

The Public Company Accounting Reform and Investor Protection Act would establish the Public Company Accounting Oversight Board to set standards for auditing public companies.

It would inspect accounting firms. It would conduct investigations into possible violations of its rules and impose a full range of sanctions. It would restrict the nonaudit services a public accounting firm may provide to its clients that are public in nature. It would require a public accounting firm to rotate its lead partner and review partner on audits after 5 consecutive years of auditing a public company.

It would require chief executive officers and chief financial officers to certify the accuracy of financial statements and disclosures. It would require CEOs and CFOs to relinquish bonuses and other incentive-based compensation and profit on stock sales in the event of accounting restatements resulting from fraudulent noncompliance with Securities and Exchange Commission financial reporting requirements.

It would prohibit directors and executive officers from trading company stock during blackout periods. It would require scheduled disclosures of adjustment statements. It would establish bright-line boundaries to prohibit stock analyst conflicts of interest.

It would authorize about \$300 million more than the President's budget for the SEC next year to enhance its investigation and enforcement capabilities.

I will not go through all the details of the amendment that has been approved by the Senate, offered by Senator LEAHY, making certain things criminal in nature and increasing the penalties.

This is a fine piece of legislation. But I do say this. The Senator from Maryland is in the Chamber. I am confident the Senator from Maryland would agree to a unanimous consent request that on relevant amendments, determined by the Parliamentarian, we have a half hour on each one, and as soon as the half hour is up, vote on them.

I ask the Senator from Maryland, you would agree to that, wouldn't you?

Mr. SARBANES. It would be one way of trying to deal with these amendments and dispose of them. A request of that sort ought to be carefully considered, certainly.

We have this problem. Members have amendments pending. We have been trying to move the amendments forward. We have not been able to do that. I know how frustrated they are. I share their frustration.

(Mrs. CARNAHAN assumed the chair.)

Mr. REID. But in spite of all this, I want the RECORD to be spread with the fact that we have a good piece of legislation. I would like, as I said before, to have some of the fancier upholstery—

Mr. SARBANES. If the Senator will yield, it is interesting, in the debate we just had, until the Senator from Michigan underscored the fact, it was not

pointed out that we provide independent funding in this legislation for the Financial Accounting Standards Board, which has the responsibility of setting these accounting standards.

Their problem in the past has been that they are voluntarily funded from the industry. They have to go to them and beg for money in order to carry out their activities. And if the industry thinks they are going to do a ruling that is contrary to what they want, then they are not as willing to support their activity.

We eliminate that in this bill because we have a mandatory fee that must be paid by all issuers, and the Board will be funded out of that money. So that, in itself, is a very important and significant step in establishing the independence of the Accounting Standards Board.

Mr. REID. Madam President, I have spoken with the Presiding Officer and staff on several occasions. Yours is our next amendment in order. You have been waiting 2 days to have that amendment offered, a very important amendment. And you are just one of several. You are fortunate in that you are the next one, if we can ever get to the next one.

I would ask my friend—

Mr. GRAMM. I have the next Republican amendment.

Mr. REID. We know we have to be burdened with a Republican amendment once in a while.

I say to my friend, would the Senator consider my proposal to have relevant amendments debated—and the relevancy would be determined by the Chair—for a half hour on each one of those and, at the end of the half hour, have a vote up-or-down on that amendment?

Mr. GRAMM. The Senator is already in a big fight with Senator MCCAIN. I do not know why he wants to try to pick one with other people.

Where we are is, we are going to cloture. And there are rules in the Senate. And postcloture, for an amendment, the ticket to get into the arena is it has to be germane, which means it must be directly related to a provision in the bill. It cannot amend the bill in more than one place. There is a certain set of rules.

If the Senator would indulge me a second, we have 36 Republicans who want to offer an amendment. My amendment is next on the list. I am the ranking member of this committee, and it appears I am not going to get an opportunity to offer an amendment. Now, I could cry and pout about it, but it would not change anything and would not change the world either. There are 58 Democrat amendments.

