	By Fiscal Year, in Millions of Dollars										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in receipts	17	59	102	134	140	147	155	163	174	187	203
Changes in outlays	Not applicable										

IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

JCT has determined that the bill contains no intergovernmetnal mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

IMPACT ON THE PRIVATE SECTOR

JCT has determined that sections 101, 102, 104, 201–203, and 215 of the bill contain private-sector mandates. JCT has determined that the cost of complying with these mandates would exceed the threshold established by UMRA ($115 million in 2002, adjusted annually for inflation) in 2005 and 2006.

ESTIMATE PREPARED BY:

Erin Whitaker and Annie Bartsch (226–2720).

ESTIMATE APPROVED BY:

G. Thomas Woodward, Assistant Director for Tax Analysis.

ACCOUNTING REFORM

Mr. BIDEN. Mr. President, I rise today to voice my support for H.R. 3764, the Sarbanes-Oxley bill. While not perfect, this is important legislation. I commend my friend and colleague, Senator SARBANES, the distinguished chairman of the Senate Banking Committee, for his relentless effort to usher this landmark legislation through the Senate. I am proud to have worked with him on such an important cause.

To restore some level of confidence, the accounting reform legislation we have passed is critical to stem the corporate greed threatening our economy. Over the last several months the market has lost considerable value. The dollar is at a 2-year low. Investors are questioning the strength of our financial markets. Each day seems to bring new revelation of corporate excess—some horrific story about unabashed corporate greed and malfeasance. It is a seemingly endless onslaught. We don't know where it will end. And, frankly, we fear how deep it might go.

There is a crisis of confidence in American business. It runs deep, with revelations about cooked books, fraudulent numbers, inflated values, and stock options that make the average working American—who earns about $31,000 a year and fears for his or her pension and health care benefits—sick. In fact, a Pew Forum survey conducted in March, long before the recent revelations, said the esteem in which business executives are held is falling by the day. I shudder to think what those numbers would be now.

Something is clearly wrong with the way corporate America is doing business. Everyone here knows that—and—if you follow the money—you will see that investors also know it. They are registering their concern by pulling out of the market. Some have lost their retirement savings. Others have to postpone their retirement. They are unable to pay college tuition. Surely they have a right to expect a little truth in accounting.

The accounting reform legislation we approve today goes a long way to restore their confidence and stem the tide of market uncertainty. It will bring accountability and transparency to corporations, their officials, and their accountants. We should insist on nothing less.

In addition, the Sarbanes-Oxley bill includes significant new criminal laws for white collar offenses, and raises penalties for a number of existing ones.

I am proud to have sponsored, along with my good friend from Utah, Senator HATCH, S. 2717, the White-Collar Penalty Enhancement Act of 2002. It grew out of a series of hearings I held this year in the Judiciary Subcommittee on Crime and Drugs in which we heard about the ''penalty gap'' between white collar offenses and other serious Federal criminal offenses. The Senate unanimously adopted our bill as an amendment to the Sarbanes bill several weeks ago, and we are pleased that its key provisions are in the legislation approved by the House-Senate conference. Let me briefly summarize those provisions which will become law once the President signs this legislation.

Our bill significantly raised penalties for wire and mail fraud, two common offenses committed by white collar crooks in defrauding financial victims. It also created a new 10-year felony for criminal violations under the Employee Retirement Security Act of 1974 (ERISA). Under current law, a car thief who committed interstate auto theft was subject to 10 years in prison, while a pension thief who committed a criminal violation of ERISA was subject to up to 1 year in prison. Our bill now treats pension theft under ERISA like other serious financial frauds by raising the penalties to 10 years.

Our bill also amended the Federal conspiracy statute which currently carries a maximum penalty of 5 years in prison. In contrast, in our Federal drug statutes, a drug kingpin convicted of conspiracy is subject to the maximum penalty contained in the predicate offense which is the subject of the conspiracy—a penalty which can be much higher than 5 years. I say what is good for the drug kingpin is good for the white collar crook. Thus, our bill harmonized conspiracy for white collar fraud offenses with our drug statutes. Now, executives who conspire to defraud investors will be subject to the same tough penalties—up to 20 years—as codefendants who actually carry out the fraud.

Our bill also directed the U.S. Sentencing Commission to review our existing Federal sentencing guidelines. As you know, the sentencing guidelines carefully track the statutory maximum penalties that Congress sets for specific criminal offenses. Our bill requires the sentencing commission to go back and recalibrate the sentencing guidelines to raise penalties for the white collar offenses affected by this legislation.

