Under Carol Browner began a shake-up, and they began to get through all the problems.

Here we are. My friend is right. This is not only important for the environment, and not only bipartisan, as he pointed out, but it is really, in my view, a probusiness situation. When they leave behind a mess such as this, then they go somewhere else and go before the planning commission in some little place in Illinois, or California, or Louisiana, and this big company XYZ wants to come in and do some work over here with a plant, what is their record? Now the county supervisor or the planning commission can look back and say: Oh, my God, the XYZ company left a mess in California. The truth is that the company is not going to be welcomed.

To me, it is probusiness to clean up your mess. It is going to help your business. It is, in fact, a part of corporate responsibility. It is our responsibility to make sure that polluters pay.

I want to share a chart with my friend that shows what has happened with this program.

In 1995, 82 percent of the cleanup was paid by industry. Either through responsible parties coming forward and paying for the mess they made, or the Superfund itself—as my friend points out, as opposed to the dollars that are collected from a fee on polluters—only 18 percent had to be made up by the general taxpayers.

By 2003, if the situation continues to deteriorate under this President, 46 percent of the cleanup is going to be paid for by our constituents who had nothing to do with the dumping of those materials. This should fall on the people who made the mess. The polluters should pay. It is part of the Superfund.

As we talk about corporate irresponsibility and as we talk about ways we can put confidence back into the system, we shouldn't forget that corporate responsibility is reflected in the Superfund Program. It has been reflected. It has been a successful program. That is why it was embraced by many Republicans. That is why I hope it will be again embraced by many, although I am very concerned, frankly, that the bipartisan nature of this is slipping away in this atmosphere today.

I am very proud to have Senator CHAFEE of Rhode Island as the key Republican sponsor of the Superfund legislation.

Mr. DURBIN. If the Senator will yield for one last question, is this not the same basic concept as protecting pensions? If a corporation accepts the responsibility of going into business, hiring people, making a promise that the people who work for them when they retire will have a pension, then that corporation violates its trust and responsibility and destroys the pension, like the Enron officers cashing in on stock while the pensioners were losing everything they had in their 401(k)s isn't this a similar situation where if a business in America says, I want to create a business here and I want to try to make a profit and I am going to hire people to do it, isn't there kind of a social contract involved here that says: You can't pollute the land and walk away from it as part of doing business in America; part of your responsibility as a corporation is to take responsibility for keeping that natural heritage we all respect so much protected.

Eliminating Superfund takes away the responsibility of these corporations to clean up their own mess and says no to the families at large and businesses across America: It is now your responsibility.

It seems to me, whether we are talking about pensions or the environment, corporate responsibility really applies at the same level. I ask the Senator from California, does she see a distinction here? I do not.

Mrs. BOXER. That is an excellent analogy. If a corporation makes certain promises to the people they employ and that is part of the contract and if a corporation comes into a community to be a good neighbor and that is part of the deal, then they should not walk away from either. That is why it is important sometimes that the Government, the House and Senate, the President, make sure that we get in and restore justice.

Talk about justice, a lot of these sites—take a look at the sites shown in purple on the chart—are the major polluted sites. They are in every State but North Dakota. My State has the second number. New Jersey has the first. Illinois is up there, unfortunately. There are many States that are affected.

We are talking about walking away from a lot of places when we deplete the Superfund. We are walking away from ''polluter pays.''

I thank my friend. There is a definite analogy to be made. He has made it very clearly, as he usually does when we talk about the issue of corporate responsibility.

Today we are concentrating on the WorldComs and Global Crossings and the Enrons and Arthur Andersens and the ImClones. We know those names now. Those names and what is behind those names has propelled us in the Senate to take up the very important Sarbanes bill. The Leahy bill will be added, and the bill will become the Sarbanes-Leahy bill. We have been propelled into action because of, as President Bush says, these bad actors.

I think it goes beyond that to the system. There are no checks and balances in that system. If we don't have a Superfund, I say to the Senator, we have no check and balance on those bad actors who would walk away.

Let me say to my friend, is he familiar with that site I talked about that was cleaned up?

Mr. DURBIN. I am. I say to the Senator from California, we have three Superfund sites in the State of Illinois, another 18 that must go on the list, and 6 others we think could be eligible. Frankly, if the Bush administration's proposal goes through, it means no Superfund, no money, no cleanup. That means the public health hazard will remain.

Today the President will go to New York to talk about corporate responsibility. He wants to throw the bad actors in jail. That makes sense. The simple fact is, an actress accused of shoplifting in California is facing potentially more prison time than any officer of Enron is facing today. I might say, if the President's premise, his principle is sound, why do we stop and say it is just when it comes to accounting? If a corporation walks away from its responsibility in terms of cleaning up the environmental mess they have left behind, why aren't we talking about that as being the kind of misconduct that should not only be condemned but punished?

Instead, the administration has said: We don't even want to hold them liable for paying for it. No penalty, no crime, they are not even going to be liable for paying for the cleanup.

The Senator from California has made the point so well today: Corporate responsibility goes way beyond accounting. It goes into the handling of pensions. It goes into the environmental responsibility that corporations have.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. LANDRIEU). According to the earlier order, morning business is now closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 4174

(Purpose: To provide for criminal prosecution of persons who alter or destroy evidence in Federal investigations or defraud investors of publicly traded securities, and for other purposes)

Mr. DASCHLE. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DASCHLE], for Mr. LEAHY, for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, and Mr. KERRY, proposes an amendment numbered 4174.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DASCHLE. Madam President, on behalf of Senator LEAHY and others, I offer this amendment which is identical to the Corporate and Criminal Fraud Accountability Act, S. 2010, passed unanimously by the Judiciary Committee some time ago.

I view the Leahy amendment as a necessary complement to the Sarbanes bill. In fact, I think of them as two parts of a vital whole—one element guarantees the truth and honesty of corporate accounting. The other is a deterrent. It says that corporate misrepresentation will be forcefully punished—with jail time.

We need both. We need to improve oversight and independence of the accounting profession and hold corporate wrongdoers accountable for their actions.

We need to act comprehensively to fulfill our promise to the American people that integrity, honesty, and accountability will be restored to our markets.

Last week Senator LEAHY and I wrote to the President requesting his views on this bill and the Sarbanes accounting reform bill.

Unfortunately, the President has not answered our letter yet. But I hope to hear today—and I think we need to hear today—that he supports and will sign both.

We welcome the President's apparent new enthusiasm for reforming our corporate culture, and we look forward to working with him.

The administration needs to understand that the time for half measures has long passed. The American people expect and deserve comprehensive reform.

Combining the Leahy bill and the Sarbanes bill accomplishes just that. The Sarbanes bill revamps the regulatory structure that protects our markets. There will be better rules and a new oversight body to send corporations and accountants a clear message that they must tell the truth on their balance sheets.

The Leahy bill is every bit as vital. Let me summarize a few of its provisions very quickly. The amendment has three aims: punishing criminals; preserving evidence; and protecting victims.

The Leahy amendment punishes criminals by creating a tough new 10-year felony for securities fraud. It provides prosecutors with a new tool that is flexible enough to keep up with the most complex new fraud schemes and tough enough to deter violations on the front end. It also provides a mechanism to raise the fraud sentences that are already on the books.