The point is, we all agree on one thing: Whether you like this bill or you do not like it, it is an important bill and we need to get on with it. We need to pass it. We need to go to conference. We need to work out an agreement with the House and with the White House. If we sat here and tried to do 36

Republican amendments and 58 Democrat amendments—and some of them having to do with things such as the Ninth Circuit Court of Appeals and bankruptcy law—we would literally spend 3 or 4 months. So there is no other alternative than following the rules of the Senate. And that is exactly what I want to do.

Mr. REID. Reclaiming the floor, I have always enjoyed the Texas drawl of my friend, the senior Senator from Texas. But even through the drawl, I understood that to be a no.

Mr. GRAMM. Yes. Yes, it was a no.

Mr. REID. My friend, the other Senator from Arizona, is on the floor. We are waiting for the Republican leader. I assume that will be soon.

I ask my friend from Wyoming, when the Republican leader does appear, if he would be kind enough to allow us to attempt to enter into an agreement.

I ask the Senator, if you see him come to the floor, would you be so kind as to yield the floor for just a short time? It would be appreciated.

Mr. ENZI. I would be happy to interrupt my remarks at that time. I would hope my remarks would appear as uninterrupted.

Mr. REID. I would agree.

UNANIMOUS CONSENT REQUEST—
H.R. 5011

Mr. REID. Madam President, the Republican leader is on the floor. I will propound a unanimous consent request. This relates to H.R. 5011, the military construction appropriations bill.

I ask unanimous consent that a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to the consideration of Calendar No. 486, H.R. 5011, the military construction appropriations bill; and that it be considered under the following limitations: that immediately after the bill is reported, all after the enacting clause be stricken and the text of Calendar No. 479, S. 2709, the Senate committee-reported bill, be inserted in lieu thereof; that debate time on the bill and substitute amendment be limited to a total of 45 minutes, with an additional 20 minutes under the control of Senator MCCAIN; that the only other amendment in order be an amendment offered by Senators FEINSTEIN and HUTCHISON of Texas which is at the desk, with debate limited to 10 minutes on the Feinstein and Hutchison of Texas amendment; that upon the use or yielding back of time on the amendment, without further intervening action or debate, the Senate proceed to vote on adoption of the amendment; that all debate time not already identified in this agreement be equally divided and controlled between the Chair and ranking member of the subcommittee or their designee; that upon the disposition of the Feinstein-Hutchison amendment and the use or yielding back of the time, the substitute amendment, as amended, be

agreed to; the bill, as amended, be read three times; that section 303 of the Congressional Budget Act be considered waived; and the Senate then vote on passage of the bill; that upon passage of the bill, the Senate insist on its amendment and then request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Madam President, reserving the right to object, first, I would say that I am glad we have reached the point where we are prepared to start trying to move some appropriations bills. We are way late in the year. But ordinarily, we move anywhere from as few as five to as many as nine in July. I hope we can begin to get on a roll here pretty soon on the appropriations bills because there are a lot of things we need to do, but there are a few things we must do. One of them is, we have to pass the bills to fund the Government for the next fiscal year, and the fiscal year ends the 1st of October.

I am glad this is being asked for consideration now. I want to thank the managers and both sides of the aisle for allowing time for Senator MCCAIN and others to review the managers' package. I understand that has been worked out and has been cleared. I think this is a good way to consider this legislation.

There may be objection, but I want the RECORD to reflect that I strongly support this unanimous consent request and I support this legislation. It is more than what the President asked for in this particular category, but it still has to go to conference. I hope that it can be worked out in such a way that it would be acceptable to the President.

There are those who are worried that any time a bill of this nature moves through the process, they lose an opportunity for critical matters to be considered. For instance, let me be specific, because I think Senator KYL may talk about this, there are those from the West and maybe other areas that have had fires in their States—we know some of those in Colorado, Arizona, and New Mexico—and floods, such as the one they have had in Texas. There has probably been well in excess of \$1 billion used, involved in fighting the fires. Now that is going to be needed to deal with the floods in Texas.

Those funds have been provided by transfer of funds from other accounts. One of two things is going to happen: We are going to replenish the funds taken from those accounts or those accounts are going to come up short. Understandably, the Senators from the States affected want to make sure there is going to be an opportunity for them to provide the funds that have been used or replace the funds that have been used to make sure money is there for upcoming needs.

