''(j) CALCULATION OF SUBSIDY RATE.—All fees, interest, and profits received and retained by the Administration under this section shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures and participating securities under this Act.''.

SEC. 6. LIABILITY OF THE UNITED STATES.

Section 308(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687(e)) is amended by striking ''Nothing'' and inserting ''Except as expressly provided otherwise in this Act, nothing''.

SEC. 7. EXAMINATIONS; VALUATIONS.

(a) EXAMINATIONS.—Section 310(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(b)) is amended in the first sentence by inserting ''which may be conducted with the assistance of a private sector entity that has both the qualifications to conduct and expertise in conducting such examinations,'' after ''Investment Division of the Administration,''.

(b) VALUATIONS.—Section 310(d) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(d)) is amended to read as follows:

''(d) VALUATIONS.—

''(1) FREQUENCY OF VALUATIONS.—

''(A) IN GENERAL.—Each licensee shall submit to the Administrator a written valuation of the loans and investments of the licensee not less often than semiannually or otherwise upon the request of the Administrator, except that any licensee with no leverage outstanding shall submit such valuations annually, unless the Administrator determines otherwise.

''(B) MATERIAL ADVERSE CHANGES.—Not later than 30 days after the end of a fiscal quarter of a licensee during which a material adverse change in the aggregate valuation of the loans and investments or operations of the licensee occurs, the licensee shall notify the Administrator in writing of the nature and extent of that change.

''(C) INDEPENDENT CERTIFICATION.—

''(i) IN GENERAL.—Not less than once during each fiscal year, each licensee shall submit to the Administrator the financial statements of the licensee, audited by an independent certified public accountant approved by the Administrator.

''(ii) AUDIT REQUIREMENTS.—Each audit conducted under clause (i) shall include—

''(I) a review of the procedures and documentation used by the licensee in preparing the valuations required by this section; and

''(II) a statement by the independent certified public accountant that such valuations were prepared in conformity with the valuation criteria applicable to the licensee established in accordance with paragraph (2).

''(2) VALUATION CRITERIA.—Each valuation submitted under this subsection shall be prepared by the licensee in accordance with valuation criteria, which shall—

''(A) be established or approved by the Administrator; and

''(B) include appropriate safeguards to ensure that the noncash assets of a licensee are not overvalued.''.

SEC. 8. TRUSTEE OR RECEIVERSHIP OVER LICENSEES.

(a) FINDING.—It is the finding of the Congress that increased recoveries on assets in liquidation under the Small Business Investment Act of 1958 are in the best interests of the Federal Government.

(b) DEFINITIONS.—For purposes of this section—

(1) the term ''Administrator'' means the Administrator of the Small Business Administration;

(2) the term ''Administration'' means the Small Business Administration; and

(3) the term ''licensee'' has the same meaning as in section 103 of the Small Business Investment Act of 1958.

(c) LIQUIDATION PLAN.—

(1) IN GENERAL.—Not later than October 15, 1996, the Administrator shall submit to the Committees on Small Business of the Senate and the House of Representatives a detailed plan to expedite the orderly liquidation of all licensee assets in liquidation, including assets of licensees in receivership or in trust held by or under the control of the Administration or its agents.

(2) CONTENTS.—The plan submitted under paragraph (1) shall include a timetable for liquidating the liquidation portfolio of small business investment company assets owned by the Administration, and shall contain the Administrator's findings and recommendations on various options providing for the fair and expeditious liquidation of such assets within a reasonable period of time, giving due consideration to the option of entering into one or more contracts with private sector entities having the capability to carry out the orderly liquidation of similar assets.

SEC. 9. BOOK ENTRY REGISTRATION.