The amendment also preserves evidence of fraud. It creates two new criminal anti-shredding provisions in federal law. As we say in the Arthur Andersen case, even the most straightforward obstruction of justice cases can be difficult to prove under current law.

Senator LEAHY's bill closes the loopholes and makes document destruction in fraud cases an unambiguous crime.

The amendment does not just protect ''paper evidence,'' it also protects valuable testimony from people. For the first time, the Leahy bill creates federal protection for whistleblowers. People like Sherron Watkins of Enron will be protected from reprisal for the first time under federal law. This bill is going to help prosecutors gain important insider testimony on fraud and put a permanent dent in the ''corporate code of silence.''

Finally, the amendment will protect victims of fraud. By extending the time period during which victims can bring cases to recoup their losses, the Leahy bill removes the reward for those fraud artists who are especially gifted at concealing what they've done for lengthy periods of time.

Cases where victims have lost their entire life savings should be decided on the merits, not based on procedural hurdles that may now be used to throw legitimate victims out of court.

The Leahy bill also prevents fraud artists from declaring bankruptcy to shut out their victims. The amendment would accomplish this by making security fraud debts nondischargeable in bankruptcy.

Again, the Leahy provisions enjoyed broad bipartisan support in the Judiciary Committee when passed unanimously in April. They are needed now more than ever, as the number and magnitude of corporate misstatements continues to pile up and the lost jobs, lost pensions, and ruined lives continue to mount.

We must act to punish criminals, no matter what color their collar. I hope all Senators will support this amendment.

Madam President, the country will be listening intently to what the President says this morning. A crucial test will be whether he explicitly supports—and pledges to sign—the Sarbanes bill with the Leahy legislation attached. We cannot restore confidence in the integrity of our markets with anything else.

Senator LEAHY is on the floor.

Mr. LEAHY. Will the majority leader yield?

Mr. DASCHLE. Yes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I very much appreciate what my good friend, the distinguished majority leader, has said. I also compliment him for his leadership on corporate accountability. Sometime ago, he asked the Chairs of the various committees with possible jurisdiction in this area to get together and craft comprehensive legislation. I recall that meeting very well. I recall the majority leader—back at the time of Enron, before WorldCom and these other business scandals came forward—expressing his concern that not only is this a blight on the business community, it is a blight on our system of doing things. He also spoke about how terrible it was for those people, not only workers who had their pensions tied up in the fortunes of the companies they are working with and are relying on for truthfulness—what they assumed is the truthfulness—of the accounting statements of those companies, but also many other people who invest, whether it is a farmer in South Dakota or a merchant in a small town in Vermont who is putting savings in and hoping this will be part of his retirement.

The majority leader made it very clear to all of us that we were to set politics aside, we were to set any kind of special interests aside, and we were to bring up the best legislation possible for the people of America. That was what Senator DASCHLE charged us to do, and that is what I am trying to do with this amendment.

We have excellent accounting reform legislation, S. 2673, crafted by Chairman SARBANES and the Senate Banking Committee. I commend Senator SARBANES and the other members of the Banking Committee—for their bipartisan leadership. Senator SARBANES had people on both sides of the aisle come out with this legislation, and I am proud to cosponsor it.

My amendment is to add to Senator SARBANES' legislation, not to detract from it. As he knows, I offered to add a criminal penalty and other provisions that are within the jurisdiction of the Judiciary Committee.

My amendment is cosponsored by Senator MCCAIN and the majority leader, Senators DURBIN, HARKIN, CLELAND, LEVIN, KENNEDY, BIDEN, FEINGOLD, MILLER, EDWARDS, BOXER, CORZINE, KERRY, SCHUMER and BROWNBACK. Our amendment is identical to S. 2010, the Corporate and Criminal Fraud Accountability Act that was reported unanimously by both Republicans and Democrats in the Judiciary Committee on April 25.

Again, following the very clear direction the distinguished majority leader gave us when he said we have to protect the people of this country, we have to make sure corporate America can do its best to help our economy, this would create tough new penalties for securities fraud and would preserve evidence of fraud to make sure there is accountability for crimes that not only cheat investors but rob the markets themselves of the public trust. The markets have stolen the public's trust.

According to press reports, President Bush has changed his mind on corporate reform and may support new penalties for corporate fraud, and I welcome the President's change of heart. The Corporate and Criminal Fraud Accountability Act creates tough, new, criminal penalties for corporate fraud, and Senator DASCHLE and I have written to the President asking for his support.

The time for watching and handwringing is over. We have to take action to start the slow but critical process of restoring confidence in the books of our publicly traded companies.

The collapse of Enron has become a symbol of a corporate culture where greed has been inflated and accountability devalued. Unfortunately, Enron is no longer alone. Joined by Arthur Andersen, Global Crossing, Tyco, Xerox, and, most recently, WorldCom, the misrepresentations about the financial health of our Nation's largest companies have shaken confidence in our financial markets.

If we do nothing to learn and apply the repeated lessons of the last months, we are only going to compound the problem. That was obviously the belief of the unanimous Judiciary Committee vote when the committee approved S. 2010. Innocent consumers, investors, and employees depend on stock investments for their children's college funds, for their retirement nest eggs, and for their savings. Every week brings news of a new financial scandal. Just look at the effect on the stock market. It has been devastating. This has repercussions not just for companies that depend on our capital markets to grow their businesses and our economy, but certainly also for the average American family. More than one in every two Americans invest in our financial markets, and they are watching what we do here. They deserve action.

Those who defraud investors should be held accountable for their crimes. The Leahy-McCain amendment, the Corporate and Criminal Fraud Accountability Act, is all about accountability and transparency—two bedrocks of our market.

The PRESIDING OFFICER. The Chair states that the majority leader has yielded for a question only while retaining the floor. Is that the intent of the majority leader?

Mr. DASCHLE. Madam President, it was my intention to yield for a question, but I thank the distinguished chair of the Judiciary Committee for his extraordinary leadership and the effort he has made to bring this legislation to the floor.

This is the Leahy amendment and, as I noted, it passed unanimously in large measure because I think he was able to work with our colleagues on both sides of the aisle.

I am happy to yield the floor so he and others may seek recognition.

Mr. LEAHY. My question would be this to the majority leader: Would he agree, in his experience, that nothing would focus the attention more of those executives who have defrauded their own companies and investors than the idea that they would actually go to jail for it, and not walk off with hundreds of millions of dollars?

Mr. DASCHLE. Madam President, it is for that reason that I believe this package ought to be viewed in its entirety. The Sarbanes bill lays out the framework. The Leahy bill lays out the penalties for violating that framework. So I don't know that you can have one without the other and not have a complete package.

So I appreciate very much the work of the Judiciary Committee, and the chair of the Judiciary Committee especially, for the work in allowing this package to come to the floor. I thank him again for the contributions he made.

Several Senators addressed the Chair.

Mr. LEAHY. Madam President, I seek recognition in my own right.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 4175 TO AMENDMENT NO. 4174

Mr. GRAMM. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. LEAHY. Madam President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. What is the rule on recognition? Is it not the Senator who seeks recognition first?