I am sympathetic to that. I don't think this is the last train out of the Senate. If this bill moves, there will be another one, and hopefully we will be moving two or three appropriations bills every week.

There may be other considerations about what do we do if we don't get an agreement on the supplemental this week. I hope that within the next 24 hours something can be worked out on the supplemental appropriations bill, which, by the way, has been hanging around now for over 100 days, probably closer to 120 days by now. It is time to get an agreement. At some point, if we don't get the supplemental funds, we may wind up not having adequate funds for our airport security workers, the Transportation Security Agency, and it will begin to affect the Defense Department. I hope we can get all of this worked out.

I am sympathetic to those worried about that and the fires. But I don't think that is justification for not moving forward on the military construction appropriations bill. I support this request. I want the RECORD to be clear about how I feel about the request and the legislation.

With that, I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Madam President, I know there is another reservation, but I just want to respond to the leader because I want him to be able to retire to his office when he feels necessary.

I had the opportunity to chair the Military Construction Subcommittee and worked as ranking member. It is an extremely important subcommittee for the military. With what has been going on in Afghanistan, it is compounded as to its importance. That is why the two Senators who run this committee, the Senators from California and Texas, Mrs. FEINSTEIN and Mrs. HUTCHISON, have worked so hard getting it in a posture that has been signed off by literally everyone, including Senator MCCAIN, who has reviewed the work done. They have done a wonderful job.

I would also say to my friend from Arizona, Nevada, last year and the year before, was scourged with terrible fires. We didn't have forest fires; we had range fires that burned millions of acres. We were able to get money to help replenish those rangelands so depleted as a result of the fires.

I have been here a long time. I never remember a time when we did not respond to take care of the needs caused by fires in this country. Most of the fires occur in the West. We have always handled that.

We have 12 other appropriations bills coming through here. With all due respect, I say to the junior Senator from Arizona, this is not the time to hold up this legislation. There are at least 12 other bills. We reported another one out of the committee today.

I would say to my friend, the Republican leader, I had the opportunity to speak to Senator BYRD a short time ago. There is hope that the supplemental conference will be completed tomorrow. Great progress is being made. I hope we can move forward on this bill. This is so important that we get it out of here and get it to the House.

I have no doubt, as tight as money is, that we will take care of the fire needs of the western part of the United States. We always take care of emergency needs, whether it is fire or flood. We will do so in the future.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I object, and I would like to explain the reason why. I concur with the comments Senator LOTT has made about the importance of moving this legislation forward. I have conferred with the ranking member of the committee, the Senator from Texas, who makes a strong case that the legislation has been carefully crafted, and it is important to move it forward. I totally concur with her on that.

I also have no problem with the way in which the unanimous consent agreement has been constructed in terms of moving forward as soon as it is possible to do so. I have no objection to any of that.

I do simply want to, as the minority leader said, preserve the option of dealing with the subject of the recent floods and droughts on this appropriation bill. The reason is as follows: The ranking member of the committee, the chairman of the Appropriations Committee, and the ranking member of the Energy and Water Subcommittee are all meeting today with other people, including the Director of the OMB, the Senator from Texas, and others, to try to figure out the best way to deal with the new issue of the fire and flood and drought damages that have occurred in this country since the supplemental appropriations bill was put together.

My personal view is that the supplemental would probably be a preferable place to include the disaster relief to replenish the funds for the forest fires to the BIA and the Forest Service. There are those, however, who disagree. If the Director of OMB and chairman and ranking member of the Appropriations Committee believe that it is not appropriate to use the supplemental as the vehicle for doing that, then one of the other appropriations bills will be appropriate, and the first one before us is the military construction bill. That would be the next appropriate vehicle.

I am simply preserving their option to decide which is the best vehicle for moving this forward. The reason specifically for wanting to do it right now—in response to the Senator from Nevada, I am confident that we will deal with this issue because it has to be dealt with.

