECTER. Without objection, it will be made part of the record.

[The information referred to follows:]

NATIONAL FOOTBALL LEAGUE,
Communications & Government Affairs, June 11, 1999.

Hon. MARC MORIAL,
*Mayor of New Orleans,
New Orleans, LA.*

DEAR MAYOR MORIAL: The National Football League and the United States Conference of Mayors both wish to maintain the stability of economically viable franchises and to ensure a fair process to consider requests for franchise relocations. The NFL and the Conference have worked for many months to develop an approach to address these common concerns. A draft Statement of Principles was written to set forth our understanding.

Consistent with those discussions, and grounded in sound business policies, the NFL has amended its franchise movement guidelines. The amendments bring to reality our mutual ideas on these issues, and are the direct result of our discussions.

The amended guidelines balance and protect the interest of the cities, the League and individual teams. They establish an orderly process, ensuring municipal interests will be heard and addressed, and that franchise moves occur only after exhausting all reasonable options in a team's existing home territory. They assert an active and appropriate role for the League in managing possible relocations. They affirm the League's commitment that all obligations under stadium leases be fully honored.

We highly value our relationships with the Conference and with the communities that host NFL football. The amended guidelines, and the cooperative discussions that preceded them, reflect the strengthened partnership between our two organizations.

Apart from addressing franchise movement, the draft Statement of Principles also discussed stadium financing. It provided:

To reflect their commitment to public-private partnerships in stadium development, the USCM and the League will build upon existing financing mechanisms

and will work together to seek financing avenues as feasible and appropriate, including through negotiated arrangements with the National Football League Players Association.

In addition to honoring our understanding on franchise movement, the NFL has also acted to redeem our agreement on stadium financing. I am pleased to report that at its League meeting in March, and following discussions with the NFLPA, the NFL passed Resolution G3 to enhance League contributions to stadium construction. Under the resolution, the League will support up to 50 percent of the private portion of stadium construction costs, and will do so with upfront money that will reduce financing costs associated with stadium projects. A copy of Resolution G3 is attached. As recommended in the draft statement of Principles, our new policy builds upon existing financing mechanisms. It strengthens the NFL's commitment to partnership with public entities on stadium construction.

The draft Statement of Principles concludes:

Both parties commit themselves to implementing a structure of communications that will facilitate and build upon the cooperation that underlies this Statement of Principles.

Amended franchise movement guidelines and a new stadium financing policy are among the fruits of our regular and cooperative communications. The NFL will continue to work closely with the Conference on matters of mutual interest.

Sincerely,

JOE BROWNE.

CITY OF NEW ORLEANS,
June 21, 1999.

PAUL TAGLIABUE, *Commissioner,*
National Football League,
New York, NY.

DEAR COMMISSIONER: The United States Conference of Mayors has worked closely with the National Football League to develop mutual positions on matters such as franchise movement and stadium financing. Our discussions led to a draft Statement of Principles on these and related subjects. Underlying these discussions was the idea that both cities and the League would be well served by open, frequent, and cooperative communications.

Accordingly, we are pleased to receive the news that the League has amended its franchise movement guidelines in a fashion consistent with our discussions. We believe these amendments improve upon past policies and should give city interests a greater measure of recognition and protection.

Similarly, we are gratified that the League has adopted stadium financing mechanisms that will lead to increased private contributions to stadium construction. The draft Statement of Principles acknowledged the importance of a public-private partnership in stadium financing. It called for exploring new funding mechanisms upon which to expand that partnership. The League's new stadium financing program is helpful to taxpayers and consistent with our mutual discussions and understandings.

We appreciate the League's good faith response to municipal and taxpayer concerns. We look forward to a continuation of this very constructive atmosphere as we work together on matters of common interest.

With best regards, I remain.

Yours very truly,

MARC H. MORIAL,
Mayor.

Mr. TAGLIABUE. I will be prepared to take any questions that committee members may have. Thank you very much.

Senator SPECTER. Thank you, Commissioner.

[The prepared statement of Mr. Tagliabue follows:]

PREPARED STATEMENT OF PAUL TAGLIABUE

Mr. Chairman, and members of the Committee, thank you for the opportunity to appear today to offer the views of the National Football League on Senate Bill 952. This bill addresses two very different matters that, in my judgment, warrant very

different responses from Congress. On the one hand, the bill proposes sensible provisions to clarify the application of the federal antitrust laws to decisions on the location and relocation of teams in professional sports leagues. These antitrust issues have, over the past two decades, been the subject of considerable study by this Committee, by other Senate Committees, and by committees in the House of Representatives.

On the other hand, S. 952 also would impose requirements as to how stadium facilities used by professional football and baseball teams are to be financed. In our judgment, the bill would establish a rigid and misguided federal approach to a particularly local issue. For reasons that I will explain, we believe that this is inappropriate and that the "solution" imposed by the bill is not only unnecessary, but would have serious and negative consequences for local communities, for state and local governments, for sports fans, and for sports teams themselves.

I last appeared before this Committee in January of 1996, almost 3½ years ago. At that time, the Committee was focused primarily on a series of team relocations that had occurred over the preceding 12 months, culminating in the November, 1995, announcement that the Cleveland Browns would move to Baltimore. In commenting on those moves, I told the Antitrust Subcommittee:

Today, there is a widespread perception—and sometimes deep concern—that professional sports involve unprecedented levels of financial stress and conflict, often reflected in complicated court battles or other dizzying legal disputes. The controversies include impasses as to planned or proposed new stadiums; concerns about "bidding wars" pitting community against community or "franchise hopping" in the location and relocation of teams; prolonged conflicts (including work stoppages) between leagues and their players' unions; and a steady diet of sports, business, and legal debate on related issues. * * *

Since I offered that testimony, the National Football League has seen many positive developments in those areas, particularly with regard to its relationships with its fans and with the communities in which NFL member clubs are located. For example, our last two expansion teams, the Carolina Panthers and Jacksonville Jaguars, have continued their progress both on the field and in their communities. The Panthers owner, Mr. Jerry Richardson, has accompanied me here today. As another example, we returned the NFL to Cleveland, where the new Cleveland Browns franchise—the NFL's 31st—will take the field this summer. And we will decide this fall whether to add another new team, to be located in either Los Angeles or Houston.

We have extended our Collective Bargaining Agreement on two occasions, thus ensuring labor peace well into the next decade. And we have expanded the range of community and charitable programs that benefit our fans and the public, including a new \$100 million effort to support youth football programs in communities throughout the country.

Finally, we have addressed issues of team stability in a number of ways, including by working with state and local governments and business leaders to resolve stadium issues on a win-win basis in a number of communities.

Specifically, the League and its teams, together with the NFL Players Association, have implemented programs for League-wide financial support and assistance to individual teams seeking to construct new stadiums or to make major improvements in existing stadiums. Thus, in this decade, NFL team and League representatives have worked with state, county and city governments in 17 different states on 23 successful projects for the construction of new stadiums principally though not exclusively for the use of NFL teams¹ or for major renovations and improvement of stadiums used by NFL teams.² Each of these projects involved, in one measure or another, public and private sector cost sharing and financing partnerships.

These 23 successful projects involve a wide range of different types of stadiums and a variety of arrangements for allocating both stadium and related infrastructure costs among public and private parties, with each project tailored to local team and/or community needs, expected patterns of usage, and cost factors. These range from the largely privately financed Washington Redskins' and Carolina Panthers' stadiums (in Prince George's County, Maryland, and Charlotte, North Carolina, respectively); through the largely publicly financed, multi-purpose domed stadium/convention facilities used by the Atlanta Falcons and St. Louis Rams; to a variety of other renovated (e.g., in Buffalo, New York, and Oakland, California) or new stadiums in communities as diverse as Denver, Detroit, Jacksonville, Nashville, Pitts-

¹Specifically, 17 new stadiums (in 12 different states), with 10 already completed or in advanced stages of construction and another 6 stadiums committed to be built.

²Specifically, 6 stadium renovation or improvement projects at various stages of completion (in 5 different states).

burgh, Seattle, Tampa and elsewhere that involve public-private sector sharing of construction and financing costs.

In our judgment, both the success of these efforts and the diversity of cost-sharing and financing arrangements involved in these projects demonstrate why the stadium financing features of S. 952 would not serve any necessary purpose and should not be enacted.

THE NATURE OF NFL OPERATIONS

A professional sports league is a unique business entity because it creates and markets a single, jointly produced entertainment product. The NFL, for example, produces athletic competition among its 31 member clubs, none of which can produce and present that product on its own. The NFL's sports entertainment product competes in the marketplace with the jointly produced entertainment products of other sports leagues, and with other entertainment products of all kinds. In the context of Major League Baseball, George Will recently said that even championship baseball teams would hold little appeal for fans if they simply played 162 intrasquad games. The same of course is true in football or any other league sport.

NFL clubs operate in a broad and highly competitive entertainment market. In the current decade alone, the four major professional leagues have added a total of 16 new teams, with more scheduled to begin play in the next few years. Several new leagues have been started, including Major League Soccer and two women's basketball leagues, while numerous other sports have grown substantially in popularity. Some cities, like Denver, Miami, Phoenix, and Tampa-St. Petersburg, now are home to three or four major league teams, in contrast to the only one or two that were located there in the 1980s. All of this has led to vigorous competition for the interest and spending of consumers on sports entertainment, a competition that is often intensified in particular communities by the construction of new facilities with attractive fan amenities.

Apart from this competition, sports teams compete in a broader entertainment marketplace. This Committee has examined closely the explosion in entertainment options over the past ten to fifteen years and what those extraordinary changes have meant for national communication and competition policies. Consumers now have as many as four or five dedicated sports channels on television, along with an array of choices on network, cable and satellite television that grows by the day. Add to this mix movies, video rental, other live entertainment and the Internet, and it should be apparent to any observer that sports teams can no longer simply open the ticket window and expect to fill the house. We must earn the attention and loyalty of our fans, both in the stadium and on television. We must do that by providing exciting games in attractive, readily-accessed stadiums, well-designed and constructed for football, by providing outstanding stadium services in fan-friendly settings, by reciprocating loyalty shown to us by fans and communities, by becoming broadly involved in community affairs, and by actively addressing both fan interests and the issues that alienate fans.

STADIUM CONSTRUCTION IN THE NFL

Over the past ten years, we as a nation have seen a generally strong economy and a boom in the construction of facilities for both college and professional sports teams throughout the country. By no means has this program of building stadiums and arenas been confined to football. Nor are NFL teams alone in seeking to join with the public sector in public-private partnerships to support stadium construction.

The number of stadium and arena projects sought or undertaken is directly related to several factors. One is the competitive environment that I discussed earlier. Fans want cleaner, more comfortable facilities with greater amenities. An NFL team is clearly disadvantaged if it must operate in an obsolete, decades old stadium when other teams that directly compete with the NFL team in the same community play in modern, comfortable, fan-friendly venues.

Second, many of the stadiums in which NFL teams have played were constructed as dual purpose stadiums—for both football and baseball—during the 1960s and early 1970s, when the nation experienced an explosion of interest in professional sports. Many of those facilities are now near the end of their useful lives and in need of extensive renovation or replacement.

Third, many local and state governments have been investing in infrastructure and facilities for a wide range of public purposes, and this investment has included arenas and stadiums financed in a variety of different ways.

Finally, for better or worse, sports leagues live in an era of player free agency, forced upon the NFL by an antitrust court, and the League and its member clubs

have been required to cope with the economic consequences of a drastically changed player selection, allocation and contracting environment. Without question, this new economic reality has caused clubs to seek to upgrade their stadium facilities and enhance their local revenues so that they can have the means to provide high-quality entertainment and retain the support of their fans.

As both the need for and the cost of stadium construction has increased, NFL clubs and local and state governments have sought to develop public-private partnerships to meet the challenges of providing proper facilities. These partnerships have been based on the recognition that an NFL team, and a modern stadium facility, generates substantial benefits for the team, the fans, and the community at large.

Detractors of these efforts have suggested to this Committee and elsewhere that there is something nefarious or unlawful about the circumstances leading to the growth of public-private partnerships to fund stadium construction. One example is Professor Andrew Zimbalist, whose testimony against the NFL in one recent lawsuit was rejected by both the federal district judge and the Court of Appeals as without foundation and contrary to the antitrust laws. He has also argued to this Committee that it is the NFL's "monopoly power" that allows it to "extort" publicly financed facilities from communities. The facts and the marketplace realities are quite to the contrary.

In the 1960s, the NFL faced competition in a variety of areas from the American Football League. Yet I know of no instance during that period—and Professor Zimbalist identifies none—where a stadium built for either an NFL or an AFL team was financed through means other than public funding. That period of inter-league competition thus suggests that a variety of factors—and not simply whether there is one or more than one league in a particular sport—influences both public and private decisions to finance and construct new stadiums. Moreover, in the decades since 1970 when the NFL has often operated as the sole major professional football league in the United States, there has been a steady growth in *private* investment in NFL stadiums, by individual NFL owners, NFL teams, and the League itself. In the 1990s alone, over a billion dollars in private capital has been committed to NFL stadium projects, and the NFL has revised its revenue sharing policies to support the private portion of the financing of stadiums.

Others have argued that the operations of NFL teams in new stadiums do not generate economic activity or enhance local economies, a conclusory academic argument rejected by any city official who has experienced first hand the benefits of having an NFL team. For example, Jacksonville Mayor John Delaney credits the Jaguars with an *annual* contribution to his community of over \$130 million, and with great positive influence in attracting jobs to the Jacksonville area. In St. Louis, the new Trans World Dome is not only the home of the Rams, but is used virtually daily for other events as well. It will host the NCAA Final Four in 2005, an event projected to generate over \$90 million in total economic impact for the community, but which would not be possible if the stadium had not been built with the goal of obtaining an NFL team. And in Baltimore, even skeptical analysts have credited the new Ravens stadium with an annual economic impact in excess of \$60 million. A number of other studies similarly confirm that team and related stadium operations can have a major positive economic impact on a community.

As I will describe in more detail shortly, the League has in recent years successfully identified means of enhancing private contributions to stadium projects and implemented a program to do so.

ANTITRUST LAW AND THE RELOCATION ISSUE

I have previously testified about the inappropriateness of treating the member teams of a league as independent business competitors whose joint decisions represent a "contract, combination or conspiracy" under Section 1 of the Sherman Act. Such an approach to the antitrust laws clearly ignores the fundamental, unique structure of sports league operations, because an individual team in a league cannot produce or sell anything of value and therefore does not represent a separate source of economic power, and also because NFL operations reinforce in every respect the partnership aspects of the business enterprise.

Approximately 60 percent of the revenues of the average NFL club today come from the joint presentation of NFL games on national television networks. These revenues are shared equally among all clubs without regard to any club's market size or revenue potential. As a result of the sharing of these and other revenues (including, for example, gate receipts that are divided between the home and visiting teams), the economic advantages of the clubs in the better-situated markets are balanced, albeit not always fully offset, by revenue sharing with the clubs in smaller

less well situated communities, such as Buffalo, Cincinnati, Green Bay, Indianapolis, Kansas City, or New Orleans. We have also instituted supplemental revenue sharing policies to give additional direct financial support to clubs whose revenues may otherwise be insufficient to field a competitive team. This kind of revenue sharing is inconsistent with the manner in which independent economic competitors conduct themselves. It is the way business *partners* conduct themselves, seeking to compete not with each other, but with other outside independent competitors in the marketplace, including other sports leagues and other sports and non-sports entertainment.

In recent years, the NFL member clubs have twice modified and focused their revenue-sharing policies to support new stadium construction and renovation. I will describe those policies, and particularly the program of direct financial support approved earlier this year, later in my testimony. By agreeing to waive a portion of the game receipts that would otherwise be shared with visiting teams, and by taking the further step of directly subsidizing construction costs through assessments against television revenue, all League clubs are now contributing to the costs of stadium construction or renovation. Ordinary business competitors do not subsidize the construction of another company's manufacturing facilities or retail stores. In such a league context, to say that an internal decision of a sports league—whether it relates to funding stadium construction or determining where to present the members' joint product and locate teams—somehow resembles a “contract, combination or conspiracy” among independent economic competitors simply ignores economic realities and elevates business form over business substance.

Under the NFL's Constitution and By-Laws, the relocation of a team requires a three-fourth's vote of the League's membership. This reflects the formal commitment of each League franchise to all other member clubs to operate in a particular home location, defined as “the city in which such club is located and for which it holds a franchise and plays its home games. * * *”

The Judiciary Committee's consideration of this issue in the 1980s was prompted by the *Raiders* litigation against the NFL, in which a federal court determined that Section 1 of the Sherman Act should apply to an internal league decision that a team should remain in its existing, League-franchised home market. In that case, a Los Angeles jury eventually found that the NFL had acted “unreasonably” in reciprocating the loyalty of Oakland fans (reflected in twelve consecutive sell-out seasons) and denying the Raiders permission to move the NFL's Oakland franchise to Los Angeles. As a result of that decision, the Raiders were allowed, over the NFL's objection, to abandon Oakland and a new weapon —“antitrust brinkmanship”—was given to sports teams that wished to act independently of their leagues in determining where to operate.

Prior to the Raiders litigation, a sports league franchise was viewed as a license to serve *the league's* fans and to play *league* games in a prescribed geographical area. A franchise was the means by which the *league* created a stable, continuous relationship with a community, subject to change only by *league* decision, ordinarily through a supra-majority vote.

The place of the *Raiders'* litigation in sports antitrust matters has, however, been thoroughly misdescribed in the prior hearings before this Committee. Perhaps no testimony was more striking for its disregard of this history than that of Professor Rosentraub last week. He referred to Commissioner Rozelle's pledge, at the time of the merger of the NFL and the AFL, to retain teams in their current locations and not to relocate teams as a result of the Congressionally-approved consolidation of the two leagues. The NFL lived up to that pledge in implementing the merger in the 1960s and 1970s. And in seeking to have the Raiders continue their operations in Oakland, the NFL paid a heavy price by litigating with the Raiders in the 1980s. Indeed, Commissioner Rozelle testified in the Los Angeles court that his pledge to Congress with respect to team stability was an important reason for his opposition to the Raiders' proposed move. In these circumstances, for Professor Rosentraub to testify that the NFL “renegeed” on Pete Rozelle's commitment is both a serious misapprehension of the rulings in the Raiders' case and the kind of half-truth that does not form the basis for sensible legislative action.

The concept that sports leagues can properly determine the locations of their member teams prior to the Raiders' case reflected the recognition that, in determining the location of a league's franchises, league members “are not competitors in the economic sense. * * * They are, in fact, all members of a single unit competing as

such with other similar professional leagues.”³ Not coincidentally, prior to the *Raiders* decision, NFL clubs had been committed to and stable in their home territories for decades.

Since the *Raiders* decision, federal courts, applying the *Raiders* precedent, have often failed to recognize (and potential litigants have elected to ignore) the economic reality of a sports league—that league members are co-producers of a joint product and thus together constitute a single league enterprise in competition with other entertainment providers. Instead, certain courts have tended to raise form over substance, viewing *each team franchise* as an independent business competitor that is portable and transient without regard to its commitments as a member of the league enterprise, the needs and preferences of the league, or the interests of the league’s fans or their communities.

As a result, some clubs—all of which had agreed by contract to be bound by the league’s internal procedures for determining franchise location—have been persuaded to abandon their commitments to the league and their fans, and unilaterally to move the club, and thereby move *the league’s* operations, to a new location. If a league (other than Major League Baseball) seeks to enforce its contractual rights against such moves, it faces substantial antitrust risks.

The antitrust weapon has been claimed not only by clubs that seek greener pastures elsewhere; it has also been brandished by governmental agencies (including state attorneys general), stadium landlords (who assert that they compete in a “market” for club tenants), and former club owners as well. All such parties purport to find a basis in the *Raiders* experience to threaten antitrust litigation to influence or prevent the League’s exercise of its business judgment—for or against—a proposed franchise move.

These risks and antitrust uncertainties have necessarily had a negative effect on League decisionmaking with respect to potential team moves. Regardless of its merit, each such threat raises the specter of burdensome, divisive, and costly litigation, similar to the *Raiders* case in the 1980s, that inevitably takes years to resolve. If claims that teams are entitled to move irrespective of league decisions are sustained—a possibility that exists especially when the issues are litigated before a “home-town” jury (as in the *Raiders* case)—plaintiffs *automatically* receive *punitive* treble damages, three times the “injury” that a fact-finder may believe has been experienced.

The National Football League has faced such threats numerous times over the last two decades, and it has paid the price, in litigation expenses and/or settlements, on several occasions. In an effort to keep the *Raiders* in Oakland, during the 1980s the NFL spent almost \$50 million in legal fees and in ultimate settlement of the antitrust judgment.

In 1995, the Rams and the City of St. Louis used the threat of antitrust litigation in seeking to secure NFL acquiescence in the Rams’ move from Southern California to St. Louis, even though the League’s member clubs had originally determined that the proposed move did not satisfy the specific criteria of the League’s guidelines for franchise relocation. That initial League decision was immediately met with public and private threats from both the Rams and the State’s Attorney General. Faced with such threats of very large (“billions” of dollars) in antitrust damages in suits to be filed in St. Louis, the membership reversed its initial decision and voted to permit the Rams to move.

Even though we believed that we *should* have prevailed in any lawsuit, the League’s judgment was understandably influenced by a preference for antitrust peace rather than war. And once the Rams were *permitted to move* from Los Angeles to St. Louis, St. Louis interests nonetheless filed suit in Federal Court, asserting that the terms of the League-approved move violated the antitrust laws. After years of litigation, the federal district court and a unanimous federal appeals court confirmed that the NFL had done nothing wrong.

In 1984, reviewing the trial court decision favoring the *Raiders*, a federal court of appeals suggested changes intended to enable the NFL’s rules and procedures governing franchise relocation—and the NFL’s reliance upon those rules—to pass muster under the antitrust “rule of reason.” The NFL adopted the court’s suggestions, as well as a set of objective, business criteria for evaluating proposed franchise moves in the future. The League, in short, has followed the court’s advice and

³*San Francisco Seals, Ltd. v. National Hockey League*, 379 F. Supp. 966, 969–70 (C.D. Cal. 1974) (rejecting on summary judgment antitrust challenge to the NHL’s denial of the Seal’s request to move its NHL franchise from San Francisco to Vancouver).

developed such procedures, but those have been attacked under the antitrust laws as well.⁴

Despite these provisions, and despite the fact that they have been updated to reflect the specific concerns expressed by the U.S. Conference of Mayors, misguided treatment of League members as independent economic competitors continues to confuse the antitrust analysis and to make any League decision susceptible to being characterized as an unreasonable restraint on "competition." Thus, we know that if we rely on those criteria to bar a proposed franchise move, the NFL can be involved for years in expensive and internally divisive antitrust litigation. The dispute would likely be litigated in an interested forum, as was the Raiders' case; and the potential damage exposure associated with a court or jury's second-guessing of the League's internal decision can be prohibitive.

One further point that is often overlooked in the antitrust debate is of special import here. If the antitrust laws are to be applied to strip leagues of their ability to decide about team location, they will necessarily give that authority to individual teams. Not only leagues but communities as well have been prejudiced by the misapplication of the Sherman Act.

A STATUTORY APPROACH TO THE RELOCATION ISSUE

My predecessor Pete Rozelle coined the phrase "franchise free agency" in the early 1980s in predicting the long-term consequences of the *Raiders* decision. He was only one of many observers who recognized at an early stage the inappropriateness of treating internal league decisions on franchise relocation as "contracts, combinations, or conspiracies" subject to the restrictions and penalties of the antitrust laws.

In August 1982, for example, Senator Heflin addressed the Judiciary Committee on this subject. He began by recognizing that the NFL "is not composed of economic competitors. They are engaged in a common business operation." He made clear that "[a]ntitrust policies which permit individual team owners to ignore the leagues relationship and act as if they were sole proprietors do not reflect free enterprise principles, and they do not serve the public interest." Senator Heflin concluded, "league agreements voluntarily entered into by league members should be enforced according to their terms" and not subjected to the antitrust laws.

In June 1985, the Antitrust Division of the Department of Justice presented its views before this Committee on the same subject. Supporting "an antitrust exemption for league decisions to block franchise relocations," the Department of Justice urged that "a league's franchise relocation rule should be deemed *per se* lawful unless it adversely affects competition with other leagues or is merely a subterfuge to disguise some other egregious anticompetitive conduct." A copy of that testimony is attached to my statement at Tab 2.

