SA 4255. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4256. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4257. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4258. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4259. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4260. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4261. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4262. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4263. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4264. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4265. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4266. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4267. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4268. Mr. SMITH, of Oregon submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4269. Mr. DASCHLE (for Mr. LEVIN (for himself, Mr. NELSON, of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to the bill S. 2673, supra.

SA 4270. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra.

SA 4271. Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) proposed an amendment to the bill S. 2673, supra.

SA 4272. Mr. REID (for Mr. LEVIN (for himself, Mr. NELSON, of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to amendment SA 4271 proposed by Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) to the bill (S. 2673) supra.

TEXT OF AMENDMENTS

SA 4209. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices. to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, beginning on line 8, strike ''Two members'' and all that follows through line 12, and insert ''One member, and only 1 member, of the Board shall be or shall have been a certified public accountant pursuant to the laws of 1 or more States, and he or she may not have been''.

SA 4210. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, strike line 11 and insert the following:

''(6) INDEPENDENCE STANDARD FOR PUBLIC MEMBERS.—Prior to the appointment of a member of the Board who is not a certified public accountant, the Commission shall certify that the appointee does not have any material conflicts of interests with respect to accounting firms that audit public companies. A conflict of interest may arise from past employment with a public accounting firm or the American Institute of Certified Public Accountants, or a commercial, banking, consulting, legal, charitable, or familial relationships with a public accounting firm. In making its independent determination, the Commission shall broadly consider all relevant facts and circumstances, including whether a reasonable investor would consider the appointee to be independent of the accounting profession.

''(7) REMOVAL FROM OFFICE.—A member of the ''.

SA 4211. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 18, strike the period and all that follows through ''certify'' on line 20 and insert the following: '', regardless of whether such issuer is located in or organized under the laws of the United States or any State, or any foreign country.

SA 4212. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 20 insert '', under oath,'' after ''certify''.

SA 4213. Mr. GRAMM (for Mr. VOINOVICH (for himself and Mr. AKAKA)) submitted an amendment intended to be proposed by Mr. GRAMM to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, insert between lines 2 and 3 the following:

SEC. 605. CHIEF HUMAN CAPITAL OFFICER.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4C (as added by this Act) the following:

''SEC. 4D. CHIEF HUMAN CAPITAL OFFICER.

''(a) IN GENERAL.—The Commission shall appoint or designate a Chief Human Capital Officer, who shall—

''(1) advise and assist the Commission and other Commission officials in carrying out the Commission's responsibilities for selecting, developing, and managing a high-quality, productive workforce in accordance with merit system principles; and

''(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the Commission.

''(b) FUNCTIONS AND AUTHORITIES.—

''(1) FUNCTIONS.—The functions of the Chief Human Capital Officer shall include—

''(A) setting the workforce development strategy of the Commission;

''(B) assessing workforce characteristics and future needs based on the Commission's mission and strategic plan;

''(C) aligning the Commission's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

''(D) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

''(E) identifying best practices and benchmarking studies;

''(F) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth; and

''(G) providing employee training and professional development.

''(2) AUTHORITIES.—In addition to the authority otherwise provided by this section, the Chief Human Capital Officer—

''(A) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

''(i) are the property of the Commission or are available to the Commission; and

''(ii) relate to programs and operations with respect to which the Chief Human Capital Officer has responsibilities; and

''(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided under this section from any Federal, State, or local governmental entity.''.

SA 4214. Mr. DORGAN (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectively and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, line 23, strike ''(b) COMMISSION'' and insert the following:

''(b) PROCEEDS FROM THE SALE OF SECURITIES PRIOR TO BANKRUPTCY FILING.—If an issuer files for bankruptcy protection under title 11, United States Code, each director, chief executive officer, and chief financial officer of the issuer shall pay to the issuer all amounts described in paragraphs (1) and (2) of subsection (a) (to the extent that such amounts have not been reimbursed under subsection (a)) realized by such director or officer from the sale of the securities of the issuer during the 12-month period preceding the date of the bankruptcy filing.

''(c) COMMISSION''.

SA 4215. Mr. DORGAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 14 insert after ''issuer'' the following: '', whether domiciled, incorporated, or reincorporated under the laws of the United States or any individual State, or under the laws of a foreign country or political subdivision thereof,''.

SA 4216. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, between lines 19 and 20, insert the following:

(c) NON-AUDIT SERVICE REGULATIONS.—The regulations of the Commission to carry out section 10A(g) of the Securities Exchange Act of 1934, as added by this section, shall be substantially similar to the scope of practice provisions of the proposed rule issued by the Commission and published in the Federal Register on July 12, 2000, regarding revision of the auditor independence requirements contained in Parts 210 and 240 of title 17, Code of Federal Regulations (65 Fed. Reg. 43190 et seq.), consistent with the provisions of this Act.

SA 4217. Mr. DORGAN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table, as follows:

On page 44, strike lines 8 through 11 and insert the following:

(2) PUBLIC HEARINGS.—All hearings under this subsection shall be public, unless otherwise ordered by the Board for good cause shown on its own motion or after considering the motion of a party to the hearing.

SA 4218. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____. REQUIREMENT THAT PLAN ADMINISTRATOR NOTIFY PARTICIPANTS OF INVOLUNTARY PLAN TERMINATION.

(a) IN GENERAL.—Section 4042(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342(b)) is amended by adding at the end the following:

''(4)(A) Not later than 30 days (or such longer period as the corporation finds reasonable) after the corporation notifies a plan administrator of a plan of the corporation's determination under subsection (a) to institute proceedings under this section with respect to such plan, the plan administrator shall provide to each affected party (other than the corporation) a written notice of the corporation's determination that the plan should be terminated and the corporation's proposed termination date. The written notice shall be made in such form and manner as the corporation may require. Such notice shall be written in a manner so as to be understood by the average plan participant.

''(B) A plan administrator's failure to comply with the requirement under subparagraph (A) shall not affect the validity of any determination or action by the corporation or the termination date established under section 4048.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to termination proceedings commenced after the date of the enactment of this Act.

SA 4219. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, strike lines 13 through 25 and insert the following: ''shall forfeit to the Department of Labor—

''(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and

''(2) any profits realized from the sale of securities of the issuer during that 12-month period.

''(b) COMMISSION EXEMPTION AUTHORITY.—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

''(c) DISTRIBUTION OF FUNDS.—

''(1) FORMER EMPLOYEES.—Except as provided in paragraph (4), and in accordance with paragraphs (2) and (3), the Secretary of Labor shall distribute the funds forfeited under subsection (a) to former employees of the issuer whose employment was terminated by the issuer.

''(2) ELIGIBILITY FOR FUNDS.—Before distributing funds to an applicant under this subsection, the Secretary of Labor shall certify that the job loss of the applicant resulted from a business decision made by the issuer as a consequence of a restatement of earnings, as described in subsection (a).