Here is the very practical problem. We have had about one-fourth of the

entire budget of the Forest Service now consumed in fighting forest fires; whereas, ordinarily it is something like 4 percent of their budget, or something like that. So they have borrowed from other accounts in order to pay these firefighters.

The fires in Arizona cost almost \$50 million to fight. As a result, they have had to borrow that money from other accounts. The result of that is that right after the fire is over, before it is even cool, they will not be able to go into the area of these fires and prevent the erosion that inevitably occurs as soon as the rains start, and now the rainy season is beginning, and the planting of the grasses and trees and so on that further inhibits that erosion. They literally want to go in as soon as they can after the fire to stabilize the ground. If they wait too long, it doesn't do any good. So they have to do that right away.

The problem is, they have spent all the money in the restoration accounts. The head of the Forest Service put a stop on the expenditure of any money that doesn't have to be spent almost on an emergency or daily operations basis. So right now, both the Department of the Interior and the Department of Agriculture are significantly precluded from doing the other things Congress mandated that they do.

We need to make sure they know they are going to have the funds to restore those accounts so they can get on with the jobs we have asked them to do; and, most importantly, in the very near term they can get into the area of these fires and begin the restoration that is essential in a timely fashion. That is why the first vehicle in terms of an appropriations bill that can be used should be used for this process—whether it is the supplemental or this appropriations bill.

There have been suggestions that the Interior Appropriations bill would be a better vehicle. From a purely substantive point of view, that is true, but that will not come before us for another month, or 6 weeks, or 2 months. That is, obviously, way too late.

That is the reason why we need to preserve this particular option. I hope we can move quickly to the consideration of the MILCON bill, both for the purpose of completing the work of the Senator from Texas, as well as the work we are talking about.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I am the ranking member of the Military Construction Subcommittee. I have worked very hard with Senator FEINSTEIN, the chairman of that committee, to produce a bill that takes into account all of the priorities of the Department of Defense, the administration, and the Members' requests. I think we have done a good job. We didn't give every Member everything they asked for, of course, but I think we have done a terrific job in meeting the needs of the military and the requests of the administration.

We need to pass this bill. I appreciate the support of Senator LOTT, along with, of course, Senator REID and Senator DASCHLE and Senator FEINSTEIN, that we need to move this forward. However, I wanted to say that although Senator KYL has objected—and I disagree with his decision to do so—I understand his frustration, and Senator REID said he understands his frustration. We see it every night on the news—the fighting of these incredible fires, people being put out of their homes, ruining vast hundreds of thousands of acres of our forestland in this country, and we are running out of money.

I hope that people have also seen the floods in my home State of Texas. The Governor is now saying that the damage is estimated to be \$2 billion. It only happened last week, so I cannot tell you exactly what we are going to need to clean up the floods. But I know that the people are suffering. I am going to be there tomorrow with Joe Albaugh, head of FEMA, to look at the damage myself because I want to make sure we are doing the right thing for the people of Arizona, the people of Colorado, the people of New Mexico, the people of Idaho, and the people of Texas. We have always done that.

So I understand Senator KYL's frustration. I am sorry he is holding up this bill, but I am committed to seeking a vehicle for an amendment that would ensure that the money is there to fight the forest fires in this country and to clean up the flood damage that we see happening in Texas. We will do that. We will find the vehicle to do it. I commit that we will. We are not going to appropriate money that isn't needed. We are going to have a contingency appropriation so that if the money is needed, it is there.

We all want to be careful with taxpayer dollars, but there has never been an earthquake, or a flood, or a fire that we have not responded to as a country and said we are not going to let people suffer when they have nowhere to turn but to us. We will be there for them. So I am committed to trying to find the right vehicle. I want to make the decision now so we can get on with MILCON. If military construction is the right vehicle, let's put that emergency appropriation on military construction. I would prefer to see it on the supplemental appropriations on which we are having a conference tomorrow. I would like to put it there.

This is an emergency. We have had a change in circumstances since the President sent his request to Congress. It seems to me that it is common sense that we have had a change in circumstances that would warrant a change in the cap. That would be the preferred way to handle this emergency, which we all acknowledge we need to do. If we cannot do that, I want the commitment for Senator KYL, for Senator DOMENICI, for the Senator from Colorado, that we will handle this issue. So if it is not going to be on the

supplemental, then I am willing to try to help them put it on military construction. If it is not military construction, then I don't think we will be handling any appropriations bills until we get a commitment to address this issue.