Today there is an ample record demonstrating that uncertainty over this narrow antitrust issue has had a substantial and deleterious effect. Congress now has an opportunity—and an ample record—to address this problem and to end the antitrust brinkmanship that (1) impedes a professional sports league's ability to make rational *internal* decisions and reasonable business judgments about its own affairs and (2) subjects communities to the vagaries of individual team decisions on the next best stadium offer without regard to a league's enforceable evaluation and decision on the proposed move.

Such legislation—to treat sports leagues as a single enterprise for internal decisions on such matters as franchise relocation—would not freeze the status quo. It simply would allow a sports league to exercise its reasonable business judgment without the threat of treble damage litigation and, in doing so, to take appropriate account of community interests and fan loyalties.

S. 952 AND STADIUM FINANCING

The core element of S. 952 is its requirement that the clubs in the NFL and Major League Baseball—alone among professional sports teams—contribute ten percent of their national television revenues each year to a stadium construction fund, with those revenues being used to finance 50 percent of the cost of any new or renovated stadium. Indeed, the bill goes further and imposes that requirement on a retroactive basis for all stadium projects that have not been completed as of the day that S. 952 was introduced.

⁴More recently, in conjunction with the U.S. Conference of Mayors, we have developed a "Statement of Principles" relating to relocations of NFL teams. Last week, I issued an updated set of relocation policies and procedures that incorporates the terms of that Statement of Principles and reflects the procedural framework sought by the Conference of Mayors. A copy of those updated relocation procedures is attached at Tab 1.

We strongly oppose these provisions of S. 952. We believe that these provisions are unnecessary and would have negative, unintended effects; that the provisions unfairly ignore the very substantial contributions that NFL clubs make today toward stadium construction; that mandatory use of television revenues in this manner would unwisely decrease the amount of equally shared revenue received by each of the teams in the League and thereby threaten smaller market clubs; that the provisions improperly interfere with state and local decision making on sports facilities; and that they risk undoing what is currently the most successful labor partnership in professional sports.

First, the bill is unnecessary. Needless to say, it is both prudent and common in most soundly-managed businesses to use increased current revenues—which may or may not be recurring over the long term—to invest in new facilities that will help to secure a business's success for the long term. And the NFL and its teams, together with the NFL Players Association through collective bargaining, have been doing just that with respect to the investment of current revenues into new stadiums.

In his introductory statement, Senator Specter noted the growth in television revenues and said that “[o]ne would think some of that giant revenue windfall might trickle down and be used to help finance new ballparks and stadiums. * * *” The terms “windfall,” and “trickle down” are both inappropriate here. The fact is that in the past 10 years, the NFL and its member clubs have directly contributed over \$1.5 billion to the construction and renovation of stadiums throughout the country. And we have recently put into place an enhanced program that increases the common funding of stadium projects, especially in major markets. A copy of that resolution is attached to this testimony at Tab 3.⁵

Second, by forcing all NFL clubs to contribute 10 percent of their national television revenues each year to a stadium fund, S. 952 would seriously disadvantage the lower revenue NFL clubs that are already struggling to make their revenues meet their expenses. The bill would, in short, exacerbate the existing pressures on teams whose revenues are anywhere from \$6–\$8 million below the League-wide average and who depend on equally shared revenues to remain competitive. Those teams would experience no corresponding decrease in their fixed operating costs, but would have substantially less ability to make up the revenue taxed away by S. 952. Far from promoting stability and competitive balance, this bill would sacrifice the interests of the weaker communities and undermine the NFL's longstanding and successful revenue sharing policies.

Indeed, by reducing the equally shared television revenue of all NFL clubs and leaving the unshared revenues of every club untouched and unchanged, S. 952 sharply magnifies one of the most difficult problems faced by a number of NFL clubs—namely, the substantial disparity in overall revenues between the League's higher revenue and lower revenue clubs. Despite league-wide efforts to address this issue, these disparities result from a variety of factors, including differences in market size (e.g., New York with 6.8 million households vs. New Orleans with 628,000 or Green Bay with 385,000) and market demographics, adequacy of stadiums, team performance, and other competitive sports and entertainment offerings. In this light, the NFL today operates with a supplemental revenue sharing “pool” by which the League redistributes revenue to the lower revenue teams in order to assist them in dealing with player and other costs—with the lowest revenue team eligible to receive as much as \$4 million annually from this League source.

Yet, there continues to be a very substantial gap between the unshared revenues of the better-situated and performing teams, with the top quarter of the high revenue teams having unshared revenues (e.g., from certain stadium sources, advertising, and marketing opportunities) averaging more than \$55 million in 1998 and the bottom quarter of the lower revenue teams averaging some \$45 million from those sources. Further, because of the financial pressures created by player free agency and other player costs under the League's Collective Bargaining Agreement with the NFL players union, some lower revenue teams have in recent seasons been forced to spend 75 percent or more of their total revenues on player contracts and other player expenses. Obviously, this puts such teams under great financial and on-field competitive pressures—and is one of the prices being paid by NFL clubs for “labor peace,” but S. 952 would simply increase these financial instabilities rather than take account of them.

⁵At our League meeting last month, we approved loans for three specific projects in Denver, New England and Philadelphia. Those will directly fund construction of the stadiums in those three communities, and will enhance the already-substantial private contributions to those projects.

In contrast to S. 952, the League's program for contributing financial assistance to individual teams for stadium construction directly ties the largest portion of the contributed assistance to those revenues (such as the premiums paid by ticket-holders for preferred seating) that are generated in the new stadium itself. Thus, the focus of the current League program has been to use those *unshared* revenues as a source of private funding, and avoid undermining the effectiveness of the League's revenue sharing arrangements.

Third, the bill would impose a uniform national standard in derogation of local public decisions about how to use community resources. As mentioned at the outset, we have worked very closely in recent years with state and local authorities throughout the country to seek to ensure win-win solutions to the problem of obsolete stadium facilities, which solutions in turn promote franchise stability. Stadium projects have received the most searching evaluations and have often been the subject of specific referenda. We have sought to develop public-private partnerships that fairly apportion the costs of stadium-related projects and that distribute the benefits of those projects throughout the community. In each of these cases, city and state officials made exactly the kind of decision they were elected to make—namely, how to allocate public resources. There is no reason for Congress to step in and second-guess either the decisions themselves, or the ability of state and local officials to make them.

Fourth, S. 952 would seriously threaten the League's collective bargaining agreement, a point that I know Gene Upshaw will discuss in more detail. Our current labor agreement, which includes substantial court-ordered free agency, is based on a sharing of revenues, including television, between clubs and players, and required spending in certain amounts. This structure was reached only after work stoppages, lengthy antitrust litigation, and intensive bargaining. As noted above, it has created some significant economic challenges for the League, which we have worked hard to address. But it has largely worked for both the clubs and the players and has been extended on two occasions. As a result, the NFL is the only major sports league not to have a strike or lockout during the 1990s. If key premises of this collective bargaining agreement are negated, as S. 952 would do, this carefully negotiated economic balance will be upset, and labor strife will be much more likely in the future.

The players recognize that they benefit from new and improved stadium facilities and the Union has worked with us in a constructive way to assist in funding individual projects. The Union has properly agreed to exclude certain amounts from the sharing formula to assist in funding stadiums and I am confident that we can continue successfully to negotiate such arrangements in the future. But those arrangements should be reached through negotiation between the parties and within the framework of the overall collective agreement.

TELEVISION POLICY AND THE 1961 STATUTE

S. 952 would amend federal law in two respects insofar as it bears on NFL television policy. First, it would condition the continued effectiveness of the 1961 statute on establishing a fund for stadium construction out of national television revenues. Second, it would ensure that the provisions of the 1961 Act apply to forms of television such as cable and satellite telecasts, but not including pay-per-view telecasts. We believe that the latter provision is constructive, consistent with changes in technology and viewing patterns over the past 40 years, as well as the original intent of the Act, and that such a clarification of Federal law would serve the public interest.

The 1961 Act was passed because Congress recognized that without it, many teams and their fans would be unable to make effective use of television. Under that Act, the NFL has created the most pro-consumer television plan in sports today. Every regular season and playoff game is televised on free over-the-air television. Even the League's Sunday night game televised nationally each week on the cable network ESPN, are shown on over-the-air stations in the home communities of the participating teams. The NFL has maintained this strong commitment to broadcast television even while it has grown from 12 teams in 1960 to 31 teams today and even though network television has experienced dramatic changes as a result of competition from cable, satellite, and other options. No other professional league is today similarly committed to broadcast television.

Earlier this decade, Congress directed the Federal Communications Commission to study, among other matters, the NFL's operations under the 1961 statute. The FCC's final report in 1994 found that the NFL's television policies were consistent with the public interest and recommended no amendments to limit the application of the 1961 Act.

It is of course true that the NFL clubs will earn very substantial revenues from our network television contracts. These revenues, a substantial portion of which must be paid to NFL players, are equally shared among the member clubs and enable teams in communities varying widely in size and circumstances to compete successfully on the playing field. In addition, they represent a substantial infusion of new funds into NFL communities and contribute directly to the economic well being of those cities and their residents. Over the life of the current contracts, each NFL team will receive over \$500 million in television revenues. That money is spent directly in the home community in the form of taxes, salaries paid to employees (who in turn buy homes, pay taxes, and the like) and purchases of goods and local services. The economic impact of the League's television contracts extends well beyond the team itself.

Simply put, the Sports Broadcasting Act has worked precisely the way Congress intended, and there is no justification for tampering with it.

* * * * *

Thank you for the opportunity to appear today and I look forward to responding to any questions.

TAB 1

POLICY AND PROCEDURES FOR PROPOSED FRANCHISE RELOCATIONS

Article 8.5 of the NFL Constitution and Bylaws vests in the Commissioner the authority to "interpret and from time to time establish policy and procedure in respect to the provisions of the Constitution and Bylaws and any enforcement thereof." Set forth below are policy and procedures to apply to future League consideration, pursuant to Section 4.3 of the Constitution and Bylaws, of any proposed transfer of a club's home territory.

Article 4.3 requires prior approval by the affirmative vote of three-fourths of the member clubs before a club may transfer its franchise or playing site to a different city either within or outside its existing home territory. Article 4.3 confirms that each club's primary obligation to the League and to all other member clubs is to advance the interests of the League in its home territory. This primary obligation includes, but is not limited to, maximizing fan support, including attendance, in its home territory. Article 4.3 also confirms that no club has an "entitlement" to relocate simply because it perceives an opportunity for enhanced club revenues in another location. Indeed, League traditions disfavor relocations if a club has been well-supported and financially successful and is expected to remain so. Relocation pursuant to Article 4.3 may be available, however, if a club's viability in its home territory is threatened by circumstances that cannot be remedied by diligent efforts of the club working, as appropriate, in conjunction with the League Office, or if compelling League interests warrant a franchise relocation.

Article 4.3 also reflects the League's collective judgment that unassigned franchise opportunities (including "second franchise" opportunities in the home territory of a member club) are owned by the League's members as a collective whole and, by definition, that no club has rights to more than a single "home territory." Such collective League opportunities may be acquired by an individual club only by an assignment reflecting the consent of the League and subject to its generally applicable voting requirements.

A. NEGOTIATIONS PRIOR TO LEAGUE CONSIDERATION

1. Because League policy favors stable team-community relations, clubs are obligated to work diligently and in good faith to obtain and to maintain suitable stadium facilities in their home territories, and to operate in a manner that maximizes fan support in their current home community. A club may not, however, grant exclusive negotiating rights to a community or potential stadium landlord other than one in its current home territory.

2. All clubs, at any time during their stadium negotiations, are free to seek the assistance of the League Office and the Stadium Committee, on either a formal or informal basis. If, having diligently engaged in good faith efforts, a club concludes that it cannot obtain a satisfactory resolution of its stadium needs, it may inform the League Office and the stadium landlord or other relevant public authorities that it has reached a stalemate in those negotiations. Upon such a declaration, the League may elect to become directly involved in the negotiations.

3. The League's policy and procedures on franchise relocation do not restrict any club's ability to discuss a possible relocation, or to negotiate a proposed lease or

other arrangements, with a community outside its home territory. Nor do they restrict the ability of multiple clubs to negotiate terms of a proposed relocation with a single community.

In evaluating a proposed franchise relocation and making the business judgment inherent in such consideration, the membership is entitled to consider a wide range of appropriate factors. Each club should consider whether the League's collective interests (which include, for example, the League's television interests, the League's interest in strong and geographically distributed franchises, the League's interest in securing attractive stadium facilities in which to play its games, and the League's interest in having financially viable franchises) would be advanced or harmed by allowing a club to leave its assigned home territory to assume a League owned opportunity in another community. These collective interests generally include having clubs in the country's most populous areas, taking into account competitive entertainment alternatives, stadium options, and other factors.

Like proposed transfers to a different home territory, a transfer of a club's playing site to a different location within its home territory may also raise issues of League-wide significance. Accordingly, while these procedures apply to any proposed move to a new home territory, the Commissioner may also require that some or all of these procedures be followed with respect to a proposed move within a club's existing home territory.

B. PROCEDURES RELATING TO NOTICE AND EVALUATION OF THE PROPOSED TRANSFER

Before any club may transfer its franchise or playing site outside its current home territory, the club must submit a proposal for such transfer to the League on the following basis:

1. The club must give the Commissioner written notice of the proposed transfer, including the date on which the proposed relocation is to become effective, and publish the notice in newspapers of general circulation within the incumbent community. The notice must be filed no later than February 15 of the year in which the move is scheduled to occur. The League will provide copies of the notice to governmental and business representatives of both the incumbent community and the community to which the team proposes to move, as well as the stadium authority (if any) in the incumbent community (the "interested parties").

2. The notice must be accompanied by a "statement of reasons" in support of the proposed transfer. The statement must address each of the factors outlined in Part C below, and may also identify and discuss any other relevant business factors that the club believes support its request to move. The Statement must also include all of the material noted in Appendix One.

3. With the assistance of appropriate League committees, the Commissioner will evaluate the proposed transfer and report to the membership. The Commissioner may also convene a special committee to perform factfinding or other functions with respect to any such proposed transfer.

4. Interested parties will have an opportunity to provide oral and/or written comments regarding the proposed transfer, including at a public hearing conducted by the League in the community from which the team seeks to relocate; written comments may be submitted within 15 days of the conclusion of such hearing.

5. Following the Commissioner's report on the proposed transfer, the proposal will be presented to the membership for action in accordance with the Constitution and Bylaws, either at a Special Meeting of the League held for that purpose or at the Annual Meeting.

6. After any League vote on a proposed relocation, the League will:
 - i. Publish, within 30 days of any relocation decision, a written statement of reasons in newspapers of general circulation within the incumbent community setting forth the basis of its decision in light of the League's rules and procedures for evaluating franchise relocation; and
 - ii. Deliver copies of its written statement of reasons to the local governments of the community from which the club seeks to relocate and any sports authority or similar entity with jurisdiction over the stadium or facility from which the club seeks to relocate.

C. FACTORS THAT MAY BE CONSIDERED IN EVALUATING THE PROPOSED TRANSFER

The League has analyzed many factors in making prior business judgments concerning proposed franchise relocations. Such business judgments may be informed

through consideration of the factors listed below, as well as other appropriate factors that are considered relevant by the Commissioner or the membership.¹

Any club proposing to transfer should, in its submission to the Commissioner, present the club's position as to the bearing of these factors on its proposed transfer, stating specifically why such a move would be justified with reference to these considerations. In reporting to the membership, the Commissioner will also address these factors.

In considering a proposed relocation, the Member Clubs are making a business judgment concerning how best to advance their collective interests. Guidelines and factors such as those identified below are useful ways to organize data and to inform that business judgment. They are intended to assist the clubs in making a decision based on their judgment and experience, and taking into account those factors deemed relevant to and appropriate with regard to each proposed move. Those factors include:

1. The extent to which the club has satisfied, particularly in the last 4 years, its principal obligation of effectively representing the NFL and serving the fans in its current community; whether the club has previously relocated and the circumstances of such prior relocation;

2. The extent to which fan loyalty to and support for the club has been demonstrated during the team's tenure in the current community;

3. The adequacy of the stadium in which the club played its home games in the previous season; the willingness of the stadium authority or the community to remedy any deficiencies in or to replace such facility, including whether there are legislative or referenda proposals pending to address these issues; and the characteristics of the stadium in the proposed new community;

4. The extent to which the club, directly or indirectly, received public financial support by means of any publicly financed playing facility, special tax treatment, or any other form of public financial support and the views of the stadium authority (if public) in the current community;

5. The club's financial performance, particularly whether the club has incurred net operating losses (on an accrual basis of accounting), exclusive of depreciation and amortization, sufficient to threaten the continued financial viability of the club, as well as the club's financial prospects in its current community;

6. The degree to which the club has engaged in good faith negotiations (and enlisted the League office to assist in such negotiations) with appropriate persons concerning terms and conditions under which the club would remain in its current home territory and afforded that community a reasonable amount of time to address pertinent proposals;

7. The degree to which the owners or managers of the club have contributed to circumstances which might demonstrate the need for relocation;

8. Whether any other member club of the League is located in the community in which the club is currently located;

9. Whether the club proposes to relocate to a community or region in which no other member club of the League is located; and the demographics of the community to which the team proposes to move;

10. The degree to which the interests reflected in the League's collectively negotiated contracts and obligations (e.g., labor agreements, broadcast agreements) might be advanced or adversely affected by the proposed relocation, either standing alone or considered on a cumulative basis with other completed or proposed relocations;

11. The effect of the proposed relocation on NFL scheduling patterns, travel requirements, divisional alignments, traditional rivalries, and fan and public perceptions of the NFL and its member clubs; and

12. Whether the proposed relocation, for example, from a larger to a smaller television market, would adversely affect a current or anticipated League revenue or expense stream (for example, network television) and, if so, the extent to which the club proposing to transfer is prepared to remedy that adverse effect.

¹Most of the factors were contained in a bill reported by a Senate committee in 1984; they essentially restate matters that the League has considered important in connection with team location decisions in the past. Certain factors included in the Senate bill have been modified, and certain new factors have been added, to reflect changed circumstances and the League's historical experience since 1984. These factors are also contained in a "Statement of Principles" relating to franchise location developed by the League in consultation with the U.S. Conference of Mayors.

D. EXISTING LEASES

1. No request to relocate shall be unconditionally approved, nor shall a relocation be allowed to take effect, if it would result in a breach of the club's current stadium lease. This provision shall not apply if the club and its landlord agree to terminate the lease or if there is a final court order terminating the lease or concluding that the lease does not preclude a relocation.

2. A decision by the league conditionally or unconditionally authorizing a member club to relocate shall not affect the enforceability under state law of a stadium lease to which that member club is a party.

E. PAYMENTS ASSOCIATED WITH AN APPROVED TRANSFER

If a club's proposal to relocate to a new home territory is approved, the relocating club will ordinarily be expected to pay a transfer fee to the League. The transfer fee will compensate other member clubs of the League for the loss of the opportunity appropriated by the relocating club and/or the enhancement (if any) in the value of the franchise resulting from the move.

The Commissioner may recommend a transfer fee to the membership and Finance Committee for consideration in connection with any proposed transfer that he recommends be approved. Among the factors to be considered in the recommendation of such fee will be:

1. The income streams available to the club in its new location and the likelihood that they will be realized (which may be affected by community or business guarantees or similar undertakings);

2. The income streams historically available to the club in its previous location, and the incremental income streams (if any) that could reasonably be expected to be made available to the club in its old location;

3. The expenses to be borne by the club in its current and proposed locations;

4. The expenses that could reasonably be expected to be assumed by parties other than the club if the relocation does not take place;

5. The desirability of the club's current and proposed stadia as locations for professional football games;

6. The club's current status under any revenue sharing plans then in effect and its anticipated status if the move were approved;

7. The effect of the proposed relocation on current or anticipated League-level revenue and expense streams; and

8. The demographics of the club's old and new markets.

The Commissioner's recommendation of a transfer fee will not be based on any effect that the proposed move would have on any salary cap or similar player-employment arrangements.

The membership will determine the transfer fee (or, in the alternative, a recommended, binding method for determining the transfer fee), if any, at the time it approves any proposed club relocation. The terms on which the transfer fee will be paid will be set forth in the resolution itself, and will be reflected in appropriate documentation acceptable to the commissioner and the Finance Committee.

In addition, in certain circumstances, the League's collective interests may depend upon the maintenance of quality franchises in specific geographic areas. If a team proposes to relocate into, or to relocate from, such an area, in evaluating the proposed relocation, the Commissioner will and the membership may take into account, in determining the appropriate transfer fee (if any), the League's interest in encouraging the proposed relocation, discouraging the proposed relocation, or permitting the relocation on terms that would permit the League to restore a meaningful presence in the area being vacated by the relocating club.

Finally, if League-level revenue or expense streams or visiting team shares are projected to be adversely affected by a proposed relocation, on either a short-term or long-term basis, based upon a recommendation by the Commissioner and Finance Committee the relocating club will be required to indemnify other members of the League for adverse effects that could result from the proposed relocation. If such recommendation is included by the membership in the resolution authorizing the move, the Commissioner will, in consultation with the Finance Committee, negotiate with the relocating club appropriate indemnification arrangements, including the extent to which the relocating club may participate in League revenue sharing pools, to be reflected in documentation acceptable to the Commissioner and the Finance Committee.

[EDITOR'S NOTE: Tab 2 referred to in the text appears in S. Hrg. 99-496, "Professional Sports Antitrust Immunity," Committee on the Judiciary, dates February 6, March 6, and June 12, 1985.]

TAB 3

1999 RESOLUTION G-3.—AS AMENDED

Whereas, it is appropriate to improve the League's current policies to support new stadium construction through club seat sharing exemptions, as reflected in the club seat sharing exemption guidelines adopted by the League in 1994 (the "Guidelines"), and through PSL sharing exemptions;

Whereas, a revised policy can facilitate new stadium construction projects by (1) making upfront League loans in support of Clubs' private contributions to such projects (rather than annually exempting from sharing the visiting team share ("VTS") of club seat premiums over a period up to 15 years), and (2) assuring that League loans will amount to at least 34 percent of an affected Club's private contribution to a project;

Whereas, such League loans should be subject to member club approval on a case-by-case basis;

Be it Resolved:

(1) That for any stadium construction project involving a private investment for which an affected Club makes a binding commitment from now through the 2002 NFL season (through March 31, 2003), the League shall make a loan to the affected Club to support such project based on the amount that the affected Club has committed to such project as a private contribution (the "Private Contribution");

(2) That the amount of such League loan shall range from 34 percent to 50 percent of the Private Contribution, determined on a case-by-case basis based on the size of the Private Contribution, with incremental League loans in excess of 34 percent generally to be made available to facilitate stadium construction projects in the largest markets that are home to an NFL Club, and with the League loans in smaller markets generally limited to 34 percent of the Private Contribution;

(3) That the Commissioner is authorized to make arrangements for the League to borrow from commercial or institutional lenders funds to make such League loans, with the funds to be repaid to such lenders over an appropriate time period (10 years or such other period as may be determined by the Finance Committee);

(4) That the specific borrowings from commercial or institutional lenders related to any stadium construction project must be approved as part of the League's approval of a League loan to such project, with the borrowings to be repaid principally from the VTS of club seat premiums generated by such project, and, to the extent that the VTS of club seat premiums is insufficient to repay such loans, with any incremental funds needed for repayment to be assessed against the League's network television revenues;

Further Resolved:

(1) That if PSL's are sold with respect to a particular stadium construction project, such PSL's shall be eligible for an exemption from sharing in accordance with current policies;

(2) That the amount of VTS exempted in respect of PSL's sold shall be offset against the principal amount of League loans available for the project; and

(3) That for purposes of determining whether a project is eligible for incremental League loans, only the first \$75 million of PSL proceeds shall be treated as a portion of the Private Contribution;

Further Resolved:

(1) That any League loan under the League policy adopted by this resolution, as between an affected Club and the League, shall be forgiven over the term of the aforementioned League borrowing on an equal annual basis; and

(2) That, if an affected Club that receives a League loan under the League policy adopted by this resolution (or a controlling interest therein) is subsequently sold other than to a member or members of an owner's immediate family (as defined in the NFL Constitution and Bylaws) before the final maturity date of the League loan, then the selling party shall repay to the League from the sale proceeds at closing an amount equal to the outstanding principal balance on the League loan; and

Further Resolved, that in order for a stadium construction project involving a Private Contribution to qualify for a League loan, the conditions set forth in Attachment A to this resolution must be satisfied.