Subsection 321(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687*l*) is amended by adding at the end the following new paragraph:

''(5) Nothing in this subsection shall prohibit the utilization of a book entry or other electronic form of registration for trust certificates.''.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SMALL BUSINESS INVESTMENT ACT OF 1958.—The Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) is amended—

(1) in section 303—

(A) in subsection (a), by striking ''debenture bonds,'' and inserting ''securities,'';

(B) by striking subsection (f) and inserting the following:

''(f) REDEMPTION OR REPURCHASE OF PREFERRED STOCK.—Notwithstanding any other provision of law—

''(1) the Administrator may allow the issuer of any preferred stock sold to the Administration before November 1, 1989 to redeem or repurchase such stock, upon the payment to the Administration of an amount less than the par value of such stock, for a repurchase price determined by the Administrator after consideration of all relevant factors, including—

''(A) the market value of the stock;

''(B) the value of benefits provided and anticipated to accrue to the issuer;

''(C) the amount of dividends paid, accrued, and anticipated; and

''(D) the Administrator's estimate of any anticipated redemption; and

''(2) any moneys received by the Administration from the repurchase of preferred stock shall be available solely to provide debenture leverage to licensees having 50 percent or more in aggregate dollar amount of their financings invested in smaller enterprises.''; and

(C) in subsection (g)(8)—

(i) by striking ''partners or shareholders'' and inserting ''partners, shareholders, or members'';

(ii) by striking ''partner's or shareholder's'' and inserting ''partner's, shareholder's, or member's''; and

(iii) by striking ''partner or shareholder'' and inserting ''partner, shareholder, or member'';

(2) in section 308(h), by striking ''subsection (c) or (d) of section 301'' each place that term appears and inserting ''section 301'';

(3) in section 310(c)(4), by striking ''not less than four years in the case of section 301(d) licensees and in all other cases,'';

(4) in section 312—

(A) by striking ''shareholders or partners'' and inserting ''shareholders, partners, or members''; and

(B) by striking ''shareholder, or partner'' each place that term appears and inserting ''shareholder, partner, or member'';

(5) by striking sections 317 and 318, and redesignating sections 319 through 322 as sections 317 through 320, respectively;

(6) in section 319, as redesignated—

(A) in subsection (a), by striking '', including companies operating under the authority of section 301(d),''; and

(B) in subsection (f)(2), by inserting ''or investments in obligations of the United States'' after ''accounts'';

(7) in section 320, as redesignated, by striking ''section 321'' and inserting ''section 319''; and

(8) in section 509—

(A) in subsection (a)(1), by striking the second sentence; and

(B) in subsection (e)(1)(B), by striking ''subsection (c) or (d) of section 301'' and inserting ''section 301''.

(b) AMENDMENT IN OTHER LAW.—Section 11(h) of the Federal Home Loan Bank Act (12 U.S.C. 1431(h)) is amended by striking ''301(d)'' and inserting ''301''.

SEC. 11. AMENDMENTS TO THE SMALL BUSINESS ACT.

(a) POWERS OF THE ADMINISTRATOR.—Section 5(b)(7) of the Small Business Act (15 U.S.C. 634(b)(7)) is amended by striking the colon and all that follows before the semicolon at the end of the paragraph and inserting the following: '': *Provided*, That with respect to deferred participation loans, the Administrator may, in the discretion of and pursuant to regulations promulgated by the Administrator, authorize participating lending institutions to take actions relating to loan servicing on behalf of the Administrator, including determining eligibility and creditworthiness and loan monitoring, collection, and liquidation''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 20(p)(3) of the Small Business Act (15 U.S.C. 631 note) is amended by striking subparagraph (B) and inserting the following:

''(B) $300,000,000 in guarantees of debentures; and''.

FALSE STATEMENTS PENALTY RESTORATION ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 3166 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3166) to amend title 18, United States Code, with respect to the crime of false statement in a Government matter.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5091

(Purpose: To propose a substitute)

Mr. MURKOWSKI. Mr. President, I understand there is a substitute amendment at the desk offered by Senator SPECTER, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for Mr. SPECTER, for himself, Mr. LEVIN, Mr. ROTH, Mr. NUNN, Mr. STEVENS, Mr. INOUYE, Mr. GRASSLEY, Mr. LEAHY, Mr. COHEN, Mr. KOHL, and Mr. JEFFORDS, proposes an amendment numbered 5091.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''False Statements Penalty Restoration Act''.

SEC. 2. RESTORING FALSE STATEMENTS PROHIBITION.

Section 1001 of title 18, United States Code, is amended to read as follows:

''§ 1001. Statements or entries generally

''(a) PROHIBITED CONDUCT.—

''(1) IN GENERAL.—A person shall be punished under subsection (b) if, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Federal Government, or any department, agency, committee, subcommittee, or office thereof, that person knowingly and willfully—

''(A) falsifies, conceals, or covers up, by any trick, scheme, or device, a material fact;

''(B) makes any materially false, fictitious, or fraudulent statement or representation; or

''(C) makes or uses any false writing or document, knowing that the document contains any materially false, fictitious, or fraudulent statement or entry.

