

103^D CONGRESS
2^D SESSION

S. RES. 217

Establishing a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to conduct an investigation into allegations concerning the Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and other related matters.

IN THE SENATE OF THE UNITED STATES

MAY 25 (legislative day, MAY 16), 1994

Mr. D'AMATO (for himself, Mr. DOLE, Mr. WALLOP, Mr. MURKOWSKI, Mr. GRAMM, Mr. MACK, Mr. BOND, Mr. FAIRCLOTH, Mr. BENNETT, Mr. DOMENICI, Mr. ROTH, Mr. NICKLES, Mr. SIMPSON, Mr. LOTT, Mr. MCCAIN, Mr. STEVENS, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. SMITH, Mr. HATCH, Mr. CRAIG, Mr. HELMS, Mr. COVERDELL, Mr. PRESSLER, Mr. THURMOND, Mr. McCONNELL, and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on Rules and Administration

RESOLUTION

Establishing a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to conduct an investigation into allegations concerning the Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and other related matters.

1 *Resolved,*

1 ESTABLISHMENT OF THE SPECIAL SUBCOMMITTEE

2 SECTION 1. (a) There is established a special sub-
3 committee within the Committee on Banking, Housing,
4 and Urban Affairs to be known as the Special Subcommit-
5 tee on Certain Allegations Concerning Whitewater Devel-
6 opment Corporation, Madison Guaranty Savings and Loan
7 Association, and Capital Management Services, Inc., and
8 Related Issues (hereafter in this resolution referred to as
9 the “special subcommittee”).

10 (b) The purpose of the special subcommittee is—

11 (1) to conduct an investigation into, and study
12 of, all matters which have any tendency to reveal the
13 full facts about—

14 (A) the operations, solvency, and regula-
15 tion of Madison Guaranty Savings and Loan
16 Association, including the alleged use of feder-
17 ally insured funds as campaign contributions;

18 (B) the relationship among Madison Guar-
19 anty Savings and Loan Association, other feder-
20 ally insured institutions, and Whitewater Devel-
21 opment Corporation;

22 (C) the management and business activi-
23 ties of Whitewater Development Corporation
24 and its shareholders, including issues of per-
25 sonal, corporate, and partnership tax liability;

1 (D) the policies of the Resolution Trust
2 Corporation, Federal banking agencies, and
3 other Federal regulatory agencies regarding
4 legal representation of the agencies, including
5 conflicts of interest and cost controls;

6 (E) the independence of the Resolution
7 Trust Corporation, Federal banking agencies,
8 and other Federal regulatory agencies, includ-
9 ing any improper contacts among officials of
10 the White House, the Department of the Treas-
11 ury, the Resolution Trust Corporation, the Of-
12 fice of Thrift Supervision, and any other Fed-
13 eral agency;

14 (F) the Resolution Trust Corporation's in-
15 ternal handling of the criminal referrals con-
16 cerning Madison Guaranty Savings and Loan
17 Association;

18 (G) the pursuit by the Resolution Trust
19 Corporation of civil causes of action against po-
20 tentially liable parties associated with Madison
21 Guaranty Savings and Loan Association;

22 (H) the pursuit by the Office of Thrift Su-
23 pervision, the Federal Deposit Insurance Cor-
24 poration, and the Federal Savings and Loan In-
25 surance Corporation of administrative and civil

1 causes of action against potentially liable par-
2 ties associated with Madison Guaranty Savings
3 and Loan Association;

4 (I) the Department of Justice's handling
5 of the Resolution Trust Corporation's criminal
6 referrals relating to Madison Guaranty Savings
7 and Loan Association;

8 (J) the delayed recusal of the United
9 States Attorney for the Eastern District of Ar-
10 kansas from the investigation or prosecution of
11 David Hale, Capital Management Services, Inc.,
12 and Whitewater Development Corporation;

13 (K) the sources of funding and the lending
14 practices of Capital Management Services, Inc.,
15 and its supervision and regulation by the Small
16 Business Administration, including loans to
17 Susan McDougal and the alleged diversion of
18 funds to Whitewater Development Corporation;

19 (L) the Park Police investigation into the
20 death of White House Deputy counsel Vincent
21 Foster;