The PRESIDING OFFICER. The Chair understands that the managers of the amendment are entitled to be recognized.

Mr. LEAHY. On my amendment? May I be recognized on my own amendment which is pending before the Chair? Is that correct?

The PRESIDING OFFICER. The managers of the legislation have priority.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, the manager of the underlying bill.

Mr. LEAHY. Would the managers of the amendment include the distinguished senior Senator from Kentucky? Is he one of the managers?

The PRESIDING OFFICER. The managers of the legislation are the Senator from Maryland and the Senator from Texas.

Mr. LEAHY. The distinguished Presiding Officer has recognized, however, the Senator from Kentucky.

The PRESIDING OFFICER. The Chair has recognized the Senator from Texas. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for Mr. MCCONNELL, proposes an amendment numbered 4175 to amendment No. 4174.

Mr. GRAMM. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.

The assistant legislative clerk continued with the reading of the amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I want to make sure people understand what the Leahy-McCain amendment is. I realize there may be those who want to amend it to make life easier.

The PRESIDING OFFICER. Will the Senator from Vermont suspend? The regular order is the reading of the amendment.

Mr. LEAHY. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection to calling off the reading of the amendment? Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for certification of financial reports by labor organizations and to improve quality and transparency in financial reporting and independent audits and accounting services for labor organizations)

At the end of the amendment add the following:

SEC. 302. CORPORATE AND LABOR ORGANIZATION RESPONSIBILITY FOR FINANCIAL REPORTS AND DISCLOSURE REQUIREMENTS.

(a) FINANCIAL REPORTS.—

(1) CERTIFICATION OF REPORTS.—

(A) CERTIFICATION OF PERIODIC REPORTS.—Each periodic report containing financial statements filed by an issuer with the Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or the equivalent thereof) of the issuer.

(B) CERTIFICATION OF FINANCIAL REPORTS BY LABOR ORGANIZATIONS.—

(i) IN GENERAL.—Each financial report filed by a labor organization with the Secretary of Labor pursuant to section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(b)) shall be accompanied by a written statement by the president and secretary-treasurer (or the equivalent thereof) of the labor organization.

(ii) DEFINITION.—In this subparagraph, the term ''labor organization'' has the meaning given the term in section 3 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 402).

(2) CONTENT.—The statement required by paragraph (1) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer or labor organization.

(3) CONFORMING AMENDMENT.—Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 is amended, in the matter preceding paragraph (1), by inserting ''(and accompanied by the statement described in section 302(a)(1)(B) of the Public Company Accounting Reform and Investor Protection Act of 2002)'' after ''officers''.

(b) REPORTING REQUIREMENTS.—

(1) FINANCIAL REPORTING FOR LABOR ORGANIZATIONS EQUIVALENT TO REQUIRED REPORTING

OF PUBLIC COMPANIES.—Section 201 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431) is amended by adding at the end the following:

''(d)(1) In the case of a labor organization with gross annual receipts for the fiscal year in an amount equal to $200,000 or more, the information required under this section shall be reported using financial reporting procedures comparable to procedures required for periodic and annual reports of public companies pursuant to sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78*l*(g), 78m, and 78*o*).

''(2)(A) Such information shall be reviewed by a certified public accountant using generally accepted auditing standards applicable to reporting companies under the Securities and Exchange Act of 1934.

''(B) Such audit shall be conducted subject to requirements comparable to the requirements under section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1).

''(3) Such information shall be reported using generally accepted accounting procedures comparable to the procedures required for public companies under sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78*l*(g), 78m, and 78*o*).

''(4) The authority provided under this subsection shall be in addition to the authority provided under subsection (b) and section 208, regarding reporting procedures and review of information required under this section.''.

(2) REMEDIES AND PENALTIES FOR VIOLATIONS OF REPORTING REQUIREMENTS.—Section 210 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 440) is amended—

(A) by striking ''Whenever'' and inserting ''(a) Whenever''; and

(B) by adding at the end the following:

''(b)(1) If the Secretary finds, on the record after notice and opportunity for hearing, that any person has willfully violated any provision of section 201(d), the Secretary may impose a civil monetary penalty in an amount not to exceed the amount for any comparable violation under section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2).

''(2) In the case of a violation of an auditing requirement under section 201(d)(2) by a public accountant, the Secretary may impose a civil monetary penalty in the same manner as penalties are imposed under section 10A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(d)).

''(3) For purposes of any action brought by the Secretary under paragraph (1), any person who knowingly provides substantial assistance to another person in violation of a provision of section 201(d), or of any rule or regulation issued under such section (including aiding, abetting, counseling, commanding, or inducing such violation) shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.

''(c)(1) Any person who makes or causes to be made any statement in any report or document required to be filed under section 201(d) which statement was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who relied upon such statement. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction.

''(2) In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys' fees, against either party litigant.

''(3) The recovery and statute of limitation provisions of subsections (b) and (c) of section 18 of the Securities Exchange Act of 1934 (15 U.S.C. 78r) shall apply for purposes of any action under this subsection.

''(d) In any action arising under subsection (c) or (d) or in connection with any provision of section 201(d), the provisions of section 27(c) of the Securities Act of 1933 (15 U.S.C. 77z–1(c)) regarding abusive litigation shall apply.''.

(3) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, shall promulgate such regulations as the Secretary determines necessary to carry out the provisions and purposes of this subsection (including the amendments made by this subsection) and to ensure the provisions of this subsection are carried out in a manner comparable to the manner any similar provisions are carried out by the Securities and Exchange Commission.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, so people understand what the Leahy-McCain amendment is, it is the Corporate and Criminal Accountability Act. It is about accountability, and it is about transparency. I think everybody—investors, corporate managers, or anybody else—will tell you that accountability and transparency are the bedrock of our economy, of our markets.

If one is going to invest in a company, one wants to know what the company does and what the books say. One wants to be able to rely upon their reports.

Transparency will instill confidence, and accountability helps enforce transparency and forthright financial decisions. We do not just rely on the better angels of our nature; we rely on the fact that somebody is going to be there to enforce it.

We cannot stop greed, but we can stop greed from succeeding. This bipartisan amendment is going to send wrongdoers to jail and save documents from the shredder, and that sends a powerful and clear message to potential wrongdoers: Don't do it.

The measure enjoys wide support. The amendment is supported by law enforcement officials, regulators, and numerous whistleblowers, and consumer protection advocates. I have letters of support from these advocates, and I will, at the end of my statement, ask consent to print them in the RECORD.

Let me summarize some of the provisions. This bipartisan amendment has three prongs to restore accountability: punishing and preventing fraud, preserving the evidence of fraud, and protecting victims of fraud.

S. 2010, as unanimously reported, accomplishes these goals in a number of ways. It is going to create a tough new Federal felony for securities fraud for a 10-year maximum penalty. The idea of 10 years in the slammer is going to focus the attention of those who are more interested in taking their money and hiding it in offshore bank accounts.

