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1st Session }

SENATE

{ REPORT
105-107 }CORPORATE SUBSIDY REFORM COMMISSION
ACT OF 1997

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TOGETHER WITH

ADDITIONAL VIEWS

TO ACCOMPANY

S. 207

TO REVIEW, REFORM, AND TERMINATE UNNECESSARY AND
INEQUITABLE FEDERAL SUBSIDIES

OCTOBER 9, 1997.—Ordered to be printed

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CORPORATE SUBSIDY REFORM COMMISSION ACT OF 1997

OCTOBER 9, 1997.—Ordered to be printed

Mr. THOMPSON, from the Committee on Governmental Affairs,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 207]

I. PURPOSE

The purpose of S. 207, the Corporate Subsidy Reform Commission Act of 1997, is to create a Commission to fairly and independently review corporate subsidies and make recommendations to the President and the Congress for the retention, reform or termination of such subsidies.

II. BACKGROUND

In the 104th Congress, considerable progress was made in reforming the way in which the Federal government operates: government spending was reduced by \$53 billion, the welfare system was reformed, farm supports were restructured, telecommunications law was rewritten, the Federal procurement system was reformed, and major immigration reforms were adopted.

As part of this reform process, a bipartisan group of Senators set out to examine and address provisions of unjustified Federal subsidies to profit making entities. This is commonly known as “corporate welfare.” This phenomenon has been studied extensively, by both governmental and non-governmental research organizations, notably the Cato Institute and the Progressive Policy Institute. Reports from these and other organizations reveal that the Federal government spends roughly \$60 billion a year on programs that

provide spending subsidies to businesses and provides corporate tax expenditures of more than \$65 billion.

To address this issue in a comprehensive manner, this bipartisan group introduced S. 1376 which was referred to the Committee on Governmental Affairs. The Committee held hearings and reported S. 1376 to the Senate on August 27, 1996. That bill was reintroduced this Congress as S. 207, legislation to create an independent, bi-partisan commission designed to ensure that Federal subsidies will be considered anew on their merits. If a subsidy is warranted, it will withstand this scrutiny. A commission will provide for a comprehensive and fair review through a process designed to minimize political pressures.

III. LEGISLATIVE HISTORY

S. 207, the Corporate Subsidy Reform Commission Act of 1997, was introduced on January 28, 1997 by Senator McCain (for himself and Senators Thompson, Kerry, Feingold, Kennedy, Coats, Glenn, Lieberman, and Brownback), and referred to the Committee on Governmental Affairs. Senators Abraham, Collins, Smith of New Hampshire, and Kohl became additional co-sponsors.

HEARINGS

On February 13, 1997, the Committee held a hearing on the bill. The following witnesses appeared to present testimony on S. 207: The Honorable John McCain, U.S. Senate, Arizona; the Honorable John F. Kerry, U.S. Senate, Massachusetts; the Honorable Russell D. Feingold, U.S. Senate, Wisconsin; Thomas Schatz, President, Citizens Against Government Waste; Grover Nordquist, President, Americans for Tax Reform; Courtney Cuff, Green Scissors Campaign Director, Friends of the Earth; and Dean Stansel, Fiscal Policy Analyst, Cato Institute.

Senator McCain testified that since the nation's annual deficit and accumulated debt have forced Congress to make changes to social welfare programs it is only fair to make the corporate sector share the burden of budget cuts. Senator McCain, in support of creating a Commission as necessary to the process of eliminating corporate subsidies, stated:

The independent Commission and expedited Congressional review process established by this legislation will depoliticize the process and guarantee that the pain is shared equally. In reality, this Corporate Subsidy Reform Commission is probably the only realistic means of achieving the meaningful reform that the public and our dire fiscal circumstances demand.

Senator McCain emphasized that the goal of the Commission is not to increase revenues or create new taxes. Rather, the Commission is designed to conduct a review and formulate recommendations to reform programs or policies that create distortions in the market, foster unfair relationships between corporate America and the government, and increase the pressures in the Federal budget.

Senator Kerry testified that, while Congress has been reducing the deficit and putting pressure on discretionary spending, Congress has failed at any significant attempts to try to curb the

growth of corporate welfare. He stated that S. 207 gives “everybody an opportunity to perform their responsibilities, but does so in a way that requires us to make the choice that are otherwise avoidable.”

Senator Feingold emphasized that the issue of “corporate welfare” needs to be dealt with immediately because “we cannot simply justify any kind of appropriation or spending going to any corporation * * *” He expressed his belief that the Commission approach could have a real impact.

Mr. Schatz of Citizens Against Government Waste testified that S. 207 provides the necessary authority and autonomy to eliminate unfair and wasteful subsidies that disrupt the free market and perpetuate higher taxes. However, he urged that the sponsors consider making the Commission’s recommendations as a whole subject to a straight up or down vote without the opportunity for amendment by committees or on the floor.

Mr. Nordquist of Americans for Tax Reform testified in support of eliminating all corporate welfare spending programs. However, he expressed concern about including in the discussion of corporate welfare spending a discussion of tax increases on the grounds that eliminating or reducing tax preferences should be done in the context of not raising taxes and in the context of overall tax reduction. He urged two commissions, one dealing with tax reform and one dealing with corporate welfare spending.

Ms. Cuff of Friends of the Earth testified in support of the establishment of the Corporate Subsidy Reform Commission. She expressed the position of Friends of the Earth “that the American people deserve . . . decisive and prompt action to reform welfare for wealthy corporations” and the belief that “[t]ax loopholes, exemptions and credits can be corporate welfare.”

Mr. Stansel of the Cato Institute expressed his belief that, ideally, a commission should be completely unnecessary—that Congress and the President should take responsibility “to get rid of these programs by themselves through the annual budget process.” However, since that is not happening, he testified in support of the Commission. Also, he urged that the Commission focus only on spending programs, not on tax loopholes:

The fight to end corporate welfare should not result in higher taxes on business. Higher taxes on business makes U.S. industry less competitive, not more competitive. By definition, if you close a loophole without reducing the rates, it is a tax hike and we oppose it.

At the hearing, Chairman Thompson expressed his strong support for the “commission approach” because the Commission can make an overall informed assessment of all programs, on both the spending and revenue sides, at one time. He noted:

Over the years, we have created an intricate, interwoven system of subsidies, taxes and exemptions * * * Our experience last Congress demonstrated that voting hit or miss on individual items is not going to be successful * * * With the commission approach, we will know that all programs have been examined, and those which provide unjustified subsidies have been exposed.

Chairman Thompson also expressed his view that enactment of this legislation will demonstrate that Congress and the Executive Branch "are serious about addressing and correcting a system which the American public as a whole sees as benefiting the few with access and influence, rather than serving the general public good."

Senator Levin stated his belief that S. 207 is a much improved version of the bill that was first introduced last Congress and that he appreciated the sponsors incorporating a number of his and others' suggestions. He again expressed his concern from last Congress relative to floor consideration and the opportunity for debate.

Senator Brownback emphasized the need to focus this hearing on provisions of the bill itself, not "on corporate welfare per se, or what corporate welfare is or is not, or who is to blame for it." He also asked witnesses for suggestions on specific issues including whether taxes and spending issues should be on separate tracks and whether there are too many exceptions and loopholes in the bill in terms of what types of subsidies are off limits.

In a statement submitted for the record, Senator Glenn expressed his belief that "as a matter of equity, corporations and other entities that benefit from Federal tax and spending policies should * * * contribute toward restoring fiscal soundness in our government."

DISCUSSION

S. 207 as amended creates a nine-member Commission to recommend which Federal corporate subsidies, including tax advantages, should be retained, reformed or terminated. Three of the members of the Commission are appointed by the President (one of which the President will appoint as Chairman); two are appointed by the Speaker of the House, one is appointed by the House Minority Leader, two are appointed by the Senate Majority Leader, and one is appointed by the Senate Minority Leader. The President and Members of Congress responsible for making the appointments shall consult with each other prior to making their appointments to ensure a broad and fair representation of views on the Commission. The process for establishment of the Commission shall terminate if the President does not submit three names to the Senate after the January 1997 inauguration and prior to January 31, 1998.