SUBMITTED BY FINANCE COMMITTEE AND STADIUM COMMITTEE

Reason and Effect: To modify and simplify the League's policies with respect to stadium construction projects to provide for, among other things, (1) a standard 34 percent League loan towards the private contribution to such projects, (2) such

League loan to be made upfront at the beginning of such projects from funds to be borrowed by the League, and (3) an incremental League loan (in excess of 34 percent) in respect of such projects in the largest markets.

VOTE		DISPOSITION
For	29	Adopted
Against	2 (Cincinnati, Oakland)	
Abstain	0	

Attachment A

(a) The League must approve a resolution specifically directing the making of a loan in respect of a particular stadium construction project, following an evaluation of (1) the necessity of a new or renovated stadium in a market in terms of the suitability, economic competitiveness, and physical condition of the existing facility, the stadium's importance to League franchise stability, the League's concerns regarding its national image and presence, the importance of an affected market to the League's national television ratings, and other League business priorities, and (2) the specific attributes of the project, including the scope and cost of the project relative to the economics in a market and the League as a whole, the balance of projected shareable and non-shareable revenue streams and the construction costs associated with each, whether a renovation project is a "qualifying" project (as defined in the Guidelines), and similar factors;

(b) Such resolution must be adopted and the stadium construction project must be committed to by both public and private parties, from now through the 2002 NFL season (through March 31, 2003);

(c) The stadium construction project must be a "public-private partnership" to which public authorities and an affected Club each have committed funds;

(d) The project must not involve any relocation of or change in an affected Club's "home territory" (as defined in the Constitution and By-laws);

(e) Increases in the visiting team share generated by the new or renovated stadium must meet the standards set forth in the Guidelines; and

(f) The NFL Players Association must agree to exclude from DGR, over a reasonable period of time on a straight-line amortization basis, the entire amount of the Private Contribution, together with an amount equal to the imputed interest on the Private Contribution at a commercially reasonable interest rate.

Senator SPECTER. Our final witness is Mr. Rick Horrow, president of Horrow Sports Ventures, a Miami-based sports consulting firm. He coordinated the creation of the Miami Sports Authority and the NBA expansion Miami Heat, as well as the early stages of Joe Robbie Stadium. He has been involved in facility development in many cities, is a contributing author to the book *The Law of Professional and Amateur Sports*, and hosts a weekly TV show, "Sports Report."

Thank you for joining us, Mr. Horrow, and the floor is yours.

STATEMENT OF RICHARD HORROW

Mr. HORROW. Thank you, Senator, and thank you for the opportunity to address the committee on this bill. I would also like to take the opportunity to provide a general overview of the facility development industry based on my experience of putting together public-private partnerships.

The decade of the 1990s has produced unprecedented development of entertainment infrastructure, both nationally and internationally—all told, 79 major league stadiums and arenas modernized or developed. This is in addition to 70 minor league facilities; 12 motor sports facilities; 30 convention centers; as the Commissioner has mentioned, 23 NFL facilities; and 18 Major League Baseball facilities; overall, 256 sports, arts, convention and enter-

tainment facilities developed in the United States this decade at a total cost of over \$19.4 billion.

Very importantly, though, there have been 25 public facility referenda submitted for voter approval since 1993. Of those, 21 have been successfully approved by the voters, including the largest single-issue public development facility referendum, a nine-facility package in Oklahoma City. Clearly, regional leaders now understand that the development of stadiums, arenas, motor sports facilities, convention facilities, performing arts centers and other entertainment infrastructure is a critical component of the ongoing maturation of any region. And in all cases, creative, flexible and locally-based public-private partnerships are absolutely necessary in developing these types of facilities.

The public financing components are primarily focused on bonds, supported by multiple public tourist and user-oriented revenue streams directly and indirectly linked to economic development, job creation and long-term community growth, just like local business financial formulas for other types of industrial relocation competitions. And examples of this model abound.

The State of Florida pioneered the passage of a sales tax rebate legislation in the mid-1980s, diverting nearly \$2 million annually per project from sales taxes generated from the economic impact of stadiums, arenas and other Florida infrastructure. The legislation has been used to develop facilities in Miami, Fort Lauderdale, Tampa, Orlando, Jacksonville, and other Florida regions in the last 15 years.

Texas has created a series of enterprise zones which allow for user-oriented revenue streams to assist in the development of entertainment infrastructure as well. And Seattle user assessments on stadium-related restaurants, car rentals, vanity license plates and other sources allowed for facility construction in that region.

Now, while each situation is primarily driven by local and State financing, development and legal concerns, it is clear that successful public-private partnerships have been viewed as long-term community and regional investments consistent with a generational obligation to retool and to modernize critical infrastructure. There are a number of quantifiable and intangible benefits that have been accepted by over 100 regions that have successfully implemented major and minor league sports and entertainment facilities during this decade.

First, the facilities have been perceived to generate substantial economic impact during construction. The successful November 1998 campaign coordinated by the city of San Diego and the Padres introduced a Deloitte and Touche study indicating that stadium construction alone would result in \$1.1 billion in spending and create 17,000 jobs.

Second, successful projects have also generated substantial retail, sales and development activities surrounding these facilities. As Jacobs Field opened in Cleveland in 1995, more than 20 restaurants or retail establishments have opened after that. And more than 85 store fronts have been renovated, at a cost of \$1.2 million. The downtown development-oriented Gateway Project has created 6,200 permanent jobs since 1994, generating \$6.5 million in payroll taxes.

The third major impact involves the major and special events that will occasionally be attracted to a new facility. Recent Super Bowls in San Diego, Arizona, New Orleans and Miami have each generated over \$250 million of new spending to their respective local economies.

Fourth, many communities will identify the intangible impact of a sports franchise and corresponding facility on its marketability and potential to attract new business. The Jacksonville Chamber of Commerce spoke about the Jacksonville Jaguars and Alltel Stadium as being indirectly responsible for creation of upwards of 50,000 new jobs by virtue of companies expanding or relocating to Jacksonville as a consequence of a successful marketing campaign.

And, finally, although more difficult to quantify, many community leaders have advocated a franchise facility as a critical component of image enhancement and community pride. In fact, the Florida Supreme Court, in *Poe v. Hillsborough County*, validated the Raymond James Stadium bond, saying, "The Court finds the Buccaneers instill civic pride and camaraderie in the community, and that Buccaneer games and other stadium events also serve a commendable public purpose by enhancing the community image on a nationwide basis and providing recreation, entertainment and cultural activities to its citizens."

In conclusion, these types of public-private partnership funding of entertainment infrastructure facilities, like any visionary public asset, is inherently controversial and complex. However, once these facilities are developed, they provide substantial economic, tangible and psychological benefits for the entire region for years to come.

Thank you very much.

Senator SPECTER. Thank you very much, Mr. Horrow.

[The prepared statement of Mr. Horrow follows:]

PREPARED STATEMENT OF RICHARD HORROW

Good morning. Thank you for the opportunity to address the Committee on Senate Bill 952, the Stadium Financing and Franchise Relocation Act of 1999. I would also like to take the opportunity to provide a general overview of the facility development industry based on my experience of developing public/private partnerships.

The decade of the 1990's has produced unprecedented development of "entertainment infrastructure" both nationally and internationally. All told, there have been 79 major league stadiums and arenas modernized or developed (at a cost of \$12 billion). This is in addition to 70 minor league facilities, 12 motorsports facilities, and 30 convention centers. There have been 20 facilities developed or modernized for National Football League teams, at a cost of \$4.5 billion. In Major League Baseball, facilities have opened in Chicago, Baltimore, Texas, Atlanta, Colorado, Arizona, Tampa Bay, Anaheim, and Cleveland. Additionally, as of mid-1999, there are baseball facilities under construction in Seattle, Houston, Milwaukee, San Francisco, Detroit, Pittsburgh, San Diego, and Cincinnati. As for convention facilities, the United States Department of Commerce estimates that by 2008 there will be 251 million annual convention and trade show attendees at 5,970 exhibitions, using 912 million square feet of exhibition space. Also, according to the National Golf Foundation, there have also been over 2,627 golf courses opened and developed this decade, most of which included public and private participation.

Overall, there have been 256 sports, arts, convention, and entertainment facilities developed in the United States this decade at a total cost of over \$19.4 billion. While many have been developed in large metropolitan areas such as Chicago (Comiskey Park), Atlanta (Turner Field), Los Angeles (Staples Center), and otherwise, most have been developed in smaller areas such as the Mercer County Arena in Trenton, Bi Lo Center in Greenville, and convention facilities in Houma, Louisiana and Savannah, Georgia. There have also been 25 public facility referenda submitted for voter approval since 1993. Of these, 21 have been successfully approved by the vot-

ers, including the largest single issue public facility referendum (a nine-facility five-year sales tax initiative) in Oklahoma City.

Clearly, regional leaders now understand that the development of stadiums, arenas, motorsports facilities, convention facilities, performing arts centers, public golf centers, and other "entertainment infrastructure" is a critical component of the ongoing maturation of a region. This overview will focus on three components: (i) financial characteristics of the public/private partnership model; (ii) community impacts and justifications for "entertainment infrastructure" development; and (iii) overall guidelines and parameters concerning the development process.

I. FINANCIAL CHARACTERISTICS OF THE PUBLIC/PRIVATE PARTNERSHIP MODEL

There has been considerable discussion and debate surrounding the amount and extent of public participation in "entertainment infrastructure" facilities. Concerning the National Football League, of the 20 facilities developed and modernized since 1992, roughly \$3 billion has been public funding, with approximately \$1.5 billion of private equity and risk capital. Of the \$2.5 billion contributed to Major League Baseball facilities since 1992, roughly 84 percent has been public investment. With facilities that have not been driven by major league or minor league sports tenants (arenas in Oklahoma City, New Orleans, and Grand Rapids, for example) the amount of public contribution is substantially greater. In all cases, however, creative and flexible public/private partnerships are absolutely necessary in developing these types of facilities.

The most recent models are characterized by a number of elements. First, the facilities are designed with as much flexibility for as many different types of events as architecturally and aesthetically possible. Second, negotiations with anchor tenants have included at least the long-term lease commitment parallel to the length of the financing, coupled with an appropriate allocation of risks and rewards based on predictable revenue streams such as PSL's, skyboxes, club seats, naming rights, and the like. Third, facility development initiatives have attempted to "bundle" as many infrastructure needs as possible in respective comprehensive initiatives. Fourth, facility financing structures have involved the private business sector, coupled with multi-level governmental cooperation from the city, county, and state. Fifth, the public financing components have primarily focused on bonds supported by multiple public tourist and user-oriented revenue streams directly and indirectly linked to economic development, job creation, and long-term community growth.

Examples of this new model abound. Oklahoma City packaged nine facilities in a "MAPSN (Metropolitan Area Projects Strategies) referendum, raising \$262 million from a one cent, five-year, "sunsetted" sales tax. Twice approved by the voters (1993 and 1998), this process has also generated nearly \$300 million of verifiable private investment, as well as over \$1.1 billion of economic activity.

International Speedway Corporation recently broke ground for a major league motorsports facility in Wyandotte County, Kansas. The financing model contemplates a public commitment of approximately \$147 million, with the private developer committing \$81.5 million of equity and risk. The State of Kansas will receive more than \$200 million of predictable annual benefit over an extended period through the promotion and marketing of NASCAR races.

The State of Florida pioneered the passage of "sales tax rebate" legislation in the mid-1980's, diverting nearly \$2 million annually from sales taxes generated from the economic impact of stadiums, arenas, and other Florida infrastructure. The legislation has been used to develop facilities in Miami, Ft. Lauderdale, Tampa, Orlando, Jacksonville, and other Florida regions in the last 15 years.

Texas has created a series of "enterprise zones" which allow for "user-oriented" revenue streams to assist in the development of entertainment infrastructure. The Ballpark at Arlington generated \$274 million in construction by 1997; the increase from \$122 million five years earlier allowed the facility bonds to be retired nearly 10 years early.

Seattle "user assessments" on stadium-related restaurants, car rentals, vanity license plates, and other sources allowed for facility construction in that region. The sales impact has exceeded projections by nearly \$20 million over a 10-year period, allowing for financial restructuring.

Finally, the Province of Quebec and the City of Montreal have been creating a financing plan based on an Ernst & Young study identifying C\$14-21 million of annual publicity generated by a new baseball facility. The public sector has been developing a plan that identifies at least \$8 million annually for stadium development based on the recurring regional and national publicity.

While each situation is primarily driven by local and state financing, development, and legal considerations, it is clear that successful public/private partnerships

have been viewed as long-term community and regional investments consistent with the generational obligation to retool and modernize critical infrastructure.

II. COMMUNITY IMPACTS AND JUSTIFICATIONS FOR "ENTERTAINMENT INFRASTRUCTURE" DEVELOPMENT

There are a number of quantifiable and intangible benefits that have been accepted by the over 100 regions that have successfully implemented major and minor league sports and entertainment facilities during this decade. First, the facilities have been perceived to generate substantial economic impact during construction. The successful November 3, 1998 campaign coordinated by the City of San Diego and the Padres introduced a study by Deloitte & Touche indicating that stadium construction alone would result in \$1.1 billion in spending and would create 17,000 full-time temporary jobs, as well as \$1.8 million in new ancillary development revenue per year. The plan primarily focused on the complementary spin-off development from the adjacent convention center, Gaslamp, and Waterfront Districts. Other economic impact studies have been developed along similar lines. An analysis prepared for the Maryland Stadium Authority suggests that an average Baltimore Orioles season will generate \$117 million in gross sales, \$44 million in earnings, and over 1,500 full-time jobs. Total statewide economic impact amounts to \$226 million in gross sales, \$77 million in earnings, and 2,340 full-time jobs. The study also suggests that 1.6 million out-of-town fans, or 46 percent of all fans, were attracted to Baltimore from outside the area. These visitors spend \$46 million in the Baltimore area representing new economic growth in the regional economy.

Second, successful projects have also generated substantial retail, sales, and development activity surrounding the facility. As Jacobs Field opened in Cleveland in 1995, more than 20 restaurants or retail establishments have opened after that; and more than 85 storefronts have been renovated at a cost of \$1.2 million. The downtown development oriented Gateway Project has created 6,269 permanent jobs since 1994, generating \$6.5 million in payroll taxes. Representative downtown Cleveland business organizations have suggested that the facility complex has provided over 300 active dates and four million additional visitors to Cleveland after the opening of the stadium.

As a consequence of the 1995 opening of Coors Field in Denver, studies point to an increase of over \$40 million in taxable sales from the previous year; \$20 million was spent in new downtown business; and more than 25 restaurants have opened. Land adjacent to Coors Field, previously assessed at \$1.77 per square foot, recently sold for approximately \$27 per square foot. Many converted old warehouses have loft units that are selling for \$200,000 to \$300,000 per unit. One in every three tourists visiting Denver mentioned that they had attended or would like to have attended a Rockies game. Further, a report by the Phoenix Finance Department demonstrates that fans attracted to Bank One Ballpark during its first year of operation helped contribute to a 34.1 percent increase in City sales tax revenue in the downtown area. Retail sales through the Summer of 1998 in the Phoenix downtown core were up 93.8 percent over the same period in 1997. Restaurants and bars downtown saw an increase from \$40.3 million to \$52.4 million over one year. Hotels and motels in the 1-square mile contiguous area demonstrated a 6.6 percent increase, compared with a 4.3 percent increase city wide.

The third major impact and justification involves the major and special events that will occasionally be attracted to a new facility. In 1997, the Greater Cleveland Convention & Visitors Bureau suggested that the nine post-season home games and All-Star Game for the Cleveland Indians had a direct \$121.3 million impact on the economy of the region. Similarly, the Office of the New York City Comptroller indicating that Games One and Two of the 1998 World Series have added \$31 million to the New York economy. Additionally, recent Super Bowls in San Diego, Arizona, New Orleans, and Miami have each generated over \$250 million to their respective local economies. A study conducted by Sports Management Research Institute suggested the impact of Super Bowl XXXIII to the Miami area was \$396 million, with 110,700 visitors spending an average of \$400.03 per day over a 4.52 day average visit. Similarly, the Arizona State University College of Business indicated that the 1992 Tostitos Fiesta Bowl generated an overall economic impact of \$133 million for the State of Arizona.

Fourth, many communities will identify the intangible impact of a sports franchise and corresponding facility on its marketability and potential to attract business. The Jacksonville Sports Development Authority and Chamber of Commerce suggests that the Jacksonville Jaguars and Alltel Stadium enrich the local economy by an estimated \$131 million a year from visitors buying tickets, eating at restaurants, and staying at hotels. Additionally, they believe that the new team and

facility have been indirectly responsible for the creation of upwards of 50,000 new jobs by virtue of companies expanding or relocating to Jacksonville as a consequence of a successful marketing campaign. In 1997, *Money* magazine ranked it as the ninth best place to live in America, and the city grew more than any other city in Florida (with its metropolitan area population at only one million residents).

Finally, while more difficult to quantify, many community leaders have advocated a franchise and facility as a critical component of image enhancement and community pride. In its May, 1997 report, the Economic Analysis Corporation provided a perspective on the 1996 Congressional Research Service study on facility development. It concluded the following:

“Sports teams provide valuable consumption benefits to a local community. These benefits include the ability of local residents to follow and enjoy a home team, an increase in community spirit, and a potential means to draw people to downtown areas. In many respects, local government support of new stadium construction is similar to local government subsidization of other valuable local consumption activities, such as concert halls, zoos, parks, and golf courses. * * * Sports teams are a unique type of consumption good in that they provide substantial benefits to many local citizens who do not attend the team’s games. These citizens in the local community receive valuable consumption benefits merely from the presence of a professional sports team. Since these citizens cannot be charged directly by the team for the benefits they receive, there is a stronger economic rationale for local government subsidization of professional sports teams than for most other publicly subsidized consumption activity.”

In fact, the Florida Supreme Court described the public benefits of stadium facility construction in *Poe v. Hillsborough County*, 695 So.2d 672 (the 1997 case validating the bonds to construct Raymond James Stadium in Tampa). The Court explained:

“(T)he Court finds that the Buccaneers instill civic pride and camaraderie into the community and that the Buccaneer games and other stadium events also serve a commendable public purpose by enhancing the community image on a nationwide basis and providing recreation, entertainment and cultural activities to its citizens.”

III. OVERALL GUIDELINES AND PARAMETERS CONCERNING THE DEVELOPMENT PROCESS

As we enter the new millennium, the following four guidelines and parameters are critical to successful public/private facility development for “entertainment infrastructure.”

First, with public/private facility partnerships coming under increasing public scrutiny and with local electorates constantly reassessing priorities, communities must be creative, flexible, and consistent in their facility goals and objectives. Cooperation between and among business, political, and civic leadership is an absolute necessity. Further, a Master Facility Development Process that is inclusive of all tourism, entertainment, development, and community constituencies should be undertaken. In short, a consensus building process necessarily includes the following interests: business, political, private risk capital, city government, county government, state government, site entrepreneurs, and technical analysts.

Second, public facilities of the new millennium will be designed as diverse entertainment and activity centers. As such, these facilities should be viewed as critical components of long-term regional infrastructure development, independent of any desire to attract major league franchises.

Third, *all* new facilities require development of creative public/private financing partnerships where the public sector provides investment capital to “jump start” the project, especially if no major league anchor tenant is contemplated. In these cases, the tangible linkage between specific public revenue sources and realistic, quantifiable return on the public investment is an absolute political and economic necessity.

Finally, these types of “entertainment infrastructure” facilities—like any visionary public assets—are inherently controversial and complex. Therefore, their implementation requires significant (and, potentially, unprecedented) *regional* support from respective business, political, and civic leadership. However, once these facilities are developed, they provide substantial economic, tangible, and psychological benefits for the entire region for years to come.

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land Indians, the New York Mets, and a speedway in Kansas City, Kansas. Among Horrow's other accomplishments was the coordination of the largest single-issue public-facility-development referendum ever—a \$250 million sales tax levy for nine sports and recreational facilities for Oklahoma City, Oklahoma. He is coordinating similar initiatives in Birmingham, Alabama; Hampton Roads, Virginia; and Richmond, Virginia. A sports lawyer, Horrow has worked with the International Speedway Corporation, Ladies Professional Golf Association, the Major League Baseball Players Association, the Continental Basketball Association, and the Canadian Football League. He is Visiting Expert of Sports Law at Harvard Law School, and is the Sports Business and Law Expert for Fox Sports and "The Sports Professor" on CBS SportsLine Internet Radio.

Senator SPECTER. Beginning the questions with Mr. Richardson, when I commended you for financing your own stadium, I think that is the way to do it. And when I said I wouldn't expect any money from you, I really meant if your example were followed. The stadiums which are going up in Pennsylvania, four of them for \$1 billion, are not being subjected to bonds or any referendum.

When Commissioner Tagliabue talks about interfering with State and local decisions by this bill, the State and local decisions are driven largely by the threat of the team moving. Maryland and Baltimore put up the money to bring the Browns from Cleveland. That is why I have been very blunt about what I consider to be legalized extortion, where the cities put up a lot of money to build the stadiums to keep the teams there.

But you are very successful businessman; you have proved that. Would you object to the removal of the antitrust exemption which allows the NFL teams to share TV revenues?

Mr. RICHARDSON. Well, in our particular case sharing of TV revenue is critical in our particular financial formula, so that is an important component to us.

Senator SPECTER. Well, I agree with you. I think it is, and I wouldn't like to see it eliminated because it has provided stability and it has provided teams with revenues. But it seems to me that it is just the other side of the coin to say that if you are the beneficiary of that kind of special governmental treatment—listen, if you are a business and you want to function in a free enterprise, capitalistic system, let the Government keep hands off. Go ahead and do whatever you want to do, laissez-faire free enterprise.

But when you are the beneficiary of this special exemption, then I come to the point of why should the Pennsylvania taxpayers pay two-thirds of the cost of the construction of the Eagles new stadium. Mr. Richardson, why?

Mr. RICHARDSON. Well, I think it might be helpful if I could just talk about the situation in the Carolinas first.

Senator SPECTER. First.

Mr. RICHARDSON. As we have stated, a number of us here today, our judgment is that we have seen firsthand, Senator, when we go into communities, we talk about what is the right blend to deal with the stadium issue. Let's use the Carolinas as an example. In our case, we had a unique community in that we had a very aggressive business community that was willing to buy club seats, boxes, and premium seating that helped offset the mortgage payments that we had for building our stadium.

Second, we had an unusual situation in that our fan base, potential fan base, was willing to buy what we call a permanent seat license. When you take the combination of the fact that the city and

the county were willing to provide the land for us, which they did on a long-term lease, the business was very aggressive in their support of us in the purchasing of tickets and advertising, and we had a community that was willing to buy an unprecedented amount of PSL's, it would work for us. But if the PSL concept and the business community had not worked in our particular case, we wouldn't have been able to be competitive with the other cities that were interested in an NFL team.

Senator SPECTER. Well, you have made it work, but come back to my question about the Philadelphia Eagles. Why should the taxpayers of Pennsylvania pay two-thirds of the cost of the Eagles stadium when the Eagles are the beneficiary of a special exemption that nobody else enjoys, except for baseball?

Mr. RICHARDSON. Well, here again, we are talking about, as I see it, the community itself has to decide what, in fact, they have an appetite for. And it appears to me, based on what I know about the Philadelphia situation, that the blending of the local and the State and the waivers the NFL is willing to give through our ticket revenues—and that is a result of the relationship that the Commissioner has with Mr. Upshaw, and the union and the players are willing to give up part of their revenue to collectively get a stadium built.

Senator SPECTER. Well, the people of Pennsylvania and the people of Philadelphia are moving to pay two-thirds of the stadium construction costs for the Eagles because we do not want to lose the Eagles. There was a threat to lose the Eagles back in 1984, when there was a move to go to Arizona, and all hell broke loose. The owner of the Eagles couldn't go to a restaurant, couldn't go out publicly. There was enormous public indignation.

When Mr. Horrow and Professor Klein talk about the benefits for a team, they are real. Senator Feinstein talks about the city coming together. It is enormous. There is no doubt about that. I have long believed that these sports franchises are affected with the public interest, that the fans have an interest. The fans had an interest in the Dodgers. The fans have an interest in the Eagles. It diminishes everybody who is an enthusiast—and Professor Klein is right; you don't have to go to the game, you can read about it or you talk about it. You are a big-league city.