''(3) EXCEPTION.—A former employee of the issuer who was complicit in the misstatement of earnings of the issuer referred to in paragraph (2) shall not be eligible to receive funds distributed under this subsection.

''(4) NO LOSS OF EMPLOYMENT.—If no employee of the issuer is laid off by the issuer within 12 months of a restatement of earnings as a consequence of such restatement, the Secretary of Labor shall distribute the funds forfeited under subsection (a) to the issuer.''.

SA 4220. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, strike lines 13 through 25 and insert the following: ''shall forfeit to the Commission—

''(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and

''(2) any profits realized from the sale of securities of the issuer during that 12-month period.

''(b) COMMISSION EXEMPTION AUTHORITY.—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

''(c) DISTRIBUTION OF FUNDS.—

''(1) FORMER EMPLOYEES.—Except as provided in paragraph (4), and in accordance with paragraphs (2) and (3), the Commission shall distribute the funds forfeited under subsection (a) to former employees of the issuer whose employment was terminated by the issuer.

''(2) ELIGIBILITY FOR FUNDS.—Before distributing funds to an applicant under this subsection, the Commission shall certify that the job loss of the applicant resulted from a business decision made by the issuer as a consequence of a restatement of earnings, as described in subsection (a).

''(3) EXCEPTION.—A former employee of the issuer who was complicit in the misstatement of earnings of the issuer referred to in paragraph (2) shall not be eligible to receive funds distributed under this subsection.

''(4) NO LOSS OF EMPLOYMENT.—If no employee of the issuer is laid off by the issuer within 12 months of a restatement of earnings as a consequence of such restatement, the Commission shall distribute the funds forfeited under subsection (a) to the issuer.''.

SA 4221. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. ___. PROVISIONS RELATING TO WHISTLEBLOWER ACTIONS INVOLVING PENSION PLANS.

(a) AUTHORITY TO BRING ACTIONS.—Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended by striking ''or'' at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting ''; and'', and by adding at the end the following new paragraph:

''(10) by the Secretary, or other person referred to in section 510—

''(A) to enjoin any act or practice which violates section 510 in connection with a pension plan, or

''(B) to obtain appropriate equitable or legal relief to redress such violation or to enforce section 510 in connection with a pension plan.''

(b) ADDITIONAL ACTIONS WHICH MAY BE BROUGHT.—The second sentence of section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140) is amended by striking ''person because he'' and inserting ''other person because such other person has opposed any practice in connection with a pension plan that is made unlawful by this title or''.

SA 4222. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 307. FORFEITURE OF CERTAIN BONUSES AND PROFITS IN BANKRUPTCY.

Section 541(a) of title 11, United States Code, is amended by adding at the end the following:

''(8) Any bonus or other incentive-based or equity-based compensation received by a chief executive officer or chief financial officer of an issuer of securities (as defined in section 2(a) of the Public Company Accounting Reform and Investor Protection Act of 2002) from that issuer during the 24-month period before the date of the filing of the bankruptcy petition by the issuer.

''(9) Any profits realized by a chief executive officer or chief financial officer of an issuer of securities (as defined in section 2(a) of the Public Company Accounting Reform and Investor Protection Act of 2002) from the sale of securities of the issuer during the 24-month period before the date of the filing of the bankruptcy petition by the issuer.''.

SA 4223. Mrs. CARNAHAN (for herself, Mr. KERRY, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, line 16, beginning with ''shall file'' strike all through ''feasible'' on line 24 and insert ''shall file electronically with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other times as the Commission shall establish, by rule, in any case in which the Commission determines that such 2 day period is not feasible, and the Commission shall provide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph shall take effect 1 year after the date of enactment of this paragraph),''.

SA 4224. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting

practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectively and independence of securities analysis, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 12, insert the following after ''transaction'': ''(or classes of such persons, issuers or public accounting firms from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), based upon the small business nature of such person, issuer or public accounting firm, taking into consideration applicable factors such as total asset size, availability and cost of retaining multiple service providers, number of public company audits performed, and such other factors and conditions as the Board deems necessary or appropriate in the public interest and consistent with the protection of investors and consistent with the purposes of this Act)''.

SA 4225. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectively and independence of securities analysis, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, after line 2, insert the following new paragraph:

(3) JUDICIAL REVIEW OF DISCIPLINARY ACTION.—Instead of filing an application for Commission review under paragraph (1), a public accounting firm or person associated with such firm may, not later than 10 days after the date on which a disciplinary action by the Board becomes final, seek review of such disciplinary action by the United States District Court for the District of Columbia or the appropriate Federal district court in the State in which such person is domiciled. Application to a Federal district court for review of such disciplinary sanction shall operate as a stay of such disciplinary action.''.

SA 4226. Mr. GRAMM (for himself, Mr. SANTORUM, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 201(b) and insert in lieu thereof the following:

''(b) EXEMPTION AUTHORITY.—

''(1) CASE-BY-CASE WAIVERS.—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

''(2) SMALL BUSINESS EXEMPTION.—The Board may, by rule (subject to review by the Commission in the same manner as for rules of the Board under section 107), exempt any person, issuer or public accounting firm (or classes of such persons, issuers or public accounting firms) from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), based upon the small business nature of such person, issuer or public accounting firm, taking into consideration applicable factors such as total asset size, availability and cost of retaining multiple service providers, number of public company audits performed, and such other factors and conditions as the Board deems necessary or appropriate in the public interest and consistent with the protection of investors and consistent with the purposes of this Act.''.

SA 4227. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, strike line 19 and all that follows through page 93, line 22 and insert the following:

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

''(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—

''(1) IN GENERAL.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.

''(2) LIMITATION.—Paragraph (1) does not preclude any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)) that is—

''(A) made in the ordinary course of the consumer credit business of an issuer;

''(B) of a type that is generally made available by the issuer to the public; and

''(C) made on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.''.

SA 4228. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MANDATORY RESTITUTION FOR FEDERAL CRIMES OF FRAUD.

Section 2327(a) of title 18, United States Code, is amended—

(1) by striking ''all victims of any offense'' and all that follows through the period and inserting the following: ''all victims of any offense—

''(1) for which an enhanced penalty is provided under section 2326; or

''(2) relating to a Federal crime of fraud under section 371, 1131, 1341, 1343, 1348, 1519, or 1520.''.

SA 4229. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, between lines 15 and 16, insert the following:

SEC. 408. AVAILABILITY OF CORPORATE TAX RETURNS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(*l*) AVAILABILITY OF TAX RETURNS.—

''(1) FILING REQUIREMENT.—Each issuer that is required to file a return under section 6012 of the Internal Revenue Code of 1986, shall annually provide a complete copy of that return to the Commission.

