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

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 1996

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) EXPANDED MARKETS.—One of the purposes
2 of the NAFTA, as stated in the preamble, is to “cre-
3 ate an expanded and secure market” for goods and
4 services. Instead, the NAFTA has resulted in a spi-
5 raling merchandise trade deficit with Mexico and
6 Canada that totaled \$33,550,000,000 in 1995.
7 Rather than harmonious development and expansion
8 as envisioned, the NAFTA has resulted in trade
9 deficits which have been draining over
10 \$3,000,000,000 a month from the United States
11 economy this year.

12 (2) CURRENCY STABILITY.—One of the pur-
13 poses of the NAFTA is to “ensure a predictable
14 commercial framework for business planning and in-
15 vestment”. However, the NAFTA contains no safe-
16 guards to minimize the negative economic impacts of
17 severe shifts in currency exchange rates among the
18 NAFTA Parties. To protect its own economy the
19 United States has sought to bolster the Mexican
20 peso which is now being supported by
21 \$30,000,000,000 in loans, mostly from unwilling
22 United States taxpayers. The devaluation of the
23 Mexican peso has more than offset tariff reductions
24 and other trade benefits the United States expected
25 to achieve from the agreement.

1 (3) FAIR AGRICULTURAL TRADE.—One of the
2 purposes of the NAFTA is to reduce distortions to
3 trade. In addition, the NAFTA is supposed to pro-
4 mote conditions of fair competition and to establish
5 mutually advantageous rules governing trade. How-
6 ever, since the NAFTA, there has been a rapid esca-
7 lation of one-way trade of Canadian grain exports of
8 wheat, durum wheat, and barley to the United
9 States, disrupting markets and marketing channels.
10 Surges in the importation of certain Mexican fruits
11 and vegetables threaten domestic production and the
12 importation of livestock and meat products from the
13 NAFTA Parties has exacerbated the severe problems
14 facing United States livestock producers. Pref-
15 erential treatment under NAFTA has allowed the
16 United States market to be unfairly targeted by Ca-
17 nadian makers of certain woolen apparel products.

18 (4) JOBS, WAGES, AND LIVING STANDARDS.—
19 One of the purposes of the NAFTA is to “create
20 new employment opportunities and improve working
21 conditions and living standards” in the respective
22 territories of the NAFTA Parties. Instead, there has
23 been a substantial loss of over 483,600 jobs in the
24 United States. A survey of United States companies
25 conducted 20 months after the implementation of

1 the NAFTA found that 90 percent of the companies
2 that had anticipated an increased number of jobs
3 from the NAFTA have, in fact, not increased em-
4 ployment since the NAFTA was implemented. In the
5 first year of the NAFTA's implementation, United
6 States workers had the sharpest drop of real hourly
7 wages on record. More than 2,000,000 workers have
8 become unemployed in Mexico since the implementa-
9 tion of the NAFTA and real wages of Mexican work-
10 ers have been slashed 50 percent. In addition to the
11 loss of purchasing power, there has been an erosion
12 in the standards of living in the United States, Can-
13 ada, and Mexico.

14 (5) MANUFACTURING BASE.—One of the pur-
15 poses of the NAFTA is to enhance the competitive-
16 ness of firms in the global market. However, rather
17 than increase the ability of the manufacturing sector
18 in the United States to compete in the world mar-
19 ket, the NAFTA has facilitated the movement of
20 United States manufacturing facilities and jobs to
21 Mexico. The NAFTA has contributed to a net loss
22 of manufacturing jobs in the United States and an
23 unprecedented flood of imports of manufactured
24 goods into the United States.

1 (6) HEALTH AND ENVIRONMENT.—Other pur-
2 poses of the NAFTA are “to safeguard the public
3 welfare” and “to strengthen the development and
4 enforcement of environmental laws and regulations”.
5 Yet, since the implementation of the NAFTA, the
6 public welfare has been undermined by increased im-
7 ports of food products that do not meet United
8 States health standards. In addition, the NAFTA
9 has accelerated the relocation of United States man-
10 ufacturing facilities to the United States-Mexico bor-
11 der zone, where hundreds of new manufacturing
12 plants have been added. Without adequate environ-
13 mental safeguards, the uncontrolled industrial and
14 population growth in the border zone has aggravated
15 pollution and health hazards, increasing the inci-
16 dence of infectious diseases and human exposure to
17 toxins.