Finally, and most significantly, our bill required top corporate officials to certify the accuracy of their companies' financial reports filed with the Securities and Exchange Commission.

Incredibly, under current law, there is no requirement that corporate officials certify the accuracy of these reports. As we have seen in the cases of WorldCom and others, this is no small matter. Willful misstatements about the financial health of a company—once uncovered—can lead, almost overnight, to a company's bankruptcy, wholesale loss of jobs for its employees, and a total collapse in the value of the company's pension funds.

That is why Federal Reserve Board Chairman Alan Greenspan last week testified before the Senate Banking Committee that imposing criminal sanctions on CEOs who knowingly misrepresent the financial health of their company is the key to real reform of corporate wrongdoing.

I am pleased that this centerpiece of the Senate-passed accounting bill is retained in the final legislation. Our provision is simple: corporate officials who cook the books and then lie about their companies' financial health will go to jail. Our bill says that all CEOs and CFOs of publicly traded companies must certify that their financial reports filed with the SEC are accurate. If they ''knowingly'' certify a false report, they are subject to a 10-year felony; if they ''willfully'' certify a false report, they are subject to a 20-year felony.

But we may have left one stone unturned. I regret that this final bill makes a small but significant change from the original Biden-Hatch amendment put the chairman of the board on the hook, along with the CEO and CFO. This final bill removed the board chairman from the group of corporate officials who are required to certify the accuracy of the reports. I think that is a mistake. Contrary to what some in the business community argued, requiring the board chairman to certify the accuracy of these financial reports would not have threatened the management of a corporation or the integrity of its executives.

Rather, our bill merely would have formalized what should be normal procedure—and what every American thinks is plain old common sense—namely that corporate executives certify that their books are not cooked and their numbers are truthful. I do not see—and I am sure the American people fail to see—what is wrong with demanding truthfulness in the valuation of a publicly traded company. It would seem to me that those in positions of responsibility in the business community, at every level—from the chairman of the board on down—should embrace the notion of truth in accounting.

Why would they demand anything less after what we have seen in the last few weeks with a $4 billion discrepancy in WorldCom's books? After all, ''the buck stops'' with the chairman of the board—to whom the CEO and CFO report. It strikes me as crazy that we will now hold the CEO and CFO responsible, but not their boss. Indeed, as many have recently pointed out, in most American corporations, the CEO is the chairman of the board. To let board chairs off the hook could create a loophole where crooked CEO's simply change their title to escape accountability for their corporate filings.

Some naysayers have suggested that the certification requirement would undermine the ability of the chair to oversee and act independently of the chief executive officer. It is absurd that a requirement that merely prohibits top corporate officers from lying about the company's financial health would sacrifice board independence. If anything, it ensures proper oversight by fostering a healthy division of responsibility between management and the board of directors, by encouraging the board chair to be actively engaged in the periodic process of checking the accuracy of financial statements; and by recognizing that the board chair has a vital role in ''stopping corporate debacles'' by not knowingly or willfully contributing to the filing of false financial reports.

Other opponents suggested that the certification requirement would likely drive independent chairmen out of business and discourage otherwise good business leaders from serving on boards of directors. This is the same old ''sky is falling'' claim that Wall Street uttered during consideration of the original securities legislation in the 1930s, and it has repeated this mantra with virtually every congressional reform offered ever since.

Truth be told, the certification requirement only imposes criminal sanctions for top corporate officials who lie about their financial records. Specifically, it only applies to ''knowing'' and ''willful failures to certify financial statements—a very high standard. It would be one thing if the requirement applied criminal sanctions on a ''strict liability'' or ''neglience'' standard to board chairs who certify false reports. I could even understand their concern under the original ''reckless'' standard—that is, that the board chair ''should have known'' that the statements were false. But our requirement is only triggered where top corporate officials knowingly or willfully certify financial statements that they know to be false. So, only top corporate officers who are consciously aware of a false statement—and not those who act out of ignorance, mistake, accident or even sloppiness—would conceivably be subject to criminal sanctions. It is troubling, but quite revealing, that even this relatively meek certification would alarm some in the business community.

Regrettably, that is the stone that was left unturned. I wish we had turned it. I wish we had, in our infinite wisdom, included board chairmen in our legislation.