As one who was a prosecutor, I was surprised to learn that unlike bank fraud, health care fraud, and even bankruptcy fraud, there is no specific Federal crime of securities fraud to protect victims of fraud related to publicly traded companies.

Can you imagine, Madam President, while all this talk has been going on, it turns out there is no specific crime of securities fraud. This bill would create such a felony with a tough 10-year jail sentence.

The amendment provides for a review of the existing sentencing guidelines for fraud cases and for organizational misconduct to make them tougher as well.

The new crimes and enhanced criminal penalties in this bill were worked out among Senators HATCH, SCHUMER, and me, and unanimously supported by the Judiciary Committee, and I thank Senators HATCH and SCHUMER for their support.

The Leahy-McCain amendment also creates two new anti-shredding penalties which set clear requirements for preserving financial audit guides and close loopholes in current anti-shredding laws.

These provisions close loopholes in current laws and set a clear requirement that corporate audit documents must be saved for 5 years. We, incidentally, picked that time period because that is the statute of limitation for most Federal crimes.

These provisions are crucial in preventing recurrences of what happened at Arthur Andersen.

These provisions will preserve evidence that helps law enforcement officers and prosecutors focus immediately on the evidence. It takes a few minutes to warm up the shredder, but it can take years for prosecutors and victims to put together a case without key documents.

The amendment protects corporate whistleblowers. Senator GRASSLEY and I worked out these bipartisan measures in the Judiciary Committee. I thank the Senator from Iowa for his assistance and his constant leadership over the years on whistleblower rights.

When sophisticated corporations set up complex fraud schemes, corporate insiders are often the only ones who can disclose what happened and why.

Unfortunately, the Enron case also demonstrates the vulnerability of corporate whistleblowers to retaliation under current law. This is a memo from outside counsel to Enron management. They were afraid there might be a whistleblower. It said:

> You also asked that I include in this communication a summary of the possible risks associated with discharging (or constructively discharging) employees who report allegations of improper accounting practices.

Then he goes on to give them the good news:

> Texas law does not currently protect corporate whistleblowers. The supreme court has twice declined to create a cause of action for whistleblowers who are discharged. . . .

In other words, if they dare tell about corporate misdeeds, fire them, it is not going to hurt.

After this high-level employee of Enron reported improper accounting practices, the Enron executives were not thinking about firing the accountants who were doing wrong; they wanted to fire the whistleblower, their own employee. Why? Because they were pocketing the money. They were getting that money out to their bank accounts as fast as they could, and they did not want anybody to say so.

The bipartisan whistleblower protections are supported by the National Whistleblower Center, the Government Accountability Project, and Taxpayers Against Fraud. They call S. 2010 ''the single most effective measure possible to prevent further recurrences. . . . ''

The measure lengthens the statute of limitation by extending it from the earlier of 1 year from discovery or 3 years from the fraud to 2 years from discovery or 5 years from the fraud.

Senators FEINSTEIN and CANTWELL worked hard to craft a fair compromise on this provision in the Judiciary Committee.

Indeed, the last two SEC Chairmen from both parties, Arthur Levitt and Richard Breeden, both agreed that the current short statute of limitations is unfair to fraud victims.

Attorney General Christine Gregoire testified before the Judiciary Committee in the Enron State pension fund litigation that the current short statute has forced some States to forego claims against Enron.

In Washington State alone, the short statute of limitations could cost hardworking State employees—firefighters and police officers—nearly $50 million in lost Enron investments.

Last week, Xerox announced it was restating its revenue back 5 years by $6.4 billion. Madam President, as a law student, I remember sitting in the gallery listening to the distinguished Senator from Illinois, Mr. Dirksen, give his well-known speech: ''A billion here and a billion there, and soon you're talking about real money.''

Imagine a corporation claiming they made a mistake in their revenue of $6.4 billion for the past five years. The disclosures raise the specter of innocent investors who, through no fault of their own, will be barred from recouping losses.

We make the debt from security law violations nondischargeable in bankruptcy. We protect fraud victims by amending the bankruptcy code to make judgments and settlements based upon security law violations nondischargeable. Corporate leaders should not be allowed to take the money, run, file bankruptcy, and keep from ever paying any securities fraud judgment. The State security regulators strongly support this change. You cannot have one set of rules which say if you steal $500 from a store, you can go to jail. But if you steal $50 million from the corporate boardroom, keep the money. That makes no sense. Everywhere I went in the State of Vermont last week, people were saying: If I committed an act, if I stole something, if I cash a bad check for $100, I run the risk of going to jail.

But what do you do if you get $50 million or $100 million? You are home free.

Criminal conduct deserves criminal penalties. Corporate CEOs who rob their company, who rob the pension funds of their employees, who rob the trust of the American people, are criminals. They ought to go to jail.

The steel bars, maybe that will give a conscience to some of these people like Kenneth Lay and others who obviously do not have one. This gives prosecutors, the investigators, and victims the tools to hold corporate wrongdoers accountable.

The people who are involved in such massive criminal activity ought to pay. The American people ought to know they will have to pay. If they don't, there will be a whole lot more fraud.

I ask unanimous consent to have a number of letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TAXPAYERS AGAINST FRAUD,
Washington, DC.
GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, July 5, 2002.

DEAR SENATOR: The Government Accountability Project (GAP) and the Taxpayers Against Fraud (TAF) reaffirm our support for the Leahy Corporate and Criminal Fraud Accountability amendment to S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

Initially introduced as S. 2010, the Corporate and Criminal Fraud Accountability Act, was unanimously reported by the Senate Judiciary Committee on May 6, 2002. This amendment is a landmark proposal. It promises to make whistleblower protection the rule rather than the exception for those challenging betrayals of corporate fiduciary duty enforced by the Securities and Exchange Commission. It would be the single most effective measure to prevent recurrences of the Enron and Worldcom debacles as well as similar threats to the nation's financial markets, shareholders and pension holders.

GAP is a nonprofit, nonpartisan public interest law firm dedicate since 1976 to helping whistleblowers, those employees who exercise freedom of speech to bear witness against betrayals of public trust that they discover on the job. GAP has led the campaign for passage of nearly all federal whistleblower laws over the last two decades. TAF is a nonprofit, nonpartisan public interest organization dedicated to combating fraud against the Federal Government through promotion and use of the federal False Claims Act and its qui tam whistleblower provisions. TAF supports effective anti-fraud legislation at the federal and state level.

The Leahy amendment to S. 2673 is outstanding good government legislation. It closes the loopholes that have meant whistleblowers proceed at their own risk when warning Congress, shareholders, and their own management's Board Audit Committees of financial misconduct threatening the health of their own company, investor confidence and the nation's economy. We hope we can count on your support to add this state of the art whistleblower protection system in S. 2673. If you have any questions regarding the Leahy amendment, please call Tom Devine at GAP (202–408–0034 ext. 124), or Doug Hartnett (ext. 136).

Sincerely,

JIM MOORMAN,
Executive Director, TAF.
TOM DEVINE,
Legal Director, GAP.

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATIONS, INC.,
Washington, DC, July 5, 2002.

Hon. PATRICK LEAHY,
Washington, DC.