18 (7) HIGHWAY SAFETY.—The NAFTA is sup-
19 posed to preserve the flexibility of each nation to
20 safeguard its public welfare. To ensure high stand-
21 ards of highway safety, Congress specifically pro-
22 vided that Mexican motor carriers must fully comply
23 with all United States motor carrier safety laws in
24 order to operate in the United States. Studies by
25 law enforcement officials and independent agencies

1 effectively document the underlying compliance prob-
2 lem. Mexican motor carriers and drivers do not have
3 to meet United States safety standards when operat-
4 ing in Mexico. This fundamental difference in safety
5 standards makes it practically impossible to develop
6 effective United States enforcement programs for
7 bringing all Mexican motor carriers and drivers into
8 compliance with United States laws. Therefore, the
9 opening of United States border States and eventu-
10 ally all States to Mexican commercial vehicles, as
11 scheduled under the NAFTA, poses a serious threat
12 to highway safety in the United States.

13 (8) ILLEGAL DRUGS.—Rather than safeguard-
14 ing the public welfare, the NAFTA has allowed the
15 increased flow of illegal drugs and controlled sub-
16 stances into the United States from Mexico. More
17 than half of all cocaine and marijuana illegally en-
18 tering the United States now comes through Mexico,
19 with an increasing portion carried by trucks which
20 undergo more limited inspection under the NAFTA.

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

1 of political freedoms and human rights. Yet these
2 objectives are not being fulfilled, especially in Mex-
3 ico, where some citizens continue to experience in-
4 fringements of such rights and freedoms.

5 (10) NAFTA SHOULD NOT BE EXPANDED.—
6 The Congress approved the NAFTA in order to
7 achieve economic, social, and environmental benefits
8 for the people of the United States. Based on cur-
9 rently available information, the goals and objectives
10 of the NAFTA are not being achieved. Therefore,
11 the NAFTA should not be expanded to include any
12 other country.

13 (11) NAFTA TO BE RENEGOTIATED AND BEN-
14 EFITS CERTIFIED.—Based on the experience with
15 the NAFTA since its implementation, it has become
16 evident that further negotiation is required to re-
17 solve fundamental inadequacies within the NAFTA
18 with respect to trade balances, currency differentials,
19 and agricultural provisions. If the NAFTA is to con-
20 tinue, responsible public officials must be able to
21 certify specific measures of economic, social, and en-
22 vironmental progress. Otherwise Congress has no
23 choice but to withdraw its approval of the NAFTA.

1 **SEC. 3. CONDITIONS FOR CONTINUED PARTICIPATION IN**
2 **THE NAFTA.**

3 (a) IN GENERAL.—

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

7 (A) the approval of the NAFTA by the
8 Congress provided for in section 101(a) of the
9 North American Free Trade Agreement Imple-
10 mentation Act shall cease to be effective on Oc-
11 tober 1, 1997, and

12 (B) not later than April 1, 1997, the
13 President shall provide written notice of with-
14 drawal to the Governments of Canada and Mex-
15 ico in accordance with Article 2205 of the
16 NAFTA.

17 (2) CONDITIONS FOR CONTINUING PARTICIPA-
18 TION IN NAFTA.—The conditions described in this
19 paragraph are that before December 31, 1996—

20 (A) the President—

21 (i) renegotiate the terms of the
22 NAFTA in accordance with paragraphs
23 (1), (2), and (3) of subsection (b), and

24 (ii) provide the certification to the
25 Congress described in subsection (b)(9),

1 (B) the Secretary of Labor provide the cer-
2 tification described in subsection (b)(4),

3 (C) the Secretary of Commerce provide the
4 certification described in subsection (b)(5),

5 (D) the Secretary of Agriculture and the
6 Administrator of the Food and Drug Adminis-
7 tration provide the certification described in
8 subsection (b)(6)(A),

9 (E) the Administrator of the Environ-
10 mental Protection Agency submit the certifi-
11 cation and report described in subsection
12 (b)(6)(B),

13 (F) the Secretary of Transportation pro-
14 vide the certification described in subsection
15 (b)(7), and

16 (G) the Attorney General of the United
17 States provide the certification described in
18 subsection (b)(8).