''(2) PUBLIC AVAILABILITY.—Each return provided to the Commission under paragraph (1) shall be made available to the public for inspection.''.

SA 4230. Mr. SCHUMER (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, between lines 18 and 19, insert the following:

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) REPORT AND RECOMMENDATIONS.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and loses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) the recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

SA 4231. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, between lines 18 and 19, insert the following:

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures, to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) REPORT.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion; and

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity.

(3) RULES.—If the Commission reports under paragraph (2) that such special purpose entities are not generally consolidated by the issuer having the majority of the risks and rewards of the assets, liabilities, leases, and losses of the special purpose entity, the Commission shall, not later than 12 months after the date of submission of the report, adopt rules or regulations to require consolidation of such entities by the sponsoring issuer.

SA 4232. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike line 11 and inserting the following:

of the Board and the staff of the Board; and

(8)(A) review and conduct oversight audits of the financial statements of issuers and using its resources effectively to focus on highest risk audit areas and to target questionable audit practices of which the Board is aware, including practices that the Board is made aware of from communications with the Division of Enforcement of the Commission;

(B)(i) refer findings of accounting or auditing irregularity to the Division of Enforcement of the Commission for further investigation of the issuer or the public accounting firm, as appropriate; and

(ii) if appropriate, refer findings of accounting or auditing irregularity to—

(I) any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an audit report for an institution that is subject to the jurisdiction of such regulator;

(II) the Attorney General of the United States;

(III) the attorneys general of 1 or more States; or

(IV) the appropriate State regulatory authority; and

(C) on an annual basis, report its findings and make recommendations for change to—

(i) the Commission; and

(ii) the Comptroller General of the United States.

SA 4233. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, after line 23, insert the following:

(c) INVESTIGATIONS AND ACTIONS.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:

''(6) DISGORGEMENT OF BENEFITS.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person for engaging in, causing, or aiding and abetting any violation of the securities laws or the rules and regulations prescribed under those laws, such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including salary, commissions, fees, bonuses,

options, profits from securities transactions, and losses avoided through securities transactions.''.

SA 4234. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ANNUAL LIMIT ON AMOUNT REALIZED FROM EXERCISE OF STOCK OPTIONS.

(a) IN GENERAL.—It is unlawful for any officer or director of a corporation to exercise stock options with respect to securities registered pursuant to section 12 of the Securities and Exchange Act of 1934 granted by a corporation for its stock, or the stock of any subsidiary or affiliated corporation, to the extent that the net proceeds (determined without regard to taxes) to, or for the benefit of, that officer or director realized from the exercise of the stock options exceed $20,000,000 during any 12-month period.

(b) EXCEPTION.—Subsection (a) does not apply if—

(1) at last 80 percent of the net proceeds are attributable to the exercise of options held by the officer, employee, or director for 5 years or more; or

(2) the exercise of the stock options has been approved in advance by majority vote of the publicly-held shares voted during the 12-month period within which the options are exercised.

(c) REMEDY.—The provisions of section 306(c) of this Act apply to any violation of subsection (a) in the same manner as if the violation were a violation of section 306(a).

(d) EFFECTIVE DATE.—Subsection (a) applies to stock options granted after the date of enactment of this Act.

SA 4235. Mr. ENZI (for Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. LOTT, Mr. BENNETT, Mr. WYDEN, Mrs. MURRAY, and Mr. BURNS)) submitted an amendment intended to be proposed by Mr. ENZI to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. RECOMMENDATIONS ON THE TREATMENT OF STOCK OPTIONS.

(a) ANALYSIS.—The Commission shall conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze—

(1) the accounting treatment for employee stock options, including the accuracy of available stock option pricing models;

(2) the adequacy of current disclosure requirements to investors and shareholders on stock options;

(3) the adequacy of corporate governance requirements, including shareholder approval of stock option plans;

(4) any need for new stock holding period requirements for senior executives; and

(5) the benefit and detriment of any new options expensing rules on—

(A) the productivity and performance of large, medium, and small companies, and start-up enterprises;

(B) the recruitment and retention of skilled workers; and

(C) employees at various income levels, with a particular focus on the effect on rank-and-file employees and the income of women.

(b) RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit regulatory and legislative recommendations and supporting analysis to—

(A) the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 106 of this Act;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENTS.—The analysis, and regulatory and legislative recommendations submitted under paragraph (1) shall include—

(A) the results of the analysis conducted under subsection (a); and

(B) regulatory and legislative recommendations, if any, for changes in the treatment of stock options.

SA 4236. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, strike lines 6 through 22, and insert the following:

(a) ADDITIONAL COMPENSATION AND PROFITS RECEIVED SUBSEQUENT TO NONCOMPLIANCE WITH COMMISSION FINANCIAL REPORTING REQUIREMENTS.—If an issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer, as a result of misconduct by such issuer or its agents, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the issuer, and any other officer and director of the issuer who had knowledge of such noncompliance, at the earlier of the first public issuance or the filing with the Commission of the financial document embodying such financial reporting requirement, shall reimburse the issuer for the value of—

(1) any bonus, compensation derived from a severance agreement, or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the earlier of the first public issuance or the filing with the Commission of the financial document embodying such financial reporting requirement;

(2) any profits realized from the sale of securities of the issuer during that 12-month period; and

(3) any profits realized from the exercise of any warrants, options, or rights received by that person during that 12-month period.

SA 4237. Mr. BYRD (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. DISCLOSURE OF INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN CERTAIN FOREIGN COUNTRIES.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

''(i) DISCLOSURE OF INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN OR WITH CERTAIN FOREIGN ENTITIES.—

''(1) IN GENERAL.—Each designated issuer shall, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors—

''(A) disclose in each report or other document required to be filed under this section, including all annual filings, and in each registration statement required under section 14, the nature and scope of the operations of the designated issuer in or with any designated entity, and the Commission shall consider material, any investments, holdings, or transactions by a designated issuer in or with any designated entity that, in the aggregate, exceed $100,000 at any time during the period to which the filing relates; and

''(B) display all disclosures required by subparagraph (A) prominently for investors.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'designated entity' means any company or other entity that is organized under the laws of a foreign country, a government-owned corporation of a foreign country, or the government of any foreign country—

''(i) that is subject to sanctions by the Office of Foreign Assets Control; or

''(ii) the government of which has been determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979, section 40(d) of the Arms Export Control Act, or section 620A of the Foreign Assistance Act of 1961, to have knowingly provided support for acts of international terrorism; and

''(B) the term 'designated issuer'—

''(i) means any issuer of a security registered pursuant to section 12, or the securities of which (including American Depository Receipts) are directly or indirectly listed for trading or sold on any national securities exchange or in any United States over-the-counter market; and

''(ii) includes any subsidiary or other affiliate of such an issuer.''.

