

105TH CONGRESS
1ST SESSION

S. 1514

To assess the impact of NAFTA, require the renegotiation of certain provisions of NAFTA, and provide for the withdrawal from NAFTA unless certain conditions are met.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 1997

Mr. DORGAN (for himself, Mr. BYRD, Mr. CAMPBELL, Mr. HOLLINGS, Mr. INOUE, Mr. WELLSTONE, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To assess the impact of NAFTA, require the renegotiation of certain provisions of NAFTA, and provide for the withdrawal from NAFTA unless certain conditions are met.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “NAFTA Accountability
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) EXPANDED MARKETS.—One of the purposes
2 of NAFTA, as stated in its preamble, is to “create
3 an expanded and secure market” for United States
4 goods and services. Instead, NAFTA has resulted in
5 an enormous increase in imports to the United
6 States from Mexico and Canada and a spiraling
7 trade deficit with Mexico and Canada that has ex-
8 ceeded \$30,000,000,000 in both 1995 and 1996. Be-
9 fore NAFTA, the United States had a
10 \$1,700,000,000 trade surplus with Mexico. Rather
11 than harmonious development and expansion in all 3
12 NAFTA countries as envisioned, NAFTA has re-
13 sulted in United States trade deficits which are
14 draining \$2,500,000,000 a month from the United
15 States economy and causing greater economic insta-
16 bility in Mexico.

17 (2) CURRENCY STABILITY.—One of the pur-
18 poses of NAFTA, as stated in its preamble, is to
19 “ensure a predictable commercial framework for
20 business planning and investment”. However,
21 NAFTA contains no safeguards to minimize the
22 negative economic impacts of severe shifts in cur-
23 rency exchange rates among the NAFTA Parties.
24 Mexico’s sudden devaluation of its peso in December
25 1994 has more than offset tariff reductions and

1 other trade benefits the United States expected to
2 achieve from the agreement. The dollar-peso ex-
3 change rate when NAFTA passed was 1:3.5. It is
4 now approximately 1:8 and is not expected to return
5 to its previous value. Indeed, economic experts are
6 stating that conditions are building for another se-
7 vere Mexican currency crisis.

8 (3) JOBS, WAGES, AND LIVING STANDARDS.—

9 One of the purposes of NAFTA, as stated in its pre-
10 amble, is to “create new employment opportunities
11 and improve working conditions and living stand-
12 ards” in the respective territories of the NAFTA
13 Parties. Instead, there has been a substantial loss of
14 a half million high paying jobs in the United States.
15 A survey of United States companies conducted 3
16 years after the implementation of NAFTA found
17 that 90 percent of the companies that had antici-
18 pated creating United States jobs through NAFTA
19 have, in fact, not created jobs because of NAFTA.
20 In the first 3 years of NAFTA’s implementation,
21 United States workers have seen steady drops in
22 real hourly wages. In Mexico employment in the bor-
23 der Maquiladora zone has increased by more than
24 46 percent under NAFTA. However, Mexico has
25 seen much greater job losses in the agricultural,

1 small retail, and small industrial sectors. Thus, more
2 than 2,000,000 workers have become unemployed in
3 Mexico since the implementation of NAFTA, and
4 real wages of Mexican workers have been slashed 50
5 percent.

6 (4) MANUFACTURING BASE.—One of the pur-
7 poses of NAFTA is to enhance the competitiveness
8 of firms in the global market. However, rather than
9 increase the ability of the manufacturing sector in
10 the United States to compete in the world market,
11 NAFTA has facilitated the movement of United
12 States manufacturing facilities and jobs to Mexico.
13 NAFTA has contributed to a net loss of approxi-
14 mately 400,000 manufacturing jobs in the United
15 States and an unprecedented flood of imports of
16 manufactured goods into the United States.

17 (5) HEALTH AND ENVIRONMENT.—Other pur-
18 poses of NAFTA, as stated in its preamble, are “to
19 safeguard the public welfare” and “to strengthen the
20 development and enforcement of environmental laws
21 and regulations”. Yet, since the implementation of
22 NAFTA, the public welfare has been undermined by
23 increased imports of food products that do not meet
24 United States health standards. In addition,
25 NAFTA has accelerated the relocation of United

1 States manufacturing facilities to the United States-
2 Mexico border zone. Without adequate environ-
3 mental safeguards, the uncontrolled industrial and
4 population growth in the border zone has aggravated
5 pollution and health hazards, increasing the inci-
6 dence of infectious diseases and human exposure to
7 toxins.