22 (M) the operations and underwriting ac-
23 tivities of the Arkansas Development Finance
24 Authority;

1 (N) the circumstances surrounding and the
2 propriety of the commodities-futures trading ac-
3 tivities of Hillary Rodham Clinton;

4 (O) the investment activities of Value
5 Partners I, including the compliance of these
6 activities with Federal laws governing conflicts
7 of interest;

8 (P) any other issues related to the matters
9 referred to in subparagraphs (A) through (O);
10 and

11 (Q) any issues developed during, or arising
12 out of, the hearings conducted by the special
13 subcommittee; and

14 (2)(A) to make such findings of fact as are
15 warranted and appropriate;

16 (B) to make such recommendations, including
17 recommendations for new legislation and amend-
18 ments to existing laws and any administrative or
19 other actions, as the special subcommittee may de-
20 termine to be necessary or desirable; and

21 (C) to fulfill the Constitutional oversight and
22 informing function of the Congress with respect to
23 the matters described in this section.

24 (c) For purposes of this section, the term “Madison
25 Guaranty Savings and Loan Association” includes any

1 subsidiary company, affiliated company, or business
2 owned or controlled, in whole or in part, by Madison Guar-
3 anty Savings and Loan Association, its officers, directors,
4 or principal shareholders.

5 MEMBERSHIP AND ORGANIZATION OF THE SPECIAL
6 SUBCOMMITTEE

7 SEC. 2. (a)(1) The special subcommittee shall consist
8 of—

9 (A) 5 members of the Committee on Banking,
10 Housing, and Urban Affairs appointed by the chair-
11 man;

12 (B) 5 members of the Committee on Banking,
13 Housing, and Urban Affairs appointed by the rank-
14 ing member;

15 (C) 3 members of the Senate appointed by the
16 President pro tempore of the Senate from the major-
17 ity party of the Senate upon the recommendation of
18 the Majority Leader of the Senate; and

19 (D) 3 members of the Senate appointed by the
20 President pro tempore of the Senate from the minor-
21 ity party of the Senate upon the recommendation of
22 the Minority Leader of the Senate.

23 (2) Vacancies in the membership of the special sub-
24 committee shall not affect the authority of the remaining
25 members to execute the functions of the special sub-

1 committee and shall be filled in the same manner as origi-
2 nal appointments to it are made.

3 (3) For the purpose of paragraph 4 of rule XXV of
4 the Standing Rules of the Senate, service of a Senator
5 as a member of the special subcommittee shall not be
6 taken into account.

7 (b)(1) The chairman and ranking member of the
8 Committee on Banking, Housing, and Urban Affairs shall
9 be cochairmen of the special subcommittee.

10 (2) A majority of the members of the special sub-
11 committee shall constitute a quorum for reporting a mat-
12 ter or recommendation to the Senate, except that a
13 quorum shall not be necessary for the purpose of taking
14 testimony before the special subcommittee or for conduct-
15 ing the other business of the special subcommittee.

16 (c)(1) The special subcommittee shall promptly adopt
17 appropriate rules and procedures consistent with this reso-
18 lution.

19 (2) The rules and procedures of the special sub-
20 committee shall—

21 (A) govern the proceedings of the special sub-
22 committee; and

23 (B) consistent with section 6 of this resolu-
24 tion—

1 (i) provide for the security of the records
2 of the special subcommittee; and

3 (ii) prevent the unauthorized disclosure of
4 information and materials obtained by the spe-
5 cial subcommittee in the course of its investiga-
6 tion and study.

7 STAFF OF THE SPECIAL SUBCOMMITTEE

8 SEC. 3. (a)(1) Committee staff from committees hav-
9 ing jurisdiction over matters described in section 1(b) shall
10 be detailed to the special subcommittee, subject to avail-
11 ability, as requested by the cochairmen.

12 (2) In addition to staff detailed pursuant to para-
13 graph (1) and to assist the special subcommittee in its
14 investigation and study, the cochairmen, after approval of
15 the special subcommittee, may appoint special subcommit-
16 tee staff.