(b) SECURITIES ACT OF 1933.—Section 10 of the Securities Act of 1933 (15 U.S.C. 77j) is amended by adding at the end the following new subsection:

''(g) DISCLOSURE OF INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN OR WITH CERTAIN FOREIGN ENTITIES.—

''(1) IN GENERAL.—Each designated issuer shall, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors—

''(A) disclose in each prospectus required or permitted under this section, the nature and scope of the operations of the designated issuer in or with any designated entity, and the Commission shall consider material, any investments, holdings, or transactions by a designated issuer in or with any designated entity that, in the aggregate, exceed $100,000 at any time during the 6-month period preceding the date of issuance of the prospectus; and

''(B) display all disclosures required by subparagraph (A) prominently for investors.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'designated entity' means any company or other entity that is organized under the laws of a foreign country, a government-owned corporation of a foreign country, or the government of any foreign country—

''(i) that is subject to sanctions by the Office of Foreign Assets Control; or

''(ii) the government of which has been determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979, section 40(d) of the Arms Export Control Act, or section 620A of the Foreign Assistance Act of 1961, to have knowingly provided support for acts of international terrorism; and

''(B) the term 'designated issuer'—

''(i) means any issuer of a security registered pursuant to section 12 of the Securities Exchange Act of 1934, or the securities of which (including American Depository Receipts) are directly or indirectly listed for trading or sold on any national securities exchange or in any United States over-the-counter market; and

''(ii) includes any subsidiary or other affiliate of such an issuer.''.

(c) ANNUAL REPORT ON INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN OR WITH CERTAIN FOREIGN ENTITIES.—

(1) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of the Treasury, the Secretary of State, the Director of Central Intelligence, and any other departments or agencies that the Secretary of Defense determines appropriate, shall submit a report to Congress on an annual basis, regarding—

(A) whether material investments, holdings, or transactions by designated issuers in or with any designated entities have provided during the preceding year, or are providing, financial or technical support for any terrorist-sponsoring government, or terrorist-sponsoring group or organization, in the form of revenues, equipment, technology, or by other means; and

(B) the impact of such types of support on the regional and global security interests of the United States.

(2) FORM OF REPORTS.—Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(3) DEFINITIONS.—In this subsection—

(A) the terms ''designated entity'', and ''designated issuer'' have the same meanings as in section 13(i) of the Securities Exchange Act of 1934, as added by this section; and

(B) the term ''terrorist-sponsoring government'' means the government of a foreign country—

(i) that is subject to sanctions by the Office of Foreign Assets Control; or

(ii) that has been determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979, section 40(d) of the Arms Export Control Act, or section 620A of the Foreign Assistance Act of 1961, to have knowingly provided support for acts of international terrorism.

SA 4238. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 8 and all that follows through page 70, line 19, and insert ''any non-audit service.'.''.

On page 82, line 9, strike the quotation marks and the final period and insert the following:

''(n) STANDARDS RELATING TO BOARDS OF DIRECTORS.—

''(1) COMMISSION RULES.—

''(A) IN GENERAL.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraph (2).

''(B) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

''(2) INDEPENDENCE.—

''(A) IN GENERAL.—Each member of the board of directors of the issuer (other than the chief executive officer) shall be independent.

''(B) CRITERIA.—In order to be considered independent for purposes of this paragraph, a member of a board of directors of an issuer may not, other than in his or her capacity as a member of that board of directors—

''(i) accept any consulting, advisory, or other compensatory fee from the issuer;

''(ii) be an affiliated person of the issuer or any subsidiary thereof; or

''(iii) otherwise maintain any other business relationship with the issuer or the management thereof.

On page 82, line 24, insert before the period the following: '', and shall include a brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment.''.

On page 86, line 8, strike ''during'' and all that follows through page 89, line 20 and insert the following: ''at any time during the term of employment of that person by the issuer, or service to that issuer as a director or executive officer, or during the 90-day period following the date of termination of such employment or service.

''(b) EXCEPTION.—Nothing in subsection (a) shall be construed to prohibit the purchase, sale, acquisition, or other transfer of equity securities of the issuer for the purpose of avoiding expiration of stock options, but only to the extent necessary to pay the option price of the securities and any applicable taxes or to satisfy a court ordered judgment.

''(c) REMEDY.—

''(1) IN GENERAL.—Any profit realized by a director or executive officer referred to in subsection (a) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

''(2) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this section may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter.

''(d) RULEMAKING AUTHORIZED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.by the issuer.''.

SA 4239. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 8 and all that follows through page 70, line 19, and insert ''any non-audit service.'.''.

On page 82, line 24, insert before the period the following: '', and shall include a brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment.''.

On page 86, line 8, strike ''during'' and all that follows through page 89, line 20 and insert the following: ''at any time during the

term of employment of that person by the issuer, or service to that issuer as a director or executive officer, or during the 90-day period following the date of termination of such employment or service.

''(b) EXCEPTION.—Nothing in subsection (a) shall be construed to prohibit the purchase, sale, acquisition, or other transfer of equity securities of the issuer for the purpose of avoiding expiration of stock options, but only to the extent necessary to pay the option price of the securities and any applicable taxes or to satisfy a court ordered judgment.

''(c) REMEDY.—

''(1) IN GENERAL.—Any profit realized by a director or executive officer referred to in subsection (a) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

''(2) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this section may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter.

''(d) RULEMAKING AUTHORIZED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.by the issuer.''.

SA 4240. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. BENNETT, Mr. WYDEN, Mr. LOTT, Mrs. MURRAY, Mr. BURNS, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill insert the following:

SEC. ___. RECOMMENDATIONS ON THE TREATMENT OF STOCK OPTIONS.

(a) ANALYSIS.—The Commission shall conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze—

(1) the accounting treatment for employee stock options, including the accuracy of available stock option pricing models;

(2) the adequacy of current disclosure requirements to investors and shareholders on stock options;

(3) the adequacy of corporate governance requirements, including shareholder approval of stock option plans;

(4) any need for new stock holding period requirements for senior executives; and

(5) the benefit and detriment of any new options expensing rules on—

(A) the productivity and performance of large, medium, and small companies, and start-up enterprises;

(B) the recruitment and retention of skilled workers; and

(C) employees at various income levels, with a particular focus on the effect on rank-and-file employees and the income of women.

(b) RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit regulatory and legislative recommendations and supporting analysis to—

(A) the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 106 of this Act;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENTS.—The analysis, and regulatory and legislative recommendations submitted under paragraph (1) shall include—

(A) the results of the analysis conducted under subsection (a); and

(B) regulatory and legislative recommendations, if any, for changes in the treatment of stock options.

