

than one mutual fund would allow the more diverse common trust assets to be allocated to several mutual funds according to the appropriate investment and other objectives of the mutual funds. While the multiple conversion feature will benefit all banking institutions, it is particularly significant for small and medium-size banks with smaller common trust funds; these institutions generally find it far too costly to create their own mutual funds, and they are not likely to find a single third party mutual fund for each common trust fund able to accept substantially all the assets of the common trust fund.

While this legislation has been estimated to cost less than \$100 million over five years, I am very mindful of the need to ensure that tax-law changes, no matter how appropriate and essential, do not add to the federal deficit that we are all trying so hard to eliminate. Therefore, it may be necessary to modify this proposal in order to reduce its revenue cost to a negligible level. Unfortunately, as is the case with many tax policy changes, modifications to the legislation that address revenue concerns may make the proposal more complex to administer, however, I am willing to make this trade off if it becomes absolutely necessary in order to include this legislation in a revenue bill later this year. In addition, I intend to introduce legislation soon—also related to financial institutions—to create financial securitization investment trusts [FASITs] that should provide the necessary revenue offset to pay for this proposal.

My legislation addresses an important business issue for large and small banks, and an important investment issue for their customers. Versions of this legislation have passed the Congress on two separate occasions with my strong support in the Senate. Given its modest cost, its noncontroversial nature and its widespread support, I am hopeful that this much needed legislation will be enacted this year.

Let me make a few short comments to summarize why I believe this legislation to permit conversions of common trust funds into mutual funds without the recognition of gain or loss should be enacted:

It will permit all bank customers, not just trust customers, more options for investing their savings.

It will make banks more competitive. Many savers are abandoning bank certificates of deposit for the competition, and banks are unable to offer their customers an option.

Customers are unfamiliar with common trust funds, but do understand mutual funds. Therefore, mutual funds are more attractive to them.

The conversion is like a merger of two existing registered funds which allows securities to move intact from one fund to another with no tax consequences, so there is no "sale". The participant's underlying investment is

unchanged. As a result, we also believe that there should not be a revenue loss associated with this proposal. No revenue would be gained under current law, because banks have a fiduciary duty to their customers and they would not incur a capital gains tax in order to make the conversion unless this law is changed. Therefore, the idea that retaining current law will somehow result in more revenue is misplaced.

PROPOSAL TO PERMIT TAX-FREE CONVERSION OF COMMON TRUST FUND ASSETS TO ONE OR MORE MUTUAL FUNDS

CURRENT LAW

Banks historically have established common trust funds in order to maintain pooled funds of small fiduciary accounts. Under section 584, common trust funds must be maintained by banks exclusively for the collective investment of monies in the banks' capacity as trustee, executor administrator, or guardian of certain accounts, in conformity with rules established by the Federal Reserve and the Comptroller of the Currency. Common trust funds are not subject to income tax, and they are not treated as corporations. They are a conduit, with income "passed through" to fund participants for tax purposes.

Mutual funds are also considered conduits under the Tax Code. Unlike common trust funds, however, mutual funds are treated as corporations. As a result of this differing tax treatment, it is unclear whether a mutual fund may merge with or acquire the assets of a common trust fund in a transaction that is tax-free to the common trust fund and its participants.

REASONS FOR CHANGE

The economic efficiencies, diversification, and liquidity of mutual funds are key reasons for their popularity and growth in recent years. These are attributes that are not generally found in common trust funds. It would be desirable for banks to convert their existing common trust funds into mutual funds so that bank customers, including trust participants, may take advantage of the benefits of mutual funds. The conversion of its common trust funds into one or more mutual funds would also benefit banks by providing them with one set of investment pools to manage.

Permitting tax-free conversions of a common trust fund to more than one mutual fund would allow the more diverse common trust fund assets to be allocated to several mutual funds according to the appropriate investment and other objectives of the mutual funds. The multiple conversions feature is particularly significant for banks with small common trust funds, which probably would not be able to find a single mutual fund with the same investment objectives of a common trust fund.