The head of each Federal agency is required to submit by April 1, 1998 or the date the budget documents are submitted to Congress in 1998, whichever is earlier, a list identifying all programs or tax laws that the head of the department or agency determines provide inequitable subsidies. The list must include a detailed description of the program or tax law in question, a statement detailing the extent to which the payment, benefit, service, or tax advantage meets the criteria of an "inequitable Federal subsidy" as identified in section 4 of S. 207, a statement summarizing the legislative history and purpose for the subsidy as well as the laws related to the subsidy, and a recommendation regarding the subsidy identified.

Subsidies benefiting several groups of entities are explicitly excluded by section 4(1) (A) and (B) from those Federal subsidies that

may be reviewed by the Commission. The excluded subsidies are those that benefit non-profit organizations meeting the requirements of section 501(c)(3) and 501(a) of the Internal Revenue Code, state governments, local governments, and Indian Tribes, including Alaskan natives.

An inequitable Federal subsidy is defined as a payment, benefit, service or tax advantage that is provided by the Federal government to a corporation, partnership, joint venture, association, or business trust without a reasonable expectation that there would be a return or benefit to the public at least as large as the payment, benefit, service, or tax advantage. It is intended that in calculating the return and benefits to the public, the Commission consider both monetary and non-monetary benefits. In addition, the inequitable Federal subsidy must provide an unfair competitive advantage or financial windfall and may not include the following:

- (1) certain research and development awards;
- (2) items which primarily benefit the public health, safety, the environment or education;
- (3) items necessary to comply with international trade or treaty obligations;
- (4) items certified by the U.S. Trade Representative as necessary; or
- (5) items for the procurement of property or services by the Federal government.

The definition of an “inequitable Federal subsidy” includes an exemption for certain research and development. It was agreed that research and development activities that met all four tests of section 4(4)(A) are exempt from the Commission’s review. Section 4(4)(A) exempts research and development that:

- (i) “is in the broad public interest on the basis of a peer review or other open, competitive, merit-based procedure.” This recognizes that some research and development activities may provide a large private return, but only a small return to the public; and these are not exempt from review by the Commission. Further, this is intended to ensure that research and development activities that received a direct funding grant in a noncompetitive manner, either within an agency’s budgetary discretion or through a line-item appropriation, are subject to review by the Commission.
- (ii) “is for a purpose consistent with the mission of the agency.” This is to ensure that the research and development activities are appropriate for the agency in its role within the Federal government.
- (iii) “supports competing technologies at levels appropriate to their potential, as determined by an appropriate priority setting process.” This recognizes that some technologies may receive support to the detriment of technologies that compete with them because of influence by powerful allies, or for reasons that, while possibly once valid, are no longer valid. This provision attempts to ensure that the technology options selected by an agency went through a reasoned priority selection.
- (iv) “the private sector cannot reasonably be expected to undertake without Federal support at a level or in a time frame consistent with the payment, benefit, service, or tax advan-

tage's potential to provide broad economic or other public benefit." This provision recognizes that the private sector can and should conduct research and development; however, there are legitimate reasons for Federal subsidies to the private sector as an incentive to achieve certain public policy objectives. Federal funding may be necessary to offset financial risks and market failures in financing research and development, may be key in speeding up certain research and development, or may otherwise add to the activity by providing additional resources. In an era of intense global competition, such Federal support can play a crucial role in reaping the broad public rewards of research and development.

The exclusion in section 4(4)(B) for subsidies primarily benefiting "public health, safety, the environment and education" is intended to be interpreted broadly to exclude, for example, health care subsidies, worker safety programs, work-study education and job training programs, and similar Federal activities.

The Committee also took special note of the Federal government's role in the area of international trade. In establishing the Commission's review of Federal subsidies, it is not the Committee's intent to unduly disadvantage U.S. business interests as they compete in the international marketplace. It is recognized that foreign governments frequently subsidize business interests in their own countries. Eliminating a particular program or subsidy might make sense in a purely domestic context, but such action could place U.S. company at a severe disadvantage when competing with a foreign company which has the benefit of a subsidy from its government. A U.S. government subsidy may have been instituted in order to offset a similar subsidy to foreign competitors by foreign governments, with the intent of leveling the playing field for U.S. industry. To eliminate such a subsidy not only affects the direct U.S. business interests in global competition, but also reduces the leverage of the U.S. government in trade negotiations. Having matched a foreign government subsidy, the U.S. government may call for negotiations to mutually end the practice.

Section 4(4)(C) exempts from the definition of "inequitable Federal subsidy" any payment, benefit, service or tax advantage that "is necessary to comply with international trade or treaty obligations." This recognizes that the U.S. government has entered into a variety of international trade agreements and international treaties that are not subject to review by the Commission. The circumstances and rationale leading to any such agreement are not the concern of the Commission. If the U.S. is a party to an international trade agreement or an international treaty, that obligation must be met.

Section 4(4)(D) provides an exemption from the definition of "inequitable federal subsidy" for any payment, benefit, service, or tax advantage that "is certified by the United States Trade Representative as specifically intended and as substantially needed to protect the foreign trade interests of the United States." As part of its agency plan under section 6(a)(3), the United States Trade Representative (USTR) specifically is required to survey all federally supported international trade programs for certification under 4(4)(D). This ensures that the USTR will report to the Commission

not only on international trade programs under its direct jurisdiction but will play a role in reviewing trade-related programs throughout the Federal government.

The USTR is responsible for directing all trade negotiations and formulating trade policy for the United States. Utilizing the expertise of that office to review all trade programs will ensure that U.S. trade interests are protected. A concern was expressed that in identifying subsidies in the international arena, a foreign country might be in a position to challenge U.S. trade policies within the World Trade Organization. The possibility was raised that Congress merely considering a subsidy for elimination could be cited by a foreign country as evidence that the "payment, benefit, or tax advantage" was not legitimate or justified. The USTR is the organization with the Executive Branch that will be sensitive to the potential for global trade challenges. The inclusion of USTR in reviewing and certifying a subsidy as "specifically intended and as substantially needed to protect the foreign trade interests of the United States" adds needed flexibility to ensure that the important objective of the legislation does not have an unintended consequence of handicapping U.S. trade policy.

The USTR will provide the Commission with a detailed statement of the reasons each program was or was not certified under the test of "specifically intended and as substantially needed." This explanation will provide a better understanding of the rationale used by the USTR in reaching its determination on the merits of each program.

The Commission is required to hold public hearings on the recommendations included in the lists provided by the head of each agency. All testimony presented before the Commission at a public hearing shall be given under oath. No later than November 30, 1998, the Commission shall submit a report to the President containing the Commission's findings and recommendations for termination, modification, or retention of each of the inequitable Federal subsidies. Once the report has been presented to the President, the Commission is required to provide to any Member of Congress, upon request, the information used by the Commission in making its recommendations.

By December 31, 1998, the President must report to the Commission and to Congress on approval or disapproval of the Commission's recommendations. If the President approves all the recommendations, the President certifies such approval and submits the recommendations to the Congress. If the President disapproves of the recommendations, in whole or in part, the President must report to the Commission and the Congress the reasons for that disapproval. The Commission must then, no later than February 1, 1999, submit a revised list of recommendations to the President. If the President fails to certify to Congress his approval of the entire package of recommendations by February 15, 1999, the process is terminated.

If the President submits the Commission's recommendations to the Congress, procedures are established for congressional consideration. First, the Commission's recommendations are introduced as a bill or bills in both the Senate and the House and referred to and reported by the committees of jurisdiction. Any amendments to

the bill or bills reflecting the Commission's recommendations must be confined to the definition of "inequitable Federal subsidy" pursuant to section 4. This ensures that amendments extraneous to eliminating, modifying, or terminating subsidies are not included.

Further, the Committees on Finance and Ways and Means are provided authority to make amendments, in any bill referred to such committees that contains revenue increases, to include reductions in revenues in the form of specific tax cuts in an amount up to the amount of the revenue increases. If such reductions in revenues is not made at that time, the amount of revenue reductions not made shall be credited to the PAYGO scorecard under Deficit Reduction. This ensures that provisions to close "tax loopholes" will be revenue neutral by providing ultimately offsetting tax cuts.

The bills reported by all committees are referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House. Each of these committees then consolidate all bills into a single bill (one bill in the Senate and one bill in the House) and reports such bill without amendment.

Procedures are established for floor consideration in accordance with the rules of each House similar to those rules governing consideration of Budget Reconciliation. Floor amendments are constrained further by the requirement to meet the definition of "inequitable Federal subsidy" and by being limited to either striking provisions or restoring provisions recommended by the Commission which were deleted in committee. Although expedited procedures are established, these provisions ensure that votes would not be required on unfamiliar, complex or far-reaching proposals without the time normally available for analysis and debate.

COMMITTEE ACTION

The Committee considered S. 207 at a business meeting held May 22, 1997. Without objection, two technical amendments were made (1) to clarify the intent of the research and development exception to the definition of "inequitable Federal subsidy" and to make a technical change to the title of the bill; and (2) to clarify that Native Alaskans are included in the definition of Indian Tribe consistent with other Federal laws.

Senator Brownback offered an amendment to address his concern and concerns raised at the hearing regarding the consideration of "taxes" as corporate subsidies. While witnesses at the hearing suggested considering "taxes" separately from spending programs, Senator Brownback's amendment proposed revenue neutrality. This would be accomplished by providing the Finance Committee the ability, during its consideration of the Commission's recommendations, to include reductions in revenues in the form of tax cuts in an amount up to the amount of any revenue increases as a result of the elimination of inequitable Federal subsidies. His amendment further provided that any revenue reductions not made by the bill enacting the Commission's recommendations would be credited to the PAYGO scorecard under deficit reduction for tax cuts only. After a discussion regarding the appropriateness of the bill directing tax cuts outside the regular budget process, the amendment was adopted by a vote of 8 Yeas: Thompson, Collins, Brownback,

Cochran, Nickles, Specter, Smith, and Lieberman to 7 Nays: Domenici (by proxy), Bennett, Glenn, Levin, Akaka, Durbin, and Cleland.

Since Senator Levin continued to have concerns related to the bill's fast track procedures and the limited time for consideration by members either in committee or on the floor, he offered an amendment to constrain the types of amendments that members would be asked to consider in committee and on the floor. First, his amendment made clear that committee and floor amendments would be in order only if they addressed "inequitable Federal subsidies" as defined by section 4 of S. 207. Second, floor amendments would be limited further either to amendments to strike language from the bill or amendments to restore an original Commission recommendation which was deleted by a committee. However, concern was expressed by several members regarding the bill's fast track procedures, and the amendment was adopted by a vote of 10 Yeas: Collins, Brownback, Domenici (by proxy), Specter, Glenn, Levin, Lieberman, Akaka, Durbin, and Cleland to 5 Nays: Thompson, Cochran, Nickles, Smith, and Bennett.

The Committee then voted to favorably report S. 207, as amended, by a vote of 9 Yeas: Senators Thompson, Collins, Brownback, Smith, Glenn, Levin, Lieberman, Durbin, and Cleland, to 5 Nays: Cochran, Nickles, Specter, Bennett, and Akaka.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Title

This section states the short title of the bill.

Section 2. Findings

This Section lists Congressional findings. These state that some circumstances, including abuse, obsolescence, and anti-competitiveness, can render a corporate subsidy undesirable or unnecessary. The findings declare that such subsidies are unfair to taxpayers and that Congress and the President have been incapable of systematically identifying and evaluating corporate subsidies, thus a Commission is essential to a comprehensive review of the problem.

Section 3. Purpose

This section enunciates the purpose of the Act. It emphasizes that fairness and deliberation are key characteristics of the procedure set up under the bill and that the corporate subsidies to be targeted are those that are unnecessary and inequitable.

Section 4. Definition

This section defines the corporate subsidies that the Commission should review. This section only defines what is an "inequitable Federal subsidy" because the intent of S. 207 is to invite recommendations for the retention, reform or termination of a subsidy; and forcing the characterization of a subsidy as "unnecessary" at the outset, could mistakenly suggest that termination is the preferred option under this Act.

The definition of an "inequitable Federal subsidy" as a payment, benefit, service, or tax advantage provided by the Federal Govern-

ment and meeting certain criteria is meant to provide guidance to the agencies as they prepare their lists and to the Commission as it reviews the lists provided to it by Federal agencies and departments and as it performs its duties under section 5(b).

Under Section 4(1), the Federal subsidies to be reviewed and subject to reform or termination are those provided to a “corporation, partnership, joint venture, association, or business trust.” Individuals were specifically excluded from this list.

Section 4(1) (A) and (B) expressly excludes organizations that are taxed as nonprofits, state governments, local governments, and Indian Tribes, including Alaska Natives.

Section 4(4) excludes certain categories from the review of the Commission, as discussed earlier in this report.

Section 5. The Commission

This section describes the duties, scope and composition of the Commission. Section 5(a) establishes the “Corporate Subsidy Reform Commission.” Section 5(b) outlines its duties. The Commission’s first duty is to examine the Federal Government’s programs and tax laws and through this process to identify the programs and laws that provide “inequitable Federal subsidies” as defined in Section 4.

Section 5(b) establishes the three duties of the Commission. The Commission must examine the programs and tax laws of the federal government and identify those that provide inequitable federal subsidies, as defined in Section 4 of this Act. The Commission must review these inequitable federal subsidies. Then, the Commission must submit a report with recommendations for the subsidies’ retention, reform or termination that the Commission is required to submit to the President and Congress pursuant to section 6(b).

Section 5(c) declares that this Act is not intended to result in the creation of new programs or taxes, but rather to provide a review of existing programs and tax laws in order that they may be fairly and equitably utilized. The Commission is not permitted to recommend the termination of Federal agencies or departments.

Section 5(d) states that the Commission is to be one pursuant to the Federal Advisory Committee Act (5 U.S.C. App.).

Section 5(e) outlines how the Commission members and staff will be appointed. The Commission shall have nine members. The President shall appoint three; the Speaker of the House of Representatives shall appoint two; the Minority Leader of the House of Representatives shall appoint one; the Senate Majority Leader shall appoint two and the Senate Minority Leader shall appoint one. Prior to the appointment of the Commissioners, the President, the Speaker, the Senate Majority Leader and the Minority Leaders of the House of Representatives and the Senate are required to consult on the possible candidates for appointment. This is required in order to seek equitable representation of the various points of view needed for a fair examination, review and report the Commission is required to make under Section 5(b). Section 5(e) also provides that the Chairman is appointed by the President, and the subsection establishes the expertise that the appointees as a group are required to possess.

Section 5(f) provides that each Member of the Commission is to serve until the termination of the Commission.

Section 5(g) states that the Commission must conduct its first meeting no later than April 1, 1998. Each meeting must be open to the public. The Chairman may close the meeting when classified information, trade secrets or personnel matters are discussed. All proceedings, information and deliberations of the Commission must be available to the relevant congressional Committees.

Section 5(h) provides that a vacancy on the Commission is to be filled in the same manner as the original appointment.

Section 5(i) describes the rate of pay and the travel expenses of each Commissioner and the Chairman.

Section 5(j) states that the Chairman is to appoint a Director and that the Director cannot have served on any of the entities or industries that are likely to be subject to the Commission's review. The Director must submit periodic reports on administrative and personnel matters to the Chairman of the Commission and the Committee on Governmental Affairs in the Senate and the Committee on Government Reform and Oversight in the House of Representatives.

Section 5(k) limits the number of personnel and analysts that may be detailed from federal agencies that deal directly and indirectly with the federal subsidies the Commission intends to review. This subsection also limits staff size to 25, including detailees, unless the Commission first notifies the Committee on Governmental Affairs in the Senate and the Committee on Government Reform and Oversight in the House of Representatives. Also, the Comptroller General of the United States may provide assistance to the Commission after consultation with Congress.