So there really is no choice when the team comes and threatens to move, or you have got this phenomenal bidding war between Hartford and Massachusetts over the Patriots, \$375 million, but that is only the starter. The State senator was here last week testifying that the aggregate was about \$1 billion. No price is too much to bring the Patriots down. And then the league worked out an arrangement. I am going to come to that as to what they did to help out a little bit on the construction.

But I come down to this very basic fairness point. If you are going to have that public exemption, if you are going to have that ability to do what no other business does, why should the public subsidize the stadium?

Do you want to try again, Mr. Richardson?

Mr. RICHARDSON. Well, as I have stated earlier, what has happened, in my judgment, is the public has made the decision that they are willing to make the investment to have the most popular

sports franchise in the country in their community. And that is the decision that has been made in a number of cities across the country.

Senator SPECTER. Well, decisions are made under blackmail and extortion. Those are pretty tough terms. I know a little bit about that. I don't know much about antitrust law. I really practiced a fair amount of it when I was a lawyer, but I used to be district attorney and when you hold a gun to the head of somebody, it is not a voluntary decision. When you are threatening to take the team away, it is not a voluntary decision.

When you are saying we will move there if Baltimore will put up \$200 million for the stadium, it is extortion. It is legalized extortion. There is really no choice that the people have in trying to stop the team from moving. But I don't know that further discussion will get us too far. That is where I come down.

Let me move to Mr. Upshaw on the players. Mr. Upshaw calls this an unprecedented intrusion by Congress. I think it was an unprecedented extrusion by Congress to give you the antitrust exemption, Mr. Upshaw, to allow you to have revenue-sharing.

I am prepared to leave football as a free enterprise proposition, but I am not prepared, speaking for myself, to let you have the antitrust exemption and let you move the teams around or have a system in place which results in my State paying two-thirds of \$1 billion in stadium construction costs.

I agree with the proposition that the old reserve clauses were unfair, that they gave too much power to the ball teams, and now we have gone to free agency in a very complex way. And when I look at the football salaries, Deion Sanders makes more than \$7.5 million. And I look at the baseball salaries, and Kevin Brown just signed a \$105 million contract over 7 years, which gives him \$15 million. I saw him pitch in Philadelphia a couple of weeks ago and I saw him on television pitch in Los Angeles.

I believe in laissez-faire and free enterprise, but I am troubled with the fact that when I turned on the Phillies last year—I could tell who is at bat this year, but last year I couldn't tell who was at bat. The players were all new, whether it was the Cubs at bat or the Phillies at bat.

Is there some middle ground somewhere between free agency—I was talking to you earlier about the Eagles having some great football players, a Super Bowl team—Reggie White and Bill Romanowski and Clyde Simmons and Keith Byars. The problem is that White is playing for Green Bay and Romanowski is playing for Denver and Simmons is playing for Arizona and Byars was playing for Miami. I am not sure where he is playing now.

Is there some middle ground between having all the fan interest in their teams affected by this and preserving fair compensation for these athletes who are at high risk, at least in football?

Mr. UPSHAW. Of course, there is a middle ground. The middle ground is already there. The collective bargaining agreement specifies the middle ground. What a club owner has—and Mr. Richardson faces this every year. When he goes to evaluate his roster, he decides who he wants to keep and who he wants to let go, and it is based basically on, can the player contribute to that team.

It becomes an economic decision. It becomes a planned decision. It becomes a long-range decision on what is in the best interests of the team. That is what free agency is. It gives the player a choice and it gives the club owner a choice. And within the set of rules that we have, a club can keep the players that they want.

If they wanted to keep Reggie White in Philadelphia, they could have done that. They had a chance to do that. They could have kept Bill Romanowski. They could have kept any player that they wanted to have on their roster because the system allows them to do it. Now, the club owner then makes the decision based on that player's ability to play and what he can contribute to that team if he wants to keep him or not. So it is there. That is the middle ground.

Senator SPECTER. Well, it is a definition as to where you are on middle ground. I understand that is the system and I understand that is where we are at the present time, but the consequence seems to me just extraordinary.

Commissioner Tagliabue, you and I have been talking about this legislation for a long time, and I just introduced it a few months ago and I had been tracking what the NFL was doing by way of some stadium construction costs. Was the pendency of this legislation in any way responsible for the help which you extended to, say, the Patriots?

Mr. TAGLIABUE. No, I don't think so.

Senator SPECTER. Just coincidental?

Mr. TAGLIABUE. I believe it was, yes, and I think Mr. Upshaw would be able to recite with me the genesis of this which goes back 2 years. Two years ago, in October-November, we were discussing an extension of our collective bargaining agreement, and one of the reasons that Mr. Upshaw and the Players Association were willing to consider that extension is that we were anticipating at that time a substantial increase in television revenue.

And we agreed at that time, and the provision is reflected in our collective bargaining agreement, that we would expand our support for stadium construction if there were a good television contract or set of contracts. And that was really the genesis of this expansion of the program that goes back to October and November, I think, of 1997, if I have the—

Mr. UPSHAW. 1996.

Mr. TAGLIABUE [continuing]. October and November 1996, when we had these extensive discussions about TV and the relationship of that to the league support for stadiums.

Beyond that, the original policy goes back to 1986-87, with the league's support for the Miami Dolphins stadium. The league supported the construction of the Jack Kent Cooke Stadium here in Maryland with moneys that, over the first 15 years of the Redskins operation, we will be contributing \$90 million to the construction of the Jack Kent Cooke Stadium. So all of those efforts considerably preceded this specific legislation.

You know, I think you and I had a conversation maybe back at the time of the Browns relocation when we talked about the idea of wouldn't it be sensible, if you have got growing revenues, to try to invest not just in the present, but in the future. And I think that is what is reflected in all of these efforts that go back to policies

that we adopted in 1986, 1987, expanded in the early 1990's and the re-expanded here in the mid- and late 1990's.

Senator SPECTER. Well, our conversations go back to the early 1980s. I believe it was August 1982 when the Rooneys came to me. I was the only Senator, aside from Senator Matthias, on the Judiciary Committee, and Senator Thurmond agreed to hearings. We got you hearings in 10 days. We had one of the classic debates of all time with Commissioner Pete Rozelle and Al Davis here debating the subject of the franchise moves.

I have been in favor of giving you an antitrust exemption on the franchise; I was until Mr. Upshaw objected to it today. I am going to have to rethink that, but I would like to see that stability. You and I have talked about the odd-shaped stadiums housing both football and baseball and the issue of stadium construction costs for a long time.

How much help will there be by the NFL to the Patriots and the stadium construction there?

Mr. TAGLIABUE. Well, I believe the latest figures that we have which are tied to the total project cost are about a \$150 million contribution from the league, which would match the \$150 million private contribution by the owner of the team, Mr. Kraft.

Senator SPECTER. Are you prepared to do that with the Eagles?

Mr. TAGLIABUE. With the Eagles, I think we did a very similar number.

Senator SPECTER. \$150 million?

Mr. TAGLIABUE. The contribution is ultimately scaled to a matching of the owner's private sector contribution. The stadium cost—

Senator SPECTER. So if the owner had to put up more—if Pennsylvania and Philadelphia weren't putting up two-thirds and the Philadelphia Eagles owner put up more, you would put up more? You are about to give us some incentives here, Commissioner.

Mr. TAGLIABUE. Well, I don't want to renegotiate a deal that has already been negotiated by the mayor and Mr. Lurie, but one of the differences in Philadelphia was that the projected cost of the stadium in Philadelphia was over \$400 million, whereas the cost of the stadium in New England was only \$300 million. But basically we applied the same set of principles to those two projects.

Senator SPECTER. Did you do a little better for Massachusetts because of the Hartford threat?

Mr. TAGLIABUE. No. We applied the same set of principles to both projects and—

Senator SPECTER. That was irrelevant? You weren't concerned about Hartford being the 24th market team compared to the 6th market team for the Patriots?

Mr. TAGLIABUE. Of course, we were. That is a major part of our concern here, is that we keep the teams in the large markets where they have had large and supportive fan bases for many years and in those markets where we draw the television audience that gives us the broad base—you know, the really unprecedented broad base of support from the public for our game and for our teams.

Senator SPECTER. To what extent will the NFL help on the construction of the Steelers stadium?

Mr. TAGLIABUE. We are making a contribution there. We approved that league contribution to the Steelers stadium at our

meeting last October, and I would have to get that resolution and submit that to you. I am not able to recite that off the top of my head.

Senator SPECTER. But with the Patriots stadium, you say the league contribution will be in the range of \$150 million?

Mr. TAGLIABUE. If that is the owner's contribution, then we would basically be matching, yes.

Senator SPECTER. Well, I don't know that the Eagles have a deal. Certainly, the Phillies don't. They are still talking about where the stadium is going to be located, so that perhaps if we can get the Eagles owner's contribution up, we can get the NFL contribution up. We will take a look at that.

Mr. TAGLIABUE. If I could, I would like to speak to the television point that you asked Mr. Richardson about because I think it is very important, as you suggest. You know, I think the 1961 television statute has really served the purposes that Congress envisioned at the time.

One of the key purposes was to keep cities such as Green Bay and teams such as the packers and the Steelers, the Chiefs and the Bills, which were then in the new league, operating. The 1961 statute, the national sale of television, free, broadcast television primarily, has given us the basis to keep those teams in existence.

But beyond that, I think there is a direct relationship between the statute and the willingness of the public to support stadium construction through fairly-based taxes. Specifically, the statute has created an unprecedented broad base of fans for our sport through our commitment to free, broadcast television.

In my experience, that is one of the reasons why the public is willing to accept a broad-based tax, sales taxes and other broad-based taxes of the type that Mr. Horrow mentions to support a new stadium. And I will give you an example in Denver and their tax, which would contrast their situation to what Mr. Richardson faced in the Carolinas.

In the Carolinas, it was a very narrowly-based tax, if you will, user fee, on the fans and on the business community to build the Panthers stadium. They used these PSL's, which had never been used before to any extent in professional sports, and \$180 million was paid basically by the fans and the businesses who would be using the stadium, that narrow group of roughly 68,000 people.

In Denver, in contrast, they considered that approach, but there was an unwillingness for the fans to accept the PSL's. There wasn't as much willingness in the business community to go and make the kind of commitments that NationsBank and Duke Power and others made to the Carolina stadium. So they adopted the model which had proved successful on Coors Field, and that model was a one-tenth of 1 cent incremental sales tax; in other words, a dime on \$100 of purchases, which the public through referendum concluded was a fair and very minimal, incremental tax that had paid off Coors Field for baseball in 7 to 8 years. And what they did was extend that tax to the Broncos, in recognition—

Senator SPECTER. How much money was involved in that?

Mr. TAGLIABUE. In the Broncos stadium, the tax is projected to raise \$278 million for the public contribution to the stadium. But the key point from the public standpoint is that it is a dime on

\$100 of sales, which the public viewed as a way of distributing across a 6-county area with 1.8 million people who are supporting the Broncos—and they are getting the Broncos through free, broadcast television under the 1961 statute. All of those people now pay that minimal tax, as opposed to having the total cost of the stadium go, as Mr. Richardson's costs did, on 68,000 fans.

Senator SPECTER. Was there any discussion at all about the Broncos leaving if they didn't get the new stadium?

Mr. TAGLIABUE. You know, there was inevitably that kind of discussion—

Senator SPECTER. I know.

Mr. TAGLIABUE [continuing]. Which was not promoted by the owner. It was promoted by talk radio and other things. The critical thing was that the tax had already been used and proven successful on Coors Field for baseball. When they adopted it for baseball, it was regarded as a minimal tax, a dime on \$100 of sales, a penny on \$10 of sales.

Senator SPECTER. Well, you have repeated that three times now, and I understand how much it is.

Mr. TAGLIABUE. But I want to emphasize why the public regards it as fair. And instead of taking 20 years to pay off Coors Field, it was paid off in 7 to 8 years. So when the choice came between these PSL's and other things which focus on a narrowly-based group of fans as opposed to a broad-based group of fans that watch and get the Broncos on TV, they made the choice through referendum. I think it is very important to understand that because it is an explanation in a specific case of how the public is viewing these stadium investments.

Senator SPECTER. I do understand it and I don't have to hear three times as to how much it is, a tenth of a percent, but it adds up. It adds up to \$270 million, as you point out, and that comes out of the taxpayer's pocket. It may come out slowly, but it comes out of the taxpayer's pocket. And if it comes out as a sales tax, it is a very regressive tax and it is a lot of money.

And if you have the Carolina model where the people who are paying for it are the ones who use it going to the stadium, that is very different, or the business community which sees a direct result. And if you have a referendum, maybe so; maybe we will get a referendum on the Eagles stadium. Maybe we will do that and we will see if it passes or if the Eagles stay if they don't get themselves a new stadium at taxpayer expense.

Mr. Upshaw, I want to come to Mr. Klein for a question, and Mr. Horrow, and then I will come back to you. A vote is in process now. We are trying to decide the issue of steel consumption in America and steel imports, as well as this issue.

Professor Klein, the suggestion has been made that the 1922 decision by Oliver Wendell Holmes in the baseball case was incorrectly decided, where they worked out that baseball, the American League and the National League, could cooperate. And the suggestion has been made that we ought to eliminate the baseball anti-trust exemption.

You wouldn't object to that, would you, Mr. Upshaw?

Mr. UPSHAW. Well, I am not going to get into what is good for baseball. I am interested in what is basically good for football, but the antitrust—

Senator SPECTER. I am just jesting with you on that question.

Mr. UPSHAW. I know, but it gives me a chance to talk to—

Senator SPECTER. I am going to ask the baseball people if they are willing to give up the players' rights when they are here.

Mr. UPSHAW. Oh, no, they are not willing to do that. I can guarantee you Don Fehr is not willing to do that.

Senator SPECTER. Go ahead. You had a point you wanted to make.

Mr. UPSHAW. The point I wanted to make is this, and it is a very simple point. I think what we are doing in the NFL with the loans and advancement that we are making to owners on construction will go a heck of a long way to increase stability in the current market. If New England or Boston had the \$150 million, there would not have been an incentive to look elsewhere for it. They would have been there. That is what is going to happen in Denver. That is what is going to happen in Philadelphia. It is already going on in Pittsburgh.

So what we are already doing is creating stability because we have taken away an incentive that an owner would be looking for outside of his own community. That is the only point I wanted to make.

Senator SPECTER. Well, thank you, Mr. Upshaw.

Professor Klein, the question that I am in the process of postulating is if we reverse the 1922 Supreme Court decision and Congress does that, then I have heard the economic theory advanced that baseball teams will go to the cities which want them the most, which will be the free market.

Now, I worry about that, frankly, for the Pittsburgh Pirates as to what will happen to the Pirates if you have the elimination of the antitrust exemption. And I thanked baseball last week and do again for their help in keeping the Pirates in Pittsburgh. They have control over franchise relocation.

But if you reverse that Supreme Court decision, then you wouldn't have a decision made as to where the baseball teams were located by a group of men in a back room somewhere, which is what we would be getting if we have the franchise relocation exemption which Mr. Upshaw doesn't like and a lot of people don't like. The players part company with the owners on that.

But what would be wrong with that? What would happen there economically? And, Mr. Horrow, I have the same question for you.

Mr. KLEIN. Well, the 1922 Supreme Court decision with regard to Major League Baseball is a much broader exemption than the particular antitrust exemption that you have placed in this proposed legislation, and I am very much in favor of it. It would permit the league to prevent individual teams to decide on the basis of their own narrow financial decisions where to locate rather than leaving it up to the league to decide what was best for the group and for the communities involved. So I am very much in favor of that aspect of the legislation.

Senator SPECTER. Well, if we took away the baseball—this is a different issue now, taking away the baseball antitrust exemption,

and then you would have the market determining where those baseball teams ought to be located. So if the Seattle Mariners were—there was a contrary bid from another city, the Mariners would go to the other city. That would be the economics of the situation, whichever city wanted to build them the best stadium, make the best deals. How about that? What would you think of that sort of a situation?

Mr. KLEIN. I think that it is economically efficient to let the league decide whether the individual—

Senator SPECTER. As opposed to the market?

Mr. KLEIN. Well, the league is making its decisions on the basis of the market.

Senator SPECTER. Well, maybe yes and maybe no.

Mr. KLEIN. Well, but they are putting things into balance, for example, the loyalty of the fans, and you don't want to destroy the loyalty of the fans because that might decrease the demand for the—

Senator SPECTER. Well, those are other factors, but that is not the market. The market would say whichever city wants to get the Mariners, let them get it.

Mr. HORROW, what do you think about that?

Mr. HORROW. Well, I think it needs to be put in the context of fair competition in normal industrial relocation features, as localities do when they compete for industries today, as I mentioned before.

I think I made the point that in a number of ways, these facilities, which is what we are really focusing on today, need to be treated as important components of public infrastructure, regardless of the franchise that plays in it, which is why we have 256 of these facilities that have been developed this decade and why there have been a number of referendums and a number of public-private partnerships that have been put together.

So when you look at the Denver situation, as the Commissioner mentioned, one of the reasons why the referendum succeeded to continue the financing using that sales tax method was the tremendous success in a downtown and urban redevelopment context of Coors Field. And, really, it was a mandate and a history on whether or not the voters of that five-county region saw it as appropriate to do a public-private partnership, and it was a good laboratory to test whether or not that was an appropriate way to deal with the football stadium because the baseball facility had been up and running and they could test the impact of it.

So I am suggesting that ultimately there are a number of impacts, and these facilities need to be characterized as important investments in public infrastructure that serve other purposes beyond just the teams as well.

Senator SPECTER. As I said earlier, a vote started and there are just a few minutes left, so I have to go to the floor. And it would take me 10, 12 minutes to come and go, and I don't want to keep you all here. I think we have had a good hearing and a good discussion.

The issue is one which does fester. There is just a lot of concern in the Congress about the pressure which a team puts on a city to build a new stadium and the consequence of another city making

a big bid. And you have a wonderful sport, there is just no doubt about it, and we all want to see the NFL thrive.

And I agree with you, Commissioner Tagliabue, that the revenue-sharing worked out to provide a competitive league and a great sport. I agree with you about that, but as a Senator looking at a State with four stadiums going up at \$1 billion, and about \$700 million coming out of the taxpayers, I just wonder about it. And I think there is a tremendous break which the Congress has given to football with this revenue-sharing on TV receipts, and I think just as a matter of basic equities.

And when you look at what has happened with free agency, it is our system and I don't know that there is any way to unscramble the egg. I have been talking to a lot of people about it and working on it for a long time. And in America, we do muddle through somehow, so perhaps we will. And it has to get pretty bad before the Congress is going to step in. But if there are very many States which face \$1 billion in stadium construction, with \$700 million at the taxpayer's expense, you can expect to see more foment down here.

Well, we appreciate your coming. You are a good group of witnesses and I am sorry there is so much else going on. We had China espionage competing in another hearing room, and we had Mary Tyler Moore and Tony Bennett competing in another hearing room, and Y2K competing in a third hearing room. And the steel workers are having a big rally and we are about to vote on a quota bill. And that is only the start of it.

So thank you very much.

[Whereupon, at 12:48 p.m., the committee was adjourned.]

STADIUM FENCING AND FRANCHISE RELOCATION ACT OF 1999

SEPTEMBER 13, 1999

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Philadelphia, PA.

The committee met, pursuant to notice, at 9:18 a.m., in the Ceremonial Courtroom, Federal Courthouse, 6th and Market Street, Philadelphia, PA, Hon. Arlen Specter, presiding.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SPECTER. Good morning, ladies and gentlemen. The starting time having arrived, we will start this hearing on legislation which would require the National Football League and major league baseball to pay for half of the construction cost of new stadiums, with a quarter to be provided by the team owners, leaving the balance of only a quarter to be paid for by public funding.

This is an issue of great national importance with special concern to the Commonwealth of Pennsylvania, where two stadiums are now under construction in Pittsburgh and two more are contemplated in the immediate future in Philadelphia, for a total cost of \$1 billion plus, with about two-thirds of that, close to \$700 million, to be paid for by the taxpayers.

The National Football League has a multiyear television contract which brings \$17.6 billion as a result of special antitrust exemption, which the NFL has. This legislation would condition the continuation of that antitrust exemption on the National Football League contributing to stadium construction costs, which we believe is only a matter of very, very basic fairness.

The construction of stadiums across the country is moving forward in an unprecedented way. Nearly half of U.S. professional sports teams either are playing in a new facility or expect to have one in the next few years. During 1999 and 2000 the National Football League and major league baseball teams will move into 11 new stadiums, costing \$3½ billion, and a third of that is being paid for by the taxpayers.

Industry experts estimate that more than \$7 billion will be spent on new facilities for professional teams before the year 2006, and most of that \$7 billion will come from the taxpayers.

We have seen teams stolen, the Browns from Cleveland to Baltimore, with some \$200 million plus being paid by the city of Baltimore and State of Maryland. Hartford has offered \$375 million to take the Patriots from a location near Boston to Hartford, unsuc-

cessfully, and what we have is legalized extortion, legalized blackmail, where cities are forced to pay exorbitant sums of money from the taxpayers in order to keep their teams, or exorbitant sums in order to lure teams to their cities.

We have a distinguished array of witnesses this morning, but before turning to the witnesses, it is a distinct pleasure to welcome a close friend and colleague for some almost 20 years. Of course, he's been in the Senate for 28 years, since he was 29, and probably ought to have an explanation of the constitutionality of being elected a Senator younger than the constitutional age.

Formerly chairman of the Judiciary Committee, now Ranking Member on Foreign Relations, a cosponsor of this legislation and a very strong United States Senator, Senator Joseph Biden.

**STATEMENT OF HON. JOSEPH R. BIDEN, JR., A U.S. SENATOR
FROM THE STATE OF DELAWARE**

Senator BIDEN. Thank you, Mr. Chairman. I would be delighted to defer to Senator Santorum. I am his guest.

Senator SANTORUM. Go right ahead.

Senator BIDEN. Thank you. I have a brief statement beyond stating that I am obviously pleased to be here with my colleagues from Pennsylvania. It is no secret that Senator Specter and I have seriously damaged each other's reputations, because everyone in the Senate, and I think everyone else, knows we are close, close personal friends, and as you probably have observed, all of you in this State, that it is just easier to say "yes" to Specter than "no" and have to say "yes" later, because he never stops.

He has been extremely concerned about the behavior of professional sports teams around our States and cities for not just the last years. We have had this discussion as far back as 10 or 11 years ago, and so when he drafted the legislation that we are going to be talking about today, he asked whether I would cosponsor it, and my staff and I spent a great deal of time looking at it. There were some changes we suggested that were made, and I am happy to be here today in Philadelphia to begin discussions on this legislation.

I have never been fully able to get out from under, nor do I want to—in Delaware the bad news is they think I spend too much time in Pennsylvania. They know that I am from Scranton, PA, and there is very seldom anything, I think it is fair to say, that Senator Santorum or Senator Specter ask me to do that affect Pennsylvania positively that I am not happy to do.

I consider it my home State. It is my home State, but I am going to make it clear that I know very little compared to my new colleagues about what is happening in this State, the State legislature, as it relates to the stadium financing. I just do whatever Mayor Rendell tells me. [Laughter.]

But I am glad we are here taking this opportunity to discuss the Stadium Financing and Franchise Relocation Act of 1999 and the implications on taxpayers of publicly financed stadiums, and in that vein I look forward today to hearing comments and suggestions from our distinguished witnesses so that we can move forward in accomplishing our primary goal here.

And our primary goal here is to make sure taxpayers are treated fairly, because that is what this is about to me, making certain that the people who cannot afford to pay do not have to pay, and those who can afford to pay, pay, in making certain that taxpayer's money is spent on things that—I think presumptuous of me to say—that cities need most, like cops and teachers and healthcare and a lot of other things.

Senator Specter I think should be commended for taking this issue seriously on behalf of his constituents and making others examine carefully the potential impact on taxpayers and the leagues alike, yet I do not think that the Federal Government has to take an active role all the time on issues like this, especially when it comes to issues that local governments and the private sector can handle on their own.

The NFL has gone to great lengths of late to make loans available to those teams that need them to help finance stadium construction, and I commend the NFL for their efforts, and to suggest that we might take a closer look at what the NFL has done and see that they are on the right track.

This legislation, of course, will have no direct effect on the State of Delaware. There are no pro football teams or no major league baseball teams in Wilmington, although based on the Phillies record—and I'm a Phillies fan, but based upon the Phillies record and the Wilmington Blue Rocks' record I think we might be able to take them this year. [Laughter.]