19 (b) AREAS OF RENEGOTIATION AND CERTIFI-
20 CATION.—The areas of renegotiation and certification de-
21 scribed in this subsection are as follows:

22 (1) RENEGOTIATE THE NAFTA TO CORRECT
23 TRADE DEFICITS.—The President is authorized and
24 directed to confer with the Governments of Canada
25 and Mexico and to renegotiate the terms of the

1 NAFTA to provide for implementation of emergency
2 adjustments of tariffs, quotas, and other measures
3 to stabilize the flow of trade among the NAFTA
4 Parties when the United States has an annual defi-
5 cit in trade of goods and services with another
6 NAFTA Party that exceeds 10 percent of United
7 States exports to that Party.

8 (2) RENEGOTIATE THE NAFTA TO CORRECT
9 CURRENCY DISTORTIONS.—The President is author-
10 ized and directed to confer with the Governments of
11 Canada and Mexico and to renegotiate the terms of
12 the NAFTA to provide for the implementation of
13 emergency adjustments of tariffs, quotas, and other
14 measures to mitigate the adverse effects of rapid or
15 substantial changes in exchange rates between the
16 United States dollar and the currency of another
17 NAFTA Party.

18 (3) RENEGOTIATE THE NAFTA TO CORRECT AG-
19 RICULTURAL PROVISIONS.—The President is author-
20 ized and directed to confer with the Governments of
21 Canada and Mexico and to renegotiate the terms of
22 the NAFTA to provide for the implementation of
23 emergency tariffs, quotas, and other measures to
24 bring the levels of wheat, durum wheat, and barley
25 imported from Canada to levels that are comparable

1 to the levels of these products imported during the
2 10-year period before the date the NAFTA entered
3 into force with respect to the United States. The
4 President is further authorized and directed to re-
5 negotiate the NAFTA to establish and strengthen
6 provisions to prevent imports of agricultural com-
7 modities or products from any NAFTA Party (in-
8 cluding woolen apparel products from Canada) that
9 unfairly displace United States production and to
10 provide improved mechanisms for relief for United
11 States producers that are adversely impacted by
12 such imports.

13 (4) CERTIFICATION OF GAINS IN UNITED
14 STATES JOBS AND LIVING STANDARDS.—If the Sec-
15 retary of Labor, after consultation with appropriate
16 government agencies and citizen organizations, de-
17 termines that—

18 (A) the number of jobs resulting from in-
19 creased exports of United States manufactured
20 goods to other NAFTA Parties exceeds the
21 number of jobs lost because of imports of man-
22 ufactured goods from other NAFTA Parties
23 since January 1, 1994, and

1 (B) the purchasing power of wage-earners
2 in the United States has increased since Janu-
3 ary 1, 1994,
4 the Secretary shall so certify to the Congress.

5 (5) CERTIFICATION OF INCREASED DOMESTIC
6 MANUFACTURING.—If the Secretary of Commerce,
7 after consultation with the appropriate government
8 agencies and citizen organizations, determines that
9 the export of United States manufactured goods to
10 the NAFTA Parties exceeds the imports of manufac-
11 tured goods from NAFTA Parties, the Secretary
12 shall so certify to the Congress. In making the de-
13 termination, the Secretary shall not include any
14 goods originating outside the United States that are
15 exported to another NAFTA Party, nor imports
16 from another NAFTA Party that are destined for
17 other countries.

18 (6) CERTIFICATION RELATING TO HEALTH AND
19 ENVIRONMENTAL STANDARDS.—

20 (A) IN GENERAL.—If the Secretary of Ag-
21 riculture and the Administrator of the Food
22 and Drug Administration, after consultation
23 with appropriate government agencies and citi-
24 zen organizations, determine, with respect to
25 imports from NAFTA Parties, that since Janu-

1 ary 1, 1994, there has been a reduced incidence
2 of contaminated and adulterated food, food con-
3 taining additives or pesticide residues exceeding
4 United States standards, or food containing ad-
5 ditives or pesticide residues which cannot be le-
6 gally used in the United States, the Secretary
7 and Administrator shall so certify to the Con-
8 gress. In making this determination, all foods
9 and food products, including fruits, vegetables,
10 grains, oilseeds, and meats, both fresh and
11 processed, shall be reviewed. Special attention
12 shall be given to foods which have had a history
13 of violations.