DEAR SENATOR LEAHY: NASAA supports S. 2673, The Public Company Accounting Reform and Investor Protection Act of 2002, and opposes efforts to weaken its provisions. State securities regulators believe there is an immediate need to restore investor confidence in our securities markets.

Passage of the Leahy amendment, which incorporates S. 2010, the Corporate and Criminal Fraud and Accountability Act of 2002, into the accounting reform bill would send a strong deterrent message to potential securities violators by providing prosecutors with new and better tools to punish those who defraud our nation's investors. Our focus is on Section 4, which would prevent the discharge of certain debts in bankruptcy proceedings. At the present time, the bankruptcy code enables defendants who are guilty of fraud and other securities violations to thwart enforcement of the judgments and other awards that are issued in these cases.

We support passage of the Leahy amendment because it strengthens the ability of regulators and individual investors to prevent the discharge of certain debts and hold defendants financially responsible for violations of securities laws. This issue is of great interest to state securities regulators, and we hope you'll support it on the Senate floor.

In addition, state securities regulators enclose Title V of S. 2673—Analyst Conflicts of Interest—in its current form and strongly oppose any amendment to this title that would reduce our ability to investigate wrongdoing and take appropriate enforcement actions against securities analysts. An amendment drafted by Morgan Stanley was circulated that, we believe, would have prohibited state securities regulators from imposing remedies upon firms that committed fraud, if it involved securities analysts and perhaps even broker-dealers that deal with individual investors. Clearly this approach is ill-advised, especially in today's climate. What message would be sent to Main Street investors if the states' investigative and enforcement authority were weakened? (Additional information on this proposal was delivered to your office last week.)

Please vote for passage of S. 2673, for the Leahy amendment, and against any amendments to curtail state securities enforcement actions.

Sincerely,

JOSEPH P. BORG,
NASAA President, Alabama Securities Director.
CHRISTINE A. BRUENN,
NASAA President-elect, Maine Securities Administrator.

AMERICAN FEDERATION OF LABOR
AND
CONGRESS OF INDUSTRIAL
ORGANIZATION,
Washington, DC, April 17, 2002.

Hon. PATRICK LEAHY,
Senate Judiciary Committee, Washington, DC.
Legislative Alert!

DEAR SENATOR LEAHY: The sudden and spectacular collapse of Enron has jeopardized the retirement security of millions of hardworking Americans and exposed systemic failures of our securities laws. If we are to prevent future Enrons and restore the credibility of America's capital markets, aggressive reform is required. This week the Judiciary Committee will markup S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, which is an important part of this effort and deserves your support.

The measures embodied in S. 2010 will help protect working families and their retirement funds from future Enrons by strengthening the penalties for securities and accounting fraud, and destruction of audit papers. The bill provides strong civil and criminal penalties for conduct such as document shredding by auditors and conspiracies to defraud investors; and bars those who commit securities fraud from using the bankruptcy system to avoid compensating the victims of such fraud. It also lengthens the statute of limitations for civil lawsuits by the victims of securities fraud, making it more difficult for those who commit these crimes to escape having to compensate their victims.

S. 2010 is an important part of the comprehensive reforms Congress needs to enact in response to the conflicts in the capital markets exposed by the collapse of Enron. The AFL–CIO urges you to support S. 2010 at this week's Judiciary Committee markup.

Sincerely,

WILLIAM SAMUEL
Director, Department of Legislation.

CONSUMERS UNION,
Washington, DC.

Re Support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002

CONSUMER FEDERATION OF AMERICA,
Washington, DC, April 16, 2002.

DEAR SENATOR: Consumers Union and the Consumer Federation of America urge your support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, sponsored by Senator Patrick Leahy, when it comes before the Judiciary Committee for markup on Thursday. This proposal adds important provisions to the civil and criminal laws, which will both, deter and when necessary, punish securities fraud.

ENHANCING ENFORCEMENT AND SANCTIONS FOR SECURITIES FRAUD

S. 2010 takes the following important steps to strengthen enforcement and penalties for securities fraud:

It creates a new felony for the act of defrauding shareholders of publicly traded companies.

It creates a new felony for destruction of evidence or creation of evidence with intent to obstruct a federal agency or criminal investigation.

It provides whistleblower protection to employees of publicly traded companies when they act lawfully to disclose information about fraudulent activities within their company.

It enhances the ability of state attorneys general and the SEC to use civil RICO to enforce existing law; currently only the US attorney general has such authority currently under RICO.

ADOPTING A REALISTIC STATUTE OF LIMITATIONS

S. 2010 also increases the ability of defrauded investors to recover their losses by lengthening the statute of limitations. The bill would set the statute of limitations to the earlier of 5 years after the date of the fraud or three years after the fraud was discovered.

The current statute of limitations, the result of a 5–4 vote in a 1991 Supreme Court decision, sets up an unrealistically short timetable for bringing private suits and needs to be corrected. Former President Bush's SEC Chairman Richard Breeden, former President Clinton's SEC Chairman Arthur Levitt, and state securities regulators have all supported an extension of the statute of limitations.

Suits by defrauded investors have long been recognized by securities regulators, including former SEC Chairman Levitt, as an important deterrent against fraud. Moreover, securities fraud is often well-concealed and not readily apparent to investors until, in some cases, years after the fraud has been committed. As Chairman Levitt testified in 1995 before the Senate Banking Committee, ''Extending the statute of limitations is warranted because many securities frauds are inherently complex, and the law should not reward the perpetrator of a fraud who successfully conceals its existence for more than 3 years.''

Justices O'Connor and Kennedy, in their vigorous dissent in the 1991 Supreme Court case, also supported a longer statute of limitations. Justice Kennedy wrote, ''The most extensive and corrupt schemes may not be discovered within the time allowed for bringing an express cause of action under the 1934 Act. Ponzi schemes, for example, can maintain the illusion of a profit-making enterprise for years, and sophisticated investors may not be able to discover the fraud until long after its perpetration . . . By adoption of a three year period of response, the Court makes a 10(b) action all but a dead letter for many injured investors who by no conceivable standard of fairness or practicality can be expected to file suit within three years after the violation occurred. In so doing, the Court also turns its back on the almost uniform rule rejecting short periods of response for fraud-based actions.''

Indeed, some states' pension funds may have to forego claims against Enron for securities fraud that occurred in the late 1990s because of this short statute of limitations. Washington State's Attorney General discussed this problem when she testified before your Committee in February of this year. ''In fact, for Washington State, our claim in the [Enron] case is for approximately $50 million, when in fact our losses are in excess of $100 million. But because of the statute of limitations, we're not able to make that claim.'' (underlining added).

The current statute of limitations rewards those who are able to conceal their fraud for a relatively short time with immunity from private liability. It also includes a limit of one-year from the time of discovery, which encourages a rush to the courthouse.

The criminal conduct surrounding the collapse of Enron, and the fact that many claims for fraud will be time-barred by the current short statute of limitations, have drawn attention to the need for reform. S. 2010 includes important investor protection measures. We urge your support for this bill in the Judiciary Committee April 18.

Sincerely,

SALLY GREENBERG,
Senior Counsel.
TRAVIS PLUNKETT,
Legislative Director.