SA 4241. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. BENNETT, Mr. WYDEN, Mr. LOTT, Mrs. MURRAY, Mr. BURNS, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. RECOMMENDATIONS ON THE TREATMENT OF STOCK OPTIONS.

(a) ANALYSIS.—The Commission shall conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze—

(1) the accounting treatment for employee stock options, including the accuracy of available stock option pricing models;

(2) the adequacy of current disclosure requirements to investors and shareholders on stock options;

(3) the adequacy of corporate governance requirements, including shareholder approval of stock option plans;

(4) any need for new stock holding period requirements for senior executives; and

(5) the benefit and detriment of any new options expensing rules on—

(A) the productivity and performance of large, medium, and small companies, and start-up enterprises;

(B) the recruitment and retention of skilled workers; and

(C) employees at various income levels, with a particular focus on the effect on rank-and-file employees and the income of women.

(b) RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit regulatory and legislative recommendations and supporting analysis to—

(A) the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 106 of this Act;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENTS.—The analysis, and regulatory and legislative recommendations submitted under paragraph (1) shall include—

(A) the results of the analysis conducted under subsection (a); and

(B) regulatory and legislative recommendations, if any, for changes in the treatment of stock options.

SA 4242. Mr. KENNEDY (for himself, Mr. REED, Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIABILITY FOR BREACH OF FIDUCIARY DUTY.

(a) LIABILITY FOR PARTICIPATING IN OR CONCEALING FIDUCIARY BREACH.—

(1) APPLICATION TO PARTICIPANTS AND BENEFICIARIES OF 401(k) PLANS.—

(A) IN GENERAL.—Part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101 et seq.) is amended by adding after section 409 the following new section:

''SEC. 409A. LIABILITY FOR BREACH OF FIDUCIARY DUTY IN 401(k) PLANS.

''(a)(1)(A) Any person who is a fiduciary with respect to an individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of the Internal Revenue Code of 1986 who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to each participant's and beneficiary's individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account) any losses to the participant's or beneficiary's individual account in the plan resulting from each such breach, and to restore to the participant's or beneficiary's individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account) any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary. A fiduciary may also be removed for a violation of section 411 of this Act.

''(B) If an insider (as defined in section 409(b)(1)(B)) with respect to the plan sponsor

of an employer individual account plan that holds employer securities that are readily tradable on an established securities market—

''(i) knowingly participates in a breach of fiduciary responsibility to which subparagraph (A) applies, or

''(ii) knowingly undertakes to conceal such a breach,

such insider shall be personally liable under this subparagraph to each participant's and beneficiary's individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account) for such breach in the same manner as the fiduciary who commits such breach.

''(2) Nothing in this subsection shall be construed as permitting the recovery by a participant or beneficiary of any consequential or punitive damages.

''(b) The right of participants and beneficiaries under subsection (a) to sue for breach of fiduciary duty with respect to an individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of such Code shall be in addition to all existing rights that participants and beneficiaries have under section 409, section 502, and any other provision of this title, and shall not be construed to give rise to any inference that such rights do not already exist under section 409, section 502, or any other provision of this title.

''(c) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he or she became a fiduciary or after he or she ceased to be a fiduciary, unless such liability arises under subsection (a)(1)(B).''

(B) CONFORMING AMENDMENT.—The table of contents for part 4 of subtitle B of title I of such Act is amended by inserting the following new item after the item relating to section 409:

''Sec. 409A. Liability for breach of fiduciary duty in 401(k) plans.''

(2) INSIDER LIABILITY.—

(A) IN GENERAL.—Section 409 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1109) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b)(1)(A) If an insider with respect to the plan sponsor of an employer individual account plan that holds employer securities that are readily tradable on an established securities market—

''(i) knowingly participates in a breach of fiduciary responsibility to which subsection (a) applies, or

''(ii) knowingly undertakes to conceal such a breach,

such insider shall be personally liable under this subsection to the plan or to any participant or beneficiary of the plan for such breach in the same manner as the fiduciary who commits such breach.

''(B) For purposes of subparagraph (A), the term 'insider' means, with respect to any plan sponsor of a plan to which subparagraph (A) applies—

''(i) any officer or director with respect to the plan sponsor, or

''(ii) any independent qualified public accountant of the plan or of the plan sponsor.

''(2) Any relief provided under this subsection or section 409A—

''(A) to an individual account plan shall inure to the individual accounts of the affected participants or beneficiaries, and

''(B) to a participant or beneficiary shall be payable to the participant's or beneficiary's individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account).''

(B) CONFORMING AMENDMENT.—Section 409(c) of such Act (29 U.S.C. 1109(c)), as redesignated by subparagraph (A), is amended by inserting before the period the following: '', unless such liability arises under subsection (b)''.

(b) EFFECTIVE DATE; PLAN AMENDMENTS.—

(1) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2003.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ''January 1, 2003'' the date of the commencement of the first plan year beginning on or after the earlier of—

(A) the later of—

(i) January 1, 2004, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(B) January 1, 2005.

(3) PLAN AMENDMENTS.—If any amendment made by this section requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2005, if—

(A) during the period after such amendment made by this section takes effect and before such first plan year, the plan is operated in good faith compliance with the requirements of such amendment made by this section, and

(B) such plan amendment applies retroactively to the period after such amendment made by this section takes effect and before such first plan year.

SA 4243. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practice, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TREATMENT OF THE TENNESSEE VALLEY AUTHORITY.

(a) SECURITIES ACT OF 1933.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended—

(1) in section 3(a)(2) (15 U.S.C. 77c(a)(2)), by inserting ''(other than the Tennessee Valley Authority)'' after ''Congress of the United States'';

(2) in section 3 (15 U.S.C. 77c), by adding at the end the following:

''(d) TENNESSEE VALLEY AUTHORITY BONDS NOT EXEMPT.—Notwithstanding any provision of this title, no bond issued or sold by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n–3(d)) shall be exempt from the requirements of this title.''; and

(3) in section 28 (15 U.S.C. 77z–3)—

(A) by inserting ''(a) IN GENERAL.—'' before ''The''; and

(B) by adding at the end the following:

''(b) APPLICABILITY.—Notwithstanding subsection (a), the Commission may not exempt from any provision of this title, or any rule or regulation issued under this title any bond issued or sold by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n–3(d)).''.

(b) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 3(c) (15 U.S.C. 78c(c)), by inserting ''(other than the Tennessee Valley Authority)'' after ''establishment of the United States'';

(2) in section 3 (15 U.S.C. 78c), by adding at the end the following:

''(h) TENNESSEE VALLEY AUTHORITY.—Notwithstanding any other provision of this title, no bond issued or sold by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n–3(d)) shall be exempt from the requirements of this title or the rules or regulations issued under this title.''; and

(3) in section 36(b) (15 U.S.C. 78mm(b))—

(A) by striking ''exempt any'' and inserting ''exempt—

''(1) any'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(2) any bond issued by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n–3(d)).''.