8 (6) ILLEGAL DRUGS.—Rather than safeguard-
9 ing the public welfare, NAFTA has allowed the in-
10 creased flow of illegal drugs and controlled sub-
11 stances into the United States from Mexico. More
12 than half of all marijuana and 70 percent of cocaine
13 entering the United States now comes through Mex-
14 ico. NAFTA's rules limit inspection of trucks cross-
15 ing the border into the United States, and the major
16 increase of Mexico to United States truck traffic has
17 provided a new route for drug smuggling. The Gen-
18 eral Accounting Office has reported that interdiction
19 efforts have had little, if any, impact on the overall
20 flow of drugs through Mexico into the United States.

21 (7) PROTECT RIGHTS.—The promotion of sus-
22 tainable development as well as the protection and
23 enhancement of basic rights are stated objectives of
24 NAFTA. As envisioned, NAFTA was to increase
25 economic opportunity together with expansion of po-

1 litical freedoms and human rights. Yet these objec-
 2 tives are not being fulfilled, especially in Mexico,
 3 where many citizens continue to experience infringe-
 4 ments of such rights and freedoms.

5 (8) FAIR AGRICULTURAL TRADE.—One of the
 6 purposes of NAFTA, as stated in its preamble, is to
 7 “reduce distortions to trade”. In addition, NAFTA
 8 is supposed to promote conditions of fair competition
 9 and to establish mutually advantageous rules govern-
 10 ing trade. However, since NAFTA, there have been
 11 sharp drops and escalations of one-way agricultural
 12 trade. One-way trade of Canadian grain exports of
 13 wheat, durum wheat, and barley to the United
 14 States has disrupted markets and marketing chan-
 15 nels. Surges in the importation of certain Mexican
 16 fruits and vegetables have damaged United States
 17 domestic production. The importation of livestock
 18 and meat products from the NAFTA Parties raises
 19 serious health concerns and has exacerbated the se-
 20 vere problems facing United States livestock produc-
 21 ers. NAFTA’s destabilization of the Mexican small
 22 agricultural sector has undermined the country’s
 23 ability to ensure a stable supply of food, which has
 24 led to an unprecedented migration of landless peas-

1 ants and an increase in emigration to Mexican cities
2 and to the United States.

3 (9) HIGHWAY SAFETY.—NAFTA is intended to
4 preserve the flexibility of each nation to safeguard
5 its public welfare. Mexican motor carriers and driv-
6 ers do not have to meet the more stringent United
7 States safety standards when operating in Mexico.
8 Canadian law allows significantly longer and heavier
9 trucks than permitted by United States law. These
10 fundamental differences in safety standards make it
11 practically impossible to develop effective enforce-
12 ment programs in the United States to bring all
13 Mexican or Canadian motor carriers and drivers into
14 compliance with United States laws. Yet, NAFTA
15 would allow Mexican and Canadian trucks to operate
16 in United States border States and eventually all
17 States, posing a serious threat to highway safety in
18 the United States.

19 (10) NAFTA SHOULD NOT BE EXPANDED.—
20 Congress approved NAFTA in order to achieve eco-
21 nomic, social, and environmental benefits for the
22 people of the United States. Based on currently
23 available information, the goals and objectives of
24 NAFTA are not being achieved. Therefore, until the
25 certifications of NAFTA's effect, required in section

1 3, are made, NAFTA should not be expanded to in-
 2 clude any other country. It is also inappropriate,
 3 prior to the certification of NAFTA's effects, to con-
 4 sider any request for "fast track" negotiating au-
 5 thority to expand NAFTA.

6 **SEC. 3. CONDITIONS FOR CONTINUED PARTICIPATION IN**
 7 **NAFTA.**

8 (a) IN GENERAL.—

9 (1) WITHDRAWAL OF APPROVAL.—Notwith-
 10 standing any other provision of law, unless each of
 11 the conditions described in paragraph (2) is met—

12 (A) the approval of NAFTA by Congress
 13 provided for in section 101(a) of the North
 14 American Free Trade Agreement Implementa-
 15 tion Act shall cease to be effective on January
 16 1, 1999; and

17 (B) not later than July 1, 1998, the Presi-
 18 dent shall provide 6 months written notice of
 19 withdrawal to the Governments of Canada and
 20 Mexico in accordance with Article 2205 of
 21 NAFTA.