''(2) APPLICABILITY.—This section shall not apply to parties to a judicial proceeding or anyone seeking to become a party to a judicial proceeding, or their counsel, for statements, representations, or documents submitted by them to a judge in connection with the performance of an adjudicative function.

''(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned not more than 5 years, or both.''.

SEC. 3. CLARIFYING PROHIBITION ON OBSTRUCTING CONGRESS.

Section 1515 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

''(b) CORRUPTLY.—As used in section 1505, the term 'corruptly' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.''.

SEC. 4. ENFORCING SENATE SUBPOENA.

Section 1365(a) of title 28, United States Code, is amended in the second sentence, by striking ''Federal Government acting within his official capacity'' and inserting ''executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government''.

SEC. 5. COMPELLING TRUTHFUL TESTIMONY FROM IMMUNIZED WITNESS.

Section 6005 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''or ancillary to'' after ''any proceeding before''; and

(2) in subsection (b)—

(A) in paragraphs (1) and (2), by inserting ''or ancillary to'' after ''a proceeding before'' each place that term appears; and

(B) in paragraph (3), by adding a period at the end.

Mr. SPECTER. Mr. President, I am pleased that the Senate is acting on the False Statements Penalty Restoration Act so quickly after the substitute was reported by the Judiciary Committee. This is important legislation to safeguard the constitutional legislative and oversight roles of the Congress.

Last year, overturning a decision it had rendered in 1955, the Supreme Court of the United States held in Hubbard versus United States that section 1001 of title 18 of the United States Code, the section of the Federal criminal code prohibiting false statements, only covered false statements made to executive branch agencies. That decision put at grave risk the ability of Congress to collect correct information, as false statements to Congress could no longer be punished. Congressional oversight and investigations would clearly be threatened if those interviewed could lie with impunity. Simple requests for information by Congress, its committees and subcommittees, or its offices, could be met with lies. Investigations by the General Accounting Office could likewise be stonewalled by witnesses providing false information.

Within days of the Hubbard decision, I had introduced S. 830 to overturn that decision. Earlier this year, I introduced revised legislation, S. 1734, joined by Senator LEVIN. Joining us in introducing this important bill were Senators STEVENS, NUNN, COHEN, LEAHY, JEFFORDS, INOUYE, and KOHL. Subsequently, both Senators ROTH and GRASSLEY became cosponsors. The broad bipartisan cosponsorship of this bill by some of the Senate's leading investigators and practitioners of oversight is testimony to the threat posed by Hubbard to our ability to conduct our constitutional responsibilities.

This bill is needed not simply for the practical reasons I have briefly outlined, but because it is important to make it clear that intentional false statements to Congress are just as pernicious as those made to an agent of the executive branch. We are of equal standing with the executive and the dignitary injury to the standing of Congress done by Hubbard must be overturned promptly.

Support for this bill comes not only from many of our colleagues. The Justice Department has been very supportive and quite helpful in crafting several of the bill's provisions. The Judiciary Committee heard from Deputy Assistant Attorney General Robert Litt in support of extending the coverage of section 1001 to Congress and the courts. I am grateful to the Criminal Division and the Office of Legal Counsel of the Justice Department for their assistance and insight in crafting the provisions of this bill, especially parts of section 2 and section 4.

The bill contains four substantive provisions, which I would like to summarize and briefly explain to my colleagues, so that they may fully understand the impact of this bill.

First is the provision to amend section 1001 of title 18 of the United States Code to prohibit false statements to executive agencies and departments, Congress, and the Federal courts. This provision is central to this bill. It is intended to restore section 1001 to its pre-Hubbard status. Any knowing and willful false statement that is material which is made to Congress, including any committee or subcommittee, staff of any member or committee or subcommittee acting in their official capacity, or any component or office of Congress shall be punishable under section 1001. For 40 years, this was the law of the land and there was no abuse. There is no evidence that between 1955 and 1995, the rights of individuals to provide information to Congress, to petition Congress, or to testify before Congress were chilled because of the application of section 1001 to false statements made to Congress. My research finds no prosecutions of any constituent, for example, furnishing false information to a Member of Congress. Thus, the bill does not contain any exceptions to the general rule that any knowing, willful, and material false statement to Congress will be punishable under section 1001.

The bill also prohibits false statements made to the Federal courts. Prior to Hubbard, the Federal courts had created a ''judicial function'' exception to section 1001 to carve out from the coverage of the law false statements made in the course of advocacy before a court. In order to capture the pre-Hubbard application of section 1001, this bill will codify for the first time a judicial function exception to section 1001. The language of the exception was suggested by the Justice Department, although it contains an additional limitation on which I insisted, which was to limit the application of the exception to false statements made to a judge in the performance of an adjudicative function.

The bill will exempt from the coverage of section 1001, any statement made by a party to litigation or anyone seeking to become a party, or their counsel, to a judge acting in an adjudicative capacity. In general, the only individuals making statements in court are witnesses, who are already under oath and thereby subject to prosecution for perjury, and parties and their counsel. Knowing, willful and material false statements made by parties or their counsel ought to be exempt for several reasons. First, we do not want to chill committed advocacy in court on behalf of any party. Our adversary system requires unfettered advocacy, which application of section 1001 could chill. In addition, our adversary system means that there is an opponent who

can call a false statement to the court's attention, supplying a necessary antidote. That is not the case in congressional hearings, during which there may not be anyone to point out and correct false statements. Thus, a similar exemption is not warranted for congressional proceedings. Finally, courts retain adequate alternatives to punish and deter false statements, including the contempt power and lesser sanctions provided for in the Federal Rules of Civil and Criminal Procedure and in the courts' inherent power. Congress lacks these alternative sanctions, which is yet another reason for not including a similar exemption for congressional proceedings.

The judicial function exception applies only to false statements made to a judge exercising its adjudicative authority, and not when it is exercising administrative authority. For example, the submission of a false bill to a judge by a lawyer for payment under the Criminal Justice Act would be punishable under the revised section 1001, because the false statement would not be made to the court in its adjudicative function. Also punishable would be applications for membership in the bar of a particular Federal court. The reason for the distinction is that many of the safeguards derived from the adversarial system that might call the false statement to the judge's attention are not present, warranting application of section 1001.

The next three sections of the bill are derived from legislation introduced by Senators LEVIN, NUNN, and INOUYE. TWO OF THEM PASSED THE SENATE IN 1988 BUT WERE NOT ENACTED.

Section three of the bill will overturn a 1991 decision of the United States Court of Appeals for the District of Columbia Circuit in United States versus Poindexter. In that case, the D.C. Circuit held that the statute prohibiting obstruction of Congress applies only to persons who attempt to obstruct a congressional inquiry indirectly through another person, and not to witnesses themselves. The bill would overturn this decision and clarify that an individual acting alone could be liable for obstructing Congress.

The next section of the bill is intended to clarify when the Senate may enforce a subpoena against an officer or employee of the executive branch who asserts a privilege in response to a Senate subpoena. The intent is to make it clear that judicial enforcement is available when a person is asserting a privilege personal to him or her, but not when the person is asserting a governmental privilege available only to the executive branch. When a private person asserts a privilege, section 1365 of title 28 of the United States Code allows the Senate to go to court to seek to compel responses. The section does apply to any action to enforce a subpoena against an executive branch employee who declines to testify by asserting a governmental privilege. The purpose is to keep disputes between the executive and legislative branches out of the courtroom.

In order to clarify whether the privilege asserted does in fact belong to the government, thus rendering section 1365 inapplicable, or is instead a personal privilege, the bill will revise section 1365 to require that any governmental privilege asserted must be authorized by the executive branch. It is the sponsors' intention, worked out with the Justice Department, to ensure the utmost flexibility in establishing the valid assertion of a governmental privilege. No particular form is required; it simply must be clear that the executive has authorized the assertion of the privilege. In addition, the language of the provision demonstrates our intention that the person asserting the privilege will bear the burden in a judicial proceeding under section 1365 of proving that he or she was in fact authorized to assert a governmental privilege. This change will prevent rogue employees from falsely asserting a privilege and escaping efforts to compel responses.