SA 4244. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, after line 25, insert the following:

(c) 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 has committed—

''(i) any 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; or

''(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.''

SA 4245. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. COMPLIANCE COMMITTEES.

(a) ESTABLISHMENT.—The Commission shall, by rule, require each of the largest 1,000 publicly traded companies (as determined by the Commission) to establish a compliance committee of the board of directors to receive and investigate complaints or concerns of employees that question the integrity of financial records, financial statements, or other practices of the company.

(b) COMPOSITION.—Each compliance committee shall be made up of not fewer than 3 members of the board of directors.

(c) RECORDKEEPING.—The compliance committee shall keep records of complaints and investigation for a period of 5 years, which records shall be deemed confidential, and shall not be discoverable by any private party litigant in any civil action.

(d) PROCEDURES FOR REVIEW.—Each member of the compliance committee shall—

(1) personally review each complaint and investigation; and

(2) sign and certify that they have read the complaint and investigation and that records thereof are true and accurate in all material respects.

(f) REPORTS TO BOARD.—The compliance committee shall report to the board of directors its findings with respect to each investigation for appropriate action.

SA 4246. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REPORTING COMPLAINTS.

The Commission shall establish, by rule, on easily available option (toll free number, website, e-mail, or other means) for employees of the largest 1,000 publicly traded companies (as determined by the Commission) to report to the Enforcement Division of the Commission confidentially any complaints or concerns that questions the integrity of the financial records or financial statements of the company.

SA 4247. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

( ) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4248. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, line 15, insert before the end quotation marks the following:

''(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4249. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 17 strike ''directors.'' and insert the following: ''directors.

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND

DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end a new subsection as follows:

''(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

''(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(1) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(1) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(1) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking ''$5,000'' and inserting ''$100,000''; and

(B) striking ''$50,000'' and inserting ''$250,000'';

(2) in subparagraph (B)(i), by—

(A) striking ''$50,000'' and inserting ''$500,000''; and

(B) striking ''$250,000'' and inserting ''$1,000,000''; and

(3) in subparagraph (C)(i), by—

(A) striking ''$100,000'' and inserting ''$1,000,000''; and

(B) striking ''$500,000'' and inserting ''$2,000,000''.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(ii) in paragraph (2)(B), by striking ''$2,000'' and inserting ''$500,000''.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(A) in paragraph (1), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in paragraph (2), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in paragraph (3), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in clause (ii), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in clause (iii), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking ''(9)(A)'' and all that follows through ''(B) The'' and inserting ''(3) The'';

(3) by inserting after paragraph (1), the following:

''(2) ACCESS TO FINANCIAL RECORDS.—

''(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

''(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

''(i) result in the transfer of assets or records outside the territorial limits of the United States;

''(ii) result in improper conversion of investor assets;

''(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

''(iv) endanger the life or physical safety of an individual;

''(v) result in flight from prosecution;

''(vi) result in destruction of or tampering with evidence;

''(vii) result in intimidation of potential witnesses; or

''(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.'';

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SA 4250. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Amend Section 108 by creating a new (d) and relettering the rest of the section accordingly:

''(d) REVIEW OF STOCK OPTION ACCOUNTING TREATMENT.—A standard setting body described in paragraph (1) and funded pursuant to Section 109 shall review the accounting treatment of employee stock options and shall, within one year of the date of enactment of this Act, adopt an appropriate generally accepted accounting principle for the treatment of employee stock options.''.

SA 4251. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 2 and 3, insert the following:

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditional or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditional or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end a new subsection as follows:

''(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

''(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(1) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of

this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(1) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(1) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking ''$5,000'' and inserting ''$100,000''; and

(B) striking ''$50,000'' and inserting ''$250,000'';

(2) in subparagraph (B)(i), by—

(A) striking ''$50,000'' and inserting ''$500,000''; and

(B) striking ''$250,000'' and inserting ''$1,000,000''; and

(3) in subparagraph (C)(i), by—

(A) striking ''$100,000'' and inserting ''$1,000,000''; and

(B) striking ''$500,000'' and inserting ''$2,000,000''.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(ii) in paragraph (2)(B), by striking ''$10,000'' and inserting ''$500,000''.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(A) in paragraph (1), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in paragraph (2), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in paragraph (3), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$12,000,000''.

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in clause (ii), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in clause (iii), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking ''(9)(A)'' and all that follows through ''(B) The'' and inserting ''(3) The'';

(3) by inserting after paragraph (1), the following:

''(2) ACCESS TO FINANCIAL RECORDS.—

''(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

''(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

''(i) result in the transfer of assets or records outside the territorial limits of the United States;

''(ii) result in improper conversion of investor assets;

''(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

''(iv) endanger the life or physical safety of an individual;

''(v) result in flight from prosecution;

''(vi) result in destruction of or tampering with evidence;

''(vii) result in intimidation of potential witnesses; or

''(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.'';

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SA 4252. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, strike line 22, and insert the following: ''sion shall specify.

''(4) CERTAIN INFORMATION TO BE INCLUDED.—Disclosures required by paragraph (1)(B)(ii) shall include whether any payment was made through the tender of a security and, if so, the number of shares tendered.

''(5) DEADLINE FOR RULEMAKING.—The Commission shall—

''(A) propose rules to implement this subsection, not later than 90 days after the date of enactment of this subsection; and

''(b) issue final rules to implement this subsection, not later than 180 days after that date of enactment.''.

SA 4253. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 2 and 3, insert the following:

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditional or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditional or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end a new subsection as follows:

''(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

''(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(1) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(1) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(1) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking ''$5,000'' and inserting ''$100,000''; and

(B) striking ''$50,000'' and inserting ''$250,000'';

(2) in subparagraph (B)(i), by—

(A) striking ''$50,000'' and inserting ''$500,000''; and

(B) striking ''$250,000'' and inserting ''$1,000,000''; and

(3) in subparagraph (C)(i), by—

(A) striking ''$100,000'' and inserting ''$1,000,000''; and

(B) striking ''$500,000'' and inserting ''$2,000,000''.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(ii) in paragraph (2)(B), by striking ''$10,000'' and inserting ''$500,000''.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(A) in paragraph (1), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in paragraph (2), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in paragraph (3), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in clause (ii), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in clause (iii), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

SA 4254. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 50, line 1, strike ''public (once'' and all that follows through page 51, line 2 and insert the following: ''public.

''(2) CONTENTS.—The information reported under paragraph (1) shall include—

''(A) the name of the sanctioned person;

''(B) a description of the sanction and the basis for its imposition; and

''(C) such other information as the Board deems appropriate.''.