We won the Carolina League. At any rate, this legislation will not have any direct effect on major league baseball teams in this country or in my home State, so it seems to me that, though we have to strike a balance here, that this certainly goes a long way—the bill in my view goes a long way toward striking that balance, but we have to continue this discussion and dialog.

And I want to make sure that the cities and States are able to spend taxpayers' dollars, as I said, in their important investments, and I am not suggesting these are not important, but on more important investments like law enforcement, education, and health care, while still maintaining the pride their cities have and the States have in their professional teams.

We need to keep cops on the street, put more teachers in schools, and we all want our ball teams to stay at home, and I believe we can have all of this if we just do it right. I believe that my colleagues, Senator Santorum and Senator Specter, are on the right track here, thinking about how cities' moneys are best to be spent and State moneys, and I certainly come down on the side of this legislation at this time, and I am open and I am anxious to hear from those who would be most affected by the legislation and hear their points of view.

So again I thank my colleagues for inviting me to be here today, and I point out that in my experience nothing has changed. Federal judges still have not turned on the air conditioning, if they do the same thing at home—and my second thing I am going to do is go introduce legislation to cut money for the Federal judiciary when I get back—[Laughter.]

Unless they turn on the air conditioning. Are you all hot, or is it just me? I do not know what it is.

But anyway, thank you very much, Senator, for having me here. I look forward to hearing the testimony.

Senator SPECTER. Thank you very much, Senator Biden.

The word is that the air conditioning has been turned on. I felt a tiny bit of it here, but it is pretty hard, with as much hot air as we will be generating.

I am delighted to introduce now my distinguished colleague, Senator Rick Santorum, who has become practically Philadelphia with his many trips into the city dealing with a wide variety of city problems on replacing the shipyard and mass transit, and other projects that deal with vital issues to the city and his active participation on the stadium issues, obviously, in our State.

Senator Santorum.

STATEMENT OF HON. RICK SANTORUM, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SANTORUM. Thank you, Mr. Chairman, and I join Senator Biden in congratulating you on holding this hearing and introducing this legislation, which gets at a very serious problem that confronts cities in this country with respect to their sports franchises, and we have had to go through this whole ordeal of stadiums and stadium construction from really interesting perspectives.

From the way I look at it we have a small market team and we have a large market area. Philadelphia is a large market, Pittsburgh is a small market, and it puts enormous pressure on both, both from a football and baseball perspective, and you really address the larger issue, which is the impact of professional sports and the pressure they put on taxpayers to fund stadiums, to provide other kinds of services, and the impact of that decision on the game itself.

If we look at the NFL, I think they have done it wrong. They have done it wrong. They have moved franchises as a result of this. They have destroyed, really destroyed communities in many respects, in the sense of whether it is the tradition of whether it is the Cleveland Browns or the L.A. Rams, or you can go on down the list. Had the NFL moved franchises based on these kind of economics, in some cases artificial economics, it is not good for the sport, certainly it is not good for the communities, and I think it is something that needs to be addressed.

Major league baseball has done it wrong the other way. While teams have not moved I do not think we have had a team moved since the Rangers, but what has affected major league baseball is that the parity has affected it. The Pittsburgh Pirates cannot be competitive in the environment today. They simply cannot be.

They cannot compete with the New York Yankees or the Atlanta Braves, and you can go on down the list, and so while the NFL has dealt with their problem by moving franchises, major league baseball has done the right thing in keeping franchises, but they have kept them in a position where they cannot compete.

So we are faced with a very serious problem in sports, and while there is great parity in the NFL, we have teams moving helter skelter, and while there is stability in major league baseball, there is a lack of parity, and so at some place we hope to find a happy

medium, and I commend the Senator for his attempt to try to deal with that issue.

But as the Senator knows, because he has also been a very strong advocate of holding the professional sports accountable, not just in the area of stadium construction and other areas, I think this is a problem we need to look at in a broader context, and the context of the antitrust exemption of how we are going to deal with both stability from the standpoint of keeping teams in the cities in which they belong.

And second, if we do that and are successful in doing that, having a system in place that provides some sort of parity so we do not have New York Yankees and the Atlanta Braves in the World Series every year, because that simply is not going to be in the best interests of baseball, and certainly is not in the best interests of taxpayers, who spend lots of money in keeping their teams to see them finish in last place, if they do.

So I thank the Senator.

Senator SPECTER. Thank you very much, Senator Santorum.

The legislation, in addition to the provision that the NFL and major league baseball will pay for 50 percent of stadium construction cost grants, the NFL, an exemption to be able to control franchise moves to provide the stability that Senator Santorum accurately calls for.

The provisions of the bill would apply to any stadium which is not finished by the time the bill would be enacted, so that it could be applied to the two stadiums under construction in Pittsburgh if enacted in time, and the legislation addresses a national problem, and did not seek to interfere with the stadiums in Pittsburgh or with whatever plans are projected for the city of Philadelphia, but if it would be enacted, as I say, before those stadiums were completed, it would apply to them.

We are now going to move to our distinguished panel of witnesses. For ease and simplicity we have asked all the witnesses to be seated at the same time. Our first witness is going to be our distinguished mayor, America's mayor, Mayor Rendell. City Controller Jonathan Sidel is to be our next witness, State Representative Andrew Carn is to be our third witness, and Mr. Sam Katz is to be our fourth witness.

Mr. Katz will not be able to arrive until shortly after 10 o'clock, and we had extended an invitation to the former president of the city council, John Street, who declined, and we also invited major league baseball and the National Football League. Commissioner Tagliabue has testified already in one of two hearings already held in Washington, and so at this time it is a great pleasure to welcome a longstanding colleague, Mayor Ed Rendell, who is a famous mayor and was a more famous district attorney, and even a much more famous assistant district attorney. [Laughter.]

Mayor Rendell, would you come forward, and Controller Sidel, would you step forward, and Representative Carn.

I find it hard to understand why, after my speech—why in the middle of my speech they moved the microphone to you, Mayor Rendell. Perhaps you can explain that.

Senator BIDEN. Welcome to Philadelphia. [Laughter.]

STATEMENT OF HON. ED RENDELL

Mr. RENDELL. Good morning. If I could ask, Senator, the panel's indulgence, it is always a pleasure to be here with the Controller and Representative Carn. If I could give my 5-minute presentation and answer any questions you have, I did not schedule to be on the panel. I apologize. I have to be back in the office fairly soon, but I am sure you will not have too many questions.

Senator SPECTER. Mayor, you are not on a panel. You can proceed to testify and we will let you go by noon. [Laughter.]

Mr. RENDELL. Let me begin by saying I agree with a lot of what all three of you said in your presentations. No. 1, I join with Senator Biden and Senator Santorum in congratulating you, Senator. This is an issue that deserves to be looked at, both the issue of franchise relocation and the issue of how we pay for new stadiums has to be looked at. I wish that it had been looked at by the Congress a half a decade ago. I think it would have been beneficial.

We have seen in the last decade an explosion in stadium construction and demands on cities for stadium construction, but it would have been great to have this hearing a half-decade ago, but I congratulate you for your persistence and your insight in having these hearings, and I also agree with Senator Santorum that there are problems in professional sports that go beyond even the fairly wide-reaching scope of this bill.

It is almost unconscionable that baseball careens down these paths without any sort of spending cap that can equalize parity among the teams as the NFL has, and I do not know if there is anything that can be done to legislate in that area. Probably not, but clearly it is the major sport that does not have a spending cap, and without a spending cap, you will find not only large markets but large markets with wealthy owners, or owners who have ties into their cable companies or entertainment companies who will always be better financed and the Pittsburghs and the Minnesotas and a city like Philadelphia, where there is private ownership and not tied into a megastructure will be at a competitive disadvantage.

You will see a spectacle like the Florida Marlins going from the best team in baseball to the worst team in baseball simply because of the owner's whim on revenues, and that has to stop, and again that is probably for a forum other than this.

I certainly agree with Senator Biden that municipal resources need to be used for more important things, for police, for schools, for construction of buildings that are essential to the quality of life of every day Philadelphians, or every day citizens of any city, and toward that end, clearly, Senator Specter's bill, were it to become effective and were it to be workable, could, in fact, be an important step toward doing that.

I am happy to tell you, and I do not know the situation exactly in Pittsburgh, but I am happy to tell you that in Philadelphia, and as you know the stadiums, if they are to be constructed, originally it was said in the press it would be one-thirds debt, one-third local government, and one-third teams. That is not going to be the way it breaks down.

The State is going to be below a third. The city is going to be slightly above a third, and the teams are going to be significantly higher than a third, with the teams assuming all of the risk for

cost overruns by very specific and clearly delineated parts of the basic lease structure.

I am happy to tell you that from the standpoint of the city of Philadelphia we are going to be able to construct two stadiums without an impact, Senator Biden, on city funds that could otherwise be used for police, for fire, for any of the things—for schools, for any of the things that you said.

We are basically going to make this stadium pay for itself. The four basic means for financing the debt service and the bonds necessary to participate in our share of the stadiums will come from, No. 1, a ticket surcharge, and that ticket surcharge is essential for us, because it is a user fee, basically.

It puts a little bit of a cost on people who follow sports and are going to get the value of that stadium. A little older lady from Northeast Philadelphia who does not like sports will not pay the surcharge and will not pay the user fee.

It is also a way for us as a city to capture revenues from people from the State of New Jersey and the State of Delaware and the Philadelphia suburbs who attend the stadiums. Far less than half the people who attend Eagles and Phillies games are Philadelphia residents, and it will allow us to capture some of the revenue from those people.

Second, we will pay for the stadium from a rental car tax, and the rental car tax will fall 75 to 80 percent on visitors to the Philadelphia Airport. Of all of the cars rented in the Philadelphia area, somewhere between 75 and 80 percent are rented at the Philadelphia Airport, they are rented by visitors, they are rented by business people. The rental car tax is an additional 2 percent and is relatively negligible on people's choices to rent cars or come to an area.

The third area of financing that we will use is the deferred stadium maintenance. As you know, we pay a significant amount of money, roughly averaged about \$6 million a year over the last decade for maintaining Veterans Stadium. When you have a municipally-owned stadium, as it gets older the maintenance cost increased dramatically. Our consultants tell us that those costs will go up incrementally as the stadium gets older and older and older and, as all of you, I think, know, teams are assigned to a lease until 2011 for the use of the current stadium.

In the succeeding 11 or 12 years those costs will go up, but using the current revenue stream from our capital budget, not touching any other capital moneys, but just the moneys we use to maintain the stadium now, that is our third source of payment, and our fourth is tax increments.

We have established with the teams that again no leases have been signed, and there is still some pulling and tugging here, but we have established with the team the baseline of what taxes they are producing now that go into the general fund revenue of the city of Philadelphia.

We have held that general fund revenue secure. Those taxes will continue to go into the revenues of the city, but incremental taxes, incremental sales tax, incremental amusement tax, incremental wage tax, incremental business taxes are used for the additional revenue stream. A complaint we always get from citizens and often

from elected officials, why don't we let these rich players, who are getting so much money on these multimillion dollar contracts, why aren't they paying for some of the stadium construction?

Well, in fact, in Philadelphia they will be, because the increase in NFL salaries, as you know, the cap, the spending cap in the NFL is going to double in the next 3 or 4 years. That increase, the incremental wage tax that the players will be paying from those increasingly inflated salaries is going to pay for the new stadium, so I would love to have had a plan like Senator Specter's in place.

It would have meant that we could have probably kept some more of the increment as opposed to putting it into the stadium construction itself, but the good news is, not \$1 of capital or operating cost will be affected by the leases that I believe we are going to sign. Not \$1 will be diverted from the capital operating budgets of the city of Philadelphia.

And Senator, I always hear, well, why don't we use this money for something else. Well, in our case—the State money is a different question, but in our case the moneys we are using would not exist were we not to have a stadium. We would not have a surcharge without a new stadium, we would not have a rental car tax without a new stadium, we would not have tax increments without a new stadium, and so it is not like we are taking revenues that would potentially exist for other causes and diverting them to building stadiums for sports teams.

We are basically using what the new stadiums will kick off to fund the stadiums on the city share. On the State side, I understand the argument, shouldn't those State dollars be used for something else. Obviously, people have to understand the distinction between capital and operating dollars.

They could not be used to fund, for example, what I believe is a significant deficit in moneys that the city of Philadelphia gets from the State for schools, because they would be one-shot infusions, which would not help over the long run on the operating budget.

Could they have been used for school construction? Yes. They could have been used as a one-shot ability to help us rehabilitate some of our schools. But on the city side we have been able to fashion it in a way that, again, it is basically the revenues that the new stadiums kick off, the surcharge tax incremental revenues, etc., and the deferred or transferred revenue that is used to maintain the current stadium, to pay for the stadium.

Having said that, it would still be great to have Senator Specter's bill. I only raise two caveats to Senator Specter's bill. One is, there are no guarantees that every city could tap into the trust fund, because, as the bill correctly says, it is trust funds as available, and so let us assume four cities decide they want to build new stadiums.

Let us assume those four cities use up the trust funds. We are the fifth city. Philadelphia or Pittsburgh is the fifth city to come along. What happens to us? We have to wait until a new contract is signed for TV revenues. It may not be workable.

We have a system in sports where even when there is a salary cap, as there is in the NFL, the Dallas Cowboys produce \$50 million a year more in stadium revenue than the Philadelphia Eagles

do, \$50 million a year more, and that is an unconscionable situation, and so I worry about just the question of availability of trust funds. Do the swift get it, and those who are not so swift as they crop up later, are they left out in the cold, and that is a worry, Senator.

I think that can probably be addressed. We obviously cannot dictate how much money is going to be in the trust fund, since it is cued into the TV contracts. I would suggest maybe we could go even a little lower than a half, which would create more available funds for a greater number of stadiums, and second, on the baseball side, where they do not produce those type of TV revenues, I am not sure baseball would ever be able to meet the obligation of a half for any stadiums, No. 1.

And No. 2, I read the letter from the Phillies ownership to you, Senator, which was a thoughtful letter, where they say that small market teams would get hurt by using the TV revenues, because the national TV revenues are pooled, unlike the regional TV revenues. The Yankees, Senator, get so much more out of their regional TV revenues than the Pirates do. The one place where the Pirates and the Yankees share equally is in the national TV revenues, and deferring some of that for stadium construction would take away one of the few weapons that small market teams have.

Again, those are problems that I think need to be tweaked and thought about, but I commend you, Senator, and all three of you, for your interest in this. It is something that for the long-term health of sports and the long-term relationship between cities and sports has to be dealt with.

Senator SPECTER. Thank you very much, Mayor Rendell. We will have a round of questioning now, we realize your crowded schedule, and we will move through your participation as soon as we can.

When you talk about the limitation on the 10 percent, it is a start. We are trying to structure it at the outset. When you talk about the TV revenues, there is a big disparity between football and baseball. No. 1, the football certainly has the wherewithal to make a very significant contribution. The issue of salary caps and the issue of revenue-sharing, those issues are being taken up by professional sports.

Government necessarily has a very limited role, and should not interfere or go into the marketplace on the private transactions at all, but where, however, you have the antitrust exemption which produces the TV contract, that's another matter, and where you have baseball's antitrust exemption and teams move—Brooklyn has not recovered, although it is 41 years since the Dodgers moved to Los Angeles, and the Giants moved from New York City to San Francisco, and it has decimated communities, as Senator Santorum has pointed out.

We really have a situation with the salaries, \$12 million a year. They have a goose which lays the golden egg, and it may expire, but where so many cities are hurt by the transfers we have tried to stabilize it with proposed legislation, and where the taxpayers are called for to pay big tax dollars, that is obviously a matter of public concern.

I am pleased to hear you say with such emphasis that overruns will be borne by the sports teams. When you gave the percentages,

would the city's share be less than one-third for the new Philadelphia stadiums?

Mr. RENDELL. No, because the State share is considerably less than one-third. We will be slightly higher than a third, and the teams will approach 40 percent.

Senator SPECTER. What is the status of the new stadium for the Phillies?

Mr. RENDELL. There will be legislation introduced in the city council hopefully the first week in October. As to both stadiums, the local decisions will have to be made by then. The Phillies are still dealing with the question of whether the proposed stadium will be in Spring Garden or the sports complex down in Philadelphia. Those issues are going on right now. There are more public hearings this week.

Senator SPECTER. And what is the status of the new stadium for the Eagles?

Mr. RENDELL. And the Eagles have indicated they do want to be in the sports complex itself, so that location decision is slightly dependent on what the Phillies choose. We have not signed leases with either team, and as I have indicated, we are heavy into the negotiations, but we have not signed a lease.

But I can tell you, I can make this commitment as I have publicly in many forums, but before the three of you we will not sign a lease that requires us to violate the basic principle that I set forth. There will not be any impact on the capital or operating budget of the city of Philadelphia. We have told the teams that over and over again.

I do not know how serious they thought we were at the outset of this a year ago, but I think they understand that we are keenly serious, and the funding scheme that we have outlined accomplishes that goal, and we are not backing off of that. If the teams are unwilling to sign a lease that lives up to those goals, Senator, I can assure you there will not be a lease signed in the next 4 months.

Senator SPECTER. I have seen interpretations of the existing Eagles, Phillies—Eagles city contract which obligates the Eagles to stay in Philadelphia until the year 2011. I would be interested in your view on that.

Mr. RENDELL. I think we are secure in both with the Phillies and the Eagles on the lease. If there are breaches because of—and you read the newspapers periodically—the condition of the stadium, the condition of the stands, there is a provision in the lease that requires the teams, if they believe there is a breach as to the condition of the stadium, to cure it, and, in fact, the Phillies did that during the Goode administration, they withheld rent and used that rent to cure a defect in the stadium, or maintenance of the stadium, and then just deducted that from their rent, and so no one has done that in the last 8 years, and so I believe no one, neither team would have any standing to move.

Senator SPECTER. One final question before yielding to Senator Biden. There were two problems with the Eagles yesterday, one I will not mention. [Laughter.]

It needs no additional mention. But there was another problem, and that was the blackout, and that is a matter for the parties, in

a sense, but if all of this taxpayer's money is going to go into a new stadium, it is going to be paid for by a lot of taxpayers who will be out of money by the time they pay their taxes for the new stadium.

They may not be able to afford a ticket, and you have the blackout, which is something that is inexplicable, where the Eagles need every bit of public interest and enthusiasm, which is generated by television, and people who have dishes all around the country can flip in and see the Eagles, and you can see it in Arizona, and on this state of the record I do not know that there is a public way to express for the city or the State or the Federal Government, but if we are going to put all of this taxpayer's money in, that may be another matter. Is there a way before that comes by jawboning or by logic that there could be some impact?

I know that none of the TV stations will pick this up except Fox, but how about it?

Mr. RENDELL. I think you are correct, Senator, the Eagles did have the right to join with the local affiliate, the local Fox affiliate to purchase those tickets. Now, at the time the blackout decision was made there were 7,000 available tickets. Once the blackout was announced, they sold four, and we were up to 64,000.

But I agree with you, No. 1, because there are public dollars that go into the operation of the sport, No. 2, because of the salaries and the stadium construction costs the average ticket price has gotten beyond some citizens' ability to pay for a ticket.

I would like to see—and I do not know if this can be done through Federal legislation, but I would like to see it addressed. The Eagles had the option to join with the television station and buy the tickets, the 7,000 tickets, and then take the risk, and I think as a management tool you are probably correct, given the need, and I think the Eagles showed some very, very exciting play. I think they have a very aggressive defense. If I were the management, I would have liked for that to have been seen by as many Philadelphians as possible.

But that is something I think should be addressed. If we are going to pay, the taxpayers, through these type of methods, if we are going to pay substantially for this, and if the ticket price gets beyond what the low-income family can afford, I would take a look at that blackout legislation. But the local affiliate had the opportunity to buy the tickets. They felt 7,000 was too many for them to buy, and the club could have turned them over.

Senator SPECTER. Thank you very much, Mayor Rendell.

Senator Biden.

Senator BIDEN. Mr. Chairman, your last question was my first question, because it seemed counter intuitive to me that that decision was made, but I think that if Federal legislation goes forward I cannot understand—I would have great difficulty, even though I am not in a State or a city that bears the burden of having to construct a stadium, as you well know—it is going to sound strange to some people, but Delawareans and Wilmingtonians, they kind of think these teams are their teams as well, and I know they are not, and when Carpenter owned the Phillies we did think it was our team.

But the truth of the matter is, it gets harder and harder to explain to people. This is all very complicated. To you and to us, and to you particularly, Mr. Mayor, you are so knowledgeable about it. You deal with it every day as the rest of the panel does, and you understand all the financing implications, but for the average person out there it is getting more and more difficult.

I mean, if I can be anecdotal for just a moment, one of the reasons why this little stadium they built in Wilmington, DE for the Blue Rocks, minor league stadium is sold out every single time, you can still take your kid to the game, you can go to the game, you can pay \$8, you can sit there and you can have good hot dogs and you do not have to pay \$400 for it, and you can actually go to a game.

It is very, very difficult for, not low-income wage earners, it is—this has become a significant—and I am not criticizing, but it is a significant business. Most of the good seats in good stadiums are purchased by businesses and businesspeople, and people with significant amounts of money who are not your average middle class sports fan, and so it gets harder to explain this.

But again, I do not have the burden, nor do I, as a resident of the State of Delaware, do I have the risk that is incumbent upon you and the city council and the people of the State of Pennsylvania to take, Mr. Mayor.

One of the things that I have observed—and again, this is anecdotal—is for years being chairman of the Judiciary Committee and dealing tangentially and sometimes directly with sports-related issues for the major leagues franchises in all sports, it used to be that 10 years ago you would contact the owners of the league and if they got around to it they would call you back. Now, they are contacting us before we get to them, and I get a sense that they have an increasing sense that their situation is tenuous.

It is not so automatic that they can just—let me put it this way. Is there any difference—and this is a very difficult question to answer, I suspect, and you are so good at this you may be able to help me frame my question as well as the answer.

Had you been mayor of this city 20 years ago, and one of the two major league, or any of the major league teams here—let us stick with football and baseball—came to you and said, unless you do such-and-such with regard to stadium financing and doing renovating or building a new stadium or finding me a place, I am going to go to New Jersey, or I am going to go somewhere else, and the same thing happened today, is there any difference in the leverage that the teams possessed then and now? Is it greater or is it less?

Are the things that they have to calculate also more complicated now in terms of being a slam dunk, and do you understand what I am trying to get at?

Mr. RENDELL. I think you are, Senator, and I think the cost of operating the major league franchise has become so great that there is a level of desperation on their part that is more significant than it was 20 years ago.

Second, you do not find too many Ruly Carpenters any more who can absorb a price of operating and owning a major league franchise. The Ruly Carpenters, they were not interested in making money. They were sportsmen, and the people of that generation,

the Mara's, where I grew up in New York, the Stoneham's in New York, they were sportsmen. They wanted to do this because it was their love. It was why some people invest in racehorses, even though they lose money every year on those racehorses. It was a love of theirs.

That is gone. Most of the ownership now, particularly in the big markets, or the places that are doing well, most of that ownership is corporate. The WGN's, the Turner Broadcasting System give the Cubs and the Braves enormous advantages. The Madison Square Garden owns cable companies and owns the Nicks and the Rangers.

It has all changed, and it has changed dramatically, but the one lesson that we can take from modern day is, if you look—and I have studied stadium financing for the last 10 years, and if you wait until there is a year or two to go on the lease, the State and city government winds up paying a far greater share than they do when you can make a deal, when you have got, like we do, 10, 11, 12 years to go on the lease.

That is the one thing that is clear. The midnight deal that kept the White Sox from moving to Florida cost the State of Illinois dearly. Dearly. The same thing happened with the Ravens, the same thing. As Senator Specter pointed out, when you are seeking a team for anew market, the same thing happened there, so it is best to make these decisions not under the gun.

People forget, the city of Cleveland went to court to enjoin the Browns from leaving under the lease, and they won, and they won in the local court, but since there was only 2½ years to go on the lease, Mayor White did what I think he had to do and made a deal with the NFL, and that deal resulted in the Browns having a brand new stadium with NFL funds. Not alone, those were grant funds, but with NFL funds, and of course that stadium opened for the first time last night. Mayor White could have enforced the lease and then had the Browns for 2½ more years and then had nothing at the end.