I yield the floor to my colleague from New Mexico.

Mr. DOMENICI. I don't need the Senator to yield for a question, but I will talk for a moment. Sometime yesterday I raised this issue when most of the Republican Senators were in a meeting. It seemed, from the feedback, that most of them agreed with the comments that were made then. Essentially, we don't often have this situation, but what really happened—I used the word "yesterday"—the supplemental has been around here for so long that it has run into a new problem. It ran into the problem of forest fires—huge ones—and into flooding that has been described by those who come from States where flooding has occurred. But there is no question that the forest fires and the floods, because they came a long time after these urgent supplementals, should have cleared it.

In normal times you would be beyond the supplemental and you would be waiting for something else; but the supplemental bumped right into the fires and the floods, it took so long to get its rightful place here on the Senate floor. It didn't seem to be very urgent when it took 2 months to get done. But now we want to try to live by the facts the White House put into the budget before this new set of facts occurred. After that meeting yesterday, I was very pleased to note that the distinguished Republican leader joined with us and submitted to the White House, to the Budget Director for the executive branch the fact that this was going to happen sooner or later, that most of the people we had talked to and that he had talked to—and shortly thereafter we started talking with Democrats—that there was going to be substantial support, if not 100 percent.

So I am pleased that we are at a point where we are going to put this amendment on one of the bills.

I understand our distinguished ranking member of Appropriations has concurred with others and doesn't want it put on the supplemental. That is all right with me, provided we are standing in line with commitments from those who we need commitments from, that the fire and flood money will be on the next appropriations bill that comes by. Since I don't want to take additional time, I assume that is where we are.

I will ask the Senator from Nevada a question: Are we now at a point where we are going to decide on which appropriations bill we are going to be free to put the emergency language for the floods and the fires?

Mr. REID. I say to the distinguished senior Senator from New Mexico that we are trying to move these bills.

I cannot imagine that Senator BYRD and Senator STEVENS would have the fire money in the military construction bill. We reported, as the Senator knows, another bill out of the committee, the legislative branch appropriations bill. There are other bills coming up. As the Senators from New Mexico and Arizona said, fire money should be in the supplemental, but it is not. I just do not think it is going to be in the military construction bill. That is why we should get it out of the Senate and get it to the President. There are some significant military needs that will be satisfied.

I say to my friend who is so aware of everything that goes on around here because of his position on the Appropriations Committee and the Budget Committee, I can never ever remember a time when we have not taken care of fire needs and the flood needs of this country, and we will do it this year also. If there needs to be another supplemental, we will do that, or if we have to put the money in the Interior appropriations bill or other bills, we will do that. I just do not think this is the vehicle on which to do it.

Mr. DOMENICI. Madam President, I said yesterday that I do not recall—I have been here a few years longer than the Senator from Nevada—a situation where we would not pay for an emergency of forest fires and the damages and costs that ensued.

Frankly, there are a lot of people in the West, particularly in Nevada and my State, who have seen these fires and now hear on the television that the Forest Service does not have money in its budget to pay for them. They do. They are borrowing from another account.

As the Senator said and I have said, they are going to get reimbursed shortly. The sooner we do it, the sooner we keep faith with the hundreds of thousands of people in Arizona, Nevada, Utah, New Mexico, and Colorado who have been watching. It would be good if it is sooner rather than later. While we are paying for many things, we should pay for their account also. I assume that is what you are going to try to do in the Senate.

Mr. REID. Yes, and I say to my friend, these moneys are so important to the people of our respective States, there is no question about that. I think it is a shame, for lack of a better description, that we do not have it in the supplemental. I repeat that. If there ever was an emergency, this is it. We have not budgeted for these moneys, and the fire that swept Arizona is 400,000 acres.

We had a fire in Nevada at Lake Tahoe—we are so thankful it did not ravage that basin—of only 1,000 acres. In the last 2 years, we have had over 2 million acres burn in Nevada, not forestland but rangeland.

