

SECURITIES AND EXCHANGE COMMISSION
AUTHORIZATION ACT OF 1996

MARCH 12, 1996.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce, submitted the
following

R E P O R T

[To accompany H.R. 2972]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 2972) to authorize appropriations for the Securities and Exchange Commission, to reduce the fees collected under the Federal securities laws, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities and Exchange Commission Authorization Act of 1996".

SEC. 2. PURPOSES.

The purposes of this Act are—

- (1) to authorize appropriations for the Securities and Exchange Commission for fiscal year 1997; and
- (2) to reduce over time the rates of fees charged under the Federal securities laws.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 is amended to read as follows:

"SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission \$317,000,000 for fiscal year 1997."

SEC. 4. REGISTRATION FEES.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended to read as follows:

"(b) REGISTRATION FEE.—

"(1) RECOVERY OF COST OF SERVICES.—The Commission shall, in accordance with this subsection, collect registration fees that are designed to recover the costs to the government of the securities registration process, and costs related to such process, including enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.

"(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the sum of the amounts (if any) determined under the rates established by paragraphs (3) and (4). The Commission shall publish in the Federal Register notices of the fee rates applicable under this section for each fiscal year. In no case shall the fee required by this subsection be less than \$200, except that during fiscal year 2002 or any succeeding fiscal year such minimum fee shall be \$182.

"(3) GENERAL REVENUE FEES.—The rate determined under this paragraph is a rate equal to \$200 for each \$1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2002 and any succeeding fiscal year such rate is equal to \$182 for each \$1,000,000 of the maximum aggregate price at which such securities are proposed to be offered. Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as general revenues of the Treasury.

"(4) OFFSETTING COLLECTION FEES.—

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

- "(i) \$103 during fiscal year 1997;
- "(ii) \$70 during fiscal year 1998;
- "(iii) \$38 during fiscal year 1999;
- "(iv) \$17 during fiscal year 2000; and
- "(v) \$0 during fiscal year 2001 or any succeeding fiscal year.

"(B) LIMITATION; DEPOSIT.—Except as provided in subparagraph (C), no amounts shall be collected pursuant to this paragraph (4) for any fiscal year except to the extent provided in advance in appropriations acts. Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

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

SEC. 5. TRANSACTION FEES.

(a) AMENDMENT.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended to read as follows:

“SEC. 31. TRANSACTION FEES.

“(a) RECOVERY OF COST OF SERVICES.—The Commission shall, in accordance with this subsection, collect transaction fees that are designed to recover the costs to the Government of the supervision and regulation of securities markets and securities professionals, and costs related to such supervision and regulation, including enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.

“(b) EXCHANGE-TRADED SECURITIES.—Every national securities exchange shall pay to the Commission a fee at a rate equal to \$33 for each \$1,000,000 of the aggregate dollar amount of sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on such national securities exchange, except that for fiscal year 2002 or any succeeding fiscal year such rate shall be equal to \$25 for each \$1,000,000 of such aggregate dollar amount of sales. Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

“(c) OFF-EXCHANGE-TRADES OF EXCHANGE-REGISTERED SECURITIES.—Every national securities association shall pay to the Commission a fee at a rate equal to \$33 for each \$1,000,000 of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities registered on such an exchange (other than bonds, debentures, and other evidences of indebtedness), except that for fiscal year 2002 or any succeeding fiscal year such rate shall be equal to \$25 for each \$1,000,000 of such aggregate dollar amount of sales. Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

“(d) OFF-EXCHANGE-TRADES OF LAST-SALE-REPORTED SECURITIES.—

“(1) COVERED TRANSACTIONS.—Every national securities association shall pay to the Commission a fee at a rate equal to the dollar amount determined under paragraph (2) for each \$1,000,000 of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities (other than bonds, debentures, and other evidences of indebtedness) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which a fee is paid under subsection (c).

“(2) FEE RATES.—Except as provided in paragraph (4), the dollar amount determined under this paragraph is—

“(A) \$12 for fiscal year 1997;

“(B) \$14 for fiscal year 1998;

“(C) \$17 for fiscal year 1999;

“(D) \$18 for fiscal year 2000;

“(E) \$20 for fiscal year 2001; and

“(F) \$25 for fiscal year 2002 or for any succeeding fiscal year.

“(3) LIMITATION; DEPOSIT OF FEES.—Except as provided in paragraph (4), no amounts shall be collected pursuant to this subsection (d) for any fiscal year beginning before October 1, 2001, except to the extent provided in advance in appropriations Acts. Fees collected during any such fiscal year pursuant to this subsection shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, except that any amounts in excess of the following amounts (and any amount collected for fiscal years beginning on or after October 1, 2001) shall be deposited and credited as general revenues of the Treasury:

“(A) \$20,000,000 for fiscal year 1997;

“(B) \$26,000,000 for fiscal year 1998;

“(C) \$32,000,000 for fiscal year 1999;

“(D) \$32,000,000 for fiscal year 2000;

“(E) \$32,000,000 for fiscal year 2001; and

“(F) \$0 for fiscal year 2002 and any succeeding fiscal year.