But the closer you get to when that lease deadline is up, the pressure that is on major sports franchises to keep abreast of the revenue because of salaries that are out of control, those things create an atmosphere that good decisions are not made, in my judgment. But yes, in 20 years we have seen the Carpenter's and the Mara's and the Stoneham's basically depart from sports. There are a few left, but not many.

Senator BIDEN. I find it somewhat disingenuous that owners will tell me how they are, and they are, many of them, losing money, but then when they sell the teams, I find, for example, an outfit that has significant Delaware and Wilmington connections, bought the Browns for almost \$¾ million, and it seems to me the rationale for investing has changed. My last question—

Mr. RENDELL. Well, understand, in that instance they got stadium ownership as well, so they got an asset above and beyond the team itself.

Senator BIDEN. Could you explain, as briefly as you can, what the consequences—not the psychological consequences, but what practical consequences would be for the city of Philadelphia in your view if, in fact, the Eagles or the Phillies picked up and left?

Mr. RENDELL. Well, the tax consequence for the Eagles and Phillies leaving would be the equivalent, because of the salary ranges the equivalent of us losing one business that had 2,500 workers averaging \$32, \$33, \$34,000 a year, or two businesses having 1,250 workers that do that, plus there is a lot of indirect business that supplies all of the food that goes into the stadium. You can imagine how many hot dogs are consumed. All of that comes from local vendors, and so there is a tremendous amount of supply side, as Senator Specter knows, because he was integrally involved in this.

When we computed the loss figures for the Navy Yard we just did not compute the 12½ thousand workers that were there in 1991 and the tax consequences for losing their jobs and their salaries. We computed all of the vendors that fed the operation of the Navy Yard.

Now, the two teams do not produce anywhere close to what the Navy Yard did in vendor supply purchases, but there are a lot of supply purchases that go into the teams. Could we absorb on an economic basis the loss of these teams in direct and even indirect revenue? Of course we could. There is no question about that.

If you look at this as a transaction—and by the way, it is an economic development transaction, and the city council of Philadelphia at my urging has instituted a number of developing deals that call for tax increment financing, where basically the taxes of the development are plowed back into the deal itself, and there is always some gnashing of teeth in those deals, because people say, well, you are giving away taxes.

One of the things I have tried to say is, given the competitive disadvantage that a city like ours has earned compared to the suburbs or South Jersey or even the Sun Belt, because of our high tax structure, because we deal with 75 to 80, 85 percent of the region's poor, because of all the demands that that puts on our budget and our high tax structure which we are trying to bring down as fast as we can, but given all of that, if we do not do tax increment financing we do not have the deal. It is as plain and simple as that.

So you are not giving up any existing tax revenues and, of course, you have a limited period, and after that period the tax revenues continue to start to kick in, and the same is true here, so in one sense it is an economic development deal with 2,500 workers, the equivalent of 2,500 workers because of the tax structure, because of the salaries, and the indirect vendor sales. But I do not think you can—I do not think you can eliminate the emotional and psychological damage.

Senator BIDEN. I am not suggesting you can. I was just curious.

Mr. RENDELL. There are things we do as a city, all of the time having nothing to do with sports, that generate a feel of vibrancy for cities. Cities have to have soul. They have to have a pulse to them. They have to have a sense of vibrancy, a dynamism, or they will not exist economically. With mass communications, with the changes in technology and the changes in the type of work that is done in America today, there is no rationale for cities.

It is in places to come that have all sorts of entertainment alternatives. There is all sorts of different experiences. If there is not a common bond that ties a city and a region together, and you said it best, Wilmingtonians think of themselves as Eagles fans and

Phillies fans, there is no question about it, and there is nothing like sports that binds a community together, that take someone on the lower end of the economic spectrum and someone at the highest end of the economic spectrum and gives them a commonality of interest.

And again, if we started running cities purely on the bottom lines, they would not exist very long, because the economic rationale for cities that we had at the beginning when people had to gather together in a central district to do commerce, when only a city could support manufacturing, that is gone, so if we take away those nontangible factors, if we take away the psychological and emotional factors, I am not sure there is a *raison d'être* for cities.

Senator BIDEN. Thank you very much. Thank you, Mr. Chairman.

Senator SPECTER. Thank you, Senator Biden.

Senator Santorum.

Senator SANTORUM. I think the point you made is a terrific one, Mr. Mayor. Having gone through the psychological trauma of almost losing, well, two teams, not only a major league baseball franchise in Pittsburgh, nearly just a few weeks ago a national hockey league team—

Mr. RENDELL. Senator, can I interject, and you know this better than anyone in this room, what would the city of Pittsburgh's feeling have been, and what would their viability, as a first class city able to attract major corporations, have been if they lost the Steelers, the Pirates, and the Penguins?

Senator SANTORUM. The whole discussion is, this would have been a city with a proud tradition and proud heritage that had an identity. I mean, you talked about an identity. Those places, those teams gave the city an identity, brought us together as a community. I thought it was very, very important. It would have had a deep psychological impact on our region, no question about it, and I think it would have sent a message to the business community that this is a city that has given up.

This is a city that is not going to fight for what it has, much less try to attract what it could, and I think there are many in Pittsburgh, and I know there are many in Philadelphia to say, "Well, it is not important. It is bottom line economics." It is not bottom line economics. There is a lot more to it, and the reason I bring this up is, it is importance, you do know that major league baseball and the National Football League understand that, and understand the leverage they have in their negotiations.

This is not a cold business deal that you are sitting across the table negotiating. This goes far beyond that, and that gives a huge leverage to those negotiators, and that is why it is important that we look at ways to try to balance that leverage a little bit with local governments who do not find themselves as an equal partner here in this negotiation.

Because they have this whole emotional side that goes as well as real economic—you talk about intangibles, but they are intangible in the sense that they are goodwill and other things, but they result in tangible economic benefits to the community, and cities realize that, and they realize the importance of these franchises, and to me it is something that Senator Specter, I guess, for years has

been trying to get at, is how we try to level the playing field from a negotiating point of view with team owners and with the leagues.

I am very interested in what the Senator has come up with here, and I hope, and I know we will, that we continue to look as to how we can structure, use the power that Congress has with the anti-trust exemptions to try to get some relief from what I see as real problems with parity in major league baseball, and again, the problems with moves in the National Football League.

Mr. RENDELL. I agree, Senator, and I think what Senator Specter is doing here is extremely commendable if it can be worked out, and as Senator Specter said, it is a start, what we proposed here today, if it can be worked out. You used the right terminology. It increases the leverage. It increases our leverage. Not only does it balance the playing field in terms of dollars, but it does increase the leverage, no question about it. It creates a different dynamic when you sit across the table with a sports team.

Senator SANTORUM. Thank you. No questions, and I, too, have to run, but thank you.

Senator SPECTER. Well, Thank you, Senator Santorum, and thank you, Mayor Rendell, for taking time to be here. We thank you.

Mr. RENDELL. Thank you. I do not know if I will get a chance publicly to say this. This may be my last congressional hearing. But I want to thank you and Senator Santorum as well for your incredible support for this city over the last 8 years. You have been terrific, and you are demanding and you want the facts, and you hold us to a high standard, but you have been terrific in your support.

Senator SPECTER. Well, thank you very much for those good words, Mayor Rendell, and we thank you for your tremendous contribution. This is only September 13. We might see you back between now and the first Monday in January.

We now turn to the distinguished city controller, Jonathan Saidel, now serving his third consecutive 4-year term as Philadelphia's City Controller, graduate of Temple University and Delaware Law School, and in addition to being attorney-at-law is a certified public accountant.

He has taken some very important, courageous stands on fiscal matters for the city, and he has some very distinct views, we know, on the financial abilities of teams to pay their own way, and we thank you for joining us, Mr. Controller, and look forward to your testimony.

STATEMENT OF JONATHAN A. SAIDEL

Mr. SAIDEL. Thank you, Mr. Chairman. I will quickly run through our statement. I thank you for the opportunity to address you today on Senate bill 952, the Stadium Financing and Franchise Relocation Act of 1999. Thank you for focusing attention on the important issue of stadium financing, which in recent years has dominated the minds of citizens, sports fans, and elected officials in communities all across America.

As you know, sports equals big business, and big business is largely driven by stadium-generated revenues. Unfortunately, as team owners seek to maximize these revenues, they are often doing

so at the expense of communities that could ill-afford to spend scarce tax dollars to subsidize sports teams operations.

Like you, I am a sports fan, and as a fan I look forward to attending games in the new stadiums. I want to see the Phillies win a pennant at a ball park with a grass field, and would love to see the Eagles drive the Cowboys into the mud of a new stadium. I also recognize the city must offer high quality entertainment options to engage visitors and provide amenities to residents to be successful in the future. But as city controller, I am fiscal watch-dog over city expenditures, and my job is not to give away city money. It is to make sure city money is spent in the most efficient and effective manner.

In recent years, many American cities have financed stadiums, but many of the deals have been poor investments for taxpayers. The deals struck have been the result of bargaining under duress as teams threaten to leave town while the public gets fleeced to enrich millionaire owners and players.

Alternatively, baseball's San Francisco Giants and football's Washington Redskins proved that teams can build new stadiums without significant public support. I therefore believe that when it comes to public money for new stadiums we must not use scarce tax dollars to enrich team owners.

The city should not use broad-based taxes or cross-subsidy taxes to fund new stadium construction and to add to team owners' profits. Instead, we should work to ensure that any city contribution for new stadium construction results in a sharing of any direct benefits to the team and to the city and is directly related to the use of stadiums and the true benefit the city realizes from these stadiums.

Your focus on stadium financing at the Federal level is a sound one. Congress has provided the National Football League with protection from market forces, which has increased team value, team profits, and players' salaries. Major league baseball received similar protection through its limited exemption from antitrust legislation.

By mandating partial league funding for new stadiums, Senate bill 952 takes an important and necessary step toward correcting the inequities between communities which drives the demand for public subsidy of new stadiums. I would like to make sure that the total project cost as defined in Senate bill 962 includes any infrastructure improvements, land acquisition, and site remediation which may be necessary as part of the stadium construction. These expenditures, which can equal perhaps 50 percent of the actual cost of stadium construction, are additional burdens which should be shared by the leagues, not left to local taxpayers.

Additionally, in large and lucrative markets like Philadelphia, local governments should have the option to finance their share of stadium construction costs through stadium user fees. Unlike broad-based taxes, which take money from the citizenry, user fees actually reduce incomes earned by teams, because team owners will set prices at a level determined by the market.

Amending Senate bill 952 to expressly allow local governments to utilize these fees to fund their share of stadium construction costs would provide communities with full protection of the bill

while giving them the flexibility to take advantage of the worth of their market.

The Philadelphia market is a lucrative one. Because of the value of our market and the fact that our teams are committed to long-term leases, we know that there is no pressure to do a bad deal just to keep teams from fleeing to the cities so desperate for major league status that they are willing to break the public bank to attract a team, therefore there is no reason that we in Philadelphia cannot work to create a stadium finance package that benefits the city as well as the teams.

My office has worked for more than 3 years to address the issue of stadium finance in Philadelphia. We have worked with Indiana University professor Mark Rosentraub, a nationally recognized stadium finance expert, to conduct a thorough cost/benefit analysis, and met with representatives from sports teams and the Rendell administration in an effort to evaluate stadium finance proposals.

My staff produced a summary of their work, which is entitled, "Stadia Overview. Myths and Realities." This document, which I have attached to my testimony, examines misconceptions associated with stadium finance and presents a workable plan for stadium finance in Philadelphia.

The document explains how new stadiums will not necessarily improve the competitiveness of Phillies and the Eagles in the future. It challenges the notion that new stadiums will be significant economic engines for Philadelphia and notes that every credible economic analyst concludes that savings do not equal economic development. New stadiums mostly create spending shifts, not new consumption patterns.

It dismisses the notion that Philadelphia Phillies and Eagles will leave Philadelphia unless the city funds new stadiums. It points out the tremendous financial benefit the Phillies and Eagles will realize from new stadiums.

According to the Controller's Office's analysis, the Phillies could earn more than \$60 million a year and Eagles more than \$37 million a year in the new stadium even if they paid the city the rent equal to the city's stadium construction costs. This does not take into account the values of the respective franchises, which will skyrocket once the teams receive the new stadiums.

It shows the city stands to lose money in the future if the Phillies and the Eagles are allowed to break their Veterans Stadium leases. For example, the city will lose approximately \$6 million a year in luxury box income. This revenue stream, which is due to begin in 2001, was part of the deal to keep the Eagles in Philadelphia when they threatened to move to Phoenix, and the city will never see a dime if we build a new football stadium. The city could also lose an additional \$500,000 each year in real estate tax revenues, depending on where the new stadiums are built.

It challenges the idea that rental car taxes increased tax receipt and avoided Veterans Stadium costs should pay for the new stadium. It shows how teams will price tickets based on market demand regardless of any city-imposed user fees.

Finally, the document puts forth the elements of a workable plan for new stadium construction in Philadelphia. We believe such a plan represents the best possible deal for the city, and the best

chance for the teams to play in new stadiums in the near future. Given the new stadium's potential impact to the team's bottom lines, this should be very desirable.

In a second document, entitled "Analysis of Stadia Finance Proposals", my office examines assumptions related to the stadium finance in Philadelphia and critiques reported plans to fund new stadiums for the Phillies and Eagles. The projected total cost of the new stadiums and resulting infrastructure improvements could be more than \$800 million. Including funding from the parking authority, the total cost to the city could be more than \$337 million.

I applaud Mayor Rendell for the steps he has taken privately to reduce public funding for new stadiums. For example, I certainly endorse the idea of a 5 percent ticket surcharge. I do believe that more can be done to reduce public funding through the approach I have outlined in my Analysis of Stadia Finance Proposals. This document, which is also attached to my testimony, provides reasonable alternatives which would encourage teams to field competitive teams, maximize the stadium-related benefit for the city, and preserve scarce tax dollars for Philadelphia's pressing needs.

For example, the teams could pay the city rent equal to the city's debt service costs, or the city could impose a surcharge on all consumption at the new stadiums which would fund the city's future debt service costs.

The Philadelphia Metropolitan Region is among the largest for professional sports and offers team owners an extraordinary opportunity to earn substantial profits. Broad-based taxes or taxes that subsidize franchises are not needed to guarantee profit levels for the owners of Philadelphia teams. The size of the Philadelphia market dictates that the city should finance its portion of the cost for both facilities from user fees or rental charges. Even if this were done, both teams would still be among the most profitable in their respective leagues.

The worth of large markets was proved in the case of the New England Patriots. The ownership of the Patriots passed up a \$374 million stadium deal with lavish revenue guarantees in Connecticut for a deal where the ownership will only receive \$70 million in infrastructure improvements to remain in the Massachusetts and the lucrative Boston television market.

Philadelphia is an even larger market than Boston, and it is in the best interests of the National Football League, major league baseball, and television networks to keep the Phillies and Eagles where they are.

As I stated, sports equals big business, and the owners of the Philadelphia Eagles and Philadelphia Phillies stand to generate significant annual profits from the new stadiums. In addition, new stadiums will dramatically increase the Phillies and Eagles franchises.

To be successful in the future, the city of Philadelphia needs to reduce the cost of living and doing business in the city. At the same time, we must improve public education, reduce crime, and improve overall quality of life in all our neighborhoods. Given these tremendous needs, we cannot afford to waste a single tax dollar, and we certainly cannot afford to enhance the wealth of team owners at

taxpayer expense or subsidize stadium construction costs beyond the true benefits to the city.

As a fan, I look forward to going to games in beautiful new stadiums that will make Philadelphia the envy of other cities. As city controller, I look forward to working with the teams and the city administration to craft a deal that will allow team owners to enhance their bottom line without wasting the city's scarce tax dollars.

Again, thank you for your initiative in this case, and I will answer any questions you have.

Senator SPECTER. Thank you. Before going to questions, we will hear from Representative Carn and Mr. Katz. We turn now to the distinguished State Representative, Andrew J. Carn, a nine-term Representative first elected in 1982 to represent the 197th Legislative District located in north central Philadelphia.

A graduate of Thomas Edison High School, Howard University, Representative Carn has been very active in civic matters as director of statewide programs for the leadership council, director of the Neighborhood Housing Services of Allegheny West, a very vigorous consumer advocate, took a very forceful stand on the acquisition by First Union of the local bank last year, and Wall Street is about to agree with the Market Street and 52d Street, and Representative Carn.

The floor is yours, Mr. Representative.

STATEMENT OF HON. ANDREW CARN

Mr. CARN. Thank you, Senator. I would like to thank you for affording me this opportunity to speak on the important issue of stadium financing. I am honored to be joined by such an esteemed group of panelists, and I hope that our views will assist our Federal-elected officials in finding solutions to this problem.

As you are aware, much of the discussion surrounding potential new stadiums in our city has focused on the issue of location for a baseball-only stadium. However, today's hearing examines the equally and perhaps more important issue of financing. That is to say, how and who are going to pay for it.

I applaud and support Senate bill 952, the Stadium Financing and Relocation Act. This legislation attempts to ensure that the sports industry pays its fair share of cost associated with building new stadiums and arenas. This modest proposal would require that professional sports teams pay at least 50 percent of new stadium construction cost. In my view, Senate bill 952 was developed to achieve the same goals as my legislative efforts in Harrisburg, which is to guarantee that any stadium or arena deal is pro-taxpayer and pro-community.

As far back as September 1997, State Representative Bill Robinson of Pittsburgh and I have been advocating for increased financial participation from professional sports leagues and teams to help build new stadiums in Pennsylvania.

It is my understanding that some concerns were raised during a public hearing in Washington about the effects of using the television revenues to fund the proposed leagues construction trust fund under this legislation because of the possible negative impact on small-market clubs. If television revenues are not a good source

of revenue for the construction trust fund, I would suggest using other forms of revenue such as merchandising, a tax on naming rights in the stadium advertising, concessions, or some other source of money.

I support this legislation for two reasons. First, I believe that taxpayers should be protected and receive any benefits from the start of the process. Second, the relationship between pro teams and communities has changed. It is now a business relationship, and the taxpayers should be treated like any other investor.

To understand why the Stadium Financing and Relocation Act is necessary, we need only look at Pennsylvania's recent experience with stadium funding. In February, the State legislature approved \$320 million for stadiums in Philadelphia and Pittsburgh. The State has allocated \$170 million for two stadiums in our city. The measure was publicized as a loan, but in fact is a grant, or tax increment financing agreement.

Under the State plan, sports teams who receive public assistance must generate more tax dollars in future years than they do now. If the teams do not generate more money, then they must repay the difference. Sounds pretty good.

The problem is that the tax calculations will not be adjusted for inflation. That means that as the cost of player's salaries, hot dogs, popcorn or other items rise, the taxes generated rise. There is no collateral on the loan if the teams do not generate more taxes.

House Majority Leader John Perzel described this arrangement as a hybrid between a grant and a loan. His description prompted one of my colleagues to call the State stadium financing funding bill a "groan." I offered a loan proposal on that day, but it was defeated. A copy of the State funding bill has been included in my testimony for the record.

Furthermore, the assumption of the State stadium funding bill was flawed. The teams are going to pay taxes anyway. Can you imagine not having to repay your student loan if you are making more money and paying more taxes in 10 years? I can tell you as a father of a college student that my fellow parents and many students would love to get money for college under this kind of arrangement.

Under a true loan scenario like a student loan, the teams would repay the loan and still pay taxes. This is exactly the type of plan that the State of Massachusetts enacted 1 month after the Pennsylvania stadium give-away.

On June 15, Senator Specter and other Senators heard from Massachusetts Speaker of the House Thomas Finneran. Speaker Finneran courageously stood his ground against excessive public spending on stadiums in the fight over the Patriots' stadium. At that hearing, Speaker Finneran said,

In Massachusetts we have declared that the only appropriate use of taxpayer money is for infrastructure improvements. There is no State taxpayer money for brick and mortar to build a new ball park or a stadium. There is no State taxpayer money to purchase land or engage in any creative land swap or lease-back scheme.

After the Pennsylvania General Assembly enacted the stadium funding bill the National Football League announced that it was loaning money to teams to help them build stadiums. The Eagles

have announced that they intend to utilize this resource. Sounds good.

How are the Eagles going to repay the loan? The NFL is going to be repaid from revenues generated by the new stadium. This means that the NFL will be repaid from the revenues of a stadium that was constructed with two-thirds taxpayers' money. You would think it would be only fair that the taxpayers would be repaid first. In addition, both teams will receive the name rights to buildings that they will not own, and a \$1-a-year lease.

The final and most disturbing aspects of the Pennsylvania stadium experience is the exclusion of the public. In 1997, the people of Pittsburgh and the 10 surrounding counties voted against public financing for stadiums, yet public money is being spent on stadiums.

In Philadelphia, some people want to provide school choice and others want the public to have a choice on riverboat gambling, yet many of these same proponents of public choices on issues vehemently oppose public choice in stadium funding.

In fact, I offered southeastern Pennsylvania voters a choice on stadiums when I offered a referendum measure on the House floor in June. The Republican Appropriations Committee indicated the referendum would not cost the State any money, and the cost to the city was minimal.

My proposal was defeated 101 to 97, with many southeastern Pennsylvania Representatives, including some Philadelphians voting against the measure. Some of my colleagues have a lot of explaining to do, because many of them voted to allow the Pittsburgh referendum then turned around and voted against their own constituents having the opportunity to have their say on this issue.

I share this information to demonstrate that taxpayers in Philadelphia and across the Nation for the most part are not being well-served in stadium deals. Senate bill 952 is an excellent starting point in the effort to ensure that taxpayers and communities receive better value for their investment in stadium deals.

Ensuring that half of stadium or arena construction is covered by sports leagues can only help taxpayers, because it lessens their financial burden. This legislation would have saved State taxpayers \$120 million and city taxpayers \$100 million respectively.

However, I also encourage you to look at other proposals that are pending in Congress such as the Give-the-Fans a Chance Act, sponsored by Representative Earl Blumenauer of Oregon, which would provide for complete or partial public ownership of franchises.

Another bill by Senator Moynihan of New York would remove tax-exempt status for stadium financing bonds. In addition, I recommend that you review the Carn-Robinson stadium legislative package that was introduced in Harrisburg. We propose some creative ways to ensure that teams and communities benefit in stadium deals. For example, we propose that naming rights and other revenues be shared with the public.

I look forward to working with you, Senator, the mayor, my fellow panelists and the public to ensure taxpayers and communities receive the maximum benefit in stadium and arena deals. Thank you for this opportunity.

Senator SPECTER. Thank you, Representative Carn. We turn now to Mr. Sam Katz, investment banker and financial advisor, who has very specialized experience on financing sports stadiums, having been involved with the Orioles Market, Camden Yards, the Joe Robbie Stadium, and the First Union Center, each built without new taxes.

Other sports projects which Mr. Katz has been involved with include the Colorado Rockies, the Cleveland Indians, the Phoenix Suns, the Portland Trail Blazers, the Buffalo Sabers, the St. Louis Blues, and the Florida Panthers.

In addition, in the public sector he has had extensive experience with transit authorities at Houston, Washington, Atlanta, Los Angeles, very active in civic affairs, and trustee of the Academy of National Sciences, worked as a member of the board of education in his school district in the past.

And it should be noted that we had also invited former president of the city council, John Street, who had extensive experience with the city issues as well, but he declined.

We welcome you here, Mr. Katz, and look forward to your testimony.

STATEMENT OF SAM KATZ

Mr. KATZ. Thank you, Senator. I wanted to talk specifically about the evolution of stadium financing in the context of your legislation and make some comments about where I think that legislation can affect the future of financing.

As you indicated, I spent a substantial portion of my career working on financing of both football and baseball parks as well as indoor arenas for hockey and basketball, and as well as having worked for a number of cities that have presently or recently been engaged in trying to compete for NFL expansion both in Los Angeles and Houston.

Just as a way of some background, prior to the development by Joe Robbie in Miami of the new stadium for that team, the vast majority of both football and baseball parks in the United States were funded largely from the proceeds of bonds issued by counties and cities.

These facilities were then viewed as public assembly facilities and were often designed to host both baseball and football and not dissimilar from Veterans and Three Rivers and Riverfront and Candlestick Park and other stadiums, as well as dome stadiums like the Metrodome and the Kingdome and the Astrodome.

They were generally built at a cost whose impact on local government finances was quite manageable, in part because they were relatively inexpensive. The repayment of the debts that were incurred for the construction of those facilities relied on municipal and not facility income streams.