Finally, the bill amends section 6005 of title 18 to authorize Congress to compel testimony under oath from an immunized witness in a deposition. This change will enable Members and their staff to more readily conduct preliminary investigations as part of congressional inquiries.

I want to thank the cosponsors of this bill for their assistance, particularly Senator LEVIN and Elise Bean of his staff; the chairman and ranking Member of the Judiciary Committee, Senators HATCH and BIDEN, and their staff, especially Paul Larkin and Michael Kennedy of the majority and Peter Jaffe of the minority staff; the Department of Justice; and the Senate Legal Counsel, Thomas B. Griffith, and his deputy, Morgan Frankel, for their assistance.

I look forward to resolving any differences with the House bill promptly so that this important bill can be enacted before the close of this Congress.

Mr. LEVIN. Mr. President, as a sponsor of S. 1734, the False Statements Penalty Restoration Act, I am pleased to join Senator SPECTER in urging Senate passage of H.R. 3166, the House companion legislation with a Specter-Levin substitute amendment which is the Senate text; this legislation is to restore criminal penalties for knowing, willful, material false statements made to a federal court or Congress.

Forty years ago, in 1955, the Supreme Court interpreted 18 U.S.C. 1001 to prohibit knowing, willful, material false statements not only to the executive branch, but also to the judicial and legislative branches. For 40 years, this government-wide prohibition was the law of the land, and it served this country well. But last year, in Hubbard v. United States, the Supreme Court reversed these 40 years of precedent and held that Section 1001 prohibits false statements only to the executive branch, and not to any co-equal branch.

The Supreme Court based its decision on the wording of the statute which doesn't explicitly reference either the courts or Congress. The Court noted in Hubbard that it had failed to find in the statute's legislative history ''any indication that Congress even considered whether [Section 1001] might apply outside the Executive Branch.'' [Emphasis in original.]

The obvious result of the Hubbard decision has been to reduce parity among the three branches. And the new interbranch distinctions are difficult to justify, since there is no logical reason why the criminal status of a willful, material false statement should depend upon which branch of the Federal Government received it.

Fortunately, this problem does not involve constitutional issues or require complex legislation. It is simply a matter of inserting a clear statutory reference in Section 1001 to all three branches of government.

Senator SPECTER and I each introduced bills last year to supply that missing statutory reference. This year, we decided to join forces, along with a number of our colleagues, and introduce a single bill to restore parity among the branches. We also worked closely with the Justice Department to produce a bill that the administration would support. It is this bipartisan bill, which the Judiciary Committee has approved with unanimous support, that is before you today.

The bill contains four provisions, each of which would strengthen the ability of Congress to conduct its legislative, investigative and oversight functions, as well as to restore parity among the three branches of Government.

The first provision would amend section 1001 to make it clear that its prohibition against willful, material false statements applies government-wide to all three branches. The purpose of this provision is essentially to restore the status quo prior to Hubbard.

As part of that restorative effort, the bill includes a provision codifying a long-standing judicial branch exception, developed in case law, to exempt from Section 1001 statements made during adjudicative proceedings in a courtroom, in order to ensure vigorous advocacy. The classic example justifying this exception has been to ensure that a criminal defendant pleading ''not guilty'' to an indictment does not risk prosecution under Section 1001.

The wording of this exception includes suggestions from the Justice Department and Judiciary Committee to clarify its scope and provide adequate notice of the conduct covered. The exception is limited, for example, to parties to a judicial proceeding, persons seeking to become parties, and their legal counsel. It is also limited to statements made to a judge performing an adjudicative function.

The second provision of S. 1734 would strengthen the 50-year-old statute that prohibits obstruction of Congressional

investigations, 18 U.S.C. 1505, which has also been weakened by a court case. In 1991, in a dramatic departure from other circuits, the D.C. Circuit Court of Appeals held in United States v. Poindexter that the statute's prohibition against corruptly obstructing a Congressional inquiry was unconstitutionally vague and failed to provide clear notice that it prohibited an individual's lying to Congress. The court held that, at most, the statute prohibited one person from inducing another person to lie or otherwise obstruct Congress.