Section 5(l) permits the Commission to procure experts and consultants, and, to the extent funds are available, lease space and acquire personal property.

Section 5(m) authorizes the appropriation of funds to the Commission as are necessary for the Commission to carry out its duties. This subsection also authorizes such funds as are necessary for the Comptroller General to carry out its duties outlined in the Act under section 5(k) and section 6(b).

Section 6. Procedure for making recommendations to terminate corporate subsidies

This section sets forth the actions required of Federal departments and agencies in preparing a list of inequitable Federal subsidies to be submitted to the Commission for review. It provides specific guidance for the contents of the list to include (1) a detailed description of each program or tax law in question; (2) a statement detailing the extent to which a payment, benefit, service, or tax advantage meets the definition of "inequitable Federal subsidy"; (3) a statement summarizing the legislative history and purpose of such payment, benefit, service, or tax advantage and the laws or policies directly or indirectly giving rise to the need for the program or tax law; and (4) a recommendation to the Commission for its report to the President and the Congress.

Section 6(a)(3) sets forth a special review requirement for the United States Trade Representative to review and certify all Feder-

ally supported international trade programs in all Federal agencies. The Trade Representative is required to provide a detailed statement of the reasons a program or benefit is or is not specifically intended and substantially needed to protect the foreign trade interests of the United States.

Section 6(b) Review and Recommendations by the Commission establishes the process for review and reporting to the President and Congress.

The Commission is required to conduct public hearings on the agency recommendations, and the Comptroller General must assist the Commission and also submit a report on the agency and department list to the Congress and the Commission. Changes that add, delete or modify a payment, benefit, service, tax advantage on the agency and department list must be reviewed at a public hearing and justified on the Commission report to the President. This section requires the Commission to report its findings in detail, discussing the effect of the recommendations on other policies and laws. The Commission must submit these recommendations to the President by November 30, 1998, and to the Congress, upon request, any time after submission to the President.

Section 6(c) covers the review of the Commission's recommendations by the President. No later than December 31, 1998, the President must submit a report to the Commission containing the President's approval or disapproval of the recommendations. If the President approves all recommendations, he is to send certification of approval to Congress along with the Commission, which must submit a revised list to him by February 1, 1999. The President must approve and certify an entire package of recommendations by February 15, 1999 at the latest; otherwise the process established under the Act is terminated.

Section 7. Congressional consideration

This section provides the procedures for congressional review of the Commission's recommendations if forwarded by the President.

Section 7(a) requires that if the President submits recommendations, they must be accompanied by information including the rationale for the recommendations and the estimated fiscal, economic and budgetary impact of accepting them.

Section 7(b) requires the President to submit the recommendations on the same day to the Senate and the House of Representatives. If either body is not in session, delivery is to the Secretary of the Senate or the Clerk of the House. The recommendations are to be printed in the Federal Register following submission.

Section 7(c) establishes the procedure for introduction of the recommendations as legislation. Within 14 calendar days in session after the recommendations are received, the Senate Majority Leader, or his designee, and the House Speaker, or his designee, must introduce a bill or bills implementing the Commission's recommendations. More than one bill must be introduced if that is necessary to ensure that all recommendations will be reviewed by the authorizing committee responsible for their implementation.

Section 7(d) provides for committee consideration of any legislation introduced. It gives each respective authorizing committee 120 calendar days to review, modify and report on the bill under its ju-

risdiction. Section 7(d) further provides that no amendment will be in order unless it is confined to terminating or reforming an inequitable Federal subsidy as defined in section 4. After this period, if no action has been taken by the authorizing committee to report the bill, the committee is discharged from further consideration. Further, section 7(d) provides authority to the Committees on Finance and Ways and Means to make amendments, in any bill referred to such committee that contains revenue increases, to include reductions in revenues in the form of tax cuts in an amount up to the amount of the revenue increases. If such reductions in revenues are not made at that time, the amount of revenue reductions not made is credited to the pay-as-you-go scorecard under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 for tax cuts only.

Section 7(e) provides for the Senate and Section 7(f) provides for the House procedures after the time period of the authorizing committees has concluded. Upon reporting or discharge, all bills must be referred to the Senate Governmental Affairs Committee or the House Committee on Government Reform and Oversight. These committees then have no more than 10 calendar days in session to consolidate all bills into one piece of legislation and to report that bill for consideration in their respective bodies.

Section 7(e) details the procedures for Senate floor consideration. Debate in the Senate on the bill reported by the Governmental Affairs Committee and all debatable motions and appeals, is limited to no more than 30 hours, with a one hour limit on amendments and a one half hour limit on second degree amendments. The bill further sets a five-hour limit on debate in the Senate on the conference report. Other fast track restrictions limit floor action, including a requirement that all amendments are (1) confined to terminating or reforming an inequitable Federal subsidy as defined by section 4; and (2) germane to the bill reported by the Governmental Affairs Committee, with "germane" meaning only amendments to strike language or amendments to restore recommendations made by the Commission which were deleted in committee.

Section 7(f) details the procedures for consideration in the full House of Representatives.

Section 7(g) clarifies that the special procedures set forth in the legislation for the House of Representatives and the Senate are in compliance with the rules of each House, and are subject to the Constitutional power of either House to change its rules.

V. REGULATORY IMPACT STATEMENT

Paragraph 11(b)(1) of Rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill."

The creation of the Corporate Subsidy Review, Reform and Termination Commission would not have a significant regulatory impact on the public, nor would it constitute an undue regulatory burden on any government agency. The legislation is submitted to create a Commission to review a list of Federal subsidies put together by the Federal agencies which administer them, make recommendations for their retention, reform or termination, and to re-

port to the President and Congress with those recommendations. The legislation also provides procedures for the disposition of these recommendations by the President and Congress.

VI. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 1997.

Hon. FRED THOMPSON,
*Chairman, Committee on Governmental Affairs, U.S. Senate, Wash-
ington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 207, the Corporate Subsidy Reform Commission Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

S. 207—Corporate Subsidy Reform Commission Act of 1997

S. 207 would create a nine-member commission to review and make recommendations on existing payments, benefits, services, or tax advantages provided by the federal government to businesses. The bill would exclude from review certain subsidies, including those that benefit or support certain forms of research and development, public health and safety, the environment, education, and foreign trade.

Assuming appropriation of the necessary funds, CBO estimates that implementing S. 207 would cost federal agencies about \$6 million over fiscal years 1998 and 1999. Enacting this legislation could lead to the reform or elimination of existing subsidies to businesses, and ultimately to significant savings to the federal government. However, because any change in existing subsidies would depend on future legislation, S. 207 would have no direct budgetary impact aside from the agency operating costs mentioned above. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 207 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no impact on the budgets of state, local, or tribal governments.

The bill would require each agency to identify, in its budget justifications for fiscal year 1999, all programs or tax laws that the agency determines provide an inequitable subsidy. As part of that process, the bill would require the Office of the United States Trade Representative to review all foreign trade programs and to certify which programs are necessary to protect foreign trade programs and to certify which programs are necessary to protect foreign trade interests. By November 30, 1998, the commission established by S. 207 would be required to submit its recommendations for reform or termination to the President, who would then have one month to accept or reject the commission's report. If the Presi-

dent rejects the report, the commission would have until February 1, 1999, to submit a revised list of recommendations. If the President does not accept the revised list within 15 days, the review and reform process would terminate. If the President approves either the first list or a revised list of recommendations, the Congress would consider a bill or bills implementing those recommendations under procedures delineated in S. 207. The commission would terminate on September 1, 1999.

Commissioners would be paid for time spent performing commission business, as well as for any travel expenses. S. 207 would allow the commission to hire a staff director and up to 24 additional staffers. The bill would authorize the appropriation of such sums as may be necessary for the commission. CBO estimates that implementing S. 207 would cost the federal government about \$6 million over fiscal years 1998 and 1999, assuming appropriation of the necessary amounts. Of that total, CBO estimates that the commission would cost about \$5 million for 18 months of operation. In addition, we estimate that other federal agencies would incur about \$0.5 million in costs in each of fiscal years 1998 and 1999 to comply with the bill's requirements. The estimated costs are based on the bill's provisions for pay and travel and on costs of other federal commissions.

The CBO staff contact for this estimate is John R. Righter. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

VII. ADMINISTRATION STATEMENT

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 27, 1997.

Hon. FRED THOMPSON,
Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN THOMPSON: I appreciate your providing additional time to respond to the request for views on S. 207, a bill to establish a Corporate Subsidy Reform Commission. I am pleased to respond.

The stated purpose of S. 207, as introduced by Sen. McCain, is "to establish a fair and deliberative process that will result in the timely identification, review, and reform or elimination of unnecessary and inequitable subsidies, including tax advantages, provided by the Federal Government to entities or industries engaged in profitmaking enterprises." The legislation:

establishes from Jan. '98 through Sep. '99 an independent 9-member Corporate Subsidy Reform Commission, with 3 commissioners appointed by the President—one as Chairman—and 6 appointed by Congress (4 appointed by the Majority and 2 by the Minority);

authorizes the Commission to appoint 25 staff, with up to one-third agency detailees and authorizes appropriation of such funds as are necessary;

defines "inequitable Federal subsidy" as a payment, benefit, service, or tax advantage that is provided by the Federal Gov-

ernment to any for-profit business, which provides an unfair competitive advantage or financial windfall without expectation of a public benefit commensurate with the subsidy (there are certain exceptions to this definition provided for R&D, health and safety, education, trade interests, federal procurement and treaty obligations);

requires Federal departments and agencies to submit to the Commission lists of “inequitable Federal subsidies” in their jurisdiction, together with recommendations regarding reforms or elimination of the subsidies;

permits the Commission to change the departmental recommendations only when they “deviate substantially” from the statutory definition of inequitable Federal subsidy;

requires the Commission to submit a report to the President by Nov. 30, 1998 containing recommendations for “termination, modification, or retention of each of the inequitable Federal subsidies reviewed by the Commission”;

requires the President, by December 31, 1998, to submit the Commission’s recommendations to Congress, if the President approves all of the recommendations; or to send the recommendations back to the Commission for revision and subsequent transmittal to the Congress—but if the President does not approve the entire package of recommendations or revisions, the process terminates;

if the President approves and submits the entire package of Commission recommendations to the Congress, the Congress would be required to consider the recommendations on a legislative fast-track (i.e. mandatory introduction and reporting of implementing legislation, with debate and amendment limitations during floor consideration—similar to Budget Reconciliation).

The Administration joins the sponsors of this legislation in strongly supporting the elimination of corporate subsidies and tax advantages which no longer serve a clear and compelling public interest. Addressing these issues is an important component of our efforts to balance the Federal budget by 2002, focus resources on growth-enhancing and other priority programs, and sustain the efficacy and fairness of our government.

We believe the most effective and expeditious way to address the issue of corporate subsidies and unwarranted tax advantages is in the context of a normal budget and legislative process—in particular, this year’s budget negotiations. The President’s FY 1998 budget, transmitted to the Congress on February 6, 1997, includes provisions to reform or repeal unwarranted tax benefits that would save more than \$34 billion over five years. I have provided, as an attachment to this letter, a summary of the provisions.

We would be pleased to discuss these proposals with you in greater detail, as well as other approaches which might be helpful in achieving our common objectives. I have attached, for your information, a few preliminary technical comments on S. 207 prepared by OMB staff.

Sincerely,

FRANKLIN D. RAINES, *Director*.

Attachment.

Summary of administration proposals related to unwarranted provisions

The Administration's receipts proposals related to unwarranted benefits fall into five major groups, as discussed below: (1) reducing loopholes associated with financial instruments and modifying certain business tax provisions; (2) reducing tax preferences involving international trade; (3) extending and accelerating collection of certain taxes; (4) repealing certain special benefits for specific sectors (agriculture, oil and gas, and insurance companies); and (5) certain compliance-related provisions. The Administration's proposals, some of which are described below, would save more than \$34 billion over five years.

1. Financial instrument and other corporate provisions: \$15.5 billion over 1998-2002

Requiring use of average-cost basis for stocks and other securities (would eliminate specific identification of shares or use of first-in, first-out or last-in, first-out accounting when securities are substantially identical): \$3 billion.

Modifying loss carryback and carryforward rules (reducing carryback period on net operating losses, but increasing the carryforward period): \$2.9 billion.

Reforming inventory accounting (would eliminate some accounting options that are currently available): \$2.4 billion.

Reducing and otherwise changing the dividends received deduction for corporations (corporations generally can deduct much of the dividends received from stock that they own; this would be reduced and, for certain preferred stock, eliminated): \$2 billion.

Requiring reasonable payment assumptions for interest accruals on certain debt instruments: \$1.1 billion.

Other provisions address techniques for manipulating debt and equity distinctions for tax advantage, address treatment of stock transfers in reorganizations and other transactions; require gain recognition for certain extraordinary dividends; and extend the disallowance of certain interest deductions when corporations purchase tax-exempt debt.

2. International tax provisions: \$9 billion (or more, if certain items classified elsewhere are included) over 1998-2002

Replacing sales source rules (which currently allow 50 percent of income to be attributed to the location where the title transfers—i.e., abroad) with activity based rules (i.e., rules that consider the actual location of the economic activity generating the income): \$7.5 billion. Treasury estimated for a Congressionally mandated study that the provisions directly increased exports by less than \$1 for each \$1 of Federal revenue loss; moreover, Treasury noted that even this increase in exports would likely be offset by increased imports (Report to The Congress on The Sales Source Rules, January 13, 1993, p. 2).

Reducing carrybacks of foreign tax credit and extending carryforward: \$1.2 billion.

3. *Extensions and related provisions: \$7.2 billion over 1998–2002*

Most of this revenue is from extending the Federal Unemployment Tax Act (FUTA) surtax: \$4.7 billion.

Accelerating deposit of unemployment insurances taxes: \$1.3 billion.

Extending the oil spill excise tax: \$1.1 billion.

4. *Repeal of Sector-specific benefits: \$2.2 billion over 1998–2002*

Phasing out preferential tax deferral for certain larger farm corporations: \$0.6 billion.

Repealing percentage depletion for non-fuel minerals mined on Federal and formerly Federal lands (these minerals were initially provided under the 1872 mining act; firms would still be allowed to claim cost depletion, which is similar to depreciation claimed on most other investments): \$0.5 billion.

Limiting the extension of the tax credit for producing fuel from a nonconventional source (the credit date was recently extended by the Small Business Job Protection Act; the proposal would repeal most of this extension): \$0.5 billion.

5. *Compliance-related provisions: \$0.5 billion over 1998–2002*

Provisions would tighten penalties for substantial understatement of taxes by large corporations require reporting of payments to corporations rendering services to Federal agencies; increase penalties for failure to file correct information returns; repeal the withholding exemption for winnings over \$5,000 from bingo and keno; require registration of certain corporate tax shelters; and require tax reporting for payments to attorneys.

OMB Staff: Preliminary technical comments on S. 207

The bill limits the President to making nominations within a one-month period. It is very rare to have: a time limit; and legal consequences (in this case, termination of the law) for failure of the President to submit nominations within the indicated period.

Six of nine Commission members are appointed by Members of Congress, making the Commission essentially a legislative entity.

The bill restricts executive branch details to the Commission without similarly restricting GAO detailees. GAO is authorized to assist the Commission. GAO and the Commission are to consult with certain committees prior to entering into an agreement to assist or provide detailees to the commission. Another provision requires GAO to report on the agency recommendations made to the Commission. These provisions collectively make the proposed Commission unusually close to GAO and the legislative branch.

For staff on detail, there is a prohibition on evaluating the performance of these employees. This could result in having no basis for giving an annual performance rating to an employee that could disadvantage the employee in future RIFs where performance ratings partially determine retention standing.