22 (2) CONDITIONS FOR CONTINUING PARTICIPA-
 23 TION IN NAFTA.—The conditions described in this
 24 paragraph are that before March 31, 1998—

25 (A) the President—

1 (i) provide the certification to Con-
2 gress described in subsection (b)(6); and

3 (ii) renegotiate the terms of NAFTA
4 in accordance with section 4;

5 (B) the Secretary of Commerce provide the
6 certification described in subsection (b)(1);

7 (C) the Secretary of the Treasury provide
8 the certification described in subsection (b)(2);

9 (D) the Secretary of Labor provide the cer-
10 tification described in subsection (b)(3);

11 (E) the Secretary of Agriculture and the
12 Administrator of the Food and Drug Adminis-
13 tration provide the certification described in
14 subsection (b)(4)(A);

15 (F) the Administrator of the Environ-
16 mental Protection Agency submit the certifi-
17 cation and report described in subsection
18 (b)(4)(B);

19 (G) the Attorney General of the United
20 States provide the certification described in
21 subsection (b)(5);

22 (H) the Secretary of Agriculture provide
23 the certification described in subsection (b)(7);
24 and

1 (I) the Secretary of Transportation provide
2 the certification described in subsection (b)(8).

3 (b) AREAS OF CERTIFICATION.—The areas of certifi-
4 cation described in this subsection are as follows:

5 (1) CERTIFICATION OF THE NAFTA BALANCE
6 OF TRADE.—If the Secretary of Commerce, after
7 consulting with appropriate government agencies
8 and citizen organizations, determines that the cumu-
9 lative trade balance between the United States and
10 Mexico and the United States and Canada during
11 the first 3 years that NAFTA was in effect is at
12 least as positive as in the 3 years before NAFTA
13 took effect, so that the net trade balance does not
14 show a greater overall deficit, the Secretary shall so
15 certify.

16 (2) CERTIFICATION OF CURRENCY VALUES.—If
17 the Secretary of the Treasury, after consulting with
18 appropriate government agencies and citizen organi-
19 zations, determines that the exchange rates between
20 the United States dollar and both the Canadian dol-
21 lar and the Mexican peso are within 10 percent of
22 the exchange rates when NAFTA took effect, the
23 Secretary shall so certify.

24 (3) CERTIFICATION OF NAFTA'S EFFECTS ON
25 UNITED STATES JOBS AND LIVING STANDARDS.—If

1 the Secretary of Labor, after consultation with ap-
2 propriate government agencies and citizen organiza-
3 tions, determines that—

4 (A) the number of specific United States
5 jobs resulting from increased exports of United
6 States manufactured goods to other NAFTA
7 Parties exceeds the number of specific jobs lost
8 because of imports of manufactured goods from
9 other NAFTA Parties since January 1, 1994,
10 by comparing jobs created with jobs lost, and

11 (B) the hourly real wage rate of wage
12 earners in the United States has not decreased
13 since January 1, 1994,

14 the Secretary shall so certify to Congress.

15 (4) CERTIFICATION RELATING TO HEALTH AND
16 ENVIRONMENTAL STANDARDS.—

17 (A) IN GENERAL.—If the Secretary of Ag-
18 riculture and the Administrator of the Food
19 and Drug Administration, after consultation
20 with appropriate government agencies and citi-
21 zen organizations, determine, with respect to
22 imports from NAFTA Parties, that since Janu-
23 ary 1, 1994, there has been a reduced incidence
24 of contaminated and adulterated food, food con-
25 taining additives or pesticide residues exceeding

1 United States standards, or food containing ad-
2 ditives or pesticide residues which cannot be le-
3 gally used in the United States, the Secretary
4 and Administrator shall so certify to Congress.
5 In making this determination, all foods and
6 food products, including fruits, vegetables,
7 grains, oilseeds, and meats, both fresh and
8 processed, shall be reviewed. Special attention
9 shall be given to foods which have had a history
10 of violations of United States standards or laws
11 described in this subparagraph.

12 (B) BORDER AREA POLLUTION.—(i) If the
13 Administrator of the Environmental Protection
14 Agency determines, taking into account the
15 matters required to be included in the report
16 under clause (ii), that conditions affecting pub-
17 lic health and the environment in the United
18 States-Mexico border zone have not worsened
19 since January 1, 1994, the Administrator shall
20 so certify to Congress.

21 (ii) In addition, the Administrator, in con-
22 sultation with the Secretariat for the NAFTA
23 Commission on Environmental Cooperation,
24 shall report to Congress on the outcomes of the
25 investigations by the Environmental Protection

1 Agency on pollution and health hazards in and
2 around the United States-Mexico border zone
3 since NAFTA went into effect. The report shall
4 include—

5 (I) a description and status report of
6 all industrial site cleanup and environ-
7 mental improvement projects begun in the
8 border zone since January 1, 1994;

9 (II) information available from local,
10 State, and Federal health agencies reflect-
11 ing the incidence since January 1, 1990, in
12 and around the border zone of hepatitis,
13 neural stem birth defects, lupus, chronic
14 diarrhea, tuberculosis, nonneural birth de-
15 fects, cholera, botulism, and other dis-
16 orders commonly related to industrial pol-
17 lution, inadequate infrastructures, and
18 hazardous waste; and

19 (III) information on the incidence of
20 air and water pollution since January 1,
21 1990, and the causes, levels, and types of
22 pollution which have occurred.

23 (5) CERTIFICATION RELATING TO ILLEGAL
24 DRUGS.—If the Attorney General of the United
25 States determines, after a review by the Drug En-

1 enforcement Administration and consultation with ap-
2 propriate government agencies and citizen organiza-
3 tions, that the importation into the United States of
4 illegal drugs or other controlled substances from
5 Mexico or Canada has not increased since NAFTA
6 went into effect, the Attorney General shall so cer-
7 tify to Congress. The Attorney General, through the
8 Drug Enforcement Administration, shall conduct a
9 thorough review and report to Congress regarding
10 the flow of illegal drugs from Mexico and Canada
11 and the relationship of such flow to trade of other
12 commodities and services with the NAFTA Parties.

13 (6) CERTIFICATION RELATING TO DEMOCRACY
14 AND HUMAN FREEDOMS.—If the President, after
15 consultation with appropriate government agencies,
16 international organizations, and citizen organiza-
17 tions, determines that each NAFTA Party—

18 (A) elects its government in free and fair
19 elections;

20 (B) protects the rights of its citizens to or-
21 ganize into political parties;

22 (C) protects the rights of its citizens to
23 free speech and the right of the news media to
24 operate without fear of government control or
25 reprisal; and

1 (D) protects the rights of its citizens to as-
2 semble and to organize associations to advance
3 human rights and economic opportunities,
4 the President shall so certify to Congress.

5 (7) CERTIFICATION RELATING TO NAFTA'S EF-
6 FECT ON UNITED STATES AGRICULTURE.—If the
7 Secretary of Agriculture, after consultation with ap-
8 propriate government agencies and citizen organiza-
9 tions, determines that United States agricultural in-
10 terests have been left in at least as good a position
11 as before NAFTA, the Secretary shall so certify to
12 Congress.

13 (8) CERTIFICATION RELATING TO HIGHWAY
14 SAFETY.—If the Secretary of Transportation, after
15 consultation with attorneys general of the States,
16 law enforcement officials, State highway safety agen-
17 cies, other appropriate government agencies, and cit-
18 izen organizations, determines that a comprehensive
19 enforcement system is in place to ensure that every
20 Mexican commercial truck or bus is properly in-
21 spected so that the vehicle and its driver are in com-
22 pliance with United States transportation safety
23 standards before crossing the border into the United
24 States, the Secretary shall so certify to Congress. In
25 making such determination, the Secretary shall re-

1 view and take into account the results of border in-
2 spections of Mexican vehicles coming into the United
3 States since January 1, 1994.

4 **SEC. 4. RENEGOTIATIONS.**

5 (a) RENEGOTIATE NAFTA TO CORRECT TRADE
6 DEFICITS.—The President is authorized and directed to
7 confer with the Governments of Canada and Mexico and
8 to renegotiate the terms of NAFTA to provide for imple-
9 mentation of adjustments of tariffs, quotas, and other
10 measures to stabilize the flow of trade among the NAFTA
11 Parties when the dollar value of United States imports
12 of goods and services from another NAFTA Party exceeds
13 10 percent of the dollar value of United States exports
14 to that Party.

15 (b) RENEGOTIATE NAFTA TO CORRECT CURRENCY
16 DISTORTIONS.—The President is authorized and directed
17 to confer with the Governments of Canada and Mexico and
18 to renegotiate the terms of NAFTA to provide for the im-
19 plementation of adjustments of tariffs, quotas, and other
20 measures to mitigate the adverse effects of rapid or sub-
21 stantial changes in exchange rates between the United
22 States dollar and the currency of another NAFTA Party.

23 (c) RENEGOTIATE NAFTA TO CORRECT JOB
24 LOSS.—The President is authorized and directed to confer
25 with the Governments of Canada and Mexico and to re-

1 negotiate the terms of NAFTA to ensure that under
2 NAFTA trade with Mexico and Canada creates at least
3 as many United States jobs as it costs United States jobs
4 as measured by specific jobs created since January 1,
5 1994, compared to specific jobs lost since January 1,
6 1994, in United States trade with Mexico and Canada.

7 (d) RENEGOTIATE NAFTA TO PROTECT PUBLIC
8 HEALTH AND THE ENVIRONMENT.—The President is au-
9 thorized and directed to confer with the Governments of
10 Canada and Mexico and to renegotiate the terms of
11 NAFTA to ensure that—

12 (1) under NAFTA—

13 (A) the rate of importation of food failing
14 United States safety standards from Mexico
15 and Canada,

16 (B) the rate of hepatitis, chronic diarrhea,
17 and other pollution-related diseases along the
18 United States-Mexico border, and

19 (C) the rate of toxic waste dumping and
20 other improper disposal along the United
21 States-Mexico and United States-Canada bor-
22 ders,

23 are no higher than before NAFTA went into effect;
24 and

1 (2) under NAFTA the air and water quality in
2 the United States-Mexico border zone, and along
3 and near the border between the United States and
4 Canada, as determined under the Clean Air Act and
5 the Federal Water Pollution Control Act, are no
6 worse than before NAFTA went into effect.

7 (e) RENEGOTIATE NAFTA TO INTERDICT DRUG
8 TRAFFIC.—The President is authorized and directed to
9 confer with the Governments of Canada and Mexico and
10 to renegotiate the terms of NAFTA, including those relat-
11 ing to increasing border inspection of all cargoes coming
12 from Mexico and Canada carried by truck, rail, or ship,
13 to ensure that the flow of illegal drugs into the United
14 States from Mexico or Canada is no greater than such
15 illegal drug flow before NAFTA went into effect.

16 (f) RENEGOTIATE NAFTA TO CORRECT AGRICUL-
17 TURAL PROVISIONS.—The President is authorized and di-
18 rected to confer with the Governments of Canada and
19 Mexico and to renegotiate the terms of NAFTA to provide
20 for the implementation of tariffs, quotas, and other meas-
21 ures to bring the levels of wheat, durum wheat, and barley
22 imported from Canada to levels that are comparable to
23 the levels of these products imported during the 10-year
24 period before the date NAFTA went into effect. The Presi-
25 dent is further authorized and directed to renegotiate

1 NAFTA to establish and strengthen provisions to prevent
2 imports of agricultural commodities from any NAFTA
3 Party from unfairly displacing United States production
4 and to provide improved mechanisms for relief for United
5 States producers that are adversely affected by such im-
6 ports.

7 (g) RENEGOTIATE NAFTA TO ENSURE COMPLI-
8 ANCE WITH UNITED STATES TRANSPORTATION STAND-
9 ARDS.—The President is authorized and directed to confer
10 with the Governments of Canada and Mexico and to re-
11 negotiate the terms of NAFTA and other relevant agree-
12 ments to provide for implementation of a comprehensive
13 enforcement system to ensure that every commercial truck
14 or bus entering the United States is properly inspected
15 so that the vehicle and its driver are in compliance with
16 United States transportation standards before entering
17 the United States.

18 **SEC. 5. CONSULTATION WITH CONGRESS.**

19 The President shall consult regularly with Congress
20 regarding the certifications described in section 3(b) and
21 the renegotiations described in section 4. The United
22 States Trade Representative shall consult with the appro-
23 priate committees of Congress in the development of any
24 technical and conforming amendments that may be re-
25 quired to carry out the provisions of this Act.

1 **SEC. 6. NO EXPANSION OF NAFTA.**

2 Until such time as the conditions described in section
3 3 are met, it is the sense of Congress that the President
4 should not engage in negotiations to expand NAFTA to
5 include other countries and that fast-track authority
6 should not be renewed with respect to the approval of any
7 such expansion of NAFTA.

8 **SEC. 7. DEFINITIONS.**

9 As used in this Act:

10 (1) NAFTA.—The term “NAFTA” means the
11 North American Free Trade Agreement entered into
12 between the United States, Canada, and Mexico on
13 December 17, 1992, and effective as of January 1,
14 1994.

15 (2) NAFTA PARTY.—The term “NAFTA
16 Party” means the United States, Canada, or Mexico.

17 (3) UNITED STATES-MEXICO BORDER ZONE.—
18 The term “United States-Mexico border zone”
19 means the area that comprises the 12-mile zone on
20 the Mexican side of the United States-Mexico border
21 and the counties within any State of the United
22 States that are contiguous with Mexico.

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