

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

- (i) in subparagraph (C), by striking “or” after the semicolon;
  - (ii) in subparagraph (D), by inserting “or” after the semicolon; and
  - (iii) by adding at the end the following:
- “(E) the Securities and Exchange Commission;”.

(C) Section 5373(a) of title 5, United States Code, is amended—

- (i) in paragraph (2), by striking “or” after the semicolon;
  - (ii) in paragraph (3), by striking the period and inserting “; or”; and
  - (iii) by adding at the end the following:
- “(4) section 4802.”.

(2) AMENDMENT TO SECURITIES AND EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

“(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.”.

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking “the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation”.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, March 22, 2001. The purpose of this hearing will be to review the oversight of the Food Safety and Inspection Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ARMED SERVICES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 22, 2001, at 9:30 a.m., in open and closed session to receive testimony from the Unified Commanders on their military strategy and operational requirements, in review of the defense authorization request for fiscal year 2002 and the future years' defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and

Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 22, 2001, to conduct a markup of S. 149, the Export Administration Act of 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, March 22, 2001, to hear testimony on Prescription Drugs and Medicare.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 22, 2001, at 10:30 a.m., to hold a member's briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON INDIAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, March 22, 2001, at 2 p.m., in room 485 of the Russell Senate Office Building to conduct a hearing to discuss the goals and priorities of the Member Tribes of the National Congress of the American Indians for the 107th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON VETERANS' AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to hold a joint hearing with the House Committee on Veterans' Affairs to receive the legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Retired Officers Association, and the National Association of State Directors of Veterans Affairs. The hearing will be held on Thursday, March 22, 2001, at 10 a.m., in room 345 of the Cannon House Office Building.

The PRESIDING OFFICER. Without objection; it is so ordered.

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 22, 2001, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 22, at 2:30 p.m., to conduct an oversight hearing. The subcommittee

will review the National Park Service's implementation of management policies and procedures to comply with the provisions of title IV of the National Parks Omnibus Management Act of 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Governmental Affairs Committee Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Thursday, March 22, at 10 a.m., for a hearing entitled, “An Assessment of the D.C. Metropolitan Police Department's Year 2000 Achievements.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON PUBLIC HEALTH

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on “Strengthening the Safety Net: Increasing Access to Essential Health Care Services” during the session of the Senate on Thursday, March 22, 2001, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMPETITIVE MARKET SUPERVISION ACT OF 2001

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 20, S. 143.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 143) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

##### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Competitive Market Supervision Act of 2001”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reduction in registration fee rates; elimination of general revenue component.
- Sec. 3. Reduction in merger and tender fee rates; reclassification as offsetting collections.
- Sec. 4. Reduction in transaction fees; elimination of general revenue component.

Sec. 5. Adjustments to fee rates.  
Sec. 6. Comparability provisions.  
Sec. 7. Effective date.

**SEC. 2. REDUCTION IN REGISTRATION FEE RATES; ELIMINATION OF GENERAL REVENUE COMPONENT.**

(a) SECURITIES ACT OF 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the amount determined under the rate established by paragraph (3). The Commission shall publish in the Federal Register notices of the fee rate applicable under this section for each fiscal year.”;

(2) by striking paragraph (3);

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(4) in paragraph (3), as redesignated—

(A) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate determined under this paragraph is a rate equal to the following amount per \$1,000,000 of the maximum aggregate price at which the securities are proposed to be offered:

“(i) \$67 for each of fiscal years 2002 through 2006.

“(ii) \$33 for fiscal year 2007 and each fiscal year thereafter.”; and

(B) in subparagraph (B), by striking “this paragraph (4)” and inserting “this paragraph”; and

(5) by striking paragraph (4), as redesignated, and inserting the following:

“(4) PRO RATA APPLICATION OF RATE.—The rate required by this subsection shall be applied pro rata to amounts and balances equal to or less than \$1,000,000.”.

(b) TRUST INDENTURE ACT OF 1939.—Section 307(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ggg(b)) is amended by striking “, but, in the case of” and all that follows through the end of the subsection and inserting a period.

**SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.**

(a) SECTION 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

“(3) FEES.—

“(A) IN GENERAL.—At the time of the filing of any statement that the Commission may require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to—

“(i) \$67 for each \$1,000,000 of the value of the securities proposed to be purchased, for each of fiscal years 2002 through 2006; and

“(ii) \$33 for each \$1,000,000 of the value of securities proposed to be purchased, for fiscal year 2007 and each fiscal year thereafter.

“(B) REDUCTION.—The fee required by this paragraph shall be reduced with respect to securities in an amount equal to any fee paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Act of 1933, or the fee paid under that section shall be reduced in an amount equal to the fee paid to the Commission in connection with such transaction under this paragraph.

“(C) LIMITATION; DEPOSIT OF FEES.—

“(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

“(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

“(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

“(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than \$1,000,000.”.