17 (3) All staff detailed pursuant to paragraph (1) or
18 appointed pursuant to paragraph (2) shall work for the
19 special subcommittee as a whole, shall report to the two
20 cochairmen and, except as otherwise provided by the spe-
21 cial subcommittee, shall be under the direction of the co-
22 chairmen.

23 (b) To assist the special subcommittee in its inves-
24 tigation and study, the Senate Legal Counsel and Deputy
25 Senate Legal Counsel shall work with and under the juris-
26 diction and authority of the special subcommittee.

1 (c) The Majority and Minority Leaders of the Senate
2 may each designate one staff person to serve on the staff
3 of the special subcommittee to serve as their liaison to the
4 special subcommittee.

5 (d) The Comptroller General of the United States is
6 requested to provide from the General Accounting Office
7 whatever personnel, investigatory, material, or other ap-
8 propriate assistance may be required by the special sub-
9 committee.

10 PUBLIC ACTIVITIES OF THE SPECIAL SUBCOMMITTEE

11 SEC. 4. (a) Consistent with the rights of persons sub-
12 ject to investigation and inquiry, the special subcommittee
13 shall make every effort to fulfill the right of the public
14 and the Congress to know the essential facts and implica-
15 tions of the activities of officials of the United States Gov-
16 ernment and other persons and entities with respect to
17 the matters under investigation and study as described in
18 section 1.

19 (b) In furtherance of the public's and Congress' right
20 to know, the special subcommittee—

21 (1) shall hold, as either cochairman considers
22 appropriate, open hearings on specific subjects, sub-
23 ject to consultation and coordination within the inde-
24 pendent counsel appointed pursuant to chapter 28,
25 part 600, of the Code of Federal Regulations (re-
26 ferred to as the “independent counsel”);

1 (2) may make interim reports to the Senate as
2 it considers appropriate; and

3 (3) shall make a final comprehensive public re-
4 port to the Senate which contains a description of all
5 relevant factual determinations consistent with sub-
6 section (a) of this section and section 1(b)(2) and
7 which contains recommendations for new legislation,
8 if necessary.

9 POWERS OF THE SPECIAL SUBCOMMITTEE

10 SEC. 5. (a) The special subcommittee shall do every-
11 thing necessary and appropriate under the laws and Con-
12 stitution of the United States to make the investigation
13 and study specified in section 1.

14 (b) The special subcommittee is authorized to issue
15 subpoenas for obtaining testimony and for the production
16 of documentary or physical evidence. A subpoena may be
17 authorized and issued by the special subcommittee, acting
18 through either cochairman or any other member des-
19 ignated by either cochairman, and may be served by any
20 person designated by either cochairman or other member
21 anywhere within or without the borders of the United
22 States to the full extent permitted by law. Either cochair-
23 man of the special subcommittee, or any other member
24 thereof, is authorized to administer oaths to any witnesses
25 appearing before the subcommittee.

1 (c) The special subcommittee is authorized to do the
2 following:

3 (1) To employ and fix the compensation of such
4 clerical, investigatory, legal, technical, and other as-
5 sistants as the special subcommittee considers nec-
6 essary or appropriate.

7 (2) To sit and act at any time or place during
8 sessions, recesses, and adjournment periods of the
9 Senate.

10 (3) To hold hearings, take testimony under
11 oath, and to receive documentary or physical evi-
12 dence relating to the matters and questions it is au-
13 thorized to investigate or study.

14 (4) To request a grant of immunity under sec-
15 tion 6005 of title 18, United States Code, after con-
16 sultation with the independent counsel.

17 (5) To require by subpoena or order the attend-
18 ance, as witnesses before the special subcommittee
19 or at depositions, of any person either cochairman
20 determines may have knowledge or information con-
21 cerning any of the matters the special subcommittee
22 is authorized to investigate and study.

23 (6) To take depositions and other testimony
24 under oath anywhere within the United States, to
25 issue orders by either cochairman or any other mem-

1 ber designated by either cochairman which require
2 witnesses to answer written interrogatories under
3 oath, and to make application for issuance of letters
4 rogatory.

