

I think everyone would agree that a trustee should be able to recover these kinds of assets when a company goes bankrupt. Corporate bigwigs and wrongdoers shouldn't be able to keep their bonuses, loans or other excessive compensation when a company goes under. Corporate mismanagement and irresponsibility should not be rewarded, and the bad guys need to be held accountable.

So I think that we need to clarify the Bankruptcy Code in order that bonuses, loans, and other extraordinary or excessive compensation that the company has given to the insiders and wrongdoers can be drawn back into the bankruptcy estate.

My legislation is simply and straightforward. The Corporate Accountability in Bankruptcy Act would specifically provide in section 547 of the Bankruptcy Code that a trustee may recover bonuses, loans, nonqualified deferred compensation, and any other extraordinary or excessive compensation as determined by the court, made to an insider, officer or director and made within one year before the date of the filing of the bankruptcy petition.

In addition, the Corporate Accountability in Bankruptcy Act would specifically provide in section 548 of the Bankruptcy Code that a trustee may recover bonuses, loans, nonqualified deferred compensation, and any other extraordinary or excessive compensation, as determined by the court, paid to an officer, director or employee who has committed securities or accounting violations, within 4 years of the filing of the bankruptcy petition. My bill extends the present one year reach-back period for fraudulent transfers in the Bankruptcy Code to 4 years, I did that because a majority of states have adopted a 4 year time period or the Uniform Fraudulent Transfer Act which allows for a 4 year time frame. I believe that these changes to section 548 are fair because they are tied to excessiveness and wrongdoing. Simply said, illegal acts should not be rewarded with a big fat paycheck.

The point of this bill is that corporate officers and wrongdoers should not be able to keep bonuses, loans and other excessive compensation when the company goes under and others, employees, creditors and investors, are left holding an empty bag through no fault of their own. It's just not fair. So I hope that my colleagues will support the Corporate Accountability in Bankruptcy Act to make the Bankruptcy Code clear that corporate bigwigs and wrongdoers cannot unjustly enrich themselves and their excessive compensation and loans can and will be brought back into the bankruptcy estate.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2901

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Corporate Accountability in Bankruptcy Act".

#### SEC. 2. BANKRUPTCY PROVISIONS.

(a) PREFERENCES.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

"(h) A trustee may avoid any transfer made within 1 year before the date of the filing of the petition that was made to an insider, officer, or director for any bonuses, loans, nonqualified deferred compensation, or other extraordinary or excessive compensation as determined by the court."

(b) FRAUDULENT TRANSFERS AND OBLIGATIONS.—Section 548(a) of title 11, United States Code, is amended by adding at the end the following:

"(3) The trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, including any bonuses, loans, nonqualified deferred compensation, or other extraordinary or excessive compensation as determined by the court, paid to any officer, director, or employee of an issuer of securities (as defined in section 2(a) of the Public Company Accounting Reform and Investor Protection Act of 2002), if—

"(A) that transfer of interest or obligation was made or incurred on or within 4 years before the date of the filing of the petition; and

"(B) the officer, director, or employee committed—

"(i) a violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), State securities laws, or any regulation or order issued under Federal or State securities laws;

"(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933; or

"(iii) illegal or deceptive accounting practices."

By Mr. WELLSTONE (for himself and Mr. DAYTON):

S. 2900. A bill to designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the "Thomas E. Burnett, Jr. Post Office Building"; to the Committee on Governmental Affairs.

Mr. WELLSTONE. Madam President, I rise today to pay tribute to an American hero. Tom Burnett, Jr. was a beloved husband and father, an adored son, and an able business leader. He was a person who would not, and did not, sit quietly as terrorists carried out their plan last year on September 11.

I am introducing a bill today, along with my colleague from Minnesota, Senator DAYTON. Our bill would designate a U.S. Postal Service facility in Bloomington, MN as the "Thomas E. Burnett, Jr. Post Office Building." It is a companion proposal to a bill introduced by our House colleague, Representative JIM RAMSTAD, whose district includes Bloomington.

Tom Burnett, Jr., who grew up in Bloomington, was aboard United Flight

93 on September 11 of last year. America owes Tom a deep debt of gratitude for his bravery on that day. It is possible that Members of Congress, including myself, could owe him our very lives. We will never know for sure. Tom is believed by investigators to have been among those passengers who kept the hijackers from crashing Flight 93 into a national landmark, most likely the White House or the Capitol. That, of course, would likely have resulted in many more deaths than already occurred that day. Instead, as we all know, Flight 93 crashed in a Pennsylvania field.

After listening to the tape from the flight's black box, law enforcement officials have described a desperate struggle aboard the plane. As FBI Director Mueller said after being briefed on the contents of the tape, "We believe those passengers were absolute heroes, and their actions during this flight were heroic."

Tom Burnett, Jr. was 38 years old when he died. A 1986 graduate of the Carlson School of Management at the University of Minnesota and a member of Alpha Kappa Psi fraternity, he had shown selfless leadership before. As a quarterback at Thomas Jefferson High School in Bloomington, Tom's inspired play led his team to the conference championship game in 1980. He was a successful business leader as chief operating officer for a medical device manufacturer in California.

We will never forget the ultimate sacrifice of Tom and many other heroes last September 11. Our thoughts and prayers today are with Tom's family: his wife Deena; their daughters Madison, Halley and Anna-Clair; his parents Thomas, Sr. and Beverly; and his sisters Martha O'Brien and Mary Margaret Burnett. Bloomington will be proud to have this post office named for Tom Burnett, Jr. We all are proud of this son of Minnesota.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4471. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 4471. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "National Homeland Security and Combating Terrorism Act of 2002".

#### SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 3 divisions as follows: