communication or representation of a person regarding a particular matter, any compensation, financial gain or remunera-
tion, or any other remedy which is available by law.

"(2) As used in this subsection, the term 'compensation' means anything of value which is provided directly or indirectly, for services rendered, including a payment, gift, benefit, reward, favor, or gratuity.

"(h) Penalties.—The punishment for an offense under subsection (a), (b), (c), (d), (e), or (f) is the following:

"(1) Any person who engages in the conduct constituting the offense shall be imprisoned for not more than 5 years, or may take other appropriate action, and shall be fined not more than $50,000, or the amount of actual pecuniary gain or pecuniary loss, whichever is greater, or both.

"(2) With respect to service as an officer or employee of the executive branch or of an independent agency, the offense must be established by a preponderance of the evidence.

"(i) Review of disciplinary action.—Any disciplinary action under paragraph (1) shall be subject to review in an appropriate United States district court.

"(j) Procedures.—Departments and agencies in the executive branch and independent agencies shall, in consultation with the Attorney General, establish procedures to carry out this subsection.

"(k) Criminal penalties.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting a violation of subsection (a), (b), (c), (d), (e), or (f) and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000, or the amount of pecuniary gain or pecuniary loss, whichever is greater, or both.

"(l) Attorney General.—If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under subsection (a), (b), (c), (d), (e), or (f), the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court shall order the trial of the action on the merits to be advanced and consolidated with the hearing on the petition. The court may issue an order that such conduct constitutes such an offense. The filing of a petition under this subsection does not preclude any other remedy which is available by law to the United States or any other person.

"(m) Adjudication of violations.—The provisions of this Act apply to violations of subsections (a), (b), (c), (d), (e), or (f) that occur before the enactment of this Act.

"(n) Effective date.—This Act shall take effect on the date of enactment.
the violation or failure referred to in paragraph (1).

“(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

“(D) A final decision by the Department of Defense—

“(i) to debar or suspend the contractor; 

“(ii) to rescind or void the contract; or

“(iii) to terminate the contract for default, by reason of the violation or failure referred to in paragraph (1).

“(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C) or (D).

“(3) In the case of a proceeding referred to in paragraph (2) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

“(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State in connection with a civil, criminal, or administrative proceeding commenced by the United States or a State in connection with a covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding and if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

“(5)(A) Except as provided in subparagraph (C) or (D), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (3).

“(B)(i) Except as provided in subparagraph (A) in any case may not exceed the amount equal to 80 percent of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation prescribed under section 306(e) of the Federal Property and Administrative Services Act of 1949 (as added by subsection (a) and section 2324(k)(5) of title 10, United States Code (as added by subsection (b))—

“(1) shall be prescribed not later than 120 days after the date of the enactment of this Act; and

“(2) shall apply to contracts entered into more than 30 days after the date on which such regulations are issued.

“(B)(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

“(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (1) such proceeding involves the same contractor and is commenced by the United States as a party in an other criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

“(1)(k)(1) In this section, the term ‘covered contract’ means a contract for an amount more than $100,000 entered into by the Department of Defense other than a fixed- price contract without cost incentives.

“(2) In subsection (k):

“(A) The term ‘procurement’ includes an investigation.

“(B) The term ‘costs’, with respect to a proceeding—

“(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

“(ii) includes administrative and clerical expenses.

“(III) the cost of legal services, including legal services performed by an employee of the contractor;

“(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

“(C) The term ‘penalty’ does not include restitution, reimbursement, or compensatory damages.

“(D) ‘Costs’—This Act may be cited as the ‘Procurement Financial Modernization Act of 1988’.

"BYRD AMENDMENT NO. 3737

Mr. BYRD proposed an amendment to amendment No. 3737 proposed by Mr. PROXMIRE to the amendment of the House to the bill S. 2653, supra, as follows:

Strike out all after the first word, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE: TABLE OF CONTENTS.

(a) Short Title—This Act may be cited as the ‘Procurement Financial Modernization Act of 1988’.

(b) Table of Contents—

TITLE I—QUALIFIED AFFILIATES OF BANK HOLDING COMPANIES

Sec. 101. Authorization for bank holding companies to acquire qualified affiliate.

Sec. 102. Definition of qualified affiliate.

Sec. 103. Ninety-one day rule for qualified affiliate applications.

Sec. 104. Effect on State laws prohibiting the affiliation of banks and certain companies.

Sec. 105. Amendment to the Federal Reserve Act.

Sec. 106. Certain affiliations of FDIC-insured banks.

Sec. 107. Authorization for national banks to underwrite municipal revenue bonds, sponsor unit investment trusts, and distribute investment company securities.


Sec. 109. Diversified financial holding companies.

Sec. 110. Study of the national payments system.

Sec. 111. Congressional vote on whether to permit qualified affiliates to underwrite equity securities.

TITLE II—EXPEDITED PROCEDURES

Sec. 201. Expedited procedures for forming a bank holding company.

Sec. 202. Expedited procedures for bank holding companies to seek approval to engage in nonbanking activities.

Sec. 203. Reduction of post-approval waiting period for bank holding company acquisitions.

Sec. 204. Reduction of post-approval waiting period for bank mergers.

Sec. 205. Amendments to the Depository Institution Management Interlock Act.

Sec. 206. Bankers’ banks.

TITLE III—STRENGTHENED ENFORCEMENT AUTHORITY

Sec. 301. Short title.