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

“(e) DATES FOR PAYMENT OF FEES.—The fees required by subsections (b), (c), and (d) of this section shall be paid—

“(1) on or before March 15, with respect to transactions and sales occurring during the period beginning on the preceding September 1 and ending at the close of the preceding December 31; and

“(2) on or before September 30, with respect to transactions and sales occurring during the period beginning on the preceding January 1 and ending at the close of the preceding August 31.

“(f) EXEMPTIONS.—The Commission, by rule, may exempt any sale of securities or any class of sales of securities from any fee imposed by this section, if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system.

“(g) PUBLICATION.—The Commission shall publish in the Federal Register notices of the fee rates applicable under this section for each fiscal year.”.

(b) EFFECTIVE DATES; TRANSITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to transactions in securities that occur on or after January 1, 1997.

(2) OFF-EXCHANGE TRADES OF LAST SALE REPORTED TRANSACTIONS.—The amendment made by subsection (a) shall apply with respect to transactions described in section 31(d)(1) of the Securities Exchange Act of 1934 (as amended by subsection (a) of this section) that occur on or after September 1, 1996.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect the obligation of national securities exchanges and registered brokers and dealers under section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) as in effect prior to the amendment made by subsection (a) to make the payments required by such section on March 15, 1997.

SEC. 6. TIME FOR PAYMENT.

Section 4(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(e)) is amended by inserting before the period at the end thereof the following: “and the Commission may also specify the time that such fee shall be determined and paid relative to the filing of any statement or document with the Commission”.

SEC. 7. SENSE OF THE CONGRESS CONCERNING FEES.

It is the sense of the Congress that—

(1) the fees authorized by the amendments made by this Act are in lieu of, and not in addition to, any fees that the Securities and Exchange Commission is authorized to impose or collect pursuant to section 9701 of title 31, United States Code; and

(2) in order to maintain the competitiveness of United States securities markets relative to foreign markets, no fee should be assessed on transactions involving portfolios of equity securities taking place at times of day characterized by low volume and during non-traditional trading hours.

PURPOSE AND SUMMARY

The purpose of the legislation is to: (1) provide authorization for funding the Securities and Exchange Commission (SEC); and (2) reduce over time different fees charged by the SEC.

H.R. 2972 takes a new approach to the issue of SEC funding. In lieu of a “self-funding” or “user-fee” system, H.R. 2972 would gradually move the SEC from reliance on increased offsetting fees towards a full appropriation. In addition, registration fees under Section 6(b) of the Securities Act of 1933 would be reduced over a 6-year period, while the application of existing securities transaction fees would be equalized. Finally, in conjunction with the proposed legislation, the SEC has agreed to eliminate certain fees that it collects pursuant to the Independent Offices Appropriations Act of 1952 (IOAA fees), which include a fee of \$250 that must be paid in connection with filings of annual reports and certain periodic filings. In addition, Congress has expressed its willingness for the Commission to eliminate fees assessed on various overnight equity portfolio trading, during non-traditional trading hours. This elimi-

nation could serve to enhance the market share of U. S. securities markets relative to foreign markets.

H.R. 2972 is intended to operate in tandem with the existing Congressional appropriations process. In particular, the gradual decrease of offsetting fees will require coordination between the authorizing committee and the appropriations process to ensure that the SEC is adequately funded with appropriated funds. Moreover, the Commission's authority to collect fees to offset its appropriation must be adopted annually as part of legislation appropriating funds for the Commission.¹ To ensure that the SEC can plan its expenditures in advance during the transitional years when offsetting collections will continue, it is anticipated that the Appropriations Committee will provide the Commission each year with a total fixed appropriation amount that will then be offset and reduced by the offsetting fee collections received by the Commission in the fiscal year.

BACKGROUND AND NEED FOR LEGISLATION

Since fiscal year 1983, the Securities and Exchange Commission has been a net contributor to the U.S. Treasury, collecting increasingly more in fees than is necessary to cover its budget. Until recently, all SEC fees were deposited in the general fund of the Treasury as revenues and the SEC was funded entirely through the annual appropriations process. Beginning in fiscal year 1991, however, due to increased budgetary pressures on discretionary spending, the Committee on Appropriations began providing part of the SEC's annual funding requirements by increasing the rate fees under Section 6(b) of the Securities Act of 1933 and classifying the incremental increase as offsetting collections, *i.e.*, funds available to the agency without further appropriation. Due to these actions, as well as a steadily increasing volume of securities offerings, the aggregate section 6(b) fees collected increased markedly during this period. In fiscal year 1995, for example, the fees collected were more than double the agency funding requirement. Fees assessed by the SEC include, but are not limited to: (1) the 6(b) fee, which applies to all registered securities (and, in 1995, raised approximately 72 percent of SEC revenue); (2) Independent Officers Appropriation Act (IOAA) fees, which, among other things, are assessed for review of annual filings; (3) Section 31 transaction fees on exchange listed stocks, including fees on overnight stock transactions; and (4) merger and tender offer fees.

Various Members of Congress have expressed the concern that increasing SEC fees could constitute a tax on capital formation, due to the fact that the fees collected by the SEC so far outstrip the amounts appropriated to it. In addition, the SEC has argued that a more stable source of agency funding is required so that the agency can better manage its resources, particularly in view of the large growth of the securities markets and industry. In recent years, a number of initiatives have been proposed to address these issues, including legislation that was proposed and passed in the House during the 103rd Congress that would have created a "user-

¹ In the absence of a current year appropriation, the Commission's authority to collect fees as offsetting collections to its appropriation will continue at the rate set in the prior fiscal year.

fee" funding mechanism for the SEC. None of these initiatives were enacted into law. In 1994, concerns involving these issues came to a head, and precipitated a funding crisis for the SEC, with its budget held up during the last days of the session, pending yet another short-term funding solution.

Pursuant to H.R. 2972: (1) different fees charged by the SEC are reduced incrementally over six years by over \$751 million; and (2) over the same period, the SEC is increasingly funded by means of an appropriation, so that at the end of the period, the SEC is fully funded by means of an appropriation and SEC fees approximately cover the cost of running the SEC. These fees will be deposited in the Treasury as general revenue.

Specifically, under H.R. 2972:

The 6(b) fee is reduced in even increments from the current rate of 1/29 of one percent to 1/55 of one percent in 2002. This reduction will save investors over \$616 million over five years;

The Section 31 fee is applied incrementally to transactions on NASDAQ over five years, and then is reduced from its current rate of 1/300 of one percent to 1/400 of one percent in 2002;

IOAA fees will be separately eliminated pursuant to action by the SEC;

Fees on overnight transactions on the New York Stock Exchange shall be eliminated pursuant to action by the SEC. This may enable the exchange to recapture business lost to foreign exchanges that lack such fees;

The total savings to investors by these fee reductions through 2002 is estimated by the SEC to be in excess of \$751 million;

Separately, the Appropriations Subcommittee on Commerce, Justice, State, and Judiciary has agreed to provide an additional incremental appropriation to the SEC annually, to replace that which is lost by the fee reductions in the bill; and

Appendix A is a spreadsheet that details the schedule of reductions in SEC fees and offsetting appropriations from fiscal year 1996 to fiscal year 2002.

COLLECTION OF FILING FEES

Last month, the SEC's Office of Inspector General submitted its audit report on the agency's internal controls related to the collection of filing fees (Collection of Filing Fees, Audit Report No. 225, February 8, 1996). The audit confirmed the SEC's previous assessment that the internal controls "are not materially in conformance with accounting standards" and that "material weaknesses" with respect to separation of duties, audit trails, and access create "a relatively high risk" that "errors and irregularities, including fraud, could occur without being detected." The audit identified additional specific problems and recommended corrective actions. SEC Chairman Levitt testified at the agency's reauthorization hearing that no fraud had been found by the audit and that the SEC was adopting new policies and procedures for collecting filing fees in response to the report. The hearing record is being held open for the submission of a report on those efforts. The Committee intends for these corrective actions to be completed as soon as possible.

HEARINGS

The Subcommittee on Telecommunications and Finance held a hearing on H.R. 2972, the Securities and Exchange Commission Authorization Act of 1996, on February 28, 1996. The Chairman of the Securities and Exchange Commission, Arthur Levitt, testified in support of the legislation.

COMMITTEE CONSIDERATION

On February 28, 1996, the Subcommittee on Telecommunications and Finance met in open markup session and approved H.R. 2972 for Full Committee consideration, without amendment, by a voice vote. On March 6, 1996, the Full Committee met in open markup session and ordered H.R. 2972 reported to the House, as amended, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 2972 reported or in adopting the amendment. The voice votes taken in Committee are as follows:

Bill: H.R. 2972, Securities and Exchange Commission Authorization Act of 1996

Amendment: Amendment by Mr. Fields re: technical amendment concerning the timing for fee payments.

Disposition: Agreed to, by a voice vote.

Motion: Motion by Mr. Bliley to order H.R. 2972, as amended, reported to the House

Disposition: Agreed to, by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee finds that H.R. 2972 would result in increased revenues as reflected in the estimate provided by the Congressional Budget Office and contained in this report.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 11, 1996.

HON. THOMAS J. BLILEY, Jr.,
*Chairman, Committee on Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2972, the Securities and Exchange Commission Authorization Act of 1996.

Enactment of H.R. 2972 would affect receipts; therefore, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
(For June E. O'Neill, Director.)

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2972
2. Bill title: Securities and Exchange Commission Authorization Act of 1996
3. Bill status: As ordered reported by the House Committee on Commerce on March 6, 1996.
4. Bill purpose: H.R. 2972 would authorize the appropriation of \$371 million for fiscal year 1997 for the Securities and Exchange Commission (SEC). The bill would amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to change the levels and types of various registration and transaction fees.

Registration Fees. Under the Securities Act of 1933, the SEC collects fees equal to 1/50 of one percent of the gross amount of securities registered with the commission. These fees are recorded as governmental receipts, or revenues. The 1996 appropriations act (Public Law 104-99) requires the SEC to collect fees totaling 1/29 of one percent of the gross amount of securities registered with the SEC, with the additional amounts above the 1/50 of one percent treated as offsetting collections. Thus, while the portion of the fees up to the statutory rate is recorded on the revenue side of the budget, the additional fees are recorded as offsetting collections and used by the SEC to offset its spending in 1996.

In fiscal years 1997-2000, the bill also would authorize the SEC to increase the registration fee by specified amounts over the statu-

tory rate (1/50 of one percent) and deposit the additional amounts as offsetting collections, if provided in advance in an appropriations act. H.R. 2972 would reduce the statutory rate for registration fees to 1/55 of one percent beginning in fiscal year 2002.

Transaction Fees. Under current law, the SEC collects a certain percentage of the gross aggregate dollar amount of sales of exchange-registered securities. The budget treats these fees as revenues.

H.R. 2972 would reduce the transaction fees assessed on the exchange-registered securities beginning in fiscal year 2002. The bill also would extend the transaction fees to off-exchange trades, which currently include those conducted by the National Association of Security Dealers Automated Quotation (NASDAQ) system. In fiscal years 1997–2001, H.R. 2972 would establish yearly rates for the transaction fees charged for securities traded off-exchange. Each year a portion of these collections—as authorized in the bill and if provided in advance in an appropriations act—would be designated for use as offsetting collections. Collections in excess of this amount would be deposited in the Treasury as revenues.

5. Estimated cost to the Federal Government: Table 1 summarizes the estimated budgetary impact of H.R. 2972 over the 1996–2000 period. In addition to the net SEC spending shown in Table 1, the agency has spending authority from offsetting collections, and the bill would reduce the amount of such collections. Moreover, the bill would affect governmental receipts. Table 2 shows the estimated fee collections under H.R. 2972, as compared to projected fees under current law. The reduction in the amount of fees collected each year would necessitate increasing amounts of discretionary spending for SEC activities, assuming that the commission's total spending does not decrease significantly.

The outlay effects of this bill fall within budget function 370.

TABLE 1. Estimated Budgetary Impact of H.R. 2972

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
SPENDING SUBJECT TO APPROPRIATIONS					
Spending under current law:					
Budget authority ¹	103				
Estimated outlays	102	37			
Proposed changes					
Authorization level		317			
Less: Offsetting collections		–154			
Net authorization		163			
Estimated outlays		122	41		
Spending under H.R. 2972:					
Authorization level ¹	103	163			
Estimated outlays	102	159	41		
REVENUES					
Estimated revenues under current law	372	387	400	416	430
Proposed changes		10	15	22	29
Estimated revenues under H.R. 2972	372	397	415	438	459

¹ The 1996 amount is the annualized level for appropriations provided through March 15 for the programs authorized by the bill.

TABLE 2. Estimated SEC Fee Receipts
 [By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Receipts under current law:							
Revenues	372	387	400	416	430	446	461
Offsetting collections	184	189	193	197	200	203	207
Total fee receipts	556	576	593	613	630	649	668
Proposed changes:							
Revenues		10	15	22	29	40	26
Offsetting collections		-35	-73	-113	-144	-171	-207
Total fee receipts		-25	-58	-91	-115	-131	-181
Fee receipts under H.R. 2972:							
Revenues	372	397	415	438	459	486	487
Offsetting collections	184	154	120	84	56	32	.....
Total fee receipts	556	551	535	522	515	518	487

6. BASIS OF ESTIMATE

Spending Subject to Appropriations

Assuming appropriation of the authorized amount (\$317 million), and collection of the authorized fees (\$154 million), CBO estimates that enacting H.R. 2972 would result in federal outlays of \$163 million over the fiscal years 1997 and 1998. If future appropriation acts authorize the SEC to collect and use fees at the rates specified in H.R. 2972, spending financed by offsetting collections would total about \$446 million through 2001. Because the offsetting collections authorized in the bill would be offset by spending by the agency, no net change in the deficit would result.

Fees

If the SEC continued to collect and use fees at the rate set in the 1996 appropriations act, collections would total \$3.7 billion over the 1997–2002 period. However, the bill would phase out the offsetting collections by 2002. As a result, CBO estimates that the SEC would collect about \$600 million less in fees over the 1997–2002 period.

Although total fee collections would decrease under this bill, the amount of fees classified as revenues would increase. Through fiscal year 2001, H.R. 2972 would have no effect on the portions of the SEC registration and on-exchange transaction fees that are deposited in the Treasury as governmental receipts. Beginning in fiscal year 2002, the decrease in the rates at which these fees are collected would result in a loss of collections totaling about \$20 million annually. In contrast, extending the transaction fees to off-exchange trades would increase revenues beginning in fiscal year 1997. In fiscal year 2002 and beyond, these additional collections from NASDAQ transaction fees would more than offset the decreased collections resulting from reducing the rates charged for the existing registration and transaction fees. CBO estimates that H.R. 2972 would increase governmental receipts by \$76 million over fiscal years 1997–2000.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 2972 would affect receipts by changing fees charged by the SEC. The following table summarizes the estimated pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	(¹)	(¹)	(¹)
Change in receipts	0	10	15

¹ Not applicable.