**(b) SECTION 14.—**

(1) PRELIMINARY PROXY SOLICITATIONS.—Section 14(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(1)) is amended—

(A) in subparagraph (A), by striking “Commission the following fees” and all that follows through the end of the subparagraph and inserting “Commission—

“(i) for preliminary proxy solicitation material involving an acquisition, merger, or consolidation, if there is a proposed payment of each or transfer of securities or property to shareholders, a fee equal to—

“(I) \$67 for each \$1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for each of fiscal years 2002 through 2006; and

“(II) \$33 for each \$1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for fiscal year 2007 and each fiscal year thereafter; and

“(ii) for preliminary proxy solicitation material involving a proposed sale or other disposition of substantially all of the assets of a company, a fee equal to—

“(I) \$67 for each \$1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for each of fiscal years 2002 through 2006; and

“(II) \$33 for each \$1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for fiscal year 2007 and each fiscal year thereafter.”;

(B) in subparagraph (B), by inserting “REDUCTION.” before “The fee”; and

(C) by adding at the end the following:

“(C) LIMITATION; DEPOSIT OF FEES.—

“(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

“(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

“(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

“(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than \$1,000,000.”.

“(2) OTHER FILINGS.—Section 14(g)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(3)) is amended—

(A) by striking “At the time” and inserting the following: “OTHER FILINGS.—

“(A) FEE RATE.—At the time”;

(B) by striking “the Commission a fee of” and all that follows through “The fee” and inserting the following: “the Commission a fee equal to—

“(i) \$67 for each \$1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for each of fiscal years 2002 through 2006; and

“(ii) \$33 for each \$1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for fiscal year 2007 and each fiscal year thereafter.

“(B) REDUCTION.—The fee required under subparagraph (A)”;

(C) by adding at the end the following:

“(C) LIMITATION; DEPOSIT OF FEES.—

“(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

“(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

“(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

“(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than \$1,000,000.”.

**SEC. 4. REDUCTION IN TRANSACTION FEES; ELIMINATION OF GENERAL REVENUE COMPONENT.**

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking subsections (b) through (d) and inserting the following:

“(B) TRANSACTION FEES.—

“(1) IN GENERAL.—Each national securities exchange and national securities association shall pay to the Commission a fee at a rate equal to the transaction offsetting collection rate described in paragraph (2) of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, and security futures products)—

“(A) transacted on such national securities exchange; and

“(B) transacted by or through any member of such association otherwise than on a national securities exchange of securities that are—

“(i) registered on such an exchange; or

“(ii) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association.

“(2) FEE RATE.—

“(A) TRANSACTION OFFSETTING COLLECTION RATE.—For purposes of this subsection, the ‘transaction offsetting collection rate’ for a fiscal year—

“(i) is the uniform rate required to reach the transaction fee cap for that fiscal year; and

“(ii) shall become effective on the later of the beginning of that fiscal year or 30 days after the date of enactment of appropriations legislation setting such rate.

“(B) TRANSACTION FEE CAP.—Subject to subparagraph (C), for purposes of this paragraph, the ‘transaction fee cap’ shall be equal to—

“(i) \$915,000,000 for fiscal year 2002;

“(ii) \$1,115,000,000 for fiscal year 2003;

“(iii) \$1,340,000,000 for fiscal year 2004;

“(iv) \$1,665,000,000 for fiscal year 2005;

“(v) \$2,010,000,000 for fiscal year 2006;

“(vi) \$1,015,000,000 for fiscal year 2007;

“(vii) \$1,035,000,000 for fiscal year 2008;

“(viii) \$1,225,000,000 for fiscal year 2009;

“(ix) \$1,430,000,000 for fiscal year 2010; and

“(x) \$1,665,000,000 for fiscal year 2011 and each fiscal year thereafter.

“(C) REDUCTION.—The amounts specified in clauses (i) through (x) of subparagraph (B)

shall be reduced by the amount of assessments estimated to be collected by the Commission for the subject fiscal year pursuant to subsection (e).

**“(c) LIMITATION; DEPOSIT OF FEES AND ASSESSMENTS.”**

“(1) LIMITATION.—Except as provided in subsection (d), no amount may be collected pursuant to subsection (b) or (e) for any fiscal year, except to the extent provided in advance in appropriations Acts.

“(2) DEPOSIT OF FEES AND ASSESSMENTS.—Fees and assessments collected during any fiscal year pursuant to this section shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

“(d) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall, until such a regular appropriation is enacted—

“(1) continue to collect fees (as offsetting collections) under subsection (b) at the rate in effect during the preceding fiscal year (prior to adjustments, if any, under subsections (b) and (c) of section 5 of the Competitive Market Supervision Act of 2001); and

“(2) continue to collect assessments (as offsetting collections) under subsection (e) at the assessment rate in effect during the preceding fiscal year.”;

(2) in subsection (e), by striking “Assessments collected” and all that follows through the period; and

(3) in subsection (f), by striking “(f)” and all that follows through “paid—” and inserting the following:

“(f) DATES FOR PAYMENT OF FEES AND ASSESSMENTS.—The fees and assessments required by subsections (b) and (e) shall be paid—”.

**SEC. 5. ADJUSTMENTS TO FEE RATES.**

**(a) ESTIMATES OF COLLECTIONS.—**

(1) **FEES PROJECTIONS.**—The Securities and Exchange Commission (hereafter in this Act referred to as the “Commission”) shall, 1 month after submission of its initial report under subsection (e)(1) and on a monthly basis thereafter, project the aggregate amount of fees and assessments from all sources likely to be collected by the Commission during the current fiscal year.

(2) **SUBMISSION OF INFORMATION.**—Each national securities exchange and national securities association shall file with the Commission, not later than 10 days after the end of each month—

(A) an estimate of the fee and the assessment required to be paid pursuant to section 31 of the Securities Exchange Act of 1934 by such national securities exchange or national securities association for transactions and sales occurring during that month; and

(B) such other information and documents as the Commission may require, as necessary or appropriate to project the aggregate amount of fees and assessments pursuant to paragraph (1).

(b) **FLOOR FOR TOTAL FEE AND ASSESSMENT COLLECTIONS.**—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees and assessments collected by the Commission will, during that fiscal year, fall below an amount equal to the floor for total fee and assessment collections, the Commission may, by order, subject to subsection (e) of this section, increase the fee rate established under section 31(b)(2) of the Securities Exchange Act of 1934, to the extent necessary to bring estimated collections to an amount equal to the floor for total fee collections. Such increase shall apply only to transactions and sales occurring on or after the effective date

specified in such order through August 31 of that fiscal year. Such increase shall not affect the obligation of each national securities exchange and national securities association to pay to the Commission the fee required by section 31(b) of the Securities Exchange Act of 1934, at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(c) **CAP ON TOTAL FEE AND ASSESSMENT COLLECTIONS.**—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees and assessments collected by the Commission will exceed the cap on total fee and assessment collections by more than 10 percent during any fiscal year, the Commission shall, by order, subject to subsection (e), decrease the fee rate established under paragraph (2) of section 31(b) of the Securities Exchange Act of 1934, or suspend collection of fees under that section 31(b), to the extent necessary to bring estimated collections to an amount that is not more than 110 percent of the cap on total fee collections. Such decrease or suspension shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such decrease or suspension shall not affect the obligation of each national securities exchange and national securities association to pay to the Commission the fee required by section 31(b) of the Securities Exchange Act of 1934, at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term “floor for total fee and assessment collections” means the greater of—

(A) the total amount appropriated to the Commission for fiscal year 2002 (adjusted annually, based on the annual percentage change, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor); or

(B) the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk), if applicable; and

(2) the term “cap on total fee collections” means—

(A) for fiscal years 2002 through 2011, the baseline amount for aggregate offsetting collections for such fiscal year under section 6(b) of the Securities Act of 1933 and section 31 of the Securities Exchange Act of 1934, as projected for such fiscal year by the Congressional Budget Office pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 in its most recently published report of its baseline projection before the date of enactment of this Act; and

(B) for fiscal years 2012 and thereafter, the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk).

(e) **REPORTS TO CONGRESS; JUDICIAL REVIEW; NOTICE.**—

(1) **INITIAL REPORT.**—Not later than 90 days after the date of enactment of this Act, the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives to explain the methodology used by the Commission to make projections under sub-

section (a). Not later than 30 days after the beginning of each fiscal year, the Commission may report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on revisions to the methodology used by the Commission to make projections under subsection (a) for such fiscal year and subsequent fiscal years.

(2) **JUDICIAL REVIEW; REPORTS OF INTENT TO ACT.**—The determinations made and the actions taken by the Commission under this subsection shall not be subject to judicial review. Not later than 45 days before taking action under subsection (b) or (c), the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on its intent to take such action.

(3) **NOTICE.**—Not later than 30 days before taking action under subsection (b) or (c), the Commission shall notify each national securities exchange and national securities association of its intent to take such action.

**SEC. 6. COMPARABILITY PROVISIONS.**

**(a) SECURITIES AND EXCHANGE COMMISSION EMPLOYEES.—**

(1) **IN GENERAL.**—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

“(1) **APPOINTMENT AND COMPENSATION.**—

“(A) **IN GENERAL.**—The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under this Act.

“(B) **RATES OF PAY.**—Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

“(C) **COMPARABILITY.**—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).”; and

(B) by redesignating paragraph (3) as paragraph (2).

(2) **EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.**—To the extent that any employee of the Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this subsection.

(b) **REPORTING ON INFORMATION BY THE COMMISSION.**—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “The Federal Deposit”;

(2) by striking “the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation”; and

(3) by adding at the end the following:

“(b) In establishing and adjusting schedules of compensation and benefits for employees of the Securities and Exchange Commission under applicable provisions of law,

the Commission shall inform the heads of the agencies referred to under subsection (a) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.”.

(c) TECHNICAL AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking “or” after the semicolon;

(B) in subparagraph (D), by inserting “or” after the semicolon; and

(C) by adding at the end the following:

“(E) the Securities and Exchange Commission.”.

(2) Section 5373(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking “or” after the semicolon;

(B) in paragraph (3), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(4) section 4(b) of the Securities Exchange Act of 1934.”.

**SEC. 7. EFFECTIVE DATE.**

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act shall become effective on October 1, 2001.

(b) EXCEPTIONS.—The authorities provided by section 13(e)(3)(D), section 14(g)(1)(D), section 14(g)(3)(D), and section 31(d) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

AMENDMENTS NOS. 142 AND 143, EN BLOC

Mr. GRAMM. I have two amendments at the desk and I ask they be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments, en bloc.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes amendments Nos. 142 and 143, en bloc.

The amendments are as follows:

AMENDMENT NO. 142

(Purpose: To require a study to be conducted by the Securities and Exchange Commission for the purpose of determining the extent to which reductions in fees are passed on to investors)

Insert the following new section 8 at the end of the bill:

**SEC. 8. STUDY OF THE EFFECT OF FEE REDUCTIONS.**

“(a) STUDY.—The Office of Economic Analysis of the Securities and Exchange Commission (hereinafter referred to as the “Office”) shall conduct a study of the extent to which the benefits of reductions in fees effected as a result of this Act are passed on to investors.

“(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Office shall—

“(1) consider all of the various elements of the securities industry directly and indirectly benefiting from the fee reductions, including purchasers and sellers of securities, members of national securities exchanges, issuers, broker-dealers, underwriters, participants in investment companies, retirement programs, and others;

“(2) evaluate the impact on different types of investors, such as individual equity holders, individual investment company shareholders, businesses, and other types of investors;

“(3) include in the interpretation of the term “investor” shareholders of entities subject to the fee reductions; and

“(4) consider the economic benefits to investors flowing from the fee reductions to include such factors as market efficiency, expansion of investment opportunities, and enhanced liquidity and capital formation.

“(c) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Congress the report prepared by the Office on the results of the study conducted under subsection (a).”.

AMENDMENT NO. 143

(Purpose: To provide for a demonstration project under title 5, United States Code, relating to compensation of employees of the Securities and Exchange Commission, and for other purposes)

On page 41, line 8, strike all through page 44, line 16, and insert the following:

**SEC. 6. COMPARABILITY PROVISIONS.**

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

**“CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT**

“Sec.

“4801. Nonapplicability of chapter 47.

“4802. Securities and Exchange Commission.

**“§ 4801. Nonapplicability of chapter 47.**

“Chapter 47 shall not apply to this chapter.

**“§ 4802. Securities and Exchange Commission**

“(a) In this section, the term ‘Commission’ means the Securities and Exchange Commission.

“(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

“(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

“(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

“(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

“(f) This section shall be administered consistent with merit system principles.”.

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

“48. Agency Personnel Demonstration Project ..... 4801.”.

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking “or” after the semicolon;

(ii) in subparagraph (D), by inserting “or” after the semicolon; and

(iii) by adding at the end the following:

“(E) the Securities and Exchange Commission.”.

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking “or” after the semicolon;

(ii) in paragraph (3), by striking the period and inserting “; or”; and

(iii) by adding at the end the following:

“(4) section 4802.”.

(2) AMENDMENT TO SECURITIES AND EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

“(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.”.

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking “the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation”.

Mr. GRAMM. I ask unanimous consent that the amendments, en bloc, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 142 and 143) were agreed to.

#### CONVENTIONAL USER FEES

Mr. GRASSLEY. I engage in a colloquy with the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, Senator GRAMM.

Tonight, the Senate will pass S. 143, the Competitive Market Supervision Act of 2001. This bill, which has been approved by the Banking Committee, reduces the schedule of Securities and Exchange Commission fees in a manner that properly conforms the structure of these fees to conventional user fees. If enacted, this bill ensures that these fees will be conventional user fees, not taxes, not generate general revenue, and therefore matters within the jurisdiction of the Banking Committee.

Mr. GRAMM. The distinguished Chairman of the Committee on finance is correct.

Mr. AKAKA. Mr. President, I too wish to express my appreciation to Senator GRAMM and Senator SARBAKES for their willingness to work with the Committee on Governmental Affairs to provide a new compensation system for employees at the Securities and Exchange Commission. I also wish to thank Senator THOMPSON, the chairman of the Governmental Affairs Committee for his interest in this matter.

The Federal Government has a serious problem in attracting, motivating, and retaining its workforce, and the Committee on Governmental Affairs is no stranger to working with the Office of Personnel Management and Federal agencies in this regard. The Gramm/Thompson amendment will provide the SEC the flexibility it needs in personnel matters but also will ensure that basic employee statutory protections such as leave, health insurance and non-discrimination still apply.

Mr. THOMPSON. Mr. President, I thank the Chairman of the Banking Committee, Senator GRAMM, and the Ranking Member, Senator SARBAKES, for their kind assistance in working with me and the other members of the Committee on Governmental Affairs, in crafting a fair and balanced solution to the current workforce needs of the Securities and Exchange Commission (SEC). Senators GRAMM, VOINOVICH, COCHRAN, and I have drafted an amendment which permits the SEC to establish a new compensation system for its employees. This new system is to be patterned on the pay and compensation systems established for other federal banking agencies under section 1206 (a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Agencies in trouble often come to the Governmental Affairs Committee seeking flexibility because they can't get their job done under the current civil service system. Like most federal agencies, the Securities and Exchange

Commission has difficulty finding, hiring, and retaining the people with the right skills to do the jobs they need done. In these situations, I often ask, if flexibility is good for one agency, why shouldn't we grant such flexibility governmentwide.

Clearly, flexibility is right for the Securities and Exchange Commission. At a very minimum, however, this legislation requires the SEC to plan strategically for the adoption of these flexibilities and report to us on the success of their implementation. We require that the SEC include its plans for these flexibilities in its annual performance plans and reports, required under the Government Performance and Results Act.

The Results Act requires agencies to adopt performance management principles—drafting a strategic plan, setting annual goals, and reporting to Congress on the extent to which they are meeting their goals. I applaud the fact that the SEC has embraced performance management in the past. I am sure they will agree that this is an excellent mechanism with which the SEC can report on its progress in addressing its workforce problems.

Guidance set forth by the Office of Management and Budget requires that agencies include their human resource strategies in their annual performance plans. Specifically, this guidance requires that agencies include in their performance plan the specific workforce they need to meet their goals. This legislation will allow the SEC to take the lead in integrating workforce planning with their performance plan and report to Congress on the extent to which the flexibilities they were granted allowed them to better meet their goals.

Again, I thank Chairman GRAMM and Ranking Member SARBAKES for their cooperation and support on this important amendment. We've crafted something that may prove of enormous benefit to the Government as a whole, especially with respect to the workforce challenges that lie ahead.

Mr. GRAMM. I ask unanimous consent the committee substitute, as amended, be agreed to; the bill, as amended, be read the third time and passed; and the motion to reconsider be laid upon the table and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 143), as amended, was read the third time and passed, as follows:

#### S. 143

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Competitive Market Supervision Act of 2001”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Reduction in registration fee rates; elimination of general revenue component.

Sec. 3. Reduction in merger and tender fee rates; reclassification as offsetting collections.

Sec. 4. Reduction in transaction fees; elimination of general revenue component.

Sec. 5. Adjustments to fee rates.

Sec. 6. Comparability provisions.

Sec. 7. Study of the effect of fee reductions.

Sec. 8. Effective date.

#### SEC. 2. REDUCTION IN REGISTRATION FEE RATES; ELIMINATION OF GENERAL REVENUE COMPONENT.

(a) SECURITIES ACT OF 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the amount determined under the rate established by paragraph (3). The Commission shall publish in the Federal Register notices of the fee rate applicable under this section for each fiscal year.”;

(2) by striking paragraph (3);

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(4) in paragraph (3), as redesignated—

(A) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate determined under this paragraph is a rate equal to the following amount per \$1,000,000 of the maximum aggregate price at which the securities are proposed to be offered:

“(i) \$67 for each of fiscal years 2002 through 2006.

“(ii) \$33 for fiscal year 2007 and each fiscal year thereafter.”; and

(B) in subparagraph (B), by striking “this paragraph (4)” and inserting “this paragraph”; and

(5) by striking paragraph (4), as redesignated, and inserting the following:

“(4) PRO RATA APPLICATION OF RATE.—The rate required by this subsection shall be applied pro rata to amounts and balances equal to or less than \$1,000,000.”.

(b) TRUST INDENTURE ACT OF 1939.—Section 307(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ggg(b)) is amended by striking “, but, in the case of” and all that follows through the end of the subsection and inserting a period.

#### SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.

(a) SECTION 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

“(3) FEES.—

“(A) IN GENERAL.—At the time of the filing of any statement that the Commission may require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to—

“(i) \$67 for each \$1,000,000 of the value of the securities proposed to be purchased, for each of fiscal years 2002 through 2006; and

“(ii) \$33 for each \$1,000,000 of the value of securities proposed to be purchased, for fiscal year 2007 and each fiscal year thereafter.

“(B) REDUCTION.—The fee required by this paragraph shall be reduced with respect to securities in an amount equal to any fee paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Act of 1933, or

the fee paid under that section shall be reduced in an amount equal to the fee paid to the Commission in connection with such transaction under this paragraph.