We need to take care of this emergency. It should be done in the supplemental, but the majority leader, myself, and anyone on this side who has

jurisdiction will do whatever we can to speed this up as quickly as possible.

Mr. DOMENICI. I thank the Senator. I say to those who want to make sure the supplemental not only passes but is signed, the Senator from New Mexico is on their side. I am with them. I am certainly not going to do anything to delay that, although it does seem strange to this Senator, an urgent supplemental, which is intended for urgent supplemental needs, would have to be isolated from this need because some kind of arrangement has been made. The arrangement comes very late, but it is an effort to get the bill done and to get the important parties to agree.

I yield the floor.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002—Continued

Mr. REID. Madam President, I ask unanimous consent that there be a vote immediately on or in relation to the Levin amendment, the second-degree amendment. Following disposition of that amendment, we vote immediately on the Edwards amendment; and following that, we vote on cloture, which motion was filed yesterday.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, I noticed the McCain amendment was not listed. Was that an inadvertent error or was it the intention to exclude that amendment which was offered after the two listed?

Mr. REID. The last two amendments offered were the Levin and Edwards amendments.

Mr. GRAMM. Madam President, I have to object.

The PRESIDING OFFICER. Objection is heard. The Senator from Texas.

Mr. GRAMM. Madam President, I ask unanimous consent that the vote on cloture occur immediately; that we proceed with the process of dealing with germane amendments; and that we set the time of 8 o'clock for all debate on the bill to end.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 4269

Mr. ENZI. Madam President, I do have to answer some of the questions. I am sorely disappointed that the Senator from Arizona left the floor. He asked some important questions. He has asked three questions about accounting. I don't get to answer questions about accounting very often. I was very excited about that.

Now, I do warn people who may be watching in their offices, or somewhere else, that accounting questions often put people to sleep. So it might not always be that exciting for them.

But I do have to say, from what we saw, there is no passion like the passion of a repentant sinner. This is not the first time somebody has said we are going to tell FASB what to do.

On May 4, 1994, the Senate said: We do not care what you said in your multiple pages of FASB rules, we are going to tell you what to do. And the vote was 88 to 9 the last time we interfered with FASB. I have to tell you, the Senator from Arizona was in the 88. He was one of the people who said: I know how to do this. I know how to do this better than FASB. So listen to me: I am going to vote my conscience on this and dictate how FASB is going to handle accounting on stock options.

If he and several other people had not voted to tell FASB what to do at that time, we wouldn't be having this discussion at all.

Now we have another amendment. It is very important to pay attention to the wording.

What I am trying to do is—as I mentioned, there is no passion like the passion of a repentant Senator—I am trying to keep people from sinning again. There are some very important reasons. We cannot take a complex situation such as stock options, which I think all of us can spell but for which not all of us can account, and put it into a simple little paragraph on how it should be handled. This amendment, which is just one sentence which makes up the whole paragraph, says:

Any corporation that grants a stock option to an officer employee to purchase a publicly traded security in the United States shall record the granting of the option as an expense in that corporation's income statement for the year in which the option is granted.

One of the problems we are having right now is investors are a little bit shaken because there are restatements of income being done. Not all restatements are because something was hidden. Some of those restatements are because of changes in rules. This will be one of the biggest changes in rules we have made in decades, and the way this is written, while it is intended to move to an expense system, does not really say that. It says that you have to expense it in that corporation's income statement for the year in which the option is granted.

There are a lot of options that are already granted. Some of them are outstanding maybe 25 years. It is more common that it be 2 or 3 years. The new stock options are done on a much shorter period of time. Even if it is just 2 or 3 years, what this amendment is saying is, redo your income statements and restate them for the last 3 years for all of your options that are outstanding. We did not make you do that before; now we want you to show a huge change or maybe just a small change, but at any rate a change, and every time a company announces a change—and I have had some call and say: I am going to have to do a restatement and that restatement is going to be upward; you know what it is going to do to my stock; I am showing an increase in profit, and it is going to destroy me. All I can say is, it is the law; you have to restate.