8. Estimated impact on state, local, and tribal governments: CBO estimates that this bill would impose no intergovernmental mandates as defined by Public Law 104-4, and would have no direct budgetary impact on state, local, or tribal governments.

9. Estimated impact on the private sector: This bill would mandate new transaction fees on off-exchange-trades of last-sale-reported securities and would reduce registration fees to issuing corporations and some transaction fees to other market participants. The direct cost to the private sector of the new transaction fees would not exceed \$100 million in 1997 or in any of the four following years. Direct costs would fall primarily on trades executed through the NASDAQ system. The reduced registration and transaction fees would result in direct savings to other market participants, which would more than offset those costs. Such savings would accrue to issuing corporations that now pay the registration fee and to those that execute trades through other than the NASDAQ system, which would pay a lower transaction fee starting in 2002. Thus, CBO estimates that H.R. 2972 would result in an aggregate net direct savings to the private sector of about \$600 million over the 1997-2002 period.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Rachel Forward and Stephanie Weiner. State and Local Government Mandates Estimate: Pepper Santalucia. Private Sector Mandates Estimates: Jean Wooster.

12. Estimate approved by: Robert A. Sunshine, (For Paul N. Van de Water, Assistant Director for Budget Analysis).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the bill would have no inflationary impact.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

SECTION 1. SHORT TITLE

This section provides that the short title of the bill is the “Securities and Exchange Commission Authorization Act of 1996.”

SECTION 2. PURPOSE

The purposes of the bill are (1) to authorize appropriations for the SEC for fiscal year 1997, and (2) to reduce over time the rates of fees charged under the Federal securities laws.

SECTION 3. AUTHORIZATION OF APPROPRIATIONS

This section amends Section 35 of the Securities Exchange Act of 1934 (“Exchange Act”) to authorize appropriations to carry out the functions, powers, and duties of the SEC in the amount of \$317 million during fiscal year 1997.

SECTION 4. REGISTRATION FEES

This section amends Section 6(b) of the Securities Act of 1933 (“Securities Act”) to gradually decrease the rate of securities registration fees collected under Section 6(b) of the Securities Act (“Section 6(b) fees”). Although the existing statutory rate of fees collected under Section 6(b) is 1/50 of one percent; in fact, pursuant to appropriations action, the SEC has been collecting Section 6(b) fees at higher rates since 1990, which are used as offsets to the SEC’s appropriation. In fiscal year 1995 and to date in fiscal year 1996, the SEC is collecting Section 6(b) fees at a rate of 1/29th of one percent pursuant to P.L. 103–352 (10/10/94), P.L. 103–335 (9/30/94), P.L. 104–31 (9/30/95), P.L. 104–54 (11/19/95), P.L. 104–56 (11/20/95), P.L. 104–94 (1/6/96) and P.L. 104–99 (1/26/96).

The bill anticipates that in fiscal year 1997 and subsequent fiscal years the Section 6(b) fee rate will decline so that it will actually be lower than the current statutory rate of 1/50th of one percent by fiscal year 2002. Likewise, the use of increased Section 6(b) fees as “offsetting collections” to the SEC’s appropriation will also decrease over time. After fiscal year 2001, the bill provides that all fees collected under Section 6(b) will be deposited and credited as general revenues of the U.S. Treasury.

The section references in the following analysis of Section 6(b) are to provisions in the amended section of the Securities Act, and not to sections of the bill.

Subsection 6(b)(1)—Recovery of cost of services

This provision restates the SEC’s existing authority to collect securities registration fees, but specifies that such collections shall occur in the manner set forth in subsection (b). This paragraph also states that fees collected under Section 6(b) are designed generally to approximate the costs to the government of the securities registration process, and costs related to such process.

Section 6(b)(2)—Fee payment required

This provision provides that, at the time of filing a registration statement, the applicant shall pay to the Commission a fee equal to the sum of the rates established by paragraphs (b)(3) and (b)(4).

For purposes of compliance with the Congressional Budget Act of 1974, as amended, and other Federal budget requirements, Section 6(b) fees will be divided into two parts. One portion of the fee (which represents the existing statutory Section 6(b) fee rate of 1/50th of one percent) will be directed towards the general fund of the U.S. Treasury (*i.e.*, the general revenue fee specified in (b)(3)). The other portion of the fee, which will be collected only until fiscal year 2000, will be permitted to be designated as an “offsetting collection” to the SEC’s appropriation, *i.e.*, the offsetting collection fee specified in (b)(4).