SA 4255. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, line 7, strike ''and'' and all that follows through ''other'' on line 8, and insert the following:

'' ''(3) the quality, acceptability, clarity, and aggressiveness of the financial statements, financial reports, accounting principles, and related decision-making of the issuer; and

'' ''(4) other''.

SA 4256. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, line 8, strike ''If an issuer'' and all that follows through line 20 and insert the following: ''If, as a result of misconduct under the securities laws, an issuer is required by the board of directors, auditor, regulatory agency, bankruptcy official, civil or criminal settlement, court, or other legal proceeding to prepare an accounting restatement due to the material noncompliance of the issuer with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the issuer shall reimburse the issuer for—

''(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the document containing the financial information subject to correction in such restatement; and''.

SA 4257. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, beginning on line 17, strike ''amended by adding'' and insert the following: ''amended—

''(1) in subsection (a)—

''(A) in paragraph (2), by striking 'and' at the end;

''(B) by redesignating paragraph (3) as paragraph (4); and

''(C) by inserting after paragraph (2) the following:

''(3) a statement of opinion by the registered public accounting firm on whether the financial statements of the issuer are appropriate and fairly present, in all material respects, the operations and financial condition of the issuer; and'; and

''(2) by adding''.

SA 4258. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, between lines 15 and 16, insert the following:

SEC. 408. ACCOUNTABILITY TO SHAREHOLDERS FOR ISSUANCE OF STOCK OPTIONS.

(a) RULES REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Commission shall prescribe final rules to ensure that—

(1) all issuers require shareholder approval of any stock option plan, stock purchase plan, or other arrangement by which employees may acquire an equity interest in the issuer in exchange for consideration that is less than the fair market value of the equity interest at the time of the exchange;

(2) the shareholder approval requirement under paragraph (1) is waived whenever such approval is impracticable; and

(3) shareholder approval of a plan or arrangement under paragraph (1) is disclosed to the public immediately after such approval, through the Internet or similar means of broad distribution.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Commission shall report to Congress on the issuance of the rules pursuant to subsection (a).

SA 4259. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, strike line 19 and all that follows through page 93, line 22 and insert the following:

SEC. 402. PROHIBITION ON LOANS TO OFFICERS AND DIRECTORS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

''(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—

''(1) IN GENERAL.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, to or for any director or executive officer (or equivalent thereof) of that issuer, except as provided in paragraph (2).

''(2) LIMITATION.—Paragraph (1) does not preclude any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)) that is—

''(A) made in the ordinary course of the consumer credit business of an issuer;

''(B) of a type that is generally made available by the issuer to the public; and

''(C) made on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.''.

SA 4260. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, strike lines 3 through 14 and insert the following:

SEC. 203. AUDIT FIRM ROTATION

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end of the following:

''(j) AUDIT FIRM ROTATION.—It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if that public accounting firm has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer.''.

SA 4261. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 107, line 22 add the following:

(b) STUDY AND REPORT ON AIDING AND ABETTING SECURITIES FRAUDS.—

(1) The Commission shall, not later than 1 year after the adoption of the new rules on appearance and practice before the Commission as required under this section of the bill, complete a study to determine—

(A) the number of securities professionals including accountants, lawyers and other securities professionals practicing before the Commission, who have been found to have aided and abetting a violation of the securities laws or the rules and regulations issued thereunder; and

(B) the extent to which such violations indicate the existence of a pattern or practice; and

(C) the amount of shareholder value that was lost in the instances where securities professionals are found to have aided and abetted a violation of the securities laws; and

(D) the amount of disgorgement, restitution or any other fines or payments the Commission has obtained from securities professionals who have aided and abetted violations of the securities laws for such conduct; and

(E) the amount of remuneration shareholders have received in civil suits from securities professionals who have been found to have committed primary violations of the securities laws; and

(F) the number of securities professionals who have been found to have aided and abetted securities violations who have been censured or denied the privilege of practicing before the Commission for their aiding and abetting activities.

SA 4262. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 107, line 22 add the following:

(b) STUDY AND REPORT ON AIDING AND ABETTING SECURITIES FRAUDS.—

(1) The Commission shall, not later than 1 year after the adoption of the new rules on appearance and practice before the Commission as required under this section of the bill, complete a study to determine—

(A) the number of securities professionals including accountants, lawyers and other securities professionals practicing before the Commission, who have been found to have aided and abetting a violation of the securities laws or the rules and regulations issued thereunder; and

(B) the extent to which such violations indicate the existence of a pattern or practice; and

(C) the amount of shareholder value that was lost in the instances where securities professionals are found to have aided and abetted a violation of the securities laws; and

(D) the amount of disgorgement, restitution or any other fines or payments the Commission has obtained from securities professionals who have aided and abetted violations of the securities laws for such conduct; and

(E) the amount of remuneration shareholders have received in civil suits from securities professionals who have been found to have committed primary violations of the securities laws; and

(F) the number of securities professionals who have been found to have aided and abetted securities violations who have been censured or denied the privilege of practicing before the Commission for their aiding and abetting activities.

SA 4263. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, strike lines 1 through 4 and insert the following:

''(2) all material alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the issuer, ramifications of the use of such material''.

SA 4264. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, strike lines 15 through 24, and insert the following:

In supervising public accounting firms that are not registered by the Board and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act could create undue burdens and costs if applied without independent consideration to nonpublic accounting companies and other accounting firms that provide services to small business clients.

On page 68, strike line 22 and all that follows through page 69, line 9, and insert the following:

''(g) PROHIBITED ACTIVITIES.—A registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) shall not be deemed independent if such firm or person performs for any issuer any audit required by this title or the rules of the Commission under this title or, beginning 180 days after the date of commencement of the operations of the Public Company Accounting Oversight Board established under section 101 of the Public Company Accounting Reform and Investor Protection Act of 2002 (in this section referred to as the 'Board'), the rules of the Board, to provide to that issuer, contemporaneously with the audit, the following non-audit services:

On page 70, strike lines 3 and all that follows through page 73, line 2, and insert the following:

(b) EXEMPTION AUTHORITY.—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

SEC. 202. PREAPPROVAL REQUIREMENTS.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:

''(h) PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.—

''(1) IN GENERAL.

''(A) TERMS OF PROVISION OF SERVICES.—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if such services are provided in accordance with policies and procedures established by the audit committee of the issuer requiring the committee to approve in advance the provision of non-audit services.