The President must accept or reject the Commission's recommendations in their entirety. Congress, however, does not have to do so.

USTR is given sole authority, under the definition of "inequitable Federal subsidy," to certify that a provision is exempt from review

because it is “substantially needed to protect the foreign trade interests of the United States.” There needs to be a discussion about whether it would be appropriate for such authority to reside solely at USTR, given the Commerce and Treasury Department’s interests in trade matters.

VIII. ADDITIONAL VIEWS OF SENATOR JOHN GLENN

I support S. 207, the Corporate Subsidy Reform Commission Act, legislation of which I am proud to be an original cosponsor. Unfortunately, an objectionable amendment was added in markup which should be stripped out prior to Senate passage of the underlying bill.

We are moving to a balanced budget. That movement will necessitate some level of reduction in social and entitlement spending, a reduction that will primarily impact middle and lower income Americans. However, as a matter of equity, they should not be the only ones bearing the brunt. Corporations and other entities that benefit from Federal tax and spending policies should also contribute toward restoring fiscal soundness in our government. That's only fair. Furthermore, many of these subsidies create distortions in the marketplace, resulting in unfair competition and higher prices for consumers. Those are two other good reasons for examining these practices.

I know Senator McCain, the bill's lead sponsor, has tried to tackle some of these subsidies in the legislative process in the past, only to be rebuffed by a phalanx of opposition. He has run into the adage of "one man's pork is another man's bread and butter"—a phrase that I will admit to being on both sides of during my 23 years in the Senate. So I agree with him that the commission approach is about the only way to build up the analysis and support needed to eliminate or reform unfair corporate subsidies.

Last year, we negotiated some useful changes to the bill. The commission's scope has been narrowed to focus on the more egregious subsidies; requirements have been added for economic analysis; and the expedited process for congressional consideration of the commission's recommendations has been lengthened and opened to amendment. Several improvements were added in markup that further improved the bill.

But I would like to note my concern with the passage of the Brownback Amendment concerning the treatment of revenues. This amendment would automatically "wall off" any revenue gains from the elimination of unfair corporate subsidies to be used strictly for tax cuts. This is a deviation from normal budget procedures, where, through a considered process in the Congress, Federal revenues are allocated in an appropriate mix between appropriations, entitlements, tax cuts, and deficit reduction that must fit under overall budgetary caps. It should be noted that during the floor debate this year on budget reconciliation a similar amendment was offered and debated. That amendment directed that new revenue surpluses in excess of previously-made budget estimates only be spent on tax cuts. That amendment was rejected by the Senate; this one should be also.

JOHN GLENN.

IX. CHANGES TO EXISTING LAW

There are no modifications of existing law. The full text of the bill is new language as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Corporate Subsidy Reform Commission Act of 1997”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) Federal subsidies, including tax advantages, which may have been enacted with a valid purpose for specific industries or industry segments can—

(A) fall subject to abuse, causing unanticipated and unjustified windfalls to some industries and industry segments; or

(B) become obsolete, anticompetitive, or no longer in the public interest, making such subsidies unnecessary or undesired;

(2) it is unfair to force the United States taxpayer to support unnecessary subsidies, including tax advantages, that do not provide a substantial public benefit or serve the public interest;

(3) the Congress and the President have been unable to evaluate methodically those Federal subsidies that are unfair and unnecessary and require reform or elimination; and

(4) a Commission to advise the President and Congress is essential to a comprehensive review of such unfair corporate subsidies and to the reform or elimination of such subsidies.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a fair and deliberative process that will result in the timely identification, review, and reform or elimination of unnecessary and inequitable subsidies, including tax advantages, provided by the Federal Government to entities or industries engaged in profitmaking enterprises.

SEC. 4. DEFINITION.

For purposes of this Act, the term “inequitable Federal subsidy” means a payment, benefit, service, or tax advantage that—

(1) is provided by the Federal Government to any corporation, partnership, joint venture, association, or business trust, not to include—

(A) a nonprofit organization described under section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; or

(B) a State or local government or Indian Tribe or Alaska Native village or regional or village corporation as de-

fined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(2) is provided without a reasonable expectation, demonstrated with the use of reliable performance criteria, that actions or activities undertaken or performed in return for such payment, benefit, service, or tax advantage would result in a return or benefit, quantifiable or nonquantifiable, to the public at least as great as the payment, benefit, service, or tax advantage;

(3) provides an unfair competitive advantage or financial windfall; and

(4) shall not include a payment, benefit, service, or tax advantage that—

(A) is awarded for the purposes of research and development that—

(i) is in the broad public interest on the basis of a peer reviewed or other open, competitive, merit-based procedure;

(ii) is for a purpose consistent with the mission of the agency;

(iii) supports competing technologies at levels appropriate to their potential, as determined by an appropriate priority setting process; and

(iv) the private sector cannot reasonably be expected to undertake without Federal support at a level or in a timeframe consistent with the payment, benefit, service, or tax advantage's potential to provide broad economic or other public benefit;

(B) primarily benefits public health, safety, the environment, or education;

(C) is necessary to comply with international trade or treaty obligations;

(D) is certified by the United States Trade Representative as specifically intended and as substantially needed to protect the foreign trade interests of the United States; or

(E) is for the purpose of procurement of property or services by the United States Government.

SEC. 5. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the “Corporate Subsidy Reform Commission” (hereafter in this Act, referred to as the “Commission”).

(b) DUTIES.—The Commission shall—

(1) examine the programs and tax laws of the Federal Government and identify programs and tax laws that provide inequitable Federal subsidies;

(2) review inequitable Federal subsidies; and

(3) submit the report required under section 6(b) to the President and the Congress.

(c) LIMITATIONS.—

(1) CREATION OF NEW PROGRAMS OR TAXES.—This Act is not intended to result in the creation of new programs or taxes, and the Commission established in this section shall limit its activities to reviewing existing programs or tax laws with the goal of ensuring fairness and equity in the operation and application thereof.

(2) *ELIMINATION OF AGENCIES AND DEPARTMENTS.*—The Commission shall limit its recommendations to the termination or reform of payments, benefits, services, or tax advantages, rather than the termination of Federal agencies or departments.

(d) *ADVISORY COMMITTEE.*—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) *APPOINTMENT.*—

(1) *MEMBERS.*—The Commissioners shall be appointed for the life of the Commission and shall be composed of nine members of whom—

(A) three shall be appointed by the President of the United States;

(B) two shall be appointed by the Speaker of the House of Representatives;

(C) one shall be appointed by the minority Leader of the House of Representatives;

(D) two shall be appointed by the majority Leader of the Senate; and

(E) one shall be appointed by the minority Leader of the Senate.

(2) *CONSULTATION REQUIRED.*—The President, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under subsection (b).

(3) *APPOINTMENTS.*—During the period of January 1, 1998 through January 31, 1998, the President shall submit to the Senate the names of three individuals for appointment to the Commission.

(4) *FAILURE TO APPOINT.*—If the President does not submit to Congress the names of three individuals for appointment to the Commission on or before the date specified in paragraph (3), the process established under this Act shall be terminated.

(5) *CHAIRMAN.*—At the time the President nominates individuals for appointment to the Commission the President shall designate one such individual who shall serve as Chairman of the Commission.

(6) *BACKGROUND.*—The members shall represent a broad array of expertise covering, to the extent practical, all subject matter, programs, and tax laws the Commission is likely to review.

(f) *TERMS.*—Each member of the Commission including the Chairman shall serve until the termination of the Commission.

(g) *MEETINGS.*—

(1) *INITIAL MEETING.*—No later than April 1, 1998, the Commission shall conduct its first meeting.

(2) *OPEN MEETINGS.*—Each meeting of the Commission shall be open to the public. In cases where classified information, trade secrets, or personnel matters are discussed, the Chairman may close the meeting. All proceedings, information, and delib-

erations of the Commission shall be available, upon request, to the chairman and ranking member of the relevant committees of Congress.

(h) *VACANCIES.*—A vacancy on the Commission shall be filled in the same manner as the original appointment.

(i) *PAY AND TRAVEL EXPENSES.*—

(1) *PAY.*—Notwithstanding section 7 of the Federal Advisory Committee Act (5 U.S.C. App.), each Commissioner, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) *CHAIRMAN.*—Notwithstanding section 7 of the Federal Advisory Committee Act (5 U.S.C. App.), the Chairman shall be paid for each day referred to in paragraph (1) at a rate equal to the daily payment of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(3) *TRAVEL EXPENSES.*—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(j) *DIRECTOR OF STAFF.*—

(1) *QUALIFICATIONS.*—The Chairman shall appoint a Director who has not served in any of the entities or industries that the Commission intends to review during the 12 months preceding the date of such appointment.

(2) *PAY.*—Notwithstanding section 7 of the Federal Advisory Committee Act (5 U.S.C. App.), the Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) *REPORTS.*—On administrative and personnel matters, the Director shall submit periodic reports to the Chairman of the Commission and the chairman and ranking member of the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of the Representatives.

(k) *STAFF.*—

(1) *ADDITIONAL PERSONNEL.*—Subject to paragraphs (2) and (4), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) *APPOINTMENTS.*—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(3) *DETAILEES.*—Upon the request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in accordance with an agreement entered into with the Commission.

(4) *RESTRICTIONS ON PERSONNEL AND DETAILEES.*—The following restrictions shall apply to personnel and detailees of the Commission:

(A) *PERSONNEL.*—No more than one-third of the personnel detailed to the Commission may be on detail from Federal agencies that deal directly or indirectly with the Federal subsidies the Commission intends to review.

(B) *ANALYSTS.*—No more than one-fifth of the professional analysts of the Commission may be persons detailed from a Federal agency that deals directly or indirectly with the Federal subsidies the Commission intends to review.

(C) *LEAD ANALYST.*—No person detailed from a Federal agency to the Commission may be assigned as the lead professional analyst with respect to an entity or industry the Commission intends to review if the person has been involved in regulatory or policy-making decisions affecting any such entity or industry in the 12 months preceding such assignment.

(D) *DETAILEE.*—A person may not be detailed from a Federal agency to the Commission if, within 12 months before the detail is to begin, that person participated personally and substantially in any matter within that particular agency concerning the preparation of recommendations under this Act.

(E) *FEDERAL OFFICER OR EMPLOYEE.*—No member of a Federal agency, and no officer or employee of a Federal agency, may—

(i) prepare any report concerning the effectiveness, fitness, or efficiency of the performance on the staff of the Commission of any person detailed from a Federal agency to that staff;

(ii) review the preparation of such report; or

(iii) approve or disapprove such a report.

(F) *LIMITATION ON STAFF SIZE.*—(i) Subject to clause (ii), there may not be more than 25 persons (including any detailees) on the staff at any time.

(ii) The Commission may increase personnel in excess of the limitation under clause (i), 15 days after submitting notification of such increase to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(G) *LIMITATION ON FEDERAL OFFICER.*—No member of a Federal agency and no employee of a Federal agency may serve as a Commissioner or as a paid member of the staff.

(5) *ASSISTANCE.*—

(A) *IN GENERAL.*—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(B) *CONSULTATION.*—The Commission and the Comptroller General of the United States shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the

House of Representatives on the agreement referred to under subparagraph (A) before entering into such agreement.

(l) OTHER AUTHORITY.—

(1) EXPERTS AND CONSULTANTS.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) LEASING.—The Commission may lease space and acquire personal property to the extent that funds are available.

(m) FUNDING.—

(1) COMMISSION.—There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this Act.

(2) COMPTROLLER GENERAL.—There are authorized to be appropriated to the Comptroller General of the United States such funds as are necessary to carry out its duties under subsection (k)(5) and section 6(b)(5).

(n) TERMINATION.—The Commission shall terminate on September 1, 1999.

SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO TERMINATE CORPORATE SUBSIDIES.

(a) AGENCY PLAN.—

(1) IN GENERAL.—No later than April 1, 1998, or the date budget documents are submitted to Congress in 1998, whichever is earlier, in support of the budget of each Federal department or agency, the head of each department or agency shall include in such documents a list identifying all programs or tax laws within that department or agency that the head of the department or agency determines provide inequitable Federal subsidies.

(2) CONTENTS.—Such a list shall include—

(A) a detailed description of each program or tax law in question;

(B) a statement detailing the extent to which a payment, benefit, service, or tax advantage meets the provisions of section 4;

(C) a statement summarizing the legislative history and purpose of such payment, benefit, service, or tax advantage, and the laws or policies directly or indirectly giving rise to the need for such programs or tax laws; and

(D) a recommendation to the Commission regarding actions to be taken under section 5(b)(3).

(3) INTERNATIONAL TRADE PROGRAMS.—As part of its agency plan submitted pursuant to this subsection, the United States Trade Representative shall survey all federally supported international trade programs in all Federal agencies and shall certify to the Commission which of those programs meet the requirements of section 4(4)(D). The Trade Representative shall provide the Commission a detailed statement of the reasons each program was or was not so certified as part of its agency plan.

(b) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.—

(1) *REVIEW AND HEARINGS.*—At any time after the submission of the budget documents to Congress, the Commission shall conduct public hearings on the recommendations included in the lists required under subsection (a). All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath.

(2) *REPORT OF COMMISSION.*—

(A) *REPORT TO PRESIDENT.*—No later than November 30, 1998, the Commission shall submit a report to the President containing the Commission's findings and recommendations for termination, modification, or retention of each of the inequitable Federal subsidies reviewed by the Commission. Such findings and recommendations shall specify—

- (i) all actions, circumstances, and considerations relating to or bearing upon the recommendations; and
- (ii) to the maximum extent practicable, the estimated effect of the recommendations upon the policies, laws and programs directly or indirectly affected by the recommendations.

(B) *CHANGES IN RECOMMENDATIONS.*—Subject to the deadline in subparagraph (A), in making its recommendations, the Commission may make changes in any of the recommendations made by a department or agency if the Commission determines that such department or agency deviated substantially from the provisions of section 4.

(C) *CHANGES.*—In the case of a change in the recommendations made by a department or agency, the Commission may make the change only if the Commission—

- (i) makes the determination required under subparagraph (B); and
- (ii) conducts a public hearing on the Commission's proposed changes.

(D) *APPLICATION.*—Subparagraph (C) shall apply to a change by the Commission in a department or agency recommendation that would—

- (i) add or delete a payment, benefit, service, or tax advantage to the list recommended for termination;
- (ii) add or delete a payment, benefit, service, or tax advantage to the list recommended for modification; or
- (iii) increase or decrease the extent of a recommendation to modify a payment, benefit, service, or tax advantage included in a department's or agency's recommendation.

(3) *JUSTIFICATION.*—The Commission shall explain and justify in the report submitted to the President under paragraph (2) any recommendation made by the Commission that is different from a recommendation made by an agency under subsection (a).

(4) *REPORT TO CONGRESS.*—After November 30, 1998, or after the date the Commission submits recommendations to the President, the Commission shall, upon request, promptly provide to any Member of Congress the information used by the Commission in making its recommendations.

(5) *COMPTROLLER GENERAL.*—The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the list, statements, and recommendations made by departments and agencies under subsection (a); and

(B) no later than 60 days after April 1, 1998, or the public release of the President's budget documents in 1998, whichever is earlier, submit to the Congress and to the Commission a report containing a detailed analysis of the list, statements, and recommendations of each department or agency.

(c) *REVIEW BY THE PRESIDENT.*—

(1) *IN GENERAL.*—No later than December 31, 1998, the President shall submit a report to the Commission and to the Congress containing the President's approval or disapproval of the Commission's recommendations submitted under subsection (b).

(2) *APPROVAL.*—If the President approves all the recommendations of the Commission, the President shall submit a copy of such recommendations to the Congress, together with a certification of such approval.