To eliminate any potential confusion regarding the appropriate fee rate for any fiscal year, the subsection provides that the Commission shall publish the applicable rate in the Federal Register. This notice should be a ministerial function for the SEC. The SEC, however, may round applicable rates to avoid computations that are unnecessarily complex. Such publication would not require notice and comment rulemaking proceedings under the Administrative Procedure Act.

Finally, this paragraph provides that, despite the amount of any securities offering to be registered, there is a minimum filing fee. Under current law, this fee is \$100. The bill would establish a \$200 minimum fee until fiscal year 2001. Beginning in fiscal year 2002, the minimum fee rate would decline to \$182.

Subsection 6(b)(3)—General revenue fees

This provision specifies that a certain portion of the Section 6(b) fees collected by the Commission will be deposited and credited as general revenues in the U.S. Treasury. It also establishes the applicable fee rate for such general revenue fees. Specifically, paragraph (b)(3) provides that, until fiscal year 2001, the general revenue fee rate for securities registration filings will be the “rate equal to \$200 for each “\$1,000,000” of the maximum aggregate price at which securities are to be offered (this restates the existing statutory fee rate of 1/50 of one percent in dollar terms). Beginning in fiscal year 2002, the base rate will be lowered to the rate equal to \$182 for each \$1,000,000 (1/55 of one percent) of the maximum aggregate price of the securities offering. Notably, beginning in 2001, all the fees collected under Section 6(b) will be directed to the U.S. Treasury.

Subsection 6(b)(4)—Offsetting collection fees

This provision specifies that, until fiscal year 2000, a portion of the Section 6(b) fees collected by the SEC will be permitted to be used as an “offsetting collection” to the SEC’s appropriation. It also specifies the applicable fee rate for such offsetting collection fees. Such fee rates will decline over a five year period beginning in fiscal year 1997 and ending in fiscal year 2001. This provision anticipates that, in lieu of offsetting collection fees, the Commission will receive additional increasing amounts of general appropriation funding as the specified offsetting collection fee rates decline. The

anticipated changes in fee receipts are projected in Appendix A hereto.

The provision specifies that offsetting collection fees may only be collected to the extent provided in advance in appropriations acts, except in circumstances in which an appropriation has lapsed. In such circumstances, the Commission shall continue to collect fees as offsetting collections at the rate in effect during the previous fiscal year. This provision is designed to prevent unpredictable oscillations in the rate of fees charged by the SEC. As a general matter, however, this provision should ensure close coordination between the authorizing committee and the appropriations process as the SEC's budget is considered each year. After fiscal year 2000, the use of offsetting collections under Section 6(b) to fund the SEC's appropriation will not be authorized by this bill.

SECTION 5. TRANSACTION FEES

Section (a) of this section amends Section 31 of the Exchange Act, the provision that currently imposes fees on transactions in shares that are registered on national securities exchanges.

At present, Section 31 requires that every national securities exchange pay an annual fee to the Commission based on the aggregate dollar amount of the sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on that exchange. In addition, Section 31 requires payment of a similar fee from broker-dealers for over-the-counter ("OTC") transactions in exchange-traded stocks. The section also gives the Commission authority to exempt any sale of securities or any class of sales of securities from imposition of the exchange fee.

Among other things, the bill would amend Section 31 to extend transaction fees to OTC transactions that are subject to last sale reporting. Thus, for example, transactions traded on NASDAQ would be subject to such fees. The bill's intent in amending Section 31 to encompass transactions in OTC securities that are subject to last sale reporting is to provide more equal treatment of these organized markets, which also are overseen by the Commission. As OTC markets develop systems that facilitate national trading, the need for the Commission to oversee these markets also grows, and the original justification for excluding them from transaction fees is undercut.

In addition to equalizing the application of Section 31 fees, the section would also permit fees on OTC transactions to be phased in over a five year period. Moreover, the newly-imposed OTC transaction fees would be permitted to be used as offsetting collections to fund the Commission's appropriation until fiscal year 2001. Beginning in fiscal year 2002, all OTC transaction fees would be directed for deposit in the general fund of the U.S. Treasury.

The section references in the following analysis of Section 31 are to provisions in the amended section of the Exchange Act and not to sections of the bill.

Subsection 31(a)—Recovery of costs of services

This provision restates the SEC's existing authority to collect securities registration fees, but specifies that such collections shall occur in the manner set forth in revised Section 31. This subsection

also states that fees collected under Section 31 are designed generally to approximate the costs to the government of the supervision and regulation of securities markets and securities professionals, and costs related to such supervision and regulation.