''(B) DE MINIMUS EXCEPTION.—The preapproval requirement under subparagraph (A) is waived with respect to the provision of non-audit services for an issuer, if—

''(i) the aggregate amount of all such non-audit services provided to the issuer constitutes not more than 5 percent of the total amount of revenues paid by the issuer to its auditor;

''(ii) such services were not recognized by the issuer at the time of the engagement to be non-audit services; and

''(iii) such services are promptly brought to the attention of the audit committee of the issuer and approved by the audit committee prior to the completion of the audit, by 1 or more members of the audit committee who are members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

''(2) DISCLOSURE TO INVESTORS.—Policies and procedures for approval by an audit committee of an issuer under this subsection of a non-audit service to be performed by the auditor of the issuer shall be disclosed to investors in periodic reports required by section 13(a).

''(3) DELEGATION AUTHORITY.—The audit committee of an issuer may delegate to 1 or more designated members of the audit committee who are independent directors of the board of directors, the authority to grant preapprovals required by this subsection. The decisions of any member to whom authority is delegated under this paragraph to preapprove an activity under this subsection shall be presented to the full audit committee at each of its scheduled meetings.''.

SA 4265. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, line 15, insert before the end quotation marks the following:

''(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of law by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4266. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MANDATORY RESTITUTION FOR FEDERAL CRIMES OF FRAUD.

Section 1348 of title 18, United States Code as added by this bill, is amended—

(1) by striking ''all victims of any offense'' and all that follows through the period and inserting the following: ''all victims of any offense—

''(1) for which an enhanced penalty is provided under section 2326; or

''(2) relating to a Federal crime of fraud under section 371, 1131, 1341, 1343, 1348, 1519, or 1520.''.

SA 4267. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place:

''(c) FOREIGN REINCORPORATIONS.—This subsection shall not be interpreted or applied in any way to allow any issue to lessen the legal force of the statement required under this subsection, by reincorporating, or engaging in other transaction that result in the transfer of corporate domicile or offices from inside to outside the United States.

SA 4268. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GAO ANALYSIS AND REPORT.

(a) ANALYSIS.—The Comptroller General of the United States shall, in consultation with the Commission and the Department of Labor, shall conduct an analysis of—

(1) decline in the value of the securities of publicly traded companies under investigation by the Commission for possible violations of the Federal securities laws; and

(2) how such declines have affected assets held in public and private pension plans.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller shall submit a report to Congress on the results of the analysis conducted under subsection (a).

SA 4269. Mr. DASCHLE (for Mr. LEVIN (for himself, Mr. NELSON of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

In the amendment on page 2 in line 17 strike director. and insert directors.

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end a new subsection as follows:

''(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

''(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(1) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(1) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(1) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking ''$5,000'' and inserting ''$100,000''; and

(B) striking ''$50,000'' and inserting ''$250,000'';

(2) in subparagraph (B)(i), by—

(A) striking ''$50,000'' and inserting ''$500,000''; and

(B) striking ''$250,000'' and inserting ''$1,000,000''; and

(3) in subparagraph (C)(i), by—

(A) striking ''$100,000'' and inserting ''$1,000,000''; and

(B) striking ''$500,000'' and inserting ''$2,000,000''.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(ii) in paragraph (2)(B), by striking ''$2,000'' and inserting ''$500,000''.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(A) in paragraph (1), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in paragraph (2), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in paragraph (3), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in clause (ii), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in clause (iii), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking ''(9)(A)'' and all that follows through ''(B) The'' and inserting ''(3) The'';

(3) by inserting after paragraph (1), the following:

''(2) ACCESS TO FINANCIAL RECORDS.—

''(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

''(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

''(i) result in the transfer of assets or records outside the territorial limits of the United States;

''(ii) result in improper conversion of investor assets;

''(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

''(iv) endanger the life or physical safety of an individual;

''(v) result in flight from prosecution;

''(vi) result in destruction of or tampering with evidence;

''(vii) result in intimidation of potential witnesses; or

''(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.'';

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SA 4270. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . STOCK OPTIONS MUST BE BOOKED AS EXPENSE WHEN GRANTED.

Any corporation that grants a stock option to an officer or 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.

SA 4271. Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and

independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the end of the instructions add the following:

''(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors, or to another committee of the board of directors comprised solely of directors not empl9yed directly or indirectly by the company, or to the board of directors.

SA 4272. Mr. REID (for Mr. LEVIN (for himself, Mr. NELSON of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to amendment SA 4271 proposed by Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

In the amendment on page 2 in line 17 strike director. and insert directors.

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end a new subsection as follows:

''(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

''(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(1) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(1) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(1) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(4) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(5) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking ''$5,000'' and inserting ''$100,000''; and

(B) striking ''$50,000'' and inserting ''$250,000'';

(2) in subparagraph (B)(i), by—

(A) striking ''$50,000'' and inserting ''$500,000''; and

(B) striking ''$250,000'' and inserting ''$1,000,000''; and

(3) in subparagraph (C)(i), by—

(A) striking ''$100,000'' and inserting ''$1,000,000''; and

(B) striking ''$500,000'' and inserting ''$2,000,000''.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(ii) in paragraph (2)(B), by striking ''$2,000'' and inserting ''$500,000''.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(A) in paragraph (1), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in paragraph (2), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in paragraph (3), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in clause (ii), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in clause (iii), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$12,000,000''.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$2,000,000''.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and

(ii) striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C), by—

(i) striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) striking ''$500,000'' and inserting ''$12,000,000''.

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking ''(9)(A)'' and all that follows through ''(B) The'' and inserting ''(3) The'';

(3) by inserting after paragraph (1), the following:

''(2) ACCESS TO FINANCIAL RECORDS.—

''(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

''(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

''(i) result in the transfer of assets or records outside the territorial limits of the United States;

''(ii) result in improper conversion of investor assets;

''(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

''(iv) endanger the life or physical safety of an individual;

''(v) result in flight from prosecution;

''(vi) result in destruction of or tampering with evidence;

''(vii) result in intimidation of potential witnesses; or

''(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.'';

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 11, 2002, at 9:30 a.m., on global climate change and the U.S. Climate Action Report.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, July 11, 2002, at 10 a.m. in SD–366.

The purpose of the hearing is to explore the Department of Energy's progress in implementing its accelerated cleanup initiative and the changes DOE has proposed to the Environmental Management science and technology program.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, July 11, 2002, at 9:30 a.m. to conduct a hearing to assess the progress of national recycling efforts. The Committee will evaluate two areas of recycling. First, the Committee is interested in assessing what the federal government is doing to ensure the federal procurement of recycled-content products, and what can be done to improve these efforts. Second, the Committee is interested in evaluating the concept of producer responsibility specifically related to the beverage industry.

The hearing will be held in SD–406.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in Open Executive Session during the session of the Senate on Thursday, July 11, 2002 at 10 a.m.

Agenda:

S. 321, Family Opportunity Act.

S. 724, Mothers and Newborns Health Insurance.

S. 1971, National Employee Savings and Trust Equity Guarantee Act.