(3) *DISAPPROVAL.*—If the President disapproves the recommendations of the Commission in whole or in part, the President shall submit to the Commission and the Congress the reasons for that disapproval. No later than February 1, 1999, the Commission shall submit to the President a revised list of recommendations.

(4) *REVISION.*—If the President approves all of the revised recommendations of the Commission submitted to the President under paragraph (3), the President shall submit a copy of such revised recommendations to the Congress, together with a certification of such approval.

(5) *APPROVAL OF ENTIRE PACKAGE.*—The President may only submit an approval certificate that pertains to the entire package of recommendations submitted by the Commission under subsection (b)(2) or paragraph (3) of this subsection.

(6) *FAILURE TO SUBMIT.*—If the President does not submit to the Congress an approval and certification described in paragraph (2) or (4) by February 15, 1999, the process established under this Act shall be terminated.

SEC. 7. CONGRESSIONAL CONSIDERATION.

(a) *SUBMISSION OF RECOMMENDATIONS OF THE PRESIDENT.*—If the President submits the Commission recommendations to the Congress under section 6(c) (2) or (4), such recommendations shall be accompanied by information specifying—

(1) the reasons and justifications for the recommendations;

(2) to the maximum extent practicable, the estimated fiscal, economic, and budgetary impact of accepting the recommendations;

(3) the amount of the projected savings resulting from each recommendation;

(4) all actions, circumstances, and considerations relating to or bearing upon the recommendations and to the maximum extent practicable, the estimated effect of the recommendations

upon the policies, laws and programs directly or indirectly affected by the recommendations; and

(5) the specific changes in Federal statute necessary to implement the recommendations.

(b) *SUBMISSION OF RECOMMENDATIONS TO THE SENATE AND HOUSE OF REPRESENTATIVES.*—

(1) *SUBMISSION TO CONGRESS.*—The recommendations submitted by the President to the Congress under subsection (a) shall be submitted to the Senate and the House of Representatives on the same day, and shall be delivered to the Secretary of the Senate if the Senate is not in session, and to the Clerk of the House of the Representatives if the House is not in session.

(2) *FEDERAL REGISTER.*—Any recommendations and accompanying information submitted under subsection (a) shall be printed in the first issue of the Federal Register after such submission.

(c) *INTRODUCTION.*—

(1) *DATE OF INTRODUCTION.*—The Majority Leader of the Senate or his designee, and the Speaker of the House of Representatives, or his designee, shall introduce a bill (or bills as provided under paragraph (2)) that implements the recommendations submitted by the President under subsection (a), no later than the later of 14 calendar days in session after the date on which—

(A) the Senate or the House of Representatives received the recommendations submitted by the President under subsection (a), if the Senate or the House of Representatives (as applicable) is in session on the date of such submission; or

(B) the Senate or the House of Representatives is first in session after such recommendations are submitted, if the Senate or the House of Representatives (as applicable) is not in session on the date of such submission.

(2) *MULTIPLE BILLS.*—The majority leader of the Senate, or his designee, or the Speaker of the House of Representatives, or his designee, shall introduce a bill or separate bills ensuring that all such recommendations will be implemented.

(d) *COMMITTEE REFERRAL AND ACTION.*—

(1) *IN GENERAL.*—

(A) *IN GENERAL.*—Any committee to which a bill or bills introduced under subsection (c) is referred shall report such bill no later than 120 calendar days after the date of referral. No amendment during committee consideration of a bill or bills introduced under subsection (c) shall be in order unless that amendment is confined to terminating or reforming an inequitable Federal subsidy as defined in section 4 of this Act. Any such reported bill shall be referred to the Committee on Governmental Affairs of the Senate or the Committee on Government Reform and Oversight of the House of Representatives, as applicable.

(B) *COMMITTEES ON FINANCE AND WAYS AND MEANS.*—

(i) *IN GENERAL.*—Any bill referred to the Committee on Finance or the Committee on Ways and Means that

contains revenue increases may be amended to include reductions in revenues in the form of tax cuts in an amount up to the amount of the revenue increases.

(ii) *SCORECARD*.—If the bill referred to in clause (i) is enacted into law, any amount of revenue reductions not made by the bill as provided in clause (i) shall be credited to the pay-as-you-go scorecard under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 and may only be offset by legislation reducing revenues.

(2) *DISCHARGE*.—If a committee does not report a bill within the 120-day period as provided under paragraph (1), such bill shall be discharged from the committee and referred to the Committee on Governmental Affairs of the Senate or the Committee on Government Reform and Oversight of the House of Representatives, as applicable.

(3) *REPORT TO FLOOR; CONSOLIDATION*.—

(A) *IN GENERAL*.—No later than the first day the Senate or the House of Representatives (as applicable) is in session following 10 calendar days in session after the end of the 120-day period described under paragraphs (1) and (2), the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, as applicable, shall—

(i) consolidate all bills referred under paragraphs (1) and (2) into a single bill (without substantive amendment) and report such bill to the Senate or the House of Representatives; or

(ii) if only 1 bill is referred under paragraph (1) or (2), report such bill (without amendment) to the Senate or House of Representatives.

(B) *LEGISLATIVE CALENDAR*.—The bill reported under subparagraph (A) shall be placed on the legislative calendar of the appropriate House.

(e) *PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS*.—

(1) *DEBATE ON BILL*.—Debate in the Senate on a bill reported by the Committee on Governmental Affairs under subsection (d)(3), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours. The time shall be equally divided between, and controlled by, the Majority Leader and Minority Leader or their designees.

(2) *DEBATE ON AMENDMENTS*.—Debate in the Senate on any amendment to the bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such amendment, motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

(3) *LIMIT OF DEBATE.*—(A) A motion to further limit debate is not debatable. A motion by the majority leader or his designee to extend debate is not debatable. A motion to recommit is not in order.

(B) No amendment to the bill reported by the Committee on Governmental Affairs under subsection (d)(3) shall be in order unless—

(i) that amendment is confined to terminating or reforming an inequitable Federal subsidy as defined by section 4 of this Act;

(ii) that amendment is germane to the bill reported by the Committee on Governmental Affairs; and

(iii) for the purposes of such bill, “germane” means only amendments which strike language from such bill, or restore language in the bill or bills introduced under subsection (c).

(4) *CONFERENCE REPORTS.*—

(A) *MOTION TO PROCEED.*—A motion to proceed to the consideration of the conference report on a bill subject to the procedures of this section and reported to the Senate may be made even though a previous motion to the same effect has been disagreed to.

(B) *TIME LIMITATION.*—The consideration in the Senate of the conference report on the bill and any amendments in disagreement thereto, including all debatable motions and appeals in connection therewith, shall be limited to 5 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion, appeal related to the conference report, or any amendment to an amendment in disagreement, shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(f) *PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF THE COMMITTEE; DEBATE.*—

(1) *MOTION TO CONSIDER.*—When the Committee on Government Reform and Oversight of the House of Representatives reports a bill under subsection (d)(3) it is in order (at any time after the fifth day (excluding Saturdays, Sundays, and legal holidays) following the day on which any committee report filed on a bill referred under subsection (d)(1) to the Committee on Government Reform and Oversight has been available to Members of the House) to move to proceed to the consideration of the bill reported to the House of Representatives. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) *DEBATE.*—General debate on the bill in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to postpone debate is not in order, and it is not in order to move

to reconsider the vote by which the bill is agreed to or disagreed to.

(3) *TERMS OF CONSIDERATION.*—Consideration of the bill by the House of Representatives shall be in the Committee of the Whole, and the bill shall be considered for amendment under the 5-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the committee rises and reports the bill back to the House, the previous question shall be considered as ordered on the bill and any amendments thereto to final passage without intervening motion.

(4) *LIMIT ON DEBATE.*—Debate in the House of Representatives on the conference report on a bill subject to the procedures under this section and reported to the House of Representatives shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommend the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to. A motion to postpone is not in order.

(5) *APPEALS.*—Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to the bill shall be decided without debate.

(g) *RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.*—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a bill under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules as far as relating to the procedure of that House at any time, in the same manner, and to the same extent as in the case of any other rule of that House.