5 (7) To issue commissions and to notice deposi-
6 tions for staff members to examine witnesses and to
7 receive evidence under oath administered by an indi-
8 vidual authorized by local law to administer oaths.
9 The special subcommittee, acting through either co-
10 chairman, may authorize and issue, and may dele-
11 gate to designated staff members the power to au-
12 thorize and issue, commissions and deposition no-
13 tices.

14 (8) To require by subpoena or order—

15 (A) any department, agency, entity, officer,
16 or employee of the United States Government,

17 (B) any person or entity purporting to act
18 under color or authority of State or local law,
19 or

20 (C) any private person, firm, corporation,
21 partnership, or other organization,

22 to produce for its consideration or for use as evi-
23 dence in the investigation or study of the special
24 subcommittee any book, check, canceled check, cor-
25 respondence, communication, document, financial

1 record, paper, physical evidence, photograph, record,
2 recording, tape, or any other material relating to
3 any of the matters or questions such subcommittee
4 is authorized to investigate and study which they or
5 any of them may have in their custody or under
6 their control.

7 (9) To make to the Senate any recommenda-
8 tions, including recommendations for criminal or
9 civil enforcement, which the special subcommittee
10 may consider appropriate with respect to—

11 (A) the willful failure or refusal of any per-
12 son to appear before it, or at a deposition, or
13 to answer interrogatories, in obedience to a sub-
14 poena or order;

15 (B) the willful failure or refusal of any
16 person to answer questions or give testimony
17 during his appearance as a witness before such
18 subcommittee, or at a deposition, or in response
19 to interrogatories; or

20 (C) the willful failure or refusal of—

21 (i) any officer or employee of the
22 United States Government,

23 (ii) any person or entity purporting to
24 act under color or authority of State or
25 local law, or

1 (iii) any private person, partnership,
2 firm, corporation, or organization,
3 to produce before the subcommittee, or at a
4 deposition, or at any time or place designated
5 by the subcommittee, any book, check, canceled
6 check, correspondence, communication, docu-
7 ment, financial record, paper, physical evidence,
8 photograph, record, recording, tape, or any
9 other material in obedience to any subpoena or
10 order.

11 (10) To procure the temporary or intermittent
12 services of individual consultants, or organizations
13 thereof.

14 (11) To use on a reimbursable basis, with the
15 prior consent of the Government department or
16 agency concerned, the services of personnel of such
17 department or agency.

18 (12) To use, with the prior consent of the
19 chairman or ranking member of any other Senate
20 committee or the chairman or ranking member of
21 any subcommittee of any committee of the Senate,
22 the facilities or services of the appropriate members
23 of the staff of such other Senate committee when-
24 ever the special subcommittee or either cochairman
25 consider that such action is necessary or appropriate

1 to enable the special subcommittee to make the in-
2 vestigation and study provided for in this resolution.

3 (13) To have access through the agency of any
4 members of the special subcommittee, staff director,
5 chief counsel, or any of its investigatory assistants
6 designated by either cochairman, to any data, evi-
7 dence, information, report, analysis, document, or
8 paper—

9 (A) which relates to any of the matters or
10 questions which the special subcommittee is au-
11 thorized to investigate or study;

12 (B) which is in the possession, custody, or
13 under the control of any department, agency,
14 entity, officer, or employee of the United States
15 Government, including those which have the
16 power under the laws of the United States to
17 investigate any alleged criminal activities or to
18 prosecute persons charged with crimes against
19 the United States without regard to the juris-
20 diction or authority of any other Senate com-
21 mittee; and

22 (C) which will aid the special subcommittee
23 to prepare for or conduct the investigation and
24 study authorized and directed by this resolu-
25 tion.

1 (14) To report violations of any law to the ap-
2 propriate Federal, State, or local authorities.

3 (15) To expend, to the extent the special sub-
4 committee determines necessary and appropriate,
5 any money made available to such subcommittee by
6 the Senate to make the investigation, study, and re-
7 ports authorized by this resolution.

8 (16) Under sections 6103(f)(3) and 6104(a)(2)
9 of the Internal Revenue Code of 1986, to inspect
10 and receive for the fiscal years 1977–1992 any tax
11 return, return information, or other tax-related ma-
12 terial, held by the Secretary of the Treasury, related
13 to individuals and entities named by the special sub-
14 committee as possible participants, beneficiaries, or
15 intermediaries in the transactions under investiga-
16 tion.