However, until current law is clarified, it appears that the conversion of common trust fund assets into one or more mutual funds would trigger tax to the participants of the common

trust fund, an event that could be viewed under State laws as a breach of a bank's fiduciary responsibilities. Thus, at present, banks generally are finding it prohibitive to convert their common trust funds into more economically efficient mutual funds.

PROPOSAL

This proposal would allow a common trust fund to transfer substantially all of its assets to one or more mutual funds without gain or loss being recognized by the trust fund or its participants.

The common trust fund would transfer its assets to the mutual funds solely in exchange for shares of the mutual funds, and the common trust fund would then distribute the mutual fund shares to its participants in exchange for the participants' interests in the common trust fund. The basis of any asset received by the mutual fund would be the basis of the asset in the hands of the common trust fund prior to the conversion. In a conversion to more than one mutual fund, the basis in each mutual fund would be determined by allocating the basis in the common trust fund units among the mutual funds in proportion to the fair market value of the transferred assets.

This proposal has been designed to have a minimal cost to the Federal Treasury, and versions of this proposal have been passed by the Congress on two previous occasions. The benefits of such a change would be felt by customers of large and small banking institutions throughout the country, and has the support of both the mutual funds and banking industries.●

ADDITIONAL COSPONSORS

S. 131

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 131, a bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act.

S. 247

At the request of Mr. GREGG, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 247, a bill to improve senior citizen housing safety.

S. 457

At the request of Mr. SIMON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

S. 470

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 470, a bill to amend the Communications Act of 1934 to prohibit the distribution to the public of violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience.

S. 491

At the request of Mr. BREAUX, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 491, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the medicare program for individuals with diabetes.

S. 628

At the request of Mr. KYL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 643

At the request of Mrs. MURRAY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 643, a bill to assist in implementing the plan of action adopted by the World Summit for Children.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

S. 758

At the request of Mr. HATCH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

S. 772

At the request of Mr. DORGAN, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 772, a bill to provide for an assessment of the violence broadcast on television, and for other purposes.

S. 774

At the request of Mr. MACK, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 774, a bill to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans.

S. 847

At the request of Mr. GREGG, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 847, a bill to terminate the agricultural price support and production adjustment programs for sugar, and for other purposes.

S. 852

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 852, a bill to provide for uniform management of livestock grazing on Federal land, and for other purposes.

S. 877

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 877, a bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section.

S. 896

At the request of Mr. CHAFEE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 896, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes.

S. 923

At the request of Mr. DORGAN, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 923, a bill to amend title 23, United States Code, to provide for a national program concerning motor vehicle pursuits by law enforcement officers, and for other purposes.

S. 959

At the request of Mr. HATCH, the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Rhode Island [Mr. PELL], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Oregon [Mr. HATFIELD], the Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. FORD], the Senator from Alaska [Mr. STEVENS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Resolution 103, A resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the names of the Senator from Maine [Ms. SNOWE], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Resolution 117, A resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home

located in the United States should not be further restricted.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Resolution 146, A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week", and for other purposes.

AMENDMENT NO. 1507

At the request of Mr. ROTH the names of the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Amendment No. 1507 proposed to S. 343, a bill to reform the regulatory process, and for other purposes.

SENATE RESOLUTION 150—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 150

Whereas, the plaintiffs in *Barnstead Broadcasting Corporation and BAF Enterprises, Inc. v. Offshore Broadcasting Corporation*, Civ. No. 94-2167, a civil action pending in the United States District Court for the District of Columbia, are seeking the deposition testimony of Barbara Riehle and John Seggerman, Senate employees who work for Senator John Chafee;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas or requests for testimony issued or made to them in their official capacities: Now, therefore, be it

Resolved, That Barbara Riehle and John Seggerman are authorized to provide deposition testimony in the case of *Barnstead Broadcasting Corporation and BAF Enterprises, Inc. v. Offshore Broadcasting Corporation*, except concerning matters for which a privilege should be asserted; and

SEC. 2. That the Senate Legal Counsel is authorized to represent Barbara Riehle and John Seggerman in connection with the deposition testimony authorized by this resolution.