14 (B) BORDER AREA POLLUTION.—If the
15 Administrator of the Environmental Protection
16 Agency determines that conditions affecting
17 public health in the United States-Mexico bor-
18 der zone have not worsened since January 1,
19 1994, the Administrator shall so certify to the
20 Congress. In addition, the Administrator, in
21 consultation with the Secretariat for the
22 NAFTA Commission on Environmental Co-
23 operation, shall report to the Congress on the
24 outcomes of the Administration's investigations
25 on pollution and health hazards in and around

1 the United States-Mexico border zone since the
2 implementation of the NAFTA. The report
3 shall include—

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

8 (ii) information available from local,
9 State, and Federal health agencies reflect-
10 ing the incidence since January 1, 1990, in
11 and around the border zone of hepatitis,
12 neural stem birth defects, lupus, chronic
13 adolescent diarrhea, tuberculosis, non-
14 neural birth defects, cholera, botulism, and
15 other disorders commonly related to indus-
16 trial pollution, inadequate infrastructures,
17 and hazardous waste; and

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

22 (7) CERTIFICATION RELATING TO HIGHWAY
23 SAFETY.—If the Secretary of Transportation after
24 consultation with State attorneys general, law en-
25 forcement officials, and State highway safety agen-

1 cies, other appropriate government agencies and citi-
2 zen organizations, determines that a comprehensive
3 enforcement system is in place to ensure that every
4 Mexican commercial truck or bus is properly in-
5 spected so that the vehicle and its driver are in com-
6 pliance with United States transportation safety
7 standards before crossing the border into the United
8 States, the Secretary shall so certify to the Con-
9 gress. In making such determination, the Secretary
10 shall review and document the results of border in-
11 spections of Mexican vehicles coming into the United
12 States since January 1, 1994. The Secretary shall
13 further document the procedures that must be com-
14 pleted during inspection to achieve full compliance
15 within such a comprehensive enforcement system.

16 (8) CERTIFICATION RELATING TO ILLEGAL
17 DRUGS.—If the Attorney General of the United
18 States determines, after a review by the Drug En-
19 forcement Administration and consultation with ap-
20 propriate government agencies and citizen organiza-
21 tions, that increased imports from the NAFTA Par-
22 ties are not resulting in an increase in illegal drugs
23 or other controlled substances from Mexico or Can-
24 ada, the Attorney General shall so certify to the
25 Congress. The Attorney General through the Drug

1 Enforcement Administration shall conduct a thor-
2 ough review and report to the Congress regarding
3 the flow of illegal drugs from Mexico and Canada
4 and the relationship of such flow to trade of other
5 commodities and services with the NAFTA Parties.

6 (9) CERTIFICATION RELATING TO DEMOCRACY
7 AND HUMAN FREEDOMS.—If the President, after
8 consultation with appropriate government agencies,
9 international organizations, and citizen organiza-
10 tions, determines that the Government of Mexico—

11 (A) is elected in free and fair elections,

12 (B) protects the rights of its citizens to or-
13 ganize into political parties,

14 (C) protects the rights of its citizens to
15 free speech and the right of the news media to
16 operate without fear of government control or
17 reprisal, and

18 (D) protects the rights of its citizens to as-
19 semble and to organize associations to advance
20 human rights and economic opportunities,

21 the President shall so certify to the Congress.

22 **SEC. 4. CONSULTATION WITH CONGRESS.**

23 The President shall consult regularly with the Con-
24 gress regarding the negotiations described in section 3(b)
25 (1), (2), and (3). The United States Trade Representative

1 shall consult with the appropriate committees of Congress
2 in the development of any technical and conforming
3 amendments that may be required to carry out the provi-
4 sions of this Act.

5 **SEC. 5. NO EXPANSION OF NAFTA.**

6 Until such time as the conditions described in section
7 3(b) are met, it is the sense of the Congress that the Presi-
8 dent should not engage in negotiations to expand the
9 NAFTA to include other countries and that fast-track au-
10 thority should not be renewed with respect to the approval
11 of any such expansion of the NAFTA.

12 **SEC. 6. DEFINITIONS.**

13 As used in this Act:

14 (1) NAFTA.—The term “NAFTA” means the
15 North American Free Trade Agreement entered into
16 between the United States, Canada, and Mexico on
17 December 17, 1992.

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

20 (3) UNITED STATES-MEXICO BORDER ZONE.—
21 The term “United States-Mexico border zone”
22 means the area that comprises the 12-mile zone on
23 the Mexican side of the United States-Mexico border

- 1 and the counties within any State of the United
- 2 States that are contiguous with Mexico.

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