U.S. PUBLIC INTEREST
RESEARCH GROUP;
Washington, DC, April 17, 2002.

No More Enrons—Support S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002

DEAR MEMBER OF THE SENATE JUDICIARY COMMITTEE: We are writing on behalf of the members of state Public Interest Research Groups to urge your strong support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, sponsored by Senator Patrick Leahy, when it comes before the Judiciary Committee for markup on Tuesday. This proposal adds important provisions to the civil and criminal law to both deter and, when necessary, punish securities fraud. Please oppose weakening amendments.

S. 2010 takes the following important steps to strengthen enforcement and penalties for securities fraud:

It creates a new felony for the act of defrauding shareholders of publicly traded companies.

It creates a new felony for destruction of evidence or creation of evidence with intent to obstruct a federal agency or criminal investigation.

It provides whistleblower protection to employees of publicly traded companies when they act lawfully to disclose information about fraudulent activities within their company.

It enhances the ability of state attorneys general and the SEC to use civil RICO to enforce existing law; currently only the U.S. attorney general has such authority currently under RICO.

Importantly, S. 2010 also increases the ability of defrauded investors to recover their losses by lengthening the statute of limitations. The bill would reasonably and sensibly set the statute of limitations to the earlier of 5 years after the date the fraud occurred or three years after the fraud was discovered. A securities law violation is often a complex, multi-year enterprise. Indeed, Enron's recent accounting restatements went back five years. Under the fraudster-friendly current law, some state pension fund claims against Enron may be time-barred.

S. 2010 includes numerous important investor protection measures to assist whistleblowers, fraud victims, and law enforcement agencies. We urge your strong support for this bill to help restore investor confidence in the Judiciary Committee April 18. Please oppose weakening amendments. For more information about the full state PIRG platform to protect employees, investors and taxpayers from future Enron/Andersen debacles, please visit http://www.enronwatchdog.org. Please contact me with questions at either 202–546–9707x314 or ed@pirg.org.

Sincerely,

EDMUND MIERZWINSKI,
Consumer Program Director.

NATIONAL WHISTLEBLOWER CENTER,
Washington, DC, April 17, 2002.

Hon. MARIA CANTWELL,
Senate Judiciary Committee, Washington, DC.

DEAR SENATOR CANTWELL: The National Whistleblower Center strongly supports S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002. This law would protect employees who disclose Enron-related fraud to the appropriate authorities.

One of the most notorious loopholes in current whistleblower protection law exists under the securities laws, in which employees who report fraud against stockholders have no protection under federal law. It is

truly tragic that employees who are wrongfully discharged merely for reporting violations of law, which may threaten the integrity of pension funds or education-based savings accounts, have no federal protection.

This point was made abundantly clear by the recently released internal memorandum from attorneys for Enron. According to Enron's own counsel, employees who were blowing the whistle on Enron's misconduct were not protected under federal law, and could be subject to termination. Unfortunately, the Enron attorney was correct.

It is imperative that the next time a company like Enron seeks advice from counsel as to whether they can fire an employee, like Sharon Watkins (who merely disclosed potential fraud on shareholders), the answer must be a resounding ''no.'' That can only happen if the Corporate and Criminal Fraud Accountability Act is enacted into law.

Respectfully submitted,

KRIS J. KOLESNIK,
Executive Director.

NATIONAL ASSOCIATION
OF ATTORNEY GENERAL,
Washington, DC, July 3, 2002.

DEAR SENATOR: It has come to my attention that the substance of S. 2010, the Corporation and Criminal Fraud Accountability Act of 2002, will be offered as an amendment to S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, as early as next week.

I have attached a letter to Senator LEAHY from seven Attorneys General written last April in support of the substance of S. 2010, in order to make these views known as you consider this legislation.

If you have any questions or concerns, please feel free to call Blair Tinkle, NAAG's Legislative Director at 202–326–6258.

Sincerely,

LYNNE ROSS,
Executive Director.

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, April 17, 2002.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: We would like to take this opportunity to express our support for your bill, S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, which is pending before the Senate.

As you know, the proposal would allow state Attorney's General to seek to enjoin racketeering activities under the federal RICO statute. Such added authority would enhance the ability of Attorneys General to protect their citizens from unlawful activities by organizations both within and outside the borders of our individual states.

In addition, to restore accountability, S. 2010 provides prosecutors new and better tools to effectively prosecute and punish criminals who defraud investors by:

Creating a new, 10-year felony specifically aimed at securities fraud.

Enhancing fraud and obstruction of justice statutes where evidence is destroyed and in fraud cases, where there are many victims or where any victim is financially devastated.

Creating two new document destruction felonies establishing a new felony shredding crime and requiring the preservation of audit documents for 5 years.

Creating new protections for corporate whistleblowers.

Finally, the bill protects victims' rights by:

Protecting securities fraud victims from discharge of their debts in bankruptcy.

Extending the statute of limitations in securities fraud cases.

We appreciate your efforts to enact this important legislation. Please feel free to contact us if we can provide further assistance in this effort.

Sincerely,

Carla J. Stovall, Attorney General of Kansas, President of NAAG; Hardyress, Attorney General of Oregon, Chairman, Enron Bankruptcy Working Group; Christine Gregsire, Attorney General of Washington; William H. Sorrell, Attorney General of Vermont; Ms. Edmonds, Attorney General of Oklahoma, President-Elect of NAAG; Thurbert E. Baker, Attorney General of Georgia; Betty D. Montgomery, Attorney General of Ohio.

Mr. LEAHY. I appreciate the distinguished majority leader introducing this amendment and yielding to me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. I was going to send an amendment to the desk but I understand there is one pending. I ask unanimous consent I have up to 8 minutes to discuss this amendment now, which I will send later.

Mr. MCCONNELL. Reserving the right to object, and I probably will not, I hoped for an opportunity to briefly explain the second-degree amendment that is pending at the desk. If the Senator thinks it might be helpful just to determine the order of discussion, perhaps it is more appropriate to discuss the amendment that is pending over one that might have been pending.

Mr. MILLER. The Senator from Kentucky is correct. I would like to get in the queue somewhere along the line.

Mr. REID. I ask the question of the Senator from Kentucky, How long does the Senator from Kentucky wish to speak?

Mr. MCCONNELL. I will be happy to wrap up in 5 or 6 minutes. I want to summarize what the amendment is about.

Mr. SARBANES. Madam President, I ask unanimous consent the Senator from Kentucky be recognized for 5 minutes to speak to the second-degree amendment that has been offered, that is pending, and that be followed by the Senator from Georgia to speak for 8 minutes.

Mr. MURKOWSKI. Madam President, I wonder if I may be recognized after the sequence that has been discussed for about 1 minute.

Mr. REID. I object.

The PRESIDING OFFICER. Is there an objection to the original request of the Senator from Maryland?

Mr. REID. I do not object to the original 13 minutes.

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

The Senator from Kentucky will proceed.

Mr. MCCONNELL. I thank my friend from Georgia. I will briefly discuss the second-degree amendment. I expect to vote for the underlying bill, but we ought to, in the name of equity, apply the same principles in the underlying bill we are seeking to apply to corporations to labor unions.