Nevertheless, this bill represents a huge step forward. It will strengthen accountability. It will tell CEOs and CFOs—we expect you to watch your books, and not bury your heads in the sand!'' It will given prosecutors important new tools to fight white collar crime. It will give judges the ability to impose meaningful sentences for white collar crooks.

In closing, a common theme I have heard at our Crime Subcommittee hearings is that white collar crimes are not ''crimes of passion,'' as a general rule. Rather, they are the result of a careful, ''cost-benefit'' analysis in which the crook considers his chance of being caught; and his chances of actually going to prison. To date, it was a pretty safe bet for the white collar crook to assume he would avoid detection, and, even if he was detected, he would not go to jail.

I have a message today for white collar crooks: ''We are deadly serious. We will prosecute you to fullest extent of the law. And we will put you in jail for your crimes.''

ADDITIONAL STATEMENTS

INFESTED PIÑONS

• Mr. DOMENICI. Mr. President, I rise today to continue my efforts to raise awareness of the dire situation we are facing in the western United States due to the ongoing drought.

I have been speaking on the Senate floor repeatedly emphasizing the impact the drought is having on the west, and especially its impact on New Mexico. The water situation has affected businesses and the livestock industry, and it has turned forests into tinderboxes.

Now, it appears that there is another problem arising from the lack of water. A recent article by the Albuquerque Journal highlights the fact that ''hundreds of thousands of bark beetles [are] killing Piñon pines all over New Mexico.'' These are ''trees that have survived New Mexico's arid climate for 75 or 100 years [and] are [now] succumbing to the beetles.''

Under normal conditions, stressed trees would use internal sap pressure to fend off an infestation. However, under current conditions, the trees do not have enough moisture to adequately fight back, and they are overwhelmed by the beetles and devastated. They have to be cut down, stacked, and covered with plastic to prevent the escape of the beetles.

If New Mexico's Piñon trees suffer, so too will some area economies. New Mexico is known for its unique food flavors and its native art. Piñon nuts are a true New Mexico treat which can be harvested and eaten as a snack. Roasted nuts can sell for around $9 a pound and bring much needed tourism dollars to our state. In addition, Piñon pitch can be used as a glaze for Navajo pottery providing the finishing touches to their beautiful designs. Prolonged damage to the Piñon trees will create further hardships for New Mexico's economy.

With each passing day, the conditions in New Mexico will continue to become worse. At some point or another, every individual in New Mexico will feel the impact of this drought and continue to face hardships until we take proper action to alleviate the situation.

I ask that the July 24, 2002, Albuquerque Journal article entitled, ''Parched Piñon Under Deadly Attack'' be printed in the RECORD.

The article follows.

[From the Albuquerque Journal, July 24, 2002]

PARCHED PIÑONS UNDER DEADLY ATTACK

(By Tania Soussan)

First came the fires. Then withered crops. Now the drought's latest plague: hundreds of thousands of bark beetles killing piñon pines all over New Mexico.

''In many areas, they're taking out all of the trees,'' said Bob Cain, a New Mexico State University forest entomologist.'' . . . It's going to be a long time before there's many piñon in there again.''

Even before the drought of 2002, the trees faced still competition for water because forests have grown overly dense during decades of human fire suppression.

The drought has made the situation even worse. Without adequate water, the piñons can't repel the bark beetles that burrow into vital tissues, lay eggs and munch away.

''It's been something that's been building the last several years, especially since 2000,'' Cain said, adding that the bark beetles are one of nature's ways of thinning a forest.

Carol Sutherland, the New Mexico Department of Agriculture's top bug expert, agreed.

''Trees that are under stress are getting hammered badly by all manner of bark beetles,'' she said recently.

The worst infestations are in the area between Magdalena and Quemado in the western part of the state, around Ojo Caliente in northern New Mexico, in the Sacramento Mountains and Ruidoso.

Near Silver City, ponderosa pines also are being hit hard.

Even trees that have survived New Mexico's arid climate for 75 or 100 years are succumbing to the beetles this year, said Terry Rogers, forest entomologist for the U.S. Forest Service in New Mexico.

On a hillside outside of Santa Fe, Cain recently examined a pocket of piñons fighting a hopeless battle for life. The pine needles on one tree were turning a pale, whitish green. Another tree already had gone reddish brown.

''There's nothing you can do to save this tree,'' Cain said. ''This drought has been so