Subsection 31(b)—Exchange-traded securities

This subsection requires every national securities exchange to pay to the Commission a fee equal to \$33 for each \$1,000,000 of the aggregate dollar amount of sales of securities (excluding bonds, debentures and other evidences of indebtedness) transacted on such exchanges. The fee rate of \$33 for each \$1,000,000 restates the existing statutory fee rate of 1/300th of one percent in dollar terms. Beginning in fiscal year 2002, the fee rate will be lowered to \$25 for each \$1,000,000 of such aggregate dollar amount of sales (1/400 of one percent). This subsection continues the current treatment of such fees as general revenues, and expressly provides that fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

Subsection 31(c) Off-exchange-traded exchange-registered securities

This subsection requires every national securities association to pay to the Commission a fee at a rate equal to \$33 for each \$1,000,000 (or 1/300 of one percent) of the aggregate dollar amount of sales of securities (excluding bonds, debentures, and other evidences of indebtedness) transacted by or through a member of such association, otherwise than on a national securities exchange. Beginning in fiscal year 2002, the fee rate will be lowered to \$25 for each \$1,000,000 of such aggregate dollar amount of sales (1/400 of one percent). Fees collected pursuant to this subsection must be deposited and collected as general revenue of the U.S. Treasury.

This subsection would essentially transfer the existing payment obligations of broker-dealers with respect to Section 31 fees that are due on OTC transactions of exchange-registered securities. Currently, broker-dealers pay such fees directly to the Commission. Under the bill, these fees are to be collected and paid to the Commission by a national securities association. As a practical matter, the only currently-registered national securities association, the National Association of Securities Dealers, Inc. ("NASD"), would be the collection agent for such fees.

Subsection 31(d)—Off-exchange trades of last-sale-reported securities

This provision would extend Section 31 transaction fees to sales of OTC securities subject to prompt last sale reporting. Such fees would be phased in gradually over a five-year period, and authorized for use as offsetting collections to the Commission's appropriation until fiscal year 2001. The provision excludes any sales for which a fee is paid under subsection (c).

Paragraph (1) provides that national securities associations shall pay to the SEC securities transaction fees based on the aggregate dollar amount of sales transactions by their members in securities (excluding bonds, debentures, and other evidences of indebtedness) in the OTC market that are subject to prompt last sale reporting.

The NASD, as the only currently-registered national securities association, would be the collection agent for such fees.

The phrase "securities * * * covered by prompt last sales reporting pursuant to the rules of the Commission or a registered national securities association" would include NASDAQ securities. The provision includes both securities designated as qualified for trading in a national market system pursuant to section 11A(a)(2) of the Exchange Act (NASDAQ/NMS securities), as well as regular NASDAQ, or NASDAQ Small Cap, securities. In addition, this language would extend the application of Section 31 to securities traded on the NASD's Bulletin Board system, as real-time transaction reporting for these transactions provides the means to verify the amount of sales upon which fees would be assessed. Finally, as real-time reporting is extended, additional securities could become subject to transaction fees.

Under paragraph (2), fees on OTC transactions subject to last-sale reporting would be phased in over a five-year period. Beginning in 1997, the fee rate would be the rate equal to \$12 for each \$1,000,000 of the aggregate dollar amount of sales transacted; the fee rate would increase gradually until it corresponded with the existing statutory rate of Section 31 fees in fiscal year 2001.

Paragraph (3) provides that, from fiscal year 1997 to fiscal year 2001, certain amounts generated from the newly-imposed fees on OTC transactions may be used as offsetting collections to the SEC's appropriations. The provision, however, specifies that offsetting collection fees may only be collected to the extent provided in advance in appropriations acts, unless there is a lapse in appropriations. This provision requires close coordination between the authorizing committee and the appropriations process as the SEC's budget is considered each year. After fiscal year 2001, the use of Section 31 fees as offsetting collections to fund the SEC's appropriation will not be authorized by this bill.

Paragraph (4) provides that in circumstances in which an appropriation has lapsed, the Commission shall continue to collect fees as offsetting collections at the rate in effect during the previous fiscal year. This provision is designed to prevent unpredictable oscillations in the rate of fees charged by the SEC.

Subsection 31(e)—Dates for payment of fees

Under existing law, Section 31(e) requires payments of Section 31 fees to the Commission annually, on March 15 of each year. In lieu of a single annual payment, the bill contemplates that all existing and new transaction fees will be paid to the Commission by the exchanges and the NASD, as the only registered national securities association, on a semi-annual basis. Specifically, all fees for transactions occurring between September 1 and December 31 would be due on or before the following March 15, while fees for transactions occurring between January 1 and August 31 would be due to the Commission on or before the following September 30.

Subsection 31(f)—Exemptions

This subsection restates the Commission's existing authority to, by rule, exempt any sale of securities or class of sales of securities from any fee imposed by Section 31 of the Exchange Act. The Com-

mission may grant such exemption if it is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system. Upon enactment of this bill, it is anticipated that the Commission will review Rule 31-1 under the Exchange Act to, among other things, rescind the existing exemption contained therein for transactions in certain NASDAQ securities.

Subsection 31(g)—Publication

To eliminate any potential confusion regarding the appropriate fee rate for any fiscal year, the subsection provides that the Commission shall publish the applicable rates in the Federal Register. This notice should be a ministerial function for the SEC. The SEC may round applicable rates to avoid unnecessarily complex calculations. Such notice publication would not require notice and comment rulemaking proceedings under the Administrative Procedure Act.

Section (b) of Section 5 contains effective dates and transition rules for the revisions made to Section 31 by section (a) above.