The amendment I sent to the desk requires union financial statements to be audited by an independent accountant using procedures that mirror those of public companies under Federal securities laws. It imposes civil penalties for violations of these new auditing requirements that mirror those imposed on the Security Exchange Act of 1934. Third, it requires that the Union President and Secretary-Treasurer certify the accuracy of financial reports, mirroring a similar requirement for CEOs and CFOs in the Sarbanes bill.

We are debating how to better oversee and enforce the audit requirements for large corporations that were first established under the Securities Act of 1933. It may shock many to learn that labor unions are not even required to have independent audits of the financial statements they file with the Department of Labor—or should I say that they are required to file. Many unions apparently thumb their nose at the requirement. A study by the Office of Labor Management Standards found that 34 percent of all unions filed late financial reports or no reports at all.

If we are serious about protecting the investing public from the financial fraud of corporations and accountants, we should be equally serious about protecting the day-to-day American worker—the plumbers, the machinists, the longshoremen, and the steelworkers—from the financial fraud of union officials.

One prominent union official recently said that:

> Over the coming months you will no doubt hear more about the Enron scandal and the many thousands of people who have lost their pensions because of corporate greed.

I agree with that. What we do not hear enough of are the stories of union greed. It is only fair to share some of them today. I have a rather long list I will discuss later in the debate, but let me cover a few of them in my allotted time. We have heard of Arthur Andersen, but has anyone heard of Thomas Havey? That is the accounting firm where a partner confessed to helping a bookkeeper conceal the embezzlement of hundreds of thousands of dollars from a worker training fund of the International Association of Ironworkers. And in an eerie parallel to the Enron scandal, the Havey accountants revealed startling information—10 years ago, the then General Counsel for the Ironworkers Union said that if the accounting firm refused to assist in the union scheme to conceal financial mismanagement, the accounting firm should be fired. Sadly, the accounting firm complied.

We have all heard of Global Crossing, but has anyone heard of ULLICO? That is the multibillion-dollar insurance company owned primarily by unions and their members' pension funds that invested $7.6 million in Global Crossing. Apparently, ULLICO directors received a sweetheart investment deal that allowed them to make millions on the sale of stock. The union pension

funds, however, dried up with Global Crossing's demise.

There is much more. An accountant within the National Association of Letter Carriers embezzled more than $3.2 million from union funds over an 8-year period to buy 8 cars, 2 boats, 3 jet skis, a riding mower, and 105 collectable dolls. A former official of the Laborers' Union District Council in Oregon, Idaho, and Wyoming is in jail for accepting hundreds of thousands of dollars in kickbacks for directing money into a ponzi-like investment scheme that defrauded Oregon labor unions of $355 million.

I have a number of additional examples that I wish to get to later, but I do want to say in summary, again, what my amendment is about, just so everyone will understand as we move subsequently to a vote. It first requires union financial statements to be audited by an independent accountant using procedures that mirror those of public companies under the Federal securities laws; second, it imposes civil penalties for violations of these new auditing requirements that mirror those imposed under the Securities Exchange Act of 1934; and, third and finally, it requires that the Union President and Secretary-Treasurer certify the accuracy of their financial reports, which mirrors a similar requirement for CEOs and CFOs in the Sarbanes bill.

I yield the floor.

Mr. SARBANES. Will the Senator yield for a question?

Mr. MCCONNELL. Yes.

Mr. SARBANES. Of course, there is a special statutory arrangement that governs labor organizations. I take it this proposal—has this come to us from the Department of Labor?

Mr. MCCONNELL. I say to the Senator from Maryland, it did not come from the Department of Labor. It came from my office. This is something we have been looking at over the last week or 10 days, thinking that, since the very worthwhile requirements of corporations and accounting firms, under the bill of the Senator from Maryland, make sense if we are looking to protect investors, we should also protect union members from similar kinds of casual exploitation.

Mr. SARBANES. But under the Labor Management Reporting and Disclosure Act, the Department has certain authorities it can invoke in dealing with the kind of problems the Senator has outlined. At least that is my understanding under the current state of the law. Is that correct?

Mr. MCCONNELL. I don't know what the position of the Department of Labor is on the amendment I am offering. But it is my belief that if the amendment were not necessary, we would not be offering it here today. This is something I am sure we are going to discuss further as we move along.

Mr. SARBANES. I am sure the Senator would be able to find out from the Secretary.

Mr. MCCONNELL. I expect I could find out from the Secretary of Labor, but I chose not to do that.

Mr. GRAMM. I don't know whether you could or not.

Mr. MCCONNELL. She has her job and I have mine.

AMENDMENT NO. 4176

The PRESIDING OFFICER. The Senator from Georgia is recognized under the previous order.

Mr. MILLER. Madam President, I ask unanimous consent the pending amendment be temporarily set aside so I be allowed to offer an amendment.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. MILLER] proposes an amendment numbered 4176.

Mr. MILLER. Madam President, I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to require the signing of corporate tax returns by the chief executive officer of the corporation)

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS

SEC. 801. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 of the Internal Revenue Code of 1986 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation.''.

(b) EXECUTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

Mr. GRAMM. Will the Senator yield?

There is a little bit of confusion. I want to be sure he is setting aside the entire amendment, the Leahy and the McConnell amendment, and he is offering a first-degree amendment? That is what I understood when I talked to the Senator and to what I had agreed.

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. SARBANES. No. What was the request? I thought the unanimous consent request was to set aside the McConnell amendment and offer the Miller amendment to the Leahy amendment.

Mr. GRAMM. It was the pending amendment.

Madam President, I wanted to be sure that we set aside both Leahy and McConnell. This is a new issue, a first-degree amendment. That was the basis that I understood it on and on the basis of that I had no objection to it.

The PRESIDING OFFICER. The Chair understands the Senator from Georgia was going to offer an amendment that would be considered at a different time, an independent first-degree amendment, to be spoken about now and considered at a later time. Is that the understanding of the Senator from Vermont?

Mr. LEAHY. Reserving the right to object, I want to make sure I fully understand. What is the request?

The PRESIDING OFFICER. There is no request pending.

Mr. LEAHY. I am sorry. I thought there was a request to lay aside my amendment.

The PRESIDING OFFICER. That request has been granted.

Mr. LEAHY. But then my—what is the parliamentary situation with my amendment? Maybe that is the best way to ask it.

The PRESIDING OFFICER. The Senator from Georgia obtained the consent to set aside the pending amendment in order to offer a first-degree amendment.

Mr. LEAHY. I understand.

Mr. SARBANES. Would the call for the regular order at the completion of the statement of the Senator from Georgia, or disposition of his amendment, bring back before the body the Leahy amendment?

The PRESIDING OFFICER. Yes, it would.

Mr. LEAHY. The Senator from Georgia spoke to me earlier. I do not want in any way to interfere with that. I do want to accommodate him. I just wanted to make sure, also for my own schedule, where we stood.

I thank the distinguished Presiding Officer and I thank the distinguished chairman of the committee and of course I thank the distinguished Senator from Georgia.