In 1983, Mr. Robbie pioneered the concept of a privately-financed sports venue. He believed that such facilities could be profitable on their own if they were designed to maximize revenue generation for the team. Working with Mr. Robbie, we structured a financing program which was predicated on the marketing of some 230 luxury suites and 10,000 club seats, the sale of which were subject to

multiyear contracts, creating in effect leases which collectively became financeable.

By pledging the income from suites and from club seats the Miami Dolphins were able to finance and construct a 73,000-seat stadium largely from the revenue streams of just 13,000 of those seats, but it was not simply the uniqueness of the financing that caught everyone's attention. It was also the excitement of the design and the amenities of the seating, the merchandising and the marketing opportunities, that accelerated stadium and arena construction, a boom that has taken place over the last decade-and-a-half.

But there was a political story behind the Dolphins project. In 1983, the Orange Bowl, which then was the home of the Miami Dolphins and the University of Miami, was in serious disrepair. Owned by the city of Miami, a refurbishing program was proposed and a bonding issue put on the ballot. This initiative was opposed by the Miami Dolphins, which provided the principal funding to defeat it, and that enabled Mr. Robbie to privately finance, which he did so as a matter of ego and pride.

However, from an economic perspective, his stadium, which was subsequently acquired in the sale of the Miami Dolphins to Wayne Huizenga, has never achieved the results expected or produced the benefits to the team that were hoped for, but throughout the professional sports world Robbie Stadium, which is now called Pro Player Park, made a tremendous impact and helped launch a dramatic change in the way the leagues and the member teams came to view venues as important business lines in the same way licensed merchandise and broadcast had become.

In some instances the buildings themselves had become skyline signature projects such as Oriole Park at Camden Yards, Jacobs Field in Cleveland, and have boosted civic pride and community image. In almost all cases these projects have significantly impacted team revenue generation, franchise values, but unfortunately have also impacted the cost of being a pro sports fan.

The advent of a generation of modern market-driven high-end-customer-driven expensive stadiums has also given rise to another phenomenon, and that is the use of leverage through the threat to leave by ownerships seeking public investment in such projects.

In addition, as the leagues themselves have expanded, and in an age when profitable buildings have become an important variable in the formula for franchise success, the decision to expand to a particular city is in part, and not a small part, influenced by the extent to which a new facility will strengthen the team's economic standing over the long term.

These two factors, the threat of relocation and the influence of expansion by the leagues, have created a veritable bidding war among regions which has diverted an extraordinary commitment of public resources to these projects. Public funds have been invested in suites, club seats, restaurants, bars and clubs, and parking facilities that only businesses and high-net-worth individuals can afford.

While wonderful new buildings have been built, the vast majority of the returns from these investments have flowed not to the source of capital, but to the tenants of the buildings. In effect, the cost of

capital for these projects has also in many instances been effectively subsidized by the availability, as Representative Carn pointed out, of tax-exempt debt that frees the buyers of bonds issued in support of those projects from Federal income tax issues on the interest income.

And for some sports, as you well know, Senator, an antitrust exemption has enabled the sports business to operate free from certain constraints that affect competitiveness in other sectors of the economy. Very few industries in this country have enjoyed such favorable treatment from local, State, and Federal Government.

By far the most effective means of pressuring publics to invest, as you well know, has been the threat to relocate. This has been particularly effective in baseball, although more recently has been seen as a tool in the NFL negotiations. The Chicago White Sox and the New England Patriots, the Seattle Seahawks, the NFL St. Louis Cardinals, the Pirates, the Rams, the Tampa Bay Buccaneers and others have all been effective with this tactic.

Happily, this threat has not been invoked by either of the two Philadelphia teams. While we may not like this condition, it is also not uncommon. Every day, as Mayor Rendell well knows, cities like Philadelphia are faced with threats by private companies to leave, and we often engage in pot-sweetening through tax credits, special zones, job training initiatives, and other public policy steps designed to keep those companies here.

Expansion, too, has fueled construction initiatives in Arizona, Cleveland, Los Angeles, and Houston. In each case, the deal gets sweeter, the give-ups larger, the revenues reserved for the team more substantial, the level of public investment heavier.

It does not have to be this way. A more enlightened and tougher negotiating stance can and should be taken by the public's representatives, and although I did not have the chance to study in detail what Controller Saidel has proposed, it seems that there is much merit in what he is offering as well.

In an effort to assist in that regard, your bill, Senator, Senate bill 952, ties the expansion of the antitrust exemption for professional sports to the participation by major league baseball and the National Football League in the financing of new facilities. I commend you for this initiative. I think it reflects an honest and understandable frustration with an unquestionably well-organized effort to leverage scarce public resources into enterprises that seem well-equipped to support these projects more extensively with private funds.

Here in Philadelphia, in a city where school buildings are rapidly becoming outdated and basic infrastructure has been put on a steady diet of deferred maintenance, the use of \$400 million of public funds to construct two new facilities for the Phillies and the Eagles is met with a healthy level of skepticism throughout the community, and there can be no denying that between league-wide broadcast and properties income, professional baseball and football have become healthy businesses more than capable of funding new stadium construction costs here and elsewhere.

However, when we look at the current status of stadium development, it is also obvious to me that this legislation would, if enacted,

be a very late entry into a game that is nearing the end of a long construction cycle.

Senator, I will leave with you copies of two schedules I put together over the weekend, one of which looks at all the teams in the National Football League and one of which looks at all of the teams in major league baseball, and on the basis of that analysis of projects, many of which I have been involved in or are well aware of, it seems to me we are now at a place where, of the 31 National Football League teams, only six are left to develop new stadiums, and of the 30 major league baseball teams, including Philadelphia and Pittsburgh, which seem well down the road in their financing, only seven are presently candidates for developing new ball parks.

The implications for those teams which have not financed their facilities could in some instances be detrimental. Consider the case of Boston, which has to compete in a division with three teams, Toronto, Baltimore, and Tampa Bay, which have new or relatively new facilities paid for largely with taxpayer dollars, as well as competing with the New York Yankees, who, as we pointed out earlier, enjoy extraordinary cable television income. For Boston to find itself in need of securing 50 percent of its financing privately should it need to build a new ball park may significantly impact its competitive position relative to the other teams in its division.

In the final analysis, the decision about whether and how to publicly invest in new sports facilities is a local decision. In many instances, the local financial commitment has been made as a product of public referenda such as the kind of referenda that Representative Carn would have liked to have given the voters in Philadelphia.

Those referenda have given those communities the right to determine whether their local taxes should be used for these purposes. While academics and some politicians have railed against the application of these resources and have argued, in many instances correctly, that the economic benefits do not support these investments, in fact, the number of successful referenda have been very surprising.

Those are my thoughts on your legislation, Senator. I appreciate the opportunity to be here.

I would like to make a couple of other comments, if I might, in response to some of the comments that were made here. First of all, I heard for the first time today from Mayor Rendell that the plan for financing Philadelphia's ball park included an allocation of taxes generated from within those two facilities. I would be concerned if there was not an inflation adjustment factor in considering and holding harmless the city for its share of incremental tax revenues, and hope that it is not too late for that to be considered in those negotiations.

Second, as Representative Carn noted, what started out as a grant, then was talked about as a loan at the State level, with respect to the repayment by the teams to the State of the funds invested, Representative Perzel and others were able to get a provision in that law which requires a 10-year calculation of the incremental tax benefits to the State from the operations of the two stadiums and, as I understand it, if the tax revenue generated to the State is not sufficient over that previous 10-year period to pay the

debt service, the teams have an obligation to fund the deficit. I would like to see that same provision built into the Philadelphia arrangements.

Senator Biden asked a question of Mayor Rendell, how has the leverage changed today versus 20 years ago, and I would just quickly note that 20 years ago there were an awful lot of large cities that did not have major league sports teams. Today, for the Phillies and the Eagles the choices of cities to relocate to are generally cities that are smaller markets with less corporate concentration, and therefore I think leverage is still on our side.

And last, just as an observation, because having worked both with team owners and on the other side of team owners it is not uncommon for teams to say that they need new facilities in order to be competitive, and I made the point with respect to the Boston Red Sox that their competitive position will be affected, depending on the kind of financing they have to do.

However, at the end of the next decade, every major league football team and every major league baseball team will likely have a new stadium, and believe it or not, one of those teams will still come in last place, and the argument, I suspect, that competitiveness is used to justify these investments I think probably will not come out in the wash.

I like what your bill is intended to do, and the only concern that I have is, since there are really at this point only 13 out of the 62 professional baseball and football teams left looking to develop stadiums, how will it impact them versus the 48 or so teams, or 47 teams that have already built those projects.

I thank you for the opportunity to be here, and I hopefully can answer any questions you might have.

Senator SPECTER. Thank you very much, Mr. Katz. It is true that one team will come in last, but it does not have to be the same team every year. [Laughter.]

Which is getting to be a habit locally. [Laughter.]

I recall as a youngster growing up in Wichita, KS, in the late thirties. One day, the Wichita Beacon published an article from a Philadelphia newspaper which had the standings inverted, and both Philadelphia teams were in first place.

Controller Saidel, the issue of whether the teams can afford to build their own stadiums is always a paramount question, and it depends in substantial nature how you make allocations on the complex accounting formula which you have some substantial experience in.

In one of our hearings in Washington, one of the experts, a professor who had consulted with you, made a comment about the ability of Philadelphia teams to afford their own stadiums. I would be interested in your observations on that, to the extent you would care to comment.

Mr. SAIDEL. I believe, Senator, that overall the teams can afford to build their own stadiums. The uniqueness of merchandising, the uniqueness that has cropped up in the last decade as to naming rights, and a variety of other imaginative ways that stadiums can generate funds, gives the teams I think an ability to produce their own stadiums.

What I talk about in my presentation to you, and I have and will to city council next month, if the mayor brings this forward for a vote, is that at a minimum we can loan them money and they can pay back \$8 million a year and they can still make \$16 million respectively—\$37 million for the Eagles, \$16 million for the Phillies—based upon their ability to market their own merchandise and to create their own ability to sell their own tickets and not rely strictly upon what you have correctly talked about is threatening to leave at every moment's notice, and enjoying scarce tax dollars, so I believe they have the ability in the long run to make themselves profitable, to make the stadium profitable with their limited amounts of ability.

Because of the cap formula, one of the ways that there was additional cash-flow to most of the major teams in the United States is through their generation of funding through the stadiums. The stadiums in and of themselves—and winning teams does not necessarily mean you are going to do well in the stadium. The Cincinnati Reds have done much better than the Philadelphia Phillies, and yet they are in last place as far as stadium revenues, but you have to be innovative, and I think they have the availability to be innovative.

What I have talked about is capping our investment at some minimum range and allowing them to be innovative, to share in the naming, to share in the use of advertising, which was done in Baltimore in a variety of other ways that I think they can be profitable and not use city tax dollars.

Senator SPECTER. In your answer, Mr. Controller, you talked about threats to leave. Have there been threats by the Philadelphia Phillies and the Eagles? Is it below the surface? How much below the surface? What are the realities?

Mr. SAIDEL. There is in my conversations, there always is implied within their conversations, the Eagles, the ability to go to Houston or Los Angeles. As Mr. Katz mentioned, there are very few markets left where there are no teams. Twenty years ago, in response to Senator Biden's question, the teams may have had 8 teams and now they have 16 as an example, but there always is an implied threat to move, and that creates a duress atmosphere under which we have to negotiate.

I believe the Phillies, the Phillies cannot leave. This is the best market they can ever find, where there is only one professional team within 7½ million people. The Eagles may have a better opportunity to leave in comparison to the Phillies, but I applaud Cleveland in the sense that they kept the name Cleveland Browns and now have a new team.

There will always be someone, I believe, in the long run that will come to Philadelphia because of our fan participation and our ability to create an atmosphere that is creative and profitable for the teams.

Senator SPECTER. With respect to the current lease arrangements, are there provisions by both the Phillies and the Eagles to stay in Philadelphia through the year 2011 as a result of very substantial money put into the Vet when it was constructed?

Mr. SAIDEL. Right. The Veterans Stadium at this point barely breaks even. We have spent \$50 million in capital improvements

in which we have a long-term bond issuance of \$3 million per year until the year 2022. There is a large penalty clause if the Eagles or the Phillies break that lease and leave. My problem with building new stadiums is, who is going to repay me for the \$50 million that I spent on new seats and the construction and infrastructure improvements in Veterans Stadium? We are still going to have to pay the loans.

We will lose, as an example, if the Phillies move, about \$500,000 to \$1 million in real estate taxes by the use of eminent domain and the reduction of tax ratables because we will not be taxing the stadium but we do tax the new building, so there is a large penalty clause upon which the Eagles or the Phillies could leave. That has never been exercised.

We also will lose the availability that under the threat to move to Phoenix a number of years ago we give up 70 percent of the luxury box income which will begin in 2 years at \$6 million a year if that stadium is destroyed and the new stadium is built.

So when Mayor Rendell talked about the fact that we will save capital programs that are involved in Veterans Stadium, he neglected to mention the income stream that we will, or we could receive if both teams stayed in Veterans Stadium till the end of the lease.

Senator SPECTER. Referring to the issue where the Eagles threatened to move to Phoenix in 1984, that was—

Mr. SAIDEL. That was terrible.

Senator SPECTER. I remember, we had hearings in Washington and litigation started in Philadelphia. The city was panicked at the prospect of having the Eagles move. I do not know what it was like in Baltimore when the Colts left in the middle of the night, or when the Browns left Cleveland, but it was something here in Philadelphia.

Mr. Carn, I commend you for what you have done. We have heard testimony about the serious situation of the public schools, but how about the other side of the coin? What is your evaluation of the loss to a city like Philadelphia if the Eagles were to go, or the Phillies were to go?

Mr. CARN. As a lifelong resident of Philadelphia, I think it would be devastating on—again, I used to go to Phillies games as a little boy, and we have carved out our history here, but the question is, in doing it fast and not doing it right, it is clear to me that we can accommodate the needs of the Phillies and the Eagles if we sit down and negotiate from a better position as Government entities.

Again, my perspective has always been, well, let's make sure that the taxpayer benefits in this process. I want the Phillies to be a winner in this process, I want the Eagles to be a winner, but the taxpayer also needs to be a winner, and in all the testimony that has been given shows that there is enough money in the marketplace to assist in the construction of stadiums but there has not been a policy from our governmental entities to promote the use of more private dollars, but clearly there are examples, as Mr. Katz pointed out, where private financing has been successful in building stadiums, and I just want to encourage more private investment in these kind of projects.

We need more resources for our city, and whether the mayor says it or not, he is asking the taxpayers of Philadelphia to contribute \$200 million of tax revenues. He might say they might not impact the operating budget or the capital budget. Those are slick words.

Senator SPECTER. Why did you wait so long for this photo opportunity? [Laughter.]

Mr. CARN. I just wanted to make my point that we can use those dollars for other needs in the city and still through private investors meet the needs of local stadiums.

Senator SPECTER. What kind of response do you get from the up-State members of the House of Representatives and the State senate to this very substantial subsidy coming from State revenues for the big cities?

Mr. CARN. Well, they very much are opposed to it. As a matter of fact, prior to the vote in Harrisburg for the stadium funding the Republicans had a 70-percent favorable rating. Right after the vote on stadiums statewide the polls show that their favorable rating dropped to 50 percent, and so clearly the voters of Pennsylvania had expressed themselves in 11 counties in the western part of Pennsylvania primarily 4 to 1 against public financing.

We, in our position in Government, ignored that, made money available, but the public had expressed themselves, and these are polls taken by the Republican caucus of the House.

Senator SPECTER. One of the things which is generally not felt is the up-State concern about funding being directed to Philadelphia especially, but to some extent Pittsburgh, and when I was a candidate for the U.S. Senate in 1980 I was constantly explaining my Philadelphia residency, and I was in a western county running against former Mayor Flaherty of Pittsburgh, who was talking about that in a race between Philadelphia and Pittsburgh the fellows out there should not be real amorous for the folks running from Philadelphia, and a reporter said, you are from Philadelphia and he is from Pittsburgh. We do not like either of you. [Laughter.]

That was the up-State comment, and that is why I press a little bit as to how they feel about this kind of funding.

Mr. CARN. Senator, I want to say that I was on the statewide talk show earlier in the debate on this issue, and I was amazed at how upset up-State or central Pennsylvanians were over the possibility of State dollars being utilized to build stadiums in Philadelphia and Pittsburgh. They were livid.

I received so many calls that had really expressed the sentiment that you just expressed, but that was early in the debate, and I remember coming back to Harrisburg that Monday after that broadcast and I had about 10 to 12 of my colleagues come up to me and say they had changed their position, because just behind that broadcast they were inundated by phone calls because I kept saying top the callers, call your State representative, call your State senator. I said, I am just one.

But they were inundated in central Pennsylvania and the northern tiers of Pennsylvania. They were inundated by callers.

Senator SPECTER. Please be explicit when you tell them to call their State senators. [Laughter.]

Mr. Katz, I appreciate your expertise in the field very much. There will be a lot of stadiums built in the next 10 years. The statistics I see from Rosentraub on major league losers refers to about half of the professional sports teams in new stadiums either now or within the next few years, and a lot of construction is going to be going on in the next 5 years, and when you talk about legislation in this field we are facing some very heavy lobbying interest.

If you were to find a special interest group which has close knowledge of or access to Members of Congress and the House of Representatives or Senators, you could not find a more powerful group than these sports owners. Talk about the world's most exclusive club, it's not the U.S. Senate. It is the major sports owners in America. They are very, very powerful and persuasive, and it is a long-term effort.

I put my first legislation in the hopper on this issue in the early eighties when I got to the Senate, because I believed that professional sports were affected by the public interest, and I am still personally angry about the movement of the dollars and all the teams which have been relocated, and it is a long-term battle to deal with baseball's antitrust exemption.

It started off, as you know, in 1922, when Oliver Wendel Holmes said baseball was a sport, and that was recognized as being erroneous in the 1970 Supreme Court decision, but it is still a long way from being able to take any effective action.

I am very much interested in what you say about Joe Robbie Stadium, and why would that not be a model for private funding for other stadiums like the Pennsylvania stadiums?

Mr. KATZ. Well, first of all, Senator, what I would be happy to do with your staff is to simply go through the projects that are in transition. You are correct that in the next 5 years quite a number of stadiums will be built, but, for example, two new stadiums in Cincinnati will be built in part with the proceeds of bonds sold and secured by sales taxes that are being set up and approved by the voters in the county around Cincinnati, Hamilton County.

The new stadium is being put up and is now in the process of Denver taking care of the Denver Broncos based on a referendum that was passed in 1991, and so all I am saying is that I just identified 13 out of 61 cities which do not now have, including the two Philadelphia projects, do not now have financing locked up, and therefore would be impacted by your legislation.

Already, as you now know, the National Basketball Association is virtually completed construction on all the arenas around the country, and almost every National Basketball Association team is playing in an arena that is less than 10 years old.

The National Hockey League is in the process of getting to the same place, and by the end of 2004 or 2005 most of baseball and football will be there.

Senator SPECTER. But in hockey and basketball, to what extent have they looked to the taxpayers?

Mr. KATZ. To a much lesser extent, because they are closed buildings which can house concerts and family shows and lesser minor league sporting events and all other kinds of civic and community events.

The arenas like First Union Center, which was principally financed privately—and by the way, Joe Robbie is not the only stadium, as you well know. Pacific Telesis Park in downtown San Francisco is being built 100 percent with private money for the San Francisco Giants. Jack Kent Cooke Stadium in Washington, or outside of Washington, 100 percent private money.

Senator SPECTER. Well, if they are doing that, why not the Pennsylvania stadiums?

Mr. KATZ. Well, I would say that some of it is history. The Pirates really started the ball rolling in Pennsylvania. When Kevin Klatchy came to Pennsylvania and bought the Pittsburgh Pirates he did so with an understanding that by the summer of 1998 there would be in place a finance plan that was clear to him would produce a new stadium with public funding.

When the referendum that Representative Carn is talking about was defeated, the Pirates were effectively free to leave, and what they called Plan B was put in motion in which the State was asked, and did commit before the legislature acted, to provide one-third of the money. One-third of the money was to be provided by a combination of the city of Pittsburgh in Allegheny County, and one-third by the Pittsburgh Pirates.

While there has never been any discussion here in Philadelphia about one-third, one-third, one-third, that deal was across the Allegheny Mountains and arrived on the laps of the Eagles and the Phillies, so the discussion here started off with a combination of two-thirds public, one-third private before anybody even initiated serious conversation.

Let me just say something about the Philadelphia situation, because I am extremely concerned that what Andy Carn just talked about, which is public participation, is likely to be rolled over here in Philadelphia because of the timeframe in which this transaction appears to be on course to be done.

There is, as the mayor said, a significant disadvantage to a city that negotiates at the eleventh hour of the expiration of its lease, but 2011 and 1999 do not put us in the eleventh hour of the negotiation of these leases, and if we are going to have an introduction of what will promise to be 1,000-page documents 4 weeks before a mayoral election, which I would prefer to see the public's attention focused on that, for obvious reasons, as opposed to trying to get through all of the details in a very short period of time of these leases, I think in the long run the public's interest will not be served.

We have seen in Philadelphia a dismissal of the proposed site at 30th Street. We have seen a dismissal of a whole series of other sites which have not been given in my mind very much serious public consideration. We have had virtually no conversation, and even today I would say that the mayor did not provide a lot of information about how the projects are going to be financed, and Controller Saidel has a proposal to finance it on a basis different than what is being talked about. It seems that a couple of weeks is hardly enough time to get that on the table.

And last but not least, these buildings are public assembly buildings, and the design of them is something that the public will have a very strong interest in, and so for me it would be advantageous

to see more time given to this activity so that the public's input both on financing and on lease terms, onsite and on design can be more fairly considered, rather than try to get these things done in a timeframe that would give the public very little opportunity.

You should know, and I am sure you do, Senator, that the documentation that was considered by the city council and the approval of the First Union Center project with the city as the ground lessor was several hundred pages, and was not rushed through the city council, and I believe they got the opportunity for lots of public comment, and I think we may well be missing that opportunity if we feel compelled to get all of this done by the end of 1999.

Senator SPECTER. Well, thank you very much for those observations, Mr. Katz. I do think this is an area which has not received sufficient attention, and although we can talk about what has happened up until this point there is going to be a lot happening in the future.

This book is in the early chapters of sports moves in America, and there is a lot happening. When you take a look at the impact of television and the super stations with the Braves, what is happening in Chicago and the acquisition by Rupert Murdoch of the Dodgers and the Fox Network, and the efforts of Telstar to alter network and local controls, there is a lot going on, and at the tail end comes the consumer, and that is why it is necessary for people like Representative Carn to dig into it, and Controller Saidel to make an analysis, and the citizens.

You have had a lot of experience, Mr. Katz, in this area, and we are going to continue to push at it at the national level, but it is a tough fight, because the people who have the business interest have much more concrete ideas of where they are going, and playing defense is very tough. Whoever has the ball is likely to win the game on the last score.

Thank you all very much.

[Whereupon, at 11.10 a.m., the committee adjourned.]

A P P E N D I X

QUESTIONS AND ANSWERS

RESPONSES OF PROFESSOR BENJAMIN KLEIN TO QUESTIONS FROM SENATOR PATRICK J. LEAHY

Thank you for the opportunity to respond to the suggested changes in the federal tax treatment of professional sports team relocations. My responses correspond to the numbered questions attached to the letter from Senator Hatch dated December 17, 1999.

Answer 1A. I do not believe the proposed change in the tax code would make economic sense. While I believe that several of the franchise moves in recent decades have not been economically efficient from the standpoint of local communities and the overall league, I do not believe that treating team relocations as sales for tax purposes would be a productive response. As I explained in my written statement, I believe that providing the leagues with an antitrust exemption over franchise relocation issues would eliminate most inefficient relocations, and would be economically superior to the proposed relocation tax.

Treating a team relocation as a sale for tax purposes would have several adverse consequences. First, it would impose a large and essentially arbitrary sanction for moving a team without any regard to whether the move made any economic sense. Thus, the tax would deter some relocations that are clearly in the public interest—such as those from cities with lackluster support for a team to those that would value it highly.

Second, the severity of the proposed sanction would depend largely on such extraneous factors as how long the present ownership group had owned the team, and the particular circumstances of each owner's individual tax situation. For example, owners that had owned their teams for many years, and thus had significant appreciation in team value, would pay a much higher penalty to move than those who had recently purchased a team. I can see no economic justification for such a policy.