**“(C) LIMITATION; DEPOSIT OF FEES.”**

“(i) **LIMITATION.**—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

“(ii) **DEPOSIT OF FEES.**—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

“(D) **LAPSE OF APPROPRIATIONS.**—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

“(E) **PRO RATA APPLICATION OF RATE.**—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than \$1,000,000.”.

**(b) SECTION 14.**

**(1) PRELIMINARY PROXY SOLICITATIONS.**—Section 14(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(1)) is amended—

(A) in subparagraph (A), by striking “Commission the following fees” and all that follows through the end of the subparagraph and inserting “Commission—

“(i) for preliminary proxy solicitation material involving an acquisition, merger, or consolidation, if there is a proposed payment of each or transfer of securities or property to shareholders, a fee equal to—

“(I) \$67 for each \$1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for each of fiscal years 2002 through 2006; and

“(II) \$33 for each \$1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for fiscal year 2007 and each fiscal year thereafter; and

“(ii) for preliminary proxy solicitation material involving a proposed sale or other disposition of substantially all of the assets of a company, a fee equal to—

“(I) \$67 for each \$1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for each of fiscal years 2002 through 2006; and

“(II) \$33 for each \$1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for fiscal year 2007 and each fiscal year thereafter.”;

(B) in subparagraph (B), by inserting “REDUCTION.” before “The fee”; and

**(C) by adding at the end the following:**

**“(C) LIMITATION; DEPOSIT OF FEES.”**

“(i) **LIMITATION.**—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

“(ii) **DEPOSIT OF FEES.**—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

“(D) **LAPSE OF APPROPRIATIONS.**—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

“(E) **PRO RATA APPLICATION OF RATE.**—The rate required by this paragraph shall be ap-

plied pro rata to amounts and balances equal to or less than \$1,000,000.”.

(2) **OTHER FILINGS.**—Section 14(g)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(3)) is amended—

(A) by striking “At the time” and inserting the following: “**OTHER FILINGS.**—

**“(A) FEE RATE.**—At the time”;

(B) by striking “the Commission a fee of” and all that follows through “The fee” and inserting the following: “the Commission a fee equal to—

“(i) \$67 for each \$1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for each of fiscal years 2002 through 2006; and

“(ii) \$33 for each \$1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for fiscal year 2007 and each fiscal year thereafter.

“(B) **REDUCTION.**—The fee required under subparagraph (A); and

**(C) by adding at the end the following:**

**“(C) LIMITATION; DEPOSIT OF FEES.”**

“(i) **LIMITATION.**—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

“(ii) **DEPOSIT OF FEES.**—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

“(D) **LAPSE OF APPROPRIATIONS.**—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

“(E) **PRO RATA APPLICATION OF RATE.**—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than \$1,000,000.”.

**SEC. 4. REDUCTION IN TRANSACTION FEES; ELIMINATION OF GENERAL REVENUE COMPONENT.**

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking subsections (b) through (d) and inserting the following:

**“(b) TRANSACTION FEES.”**

“(1) **IN GENERAL.**—Each national securities exchange and national securities association shall pay to the Commission a fee at a rate equal to the transaction offsetting collection rate described in paragraph (2) of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, and security futures products)—

“(A) transacted on such national securities exchange; and

“(B) transacted by or through any member of such association otherwise than on a national securities exchange of securities that are—

“(i) registered on such an exchange; or

“(ii) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association.

**“(2) FEE RATE.”**

“(A) **TRANSACTION OFFSETTING COLLECTION RATE.**—For purposes of this subsection, the ‘transaction offsetting collection rate’ for a fiscal year—

“(i) is the uniform rate required to reach the transaction fee cap for that fiscal year; and

“(ii) shall become effective on the later of the beginning of that fiscal year or 30 days after the date of enactment of appropriations legislation setting such rate.

“(B) **TRANSACTION FEE CAP.**—Subject to subparagraph (C), for purposes of this para-

graph, the ‘transaction fee cap’ shall be equal to—

“(i) \$915,000,000 for fiscal year 2002;

“(ii) \$1,115,000,000 for fiscal year 2003;

“(iii) \$1,340,000,000 for fiscal year 2004;

“(iv) \$1,665,000,000 for fiscal year 2005;

“(v) \$2,010,000,000 for fiscal year 2006;

“(vi) \$1,015,000,000 for fiscal year 2007;

“(vii) \$1,035,000,000 for fiscal year 2008;

“(viii) \$1,225,000,000 for fiscal year 2009;

“(ix) \$1,430,000,000 for fiscal year 2010; and

“(x) \$1,665,000,000 for fiscal year 2011 and each fiscal year thereafter.

“(C) **REDUCTION.**—The amounts specified in clauses (i) through (x) of subparagraph (B) shall be reduced by the amount of assessments estimated to be collected by the Commission for the subject fiscal year pursuant to subsection (e).

**“(C) LIMITATION; DEPOSIT OF FEES AND ASSESSMENTS.”**

“(1) **LIMITATION.**—Except as provided in subsection (d), no amount may be collected pursuant to subsection (b) or (e) for any fiscal year, except to the extent provided in advance in appropriations Acts.