The Senate bill would affirm instead the views held by the other circuits and bring the Congressional statute back into line with other Federal obstruction statutes, by making it clear that Section 1505 prohibits obstructive acts by a person acting alone as well as when inducing another to act. The bill would also make it clear that the prohibition against obstructing Congress bars a person from making false or misleading statements and from withholding, concealing, altering or destroying documents requested by Congress. The bill would, in short, restore the strength and usefulness of the Congressional obstruction statute as well as restore its parity with other obstruction statutes protecting federal investigations.

The final two sections of the bill would clarify the ability of Congress to compel testimony and documents. Both provisions are taken from a 1988 bill, S. 2350, sponsored by then Senator Rudman and cosponsored by Senator INOUYE, which passed the Senate unanimously but was never enacted into law.

The first of these two provisions would clarify when Congress may obtain judicial enforcement of a Senate subpoena under 28 U.S.C. 1365. Section 1365 generally authorizes judicial enforcement of a Senate subpoena, except when a subpoena has been issued to an executive branch official acting in his or her official capacity—an exception that seeks to keep interbranch disputes out of the courtroom. S. 1734 would not eliminate or restrict this exception, but would make it clear that the exception applies only to an executive branch official asserting a governmental privilege that he or she has been authorized to assert. The bill would make it clear that an executive branch official asserting a personal privilege or asserting a governmental privilege without being authorized to do so could not automatically escape judicial enforcement of the Senate subpoena under Section 1365.

This provision, revised from the bill as introduced, includes suggestions from the Justice Department to make it clear that an official can establish in several ways that he or she has been authorized to assert a governmental privilege including, for example, by providing a letter or affidavit from an appropriate senior government official. The provision is also intended to make it clear that the person resisting compliance with the Senate subpoena has the burden of proving that his or her action had, in fact, been authorized by the executive branch.

The fourth and final provision involves individuals given immunity from criminal prosecution by Congress. The bill would re-word the Congressional immunity statute, 18 U.S.C. 6005, to parallel the wording of the judicial immunity statute, 18 U.S.C. 6003, and make it clear that Congress can compel testimony from immunized individuals not only in committee hearings, but also in ''ancillary'' proceedings such as depositions conducted by committee members or committee staff. This provision, like the proceeding one, would improve the Senate's ability to compel testimony and obtain requested documents. It would also bring greater consistency across the government in how immunized witnesses may be questioned.

Provisions to bar false statements and compel testimony have been on the Federal statute books for 40 years or more. Recent court decisions and events have eroded the usefulness of some of these provisions as they apply to the courts and Congress. The bill before you is a bipartisan effort to redress some of the imbalances that have arisen among the branches in these areas. It rests on the premise that the courts and Congress ought to be treated as co-equal to the executive branch when it comes to prohibitions on false statements. I urge you to join Senator SPECTER, myself and our cosponsors in supporting swift passage of this important legislation.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the amendment be considered as read and agreed to, the bill be deemed read a third time, passed, as amended, the motion to reconsider be laid upon the table, and an amendment to the title which is at the desk be agreed to, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The amendment (No. 5091) was agreed to.

The bill (H.R. 3166), as amended, was deemed read the third time and passed.

The title was amended so as to read: ''To prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes.''

FEDERAL EMPLOYEE REPRESENTATION IMPROVEMENT ACT OF 1995

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 339, H.R. 782.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 782) to amend title 18 of the United States Code to allow members of employee associations to represent their views before the U.S. Government.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Employee Representation Improvement Act of 1996''.

SEC. 2. REPRESENTATION BY FEDERAL OFFICERS AND EMPLOYEES.

(a) EXTENSION OF EXEMPTION TO PROHIBITION.—Subsection (d) of section 205 of title 18, United States Code, is amended to read as follows:

''(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

''(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

''(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

''(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

''(A) is a claim under subsection (a)(1) or (b)(1);

''(B) is a judicial or administrative proceeding where the organization or group is a party; or

''(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.''.

(b) APPLICATION TO LABOR-MANAGEMENT RELATIONS.—Section 205 of title 18, United States Code, is amended by adding at the end the following:

''(i) Nothing in this section prevents an employee from acting pursuant to—

''(1) chapter 71 of title 5;

''(2) section 1004 or chapter 12 of title 39;

''(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

''(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

''(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.''.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the committee amendment, as amended, be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 782), as amended, was deemed read the third time and passed.