Third, the proposal would apply federal tax policy in an illogically discriminatory manner. The rationale of the proposal—blanket preservation of the local economic status quo—would apply equally to relocations of factories or other businesses that have some impact on the local economy. Thus, the relocation tax could not reasonably be limited to sports businesses.

Fourth, the proposal would interject federal tax policy into decisions that have traditionally and appropriately been left to local and state policy makers. As I explained in my Senate testimony and elsewhere¹, team relocation decisions and stadium financing projects do not create a net drain on the federal treasury, and therefore do not warrant discriminatory treatment under federal tax policy. The relative value of a sports team to one locale as opposed to another is an issue that is better resolved by local and state governments without interference from the IRS.

Answer 1B. The proposal likely would result in fewer teams seeking to relocate, except where the relocation accompanied a sale, in which case the tax consequences would be relatively insubstantial. From an economic perspective, teams will only seek to relocate if the perceived benefits to the team from doing so outweigh the costs, which would be artificially inflated by the proposal. Teams seeking to relocate

¹A more complete discussion of the impact of stadium projects on federal tax collections is included in my article with Kevin Green and Brian Lebowitz "Using Tax-Exempt Bonds to Finance Professional Sports Stadiums", *Tax Notes*, Vol. 78, No. 13 (March 1998), 1663–1686. Reprinted in *The Exempt Organization Tax Review*, Vol. 20, No. 2 (May 1998), 240–259.

without a prior sale could be expected to try to transfer some or all of the tax costs to the community to which they propose to move.

Answer 1C. I do not believe that the proposed legislation can be economically justified based on its ability to alter the relative bargaining power of the local community and the team. As I explained in my written statement, I believe that providing the leagues with an antitrust exemption over franchise relocation issues would significantly reduce the ability of individual teams to threaten local communities with relocation. Sports leagues have much stronger economic incentives than individual teams to avoid the adverse publicity and loss of fan support associated with team relocations. Hence, state and local governments in cities with an existing team would generally be in a significantly improved bargaining position if the league had the ability to veto franchise relocations that were not in the league's interest. Such a policy would achieve this benefit without the economic distortions present in the proposed legislation.

RESPONSES OF JERRY RICHARDSON, TO QUESTIONS FROM
SENATOR RUSSELL D. FEINGOLD

Answer 1. As the owner of a small media market team, the Carolina Panthers, I think your team's experience is similar to another small market team in my home state, the Green Bay Packers. Please elaborate on the effect of the bill on small media market teams, like the Packers and the Panthers.

In my opinion, one of the real strengths of the National Football League is that teams in small media markets, like the Carolina Panthers and the Green Bay Packers, can compete effectively on the playing field with teams from New York, to Chicago, or other larger communities. The clearest proof of this is the experience of my own team, the Carolina Panthers. We began to play in 1995, and 1 year later played the Packers, who were founded in 1919, in the NFC Championship Game, with the winner representing the National Football Conference in the Super Bowl. Unfortunately for us, the Packers went to the Super Bowl and won the Championship.

The NFL's structure is such that all clubs have a fair opportunity to acquire and retain the player talent necessary to field a competitive team, regardless of market size. A central element of that structure is the League's revenue sharing plan, and particularly the equal sharing of all national television revenue. As you may know, all of the League's regular season and post season games are televised as part of our national contracts with ABC, CBS, FOX, and ESPN, with the revenues shared equally by all NFL member clubs.¹

As far as the Carolina Panthers are concerned, that equal sharing of television revenue is critical to our ability to field a competitive team and put a first-class product on the playing field each year.

S. 952 would have a serious negative effect on small market teams like the Panthers and the Green Bay Packers. It would not simply reduce our share of national television revenue each year by 10 percent, in itself an unwarranted and adverse consequence, but would disproportionately affect small market teams like Carolina and Green Bay. This is because the bill targets a source of *shared* revenue, which is critically important to small market clubs. Teams in larger markets, with their greater access to sponsorship revenue, premium seat buyers, and other local marketing and revenue opportunities, can more readily make up reductions in television income than can teams like the Panthers or Packers. It would be extremely difficult, if not impossible for our club to offset the loss of 10 percent of its national television revenue, and doing so would simply impose greater burdens on our fans. By focusing on equally shared national television revenue, the bill actually magnifies the problem of revenue disparities between large market and small market teams, and thereby threatens the viability of small market teams and competitive balance on the playing field that has allowed teams like Carolina and Green Bay to be successful.

A further inequitable consequence of the bill is that the revenue taxed away from teams like Carolina and Green Bay would be disproportionately used to fund the construction of stadiums in larger cities, simply because those projects are generally more costly. In short, the bill would impose greater burdens on small market clubs,

¹ Those contracts also require that all of a team's road games be televised back to its home fans. If the home games are sold out, they are similarly televised to the fans in the home city. All of these games are shown on free television—even the Sunday night ESPN game is simultaneously televised on free television in the markets of the competing teams. These requirements are of great benefit to our fans and is unique in professional sports.

which I believe is precisely the opposite of what was intended by Congress when it originally enacted the Sports Broadcasting Act.

Answer 2. I understand that you are the chair of the NFL's Stadium Committee. Since passage of the March 1999 resolution providing for League contribution to stadium construction, please tell us about the financing commitments, if any, the League has made to stadium projects.

The NFL has participated in the financing of stadium costs since 1987 with far reaching policies to create public-private partnerships. Last March, the member clubs adopted Resolution G-3, a revision and extension of the initial policy, a copy of which is attached to these responses. This resolution was adopted after careful study by the League's Finance and Stadium Committees, the latter of which I chair. Resolution G-3 enhances the League's participation in the financing of stadium construction and renovation in three principal respects. First, it provides for "up front" League loans *in respect* of private contributions toward construction or renovation costs. Under prior League policy, the League's contribution was made over time (generally 15 years) and was based on the revenues generated by the leasing of premium seats or the sale of personal seat licenses. Under the new resolution, a club is eligible to receive League funding in one or more lump sums at an early stage in the process, which will reduce financing costs, lower the overall cost of the project, and allow for enhanced private contributions.

Second, the amount to be loaned by the League in respect of any given project can be as much as 50 percent of the private contribution toward the stadium project, as opposed to 34 percent under prior League policies. This larger amount is available for any stadium project in one of the six largest television markets. Thus, in one of those markets, a private contribution of \$200 million would result in a League financial commitment of up to \$100 million. Teams not located in one of the six largest television markets are eligible for a loan of 34 percent of the private contribution to the project, as was the case under the previous stadium financing program. However, as previously stated, it would be paid up front.

The potential for a contribution equal to 50 percent of the private commitment to stadium projects in the largest television markets recognizes the League's shared interest in maintaining a strong presence in those cities, which in turn is of considerable importance to our network partners. This of course benefits teams like Carolina and Green Bay, which share equally in the revenues from the national television agreements.

Third, the loan from the League is not based solely on amounts generated from premium seats or personal seat licenses. Instead, the member clubs have agreed to set aside a portion of their national television revenues to repay a portion of the loan from the League. This direct assessment of the national television revenues means that all clubs will contribute to the financing of new and improved stadium facilities and will reduce the need for clubs to rely on premium seating or sell personal seat licenses to finance stadium projects.

Following the approval of Resolution G-3, the member clubs approved requests for League financial assistance relating to stadium projects in Denver, New England and Philadelphia. Because New England and Philadelphia are each located in one of the six largest television markets, they are eligible to receive a loan equal to 50 percent of the private contribution to those projects. In the case of Denver, the membership approved a loan equal to 34 percent of the private contribution to that project. Copies of the resolutions approving those loans are attached to these responses. The projects in Denver, New England and Philadelphia will likely result in private contributions of over \$600 million, with a substantial contribution to each being made by the League. We anticipate that over the next several years League financing commitments will increase significantly.

Answer 3. It is my understanding that public and economic support for stadium projects varies considerably from state to state, city to city. Consequently, I wonder whether local communities, the League and the teams should be able to decide among themselves, without Federal intervention, how to finance stadium construction projects. Do you believe that the local communities, not the Federal Government, are best equipped to deal with this issue?

I agree completely with the premise underlying your question. In my years as Chairman of the Stadium Committee, I have worked on stadium projects in communities throughout the country. Those projects have been in both large and small markets, have had different mixes of public and private financing, and have followed different paths leading to the approval—or in some cases, the rejection—of the project being considered. I have learned that there are as many different solutions to stadium issues as there are communities in this country. As a result, teams

and communities have developed a number of creative public-private financial partnerships to address stadium issues.

Stadium proposals receive a great deal of scrutiny from local officials and voters, who make decisions that reflect local economics and community needs. In my judgment, the best way to handle these issues is to allow the local owner and the elected officials and taxpayers of that community to address the team's stadium needs and how they will be financed. That is not to say that the National Football League cannot play a constructive role, which I believe we have done in many communities. The resolution approved last March is a further example of how the NFL can and will contribute in the future. But it is clear to me, as I testified last summer, that a "one size fits all" approach to stadium financing is not only unfair to NFL teams and their fans, but ignores the particular factors present in each individual community. Given this reality, I do not think there is any national interest that calls for Congress to override the carefully considered judgments of state and local governments, or the results of direct voter referenda, by imposing a Federal approach to what is a particularly local issue.

1999 RESOLUTION G-3—AS AMENDED

Whereas, it is appropriate to improve the League's current policies to support new stadium construction through club seat sharing exemptions, as reflected in the club seat sharing exemption guidelines adopted by the League in 1994 (the "Guidelines"), and through PSL sharing exemptions.

Whereas, a revised policy can facilitate new stadium construction projects by (1) making upfront League loans in support of Clubs' private contributions to such projects (rather than annually exempting from sharing the visiting team share ("VTS") of club seat premiums over a period up to 15 years) and (2) assuring that League loans will amount to at least 34 percent of an affected Club's private contribution to a project:

Whereas, such League loans should be subject to member club approval on a case-by-case basis;

Be it Resolved:

(1) That for any stadium construction project involving a private investment for which an affected Club makes a binding commitment from now through the 2002 NFL season (through March 31, 2003), the League shall make a loan to the affected Club to support such project based on the amount that the affected Club has committed to such project as a private contribution (the "Private Contribution");

(2) That the amount of such League loan shall range from 34 percent to 50 percent of the Private Contribution, determined on a case-by-case basis based on the size of the Private Contribution, with incremental League loans in excess of 34 percent generally to be made available to facilitate stadium construction projects in the largest markets that are home to an NFL Club, and with the League loans in smaller markets generally limited to 34 percent of the Private Contribution;

(3) That the Commissioner is authorized to make arrangements for the League to borrow from commercial or institutional lenders funds to make such League loans, with the funds to be repaid to such lenders over an appropriate time period (10 years of such other period as may be determined by the Finance Committee);

(4) That the specific borrowings from commercial or institutional lenders related to any stadium construction project must be approved as part of the League's approval of a League loan to such project, with the borrowings to be repaid principally from the VTS of club seat premiums generated by such project, and, to the extent that the VTS of club seat premiums is insufficient to repay such loans, with any incremental funds needed for repayment to be assessed against the League's network television revenues;

Further Resolved:

(1) that if PSL's are sold with respect to a particular stadium construction project, such PSL's shall be eligible for an exemption from sharing in accordance with current policies;

(2) that the amount of VTS exempted in respect of PSL's sold shall be offset against the principal amount of League loans available for the project; and

(3) that for purposes of determining whether a project is eligible for incremental League loans, only the first \$75 million of PSL proceeds shall be treated as a portion of the Private Contribution;

Further Resolved:

(1) That any League loan under the League policy adopted by this resolution, as between an affected Club and the League, shall be forgiven over the term of the aforementioned League borrowing on an equal annual basis, and

(2) That, if an affected Club that receives a League loan under the League policy adopted by this resolution (or a controlling interest therein) is subsequently sold other than to a member or members of an owner's immediate family (as defined in the NFL Constitution and Bylaws) before the final maturing date of the League loan, then the selling party shall repay to the League from the sale proceeds at closing an amount equal to the outstanding principal balance on the League loan; and *Further Resolved*, that in order for a stadium construction project involving a Private Contribution to qualify for a League loan, the conditions set forth in Attachment A to this resolution must be satisfied.

SUBMITTED BY FINANCE COMMITTEE AND STADIUM COMMITTEE

Reason and Effect: To modify and simplify the League's policies with respect to stadium construction projects to provide for amount other things, (1) a standard 34 percent League loan towards the private contribution to such projects, (2) such League loan to be made upfront at the beginning of such projects from funds to be borrowed by the League, and (3) an incremental League loan (in excess of 34 percent in respect of such projects in the largest markets.

Attachment A

(a) The League must approve a resolution specifically directing in the making of a loan in respect of a particular stadium construction project, following an evaluation of (1) the necessity of a new or renovated stadium in a market in terms of the suitability, economic competitiveness, and physical condition of the existing facility, the stadium's importance to League franchise stability, the League's concerns regarding its national image and presence, the importance of an affected market to the League's national television ratings, and other League business priorities, and (2) the specific attributes of the project, including the scope and cost of the project relative to the economics in a market and the League as a whole, the balance of projected shareable and non-shareable revenue streams and the construction costs associated with each, whether a renovation project is a "qualifying" project (as defined in the Guidelines), and similar factors;

(b) Such resolution must be adopted and the stadium construction project must be committed to by both public and private parties, from now through the 2002 NFL season (through March 31, 2003);

(c) The stadium construction project must be a "public-private partnership" with both public authorities and an affected Club each have committed funds;

(d) The project must not involve any relocation of or change in an affected Club's "home territory" (as defined in the Constitution and By-laws);

(e) Increases in the visiting team share generated by the new or renovated stadium must meet the standards set forth in the Guidelines; and

(f) The NFL Players Association must agree to exclude from DGR, over a reasonable period of time on a straight-line amortization basis, the entire amount of the Private Contribution, together with an amount equal to the imputed interest on the Private Contribution at a commercially reasonable interest rate.

1999 RESOLUTION JC-3

Whereas, 1999 Resolution G-3 as amended established a new League policy to facilitate new stadium construction projects;

Whereas, the Philadelphia Eagles are prepared to participate in a public-private partnership for the construction of a new stadium in downtown Philadelphia;

Whereas, the member clubs have determined that the Philadelphia stadium project, as described to the membership, will serve the League's interests by creating a new and much needed facility in a major television market and by increasing Visiting Team Share over that generated by the Eagles' current stadium;

Whereas, the member clubs have determined that the Philadelphia stadium project qualifies for a stadium construction contribution from the League under the criteria set forth in 1999 Resolution G-3.

Be It Resolved, that the League shall make a loan to support the Philadelphia stadium project, which loan shall be made to the Eagles, the stadium project, and/or a stadium company that the Eagles may choose to create in connection with the stadium project, and the amount of which loan (a) shall be determined based upon guidelines developed and applied jointly by the finance and Stadium Committees and to be reviewed by the NFLPA and (b) shall be based on the club's "Private Contribution," as defined in 1999 Resolution G-3;

Further Resolved, that the amount of such Private Contribution shall be subject to verification and audit in accordance with procedures to be determined and approved by the Finance and Stadium Committees and to review by the NFLPA as contemplated by 1999 Resolution G-3 and related agreements between the NFL Management Council and the NFLPA);

Further Resolved, that the amount of such League loan shall be 50 percent of the Private Contribution, as so determined;

Further Resolved, that the Commissioner is hereby authorized to make arrangements for the League (or a League affiliate created to administer the stadium contribution program) to borrow funds to make such loan on terms consistent with 1999 Resolution G-3;

Further Resolved, that any such loan shall be repaid first from the VTS of PSL's and club seat premiums generated by the Philadelphia stadium project (the amount of which shall be subject to verification and audit in accordance with procedures to be determined and approved by the Finance and Stadium Committees), with any incremental funds needed for repayment to be assessed against the League's network television revenues;

Further Resolved, that the aforementioned League loan shall be forgiven over the term of the aforementioned League borrowing in a manner consistent with 1999 Resolution G-3;

Further Resolved, that if the Eagles, any stadium company that may be created in connection with the Philadelphia stadium project, or a controlling interest in either of them, is sold other than to a member or members of the current owner's immediate family before the final maturity date of the League loan, the selling party shall repay to the League from the sale proceeds at closing an amount equal to the outstanding principal balance on the League loan, computed solely for purposes of determining such repayment amount by subtracting one-fifteenth of the initial principal balance of such loan from such initial principal balance for each year that such loan has been outstanding;

Further Resolved, that the terms and conditions of the stadium contribution granted hereby shall be evidenced by agreements with all relevant parties acceptable in form and substance to the Commissioner, and that the Commissioner shall execute and deliver such agreements on behalf of the League, which shall contain such additional specific terms and conditions as the Commissioner may deem necessary or appropriate.

SUBMITTED BY FINANCE AND STADIUM COMMITTEES

Reason and Effect: To approve in principle a stadium construction contribution for a new stadium to be constructed in downtown Philadelphia.

VOTE	DISPOSITION
For _____	
Against _____	
Abstain _____	
Absent _____	

1999 RESOLUTION JC-4

Whereas, a new stadium for the Denver Broncos is being constructed through a public-private partnership;

Whereas, Pat Bowlen has created a separate company, Stadium Management Company ("SMC"), which he controls, to borrow monies to fund the Broncos' private investment in the new stadium, to hold the master lease for the stadium, and to operate the stadium following its construction;

Whereas, the final terms of the debt to be incurred by SMC to fund the Broncos' contribution to the stadium project, the financial terms of the master lease between SMC and the Denver stadium district, and the financial terms of the sublease between SMC and the Broncos have been submitted for Executive Committee approval as required by 1988 Resolution FC-3 and 1988 Resolution FC-5; and

Whereas, as described to the membership, the Broncos' new stadium project will serve the League's interests by creating a new and much needed facility in an important League market and by increasing Visiting Team Share over that generated by the Broncos' current stadium; and

Whereas, the member clubs have determined that the Denver stadium project qualifies for a stadium construction contribution from the League under the new League policy established by 1999 Resolution G-3 (as amended) to facilitate new stadium construction projects;

Be it Resolved, that the terms of the financing agreements to be entered into by SMC to fund construction of the Broncos' new stadium (including the required temporary and limited waiver of the debt ceiling) be, and hereby are, approved;

Further Resolved, that the financial terms of the master lease and sublease for the new stadium be, and hereby are, approved;

Further Resolved, that the debt and lease approvals granted hereby, and the terms and conditions thereof (including that if, at any time, a transaction is proposed after which the Broncos and SMC shall no longer be commonly owned and controlled, the sublease will be amended, subject to then-outstanding stadium financing obligations, so that the Broncos will have the right to receive substantially all football-related asset streams from the stadium and the obligation to pay SMC a negotiated arms'-length rent from such revenues), shall be reflected in customary letter agreements among relevant parties in form and substance satisfactory to the Commissioner and the Finance Committee;

Further Resolved, that the League shall make a loan to support the Denver stadium project, which loan shall be made to SMC, the Broncos, and/or the stadium project, and the amount of which loan (a) shall be determined based upon guidelines developed and applied jointly by the Finance and Stadium Committees and to be reviewed by the NFLPA and (b) shall be based on the club's "Private Contribution," as defined in 1999 Resolution G-3;

Further Resolved, that the amount of such Private Contribution shall be subject to verification and audit in accordance with procedures to be determined and approved by the Finance and Stadium Committees and to review by the NFLPA as contemplated by 1999 Resolution G-3 and related agreements between the NFL Management Council and the NFLPA);

Further Resolved, that the Commissioner is hereby authorized to cause funds to be borrowed by the League (or a League affiliate created to administer the stadium contribution program) on terms consistent with 1999 Resolution G-3 in order to make such loan in support of the Denver stadium project;

Further Resolved, that such loan shall be repaid first from the Visiting Team Share of club seat premiums generated by the Denver stadium project (the amount of which shall be subject to verification and audit in accordance with procedures to be determined and approved by the Finance and Stadium Committees), with any incremental funds needed for repayment to be assessed against the League's network television revenues;

Further Resolved, that the aforementioned League loan shall be forgiven over the term of the aforementioned League borrowing in a manner consistent with 1999 Resolution G-3;

Further Resolved, that if the Broncos and/or SMC, or a controlling interest in either of them, is sold other than to a member or members of the current controlling owner's immediate family (as defined in the NFL Constitution and Bylaws) before the final maturity date of the League loan, the selling party shall repay to the League from the sale proceeds at closing an amount equal to the then-outstanding principal balance on the League loan, computed solely for purposes of determining such repayment amount by subtracting one-fifteenth of the initial principal balance of such loan from such initial principal balance for each year that such loan has been outstanding; and

Further Resolved, that the terms and conditions of the stadium contribution granted hereby shall be evidenced by agreements with all relevant parties acceptable in form and substance to the Commissioner, and that the Commissioner shall execute and deliver such agreements on behalf of the League, which shall contain such additional specific terms and conditions as the Commissioner may deem necessary or appropriate.

SUBMITTED BY FINANCE AND STADIUM COMMITTEES

Reason and Effect: To approve the financial terms of the Broncos' new stadium lease documents, their stadium construction financing documents and the related debt ceiling waiver, and a stadium construction contribution to be made to the Broncos under 1999 Resolution G-3.

VOTE	DISPOSITION
For _____	
Against _____	
Abstain _____	
Absent _____	

1999 RESOLUTION JC-5

Whereas, 1999 Resolution G-3, as amended established a new League policy to facilitate new stadium construction projects;

Whereas, the New England Patriots have undertaken to participate in a public-private partnership for the construction of a new stadium in Foxboro, Massachusetts;

Whereas, the member clubs have determined that the Foxboro stadium project, as described to the membership, will serve the League's interests by creating a new and much needed facility in a major television market and by increasing Visiting Team Share over that generated by the Patriots' current stadium;

Whereas, the member clubs have determined that the Foxboro stadium project qualifies for a stadium construction contribution from the League under the criteria set forth in 1999 Resolution G-3.

Be it Resolved, that the League shall make a loan to support the Foxboro stadium project, which loan shall be made to the Patriots, the stadium project, and/or a stadium company that the Patriots may choose to create in connection with the stadium project, and the amount of which loan (a) shall be determined based upon guidelines developed and applied jointly by the Finance and Stadium Committees and to be reviewed by the NFLPA and (b) shall be based on the club's "Private Contribution." as defined in 1999 Resolution G-3;

Further Resolved, that the amount of such Private Contribution shall be subject to verification and audit in accordance with procedures to be determined and approved by the Finance and Stadium Committees and to review by the NFLPA as contemplated by 1999 Resolution G-3 and related agreements between the NFL Management Council and the NFLPA;

Further Resolved, that the amount of such League loan shall be 50 percent of the Private Contribution, as so determined;

Further Resolved, that the Commissioner is hereby authorized to cause funds to be borrowed by the League (or a League affiliate created to administer the stadium contribution program) on terms consistent with 1999 Resolution G-3 in order to make such loan in support of the Foxboro stadium project;

Further Resolved, that any such loan shall be repaid first from the VTS of PSL's and club seat premiums generated by the Foxboro stadium project (the amount of which shall be subject to verification and audit in accordance with procedures to be determined and approved by the Finance and Stadium Committees), with any incremental funds needed for repayment to be assessed against the League's network television revenues;

Further Resolved, that any such League loan shall be forgiven over the term of the aforementioned League borrowing in a manner consistent with 1999 Resolution G-3;

Further Resolved, that if the Patriots, any stadium company created in connection with the Foxboro stadium project, or a controlling interest in either of them, is sold other than to a member or members of the current owner's immediate family before the final maturity date of the League loan, the selling party shall repay to the League from the sale proceeds at closing an amount equal to the outstanding principal balance on the League loan, computed solely for purposes of determining such repayment amount by subtracting one-fifteenth of the initial principal balance of such loan from such initial principal balance for each year that such loan has been outstanding;

Further Resolved, that the terms and conditions of the stadium contribution granted hereby shall be evidenced by agreements with all relevant parties acceptable in form and substance to the Commissioner, and that the Commissioner shall execute and deliver such agreements on behalf of the League, which shall contain such additional specific terms and conditions as the Commissioner may deem necessary or appropriate.

SUBMITTED BY FINANCE AND STADIUM COMMITTEES

Reason and Effect: To approve in principle a stadium construction contribution for a new stadium to be constructed in Foxboro, Massachusetts.

VOTE	DISPOSITION
For _____ Against _____ Abstain _____ Absent _____	