“(2) **DEPOSIT OF FEES AND ASSESSMENTS.**—Fees and assessments collected during any fiscal year pursuant to this section shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

“(d) **LAPSE OF APPROPRIATIONS.**—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall, until such a regular appropriation is enacted—

“(1) continue to collect fees (as offsetting collections) under subsection (b) at the rate in effect during the preceding fiscal year (prior to adjustments, if any, under subsections (b) and (c) of section 5 of the Competitive Market Supervision Act of 2001); and

“(2) continue to collect assessments (as offsetting collections) under subsection (e) at the assessment rate in effect during the preceding fiscal year.”;

(2) in subsection (e), by striking “Assessments collected” and all that follows through the period; and

(3) in subsection (f), by striking “(f)” and all that follows through “paid—” and inserting the following:

“(f) **DATES FOR PAYMENT OF FEES AND ASSESSMENTS.**—The fees and assessments required by subsections (b) and (e) shall be paid—”.

**SEC. 5. ADJUSTMENTS TO FEE RATES.**

**(a) ESTIMATES OF COLLECTIONS.”**

(1) **FEEL PROJECTIONS.**—The Securities and Exchange Commission (hereafter in this Act referred to as the “Commission”) shall, 1 month after submission of its initial report under subsection (e)(1) and on a monthly basis thereafter, project the aggregate amount of fees and assessments from all sources likely to be collected by the Commission during the current fiscal year.

(2) **SUBMISSION OF INFORMATION.**—Each national securities exchange and national securities association shall file with the Commission, not later than 10 days after the end of each month—

(A) an estimate of the fee and the assessment required to be paid pursuant to section 31 of the Securities Exchange Act of 1934 by such national securities exchange or national securities association for transactions and sales occurring during that month; and

(B) such other information and documents as the Commission may require, as necessary or appropriate to project the aggregate amount of fees and assessments pursuant to paragraph (1).

(b) **FLOOR FOR TOTAL FEE AND ASSESSMENT COLLECTIONS.**—If, at any time after the end

of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees and assessments collected by the Commission will, during that fiscal year, fall below an amount equal to the floor for total fee and assessment collections, the Commission may, by order, subject to subsection (e) of this section, increase the fee rate established under section 31(b)(2) of the Securities Exchange Act of 1934, to the extent necessary to bring estimated collections to an amount equal to the floor for total fee collections. Such increase shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such increase shall not affect the obligation of each national securities exchange and national securities association to pay to the Commission the fee required by section 31(b) of the Securities Exchange Act of 1934, at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(c) CAP ON TOTAL FEE AND ASSESSMENT COLLECTIONS.—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees and assessments collected by the Commission will exceed the cap on total fee and assessment collections by more than 10 percent during any fiscal year, the Commission shall, by order, subject to subsection (e), decrease the fee rate established under paragraph (2) of section 31(b) of the Securities Exchange Act of 1934, or suspend collection of fees under that section 31(b), to the extent necessary to bring estimated collections to an amount that is not more than 110 percent of the cap on total fee collections. Such decrease or suspension shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such decrease or suspension shall not affect the obligation of each national securities exchange and national securities association to pay to the Commission the fee required by section 31(b) of the Securities Exchange Act of 1934, at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(d) DEFINITIONS.—For purposes of this section—

(1) the term “floor for total fee and assessment collections” means the greater of—

(A) the total amount appropriated to the Commission for fiscal year 2002 (adjusted annually, based on the annual percentage change, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor); or

(B) the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk), if applicable; and

(2) the term “cap on total fee collections” means—

(A) for fiscal years 2002 through 2011, the baseline amount for aggregate offsetting collections for such fiscal year under section 6(b) of the Securities Act of 1933 and section 31 of the Securities Exchange Act of 1934, as projected for such fiscal year by the Congressional Budget Office pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 in its most recently published report of its baseline projection before the date of enactment of this Act; and

(B) for fiscal years 2012 and thereafter, the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk).

(e) REPORTS TO CONGRESS; JUDICIAL REVIEW; NOTICE.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives to explain the methodology used by the Commission to make projections under subsection (a). Not later than 30 days after the beginning of each fiscal year, the Commission may report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on revisions to the methodology used by the Commission to make projections under subsection (a) for such fiscal year and subsequent fiscal years.

(2) JUDICIAL REVIEW; REPORTS OF INTENT TO ACT.—The determinations made and the actions taken by the Commission under this subsection shall not be subject to judicial review. Not later than 45 days before taking action under subsection (b) or (c), the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on its intent to take such action.

(3) NOTICE.—Not later than 30 days before taking action under subsection (b) or (c), the Commission shall notify each national securities exchange and national securities association of its intent to take such action.

#### SEC. 6. COMPARABILITY PROVISIONS.

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

#### “CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT

“Sec.