17 (d) The level of compensation payable to any em-
18 ployee of the special subcommittee shall not be subject to
19 any limitation on compensation otherwise applicable to an
20 employee of the Senate. No employee of the special sub-
21 committee may receive pay at a rate of pay in excess of
22 the rate of pay payable for a position at level III of the
23 Executive Schedule under section 5314 of title 5, United
24 States Code.

1 PROTECTION OF CONFIDENTIAL INFORMATION

2 SEC. 6. (a) All staff members and consultants shall,
3 as a condition of employment, agree in writing to abide
4 by the conditions of an appropriate nondisclosure agree-
5 ment promulgated by the special subcommittee.

6 (b) The case of any Senator who violates the security
7 procedures of the special subcommittee may be referred
8 to the Select Committee on Ethics of the Senate for the
9 imposition of sanctions in accordance with the rules of the
10 Senate. Any staff member or consultant who violates the
11 security procedures of the special subcommittee shall im-
12 mediately be subject to removal from office or employment
13 with the special subcommittee or shall be subject to such
14 other sanction as may be provided in the rules of the spe-
15 cial subcommittee.

16 (c) Upon the termination of the special subcommittee
17 pursuant to section 9 of this resolution, all records, files,
18 documents, and other materials in the possession, custody,
19 or control of the special subcommittee, under appropriate
20 conditions established by such subcommittee, shall be
21 transferred to the National Archives.

22 RELATION TO OTHER INVESTIGATIONS

23 SEC. 7. (a) In order to—

24 (1) expedite the thorough conduct of the inves-
25 tigation and study authorized by this resolution;

1 (2) promote efficiency among all the various in-
2 vestigations underway in all branches of the United
3 States Government; and

4 (3) engender a high degree of confidence on
5 the part of the public regarding the conduct of
6 such investigation,

7 the special subcommittee is encouraged—

8 (A) to coordinate, to the extent practicable, its
9 activities with the investigation of the independent
10 counsel;

11 (B) to seek the full cooperation of all relevant
12 investigatory bodies; and

13 (C) to seek access to all information which is
14 acquired and developed by such bodies.

15 (b) The cochairmen shall meet with the independent
16 counsel to obtain relevant information concerning the sta-
17 tus of the independent counsel's investigation to assist in
18 establishing a hearing schedule for the special subcommit-
19 tee.

20 (c) The Senate requests that the independent counsel
21 make available to the special subcommittee, as expedi-
22 tiously as possible, all documents and information which
23 may assist the special subcommittee in its investigation
24 and study.

SALARIES AND EXPENSES

1
2 SEC. 8. Such sums as are necessary shall be available
3 from the contingent fund of the Senate out of the Account
4 for Expenses for Inquiries and Investigations for payment
5 of salaries and other expenses of the special subcommittee
6 under this resolution, which shall include sums which shall
7 be available for the procurement of the services of individ-
8 ual consultants or organizations thereof, in accordance
9 with section 5(c)(9). Payment of expenses shall be dis-
10 bursed upon vouchers approved by either cochairman of
11 the special subcommittee, except that vouchers shall not
12 be required for the disbursement of salaries paid at an
13 annual rate.

REPORTS; TERMINATION

14
15 SEC. 9. (a)(1) The special subcommittee shall make
16 a final public report to the Senate of the results of the
17 investigation and study conducted by such subcommittee
18 pursuant to this resolution, together with its findings and
19 any recommendations at the earliest practicable date.

20 (2) The final report of the special subcommittee may
21 be accompanied by whatever confidential annexes are nec-
22 essary to protect confidential information.

23 (b) After submission of its final report, the special
24 subcommittee shall conclude its business and close out its
25 affairs as expeditiously as practicable.

1 SUBCOMMITTEE JURISDICTION AND RULE XXV

2 SEC. 10. The jurisdiction of the special subcommittee
3 is granted pursuant to this resolution notwithstanding the
4 provisions of paragraph 1 of rule XXV of the Standing
5 Rules of the Senate relating to the jurisdiction of the
6 standing committees of the Senate.

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