Mr. MILLER. I thank the Senator from Vermont and the Senator from Texas.

Madam President, there is a good old boy from down in Georgia named Jerry Reed, who went to Nashville several years ago and made it big as a tremendous guitar picker, singer, and songwriter. He had a big hit a while back. Maybe some of you remember it. It was called ''She Got the Gold Mine and I Got the Shaft.''

I thought about that song of Jerry Reed's as I watched what has happened lately on the corporate scene. The big shots of Enron and WorldCom and others, they got the gold mine while the poor employees and the innocent stockholders got the shaft.

If a picture is worth a thousand words, take a look at this gold mine. It was built partly on the backs of those Georgia schoolteachers who, each month, put their hard-earned money into the Georgia teachers' retirement fund. The fund in Georgia lost $78 million from Enron and another $6 million from WorldCom. Think how many monthly contributions by how many struggling teachers that represents. And think about those other thousands of employees who have lost their life savings, not even to mention the thousands of employees who have lost their jobs—at least 450 jobs were wiped out in Georgia alone so far.

Yes, a few big shots got the gold mine and a lot of little folks got the shaft.

I am as probusiness as anyone in this body. I yield to no officeholder when it comes to supporting business issues. As Governor and Senator, I have worked to give tax cuts and tax incentives and pay for the training of their employees—all to provide a probusiness environment in which the entrepreneurial spirit can thrive and prosper and create jobs. But, folks, there comes a time when so much greed and so many lies become so bad—even if it is only by a few—that something meaningful has to be done. We must act quickly to protect the investor, provide some security for the worker, and restore confidence in the marketplace because, make no mistake about it, today we have a crisis in the integrity of corporate America.

That is why I have worked with Senator SARBANES in perfecting his bill, and I strongly support it. I am pleased that it is before us this week. I also commend President Bush for making the strong recommendations he is going to be making in New York.

But I think we need to do at least one other thing, so I have a simple amendment. It is only two short paragraphs in length, but it goes to the very essence of fairness. It simply says that, when the taxman cometh, we all—workers and high-dollar bosses alike—must face him just alike, without any go-betweens or liability firewalls or corporate veils.

This is how it would work. There is a standard tax form called 1040. I know there are more sophisticated ones for big business, but the principle I am getting at is the same. This is what it says:

> Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief they are true, correct and complete.

And then it is signed here by Joe Sixpack. Joe Sixpack of America signs those kinds of forms. There were more than 14 million of those forms filed in April. If Joe Sixpack is required to sign this oath for his family, why shouldn't Josepheus Chardonnay be required to sign that same oath for his corporation?

So my little amendment simply requires that henceforth the chief executive officer of all publicly owned and publicly traded corporations must sign the corporation's annual Federal tax return.

Currently, there is an IRS rule that corporations can designate any corporate officer to sign their tax return. That will not get it. Let's be specific. Let's put it into law: The CEO is the one who is to sign the tax return and must be accountable for it.

Where I come from it is expected that those being paid ''to mind the store'' should at least know whether the store is losing or making money.

Harry Truman had a sign on his desk in the Oval Office that said, ''The Buck Stops Here.'' For Truman, it meant that he was accountable.

He took the blame. He suffered the consequences when things went bad.

For some of today's CEOs, it is just the opposite. They want no accountability. They shift the blame to others. They hide behind that corporate veil. And, it seems, they rarely if ever pay the consequences.

Their former workers cancel plans for their children to go to college while they sip from champagne flutes in their mansions in Boca and Aspen.

For these CEOs, Truman's famous sign has changed from ''The Buck Stops Here'' to ''The Bucks Go Here.''

Our system of collecting taxes is based upon the premise that individual taxpayers will take all steps necessary to ensure that the financial information in the tax return is accurate.

If Joe Sixpack fudges the numbers, he doesn't get a pass from paying penalties or going to jail. I find it outrageous that the same is not a part of the mind set for those in the corporate culture.

If any CEO is not willing to sign the company tax return—if they are not willing to take steps to satisfy themselves that their corporation is accurately reporting financial information—then those CEOs have no right to the prestige and respect that goes with the position they hold.

What is good for the goose is good for the gander. So I urge my colleagues to simply hold our CEOs to the same standard that we now impose upon our average wage earners.

Treat them the same, ''Treat 'em'' the same. That is the American way. That is what the voters out there want us to do and that is what they expect us to do. ''Treat 'em'' the same.

And you can take that back home this summer and explain it. Some of these other reforms, I fear, will be more difficult to explain.

Treat 'em the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

S.J. RES. 34—APPROVAL OF YUCCA MOUNTAIN DEPOSITORY MOTION TO PROCEED

Mr. MURKOWSKI. Madam President, in accordance with the rules of the Senate as set forth in the Nuclear Waste Policy Act, the chairman of the Energy Committee, Senator BINGAMAN, introduced S.J. Res. 34 on April 9. The Committee on Energy and Natural Resources held 3 days of hearings. On June 5, the measure was favorably reported to the Senate.

As the ranking member of the Energy and Natural Resources Committee, pursuant to the recommendations of the committee and in accordance with the rules of the Senate as set forth in the Nuclear Waste Policy Act that contemplates Senate action within 90 days of introduction, I now move to proceed to S.J. Res. 34.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. REID. Madam President, during the last little bit we have been working on an orderly way to proceed on this matter. We knew before the break that the minority was going to bring this matter up, and we did not know exactly when.

I spoke a couple times yesterday with the distinguished Republican leader. I spoke to my colleague, Senator ENSIGN, on a number of occasions. And the day has arrived and the motion has been made. As a result of that, even though Senator ENSIGN and I are extremely disappointed, this matter is now before us. It is here.

We think it would be best resolved as follows: I ask unanimous consent that there be 4 hours 30 minutes for debate on the pending motion to proceed, equally divided between Senator REID of Nevada and Senator MURKOWSKI, or their designees; that upon the use or yielding back of that time, the Senate vote on the motion to proceed; that if the motion to proceed is agreed to, then H.J. Res. 87 be read a third time and the Senate vote on final passage of the joint resolution; that the motion to reconsider that vote be laid on the table, and the preceding all occur without any intervening action or debate.

If I could say just one thing, Madam President, the reason that I felt so strongly, as did Senator ENSIGN, about this is it is important that Members have the benefit of some debate prior to this most important vote. So that is the reason. I appreciate the general tenure of what is going on here. I know there are strong feelings on both sides. Nobody is happy with what we are doing, but it is the best we could do.

Mr. LOTT. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. I do reserve the right to object but state in the beginning I would not and will not object. I think this is an appropriate way to proceed. This is something that has been fully disclosed to all on both sides of the argument. We certainly understand and respect the desire of the Senators from Nevada, Mr. REID and Mr. ENSIGN, to have an opportunity to make their case and to maximize their effort against this proposal.

I also made it clear that it was the intent of the proponents, with the leadership of Senator MURKOWSKI and others on both sides of the aisle, that under the law there is a time limit. We have to act on this issue by July 27 or, in fact, this proposal could not go forward. The veto of the Governor, in effect, would be upheld by inaction.