“4801. Nonapplicability of chapter 47.

“4802. Securities and Exchange Commission.

#### “§ 4801. Nonapplicability of chapter 47.

“Chapter 47 shall not apply to this chapter.

#### “§ 4802. Securities and Exchange Commission

“(a) In this section, the term ‘Commission’ means the Securities and Exchange Commission.

“(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

“(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

“(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

“(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

“(f) This section shall be administered consistent with merit system principles.”.

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

“48. Agency Personnel Demonstration Project ..... 4801.”.

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking “or” after the semicolon;

(ii) in subparagraph (D), by inserting “or” after the semicolon; and

(iii) by adding at the end the following:

“(E) the Securities and Exchange Commission.”.

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking “or” after the semicolon;

(ii) in paragraph (3), by striking the period and inserting “; or”; and

(iii) by adding at the end the following:

“(4) section 4802.”.

(2) AMENDMENT TO SECURITIES AND EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

“(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys,

economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.”.

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking “the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation”.

**SEC. 7. STUDY OF THE EFFECT OF FEE REDUCTIONS.**

(a) STUDY.—The Office of Economic Analysis of the Securities and Exchange Commission (hereinafter referred to as the “Office”) shall conduct a study of the extent to which the benefits of reductions in fees effected as a result of this Act are passed on to investors.

(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Office shall—

(1) consider all of the various elements of the securities industry directly and indirectly benefitting from the fee reductions, including purchasers and sellers of securities, members of national securities exchanges, issuers, broker-dealers, underwriters, participants in investment companies, retirement programs, and others;

(2) evaluate the impact on different types of investors, such as individual equity holders, individual investment company shareholders, businesses, and other types of investors;

(3) include in the interpretation of the term “investor” shareholders of entities subject to the fee reductions; and

(4) consider the economic benefits to investors flowing from the fee reductions to include such factors as market efficiency, expansion of investment opportunities, and enhanced liquidity and capital formation.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Congress the report prepared by the Office on the results of the study conducted under subsection (a).

**SEC. 8. EFFECTIVE DATE.**

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act shall become effective on October 1, 2001.

(b) EXCEPTIONS.—The authorities provided by section 13(e)(3)(D), section 14(g)(1)(D), section 14(g)(3)(D), and section 31(d) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

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**NATIONAL SAFE PLACE WEEK**

Mr. GRAMM. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 25, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The senior assistant bill clerk read as follows:

A resolution (S. Res. 25) designating the week beginning March 18, 2001, as “National Safe Place Week.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMM. Mr. President, I ask unanimous consent the resolution be

agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 25) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 25

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term “safe places” at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas Safe Place combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas Safe Place provides a direct means to assist programs in meeting performance standards relative to outreach/community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas over 500 communities in 32 States and more than 9,000 locations have established Safe Place programs;

Whereas over 47,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist; and

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

*Resolved*, That the Senate—

(1) proclaims the week of March 18 through March 24, 2001 as “National Safe Place Week” and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

Mr. CRAIG. Mr. President, children are our most valuable resource. Youth are the future of this Nation and a resource that needs to be both valued and protected. Sadly, however, as my colleagues know, this precious resource is being threatened every day.

I come to the Senate floor today to talk about a tremendous initiative that has been reaching out to youth since 1983. Project Safe Place is a pro-

gram that was developed to assist youth and families in crisis. It creates a network of private businesses who are trained to refer youth in need to the local service providers who can help them. Those businesses display a Safe Place sign so that young people know this is a place where they can go to receive help.

The goal of National Safe Place Week is to recognize those individuals who work to make Project Safe Place a reality. From trained volunteers to seasoned professionals, thousands of dedicated individuals are working together within their local communities and across the nation to serve young people, under a well-known symbol of safety for in-crisis youth.

Project Safe Place is a simple program to implement in any local community, and it works. Young people are much more likely to ask for help in a location that is familiar and non-threatening to them. By creating a network of Safe Places across the nation, all youth would have access, through this non-threatening resource, to needed help, counseling, or a safe place to stay. However, while the program has already been established in 32 States, there are still too many communities without this valuable youth resources.

If your State does not already have a Safe Place organization, please consider facilitating this worthwhile resource. To create more Project Safe Place sites in Idaho, the staff in three of my state offices have gone through the training to make them all Safe Place sites, and now have the skills and ability to assist troubled youth.

I am delighted that the U.S. Senate has passed Senate Resolution 25, designating the week of March 18–24, 2001 as National Safe Place Week. This action recognizes the importance of Project Safe Place and the work of the National Project Safe Place organization. Most important, in passing this resolution, the Senate is applauding the tireless efforts of the thousands of dedicated volunteers across the nation for their many contributions to the youth of our nation through Project Safe Place.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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**ORDERS FOR FRIDAY, MARCH 23, 2001**

Mr. GRAMM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 8:45 a.m. on Friday, March 23. I further ask unanimous consent that on Friday, immediately