Section (b)(1) provides that, in general, the amendments made to Section 31 by this bill shall apply with respect to transactions in securities that occur on or after January 1, 1997.

Section (b)(2) provides a special effective date for the new fee that would apply to OTC transactions in last sale reported securities. Payment obligations with respect to such fees would apply to transactions occurring on or after September 1, 1996.

Finally, section (b)(3) provides that this bill does not extinguish any existing payment obligations that arise under Section 31 as it is currently in effect. Thus, payment obligations of national securities exchanges, and brokers and dealers, to make payments due on March 15, 1997, with respect to transactions covered by Section 31 prior to the enactment of this bill remain in effect.

SECTION 6. TIME FOR PAYMENT

This section adds a new clause to Section 4(e) of the Exchange Act giving the SEC discretion to determine when the amount of a required fee will be determined and when it will be paid relative to the filing of any statement or document with the SEC. For example, under a system of company or shelf registration, for purposes of sections 6(b) and 6(c) of the Securities Act, this section would provide the SEC with authority to allow the filing of a registration statement registering an indefinite quantity of securities, or a specified quantity of securities with additional quantities of securities registered pursuant to post-effective amendments, and to allow the determination and payment of the required fee to be made at the time that the quantity of securities to be offered was determined by the issuer or added pursuant to a post-effective amendment.

In addition, this section is intended to permit the SEC to accept the filing of registration statements or other documents which are not preceded by or accompanied by the required fee, instead permitting the fee to be paid after filing. The Committee intends that, in the event that the SEC permits such a filing, procedures should be followed to collect the required fees subsequent to filing. In the

event such fees are not paid, they should be subject of appropriate debt collection procedures.

SECTION 7. SENSE OF THE CONGRESS CONCERNING DISCRETIONARY FEES

This provision expresses the sense of the Congress that the fees authorized by this Act, are in lieu of, and not in addition to, any fees that the SEC currently imposes under the Independent Offices Appropriations Act of 1952 (section 9701 of Title 31, United States Code). Such miscellaneous fees include a fee of \$250 that must be paid in connection with filings of annual reports and certain periodic filings. In addition, the provision expresses the sense of Congress that no fees should be assessed on equity portfolio trades taking place at times of day characterized by low volume during non-traditional trading hours.

AGENCY VIEWS

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, February 27, 1996.

Hon. THOMAS J. BLILEY, Jr.,
*Chairman, Committee on Commerce,
Rayburn House Office Building, Washington, DC.*

DEAR TOM: I write to offer my support and endorsement of the "Securities and Exchange Commission Authorization Act of 1996." Thank you for your strong leadership and the support of Chairmen Fields, Rogers and Archer in designing a creative approach to the SEC's funding both on a short-term and long term basis.

Your proposed resolution to the perennial problem of SEC funding and fees is perhaps the most important aspect of the "Securities and Exchange Commission Authorization Act of 1996." The funding mechanism for the SEC would reduce Section 6(b) fees over a five-year period and expand existing securities transaction fees to the over-the-counter market, recognizing that the Commission also oversees those markets. Under your proposal, the SEC also has agreed to act to eliminate certain fees that it collects pursuant to the Independent Offices Appropriation Act of 1952 ("IOAA fees"), which include a fee of \$250 that must be paid in connection with filings of annual reports and certain periodic filings. Finally, the SEC would gradually move from reliance on increased offsetting fees towards full appropriation status. The Commission believes that adoption of this approach provides a long-term solution to the SEC's funding problems.

Finally, the premier aspect of the SEC Authorization Bill is that it enables us to maintain our vigorous programs to both protect investors and ensure that the capital formation system in the U.S. markets is efficient. This legislation will help the agency avoid the funding problems it has had in the past, and enable the SEC to be funded entirely through appropriations by the year 2001.

David Cavicke has been extremely helpful in this important initiative. We look forward to working with you and your staff toward finally passage of this authorization legislation.

Sincerely,

ARTHUR LEVITT, *Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECURITIES EXCHANGE ACT OF 1934

* * * * *

TITLE I—REGULATION OF SECURITIES EXCHANGES

* * * * *

SECURITIES AND EXCHANGE COMMISSION

SEC. 4. (a) * * *

* * * * *

(e) Notwithstanding any other provision of law, whenever any fee is required to be paid to the Commission pursuant to any provision of the securities laws or any other law, the Commission may provide by rule that such fee shall be paid in a manner other than in cash and the Commission may also specify the time that such fee shall be determined and paid relative to the filing of any statement or document with the Commission.

* * * * *

TRANSACTION FEES

[SEC. 31. Every national securities exchange shall pay to the Commission on or before March 15 of each calendar year a fee in an amount equal to one three-hundredths of 1 per centum of the aggregate dollar amount of the sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on such national securities exchange during each preceding calendar year to which this section applies. Every registered broker and dealer shall pay to the Commission on or before March 15 of each calendar year a fee in an amount equal to one three-hundredths of 1 per centum of the aggregate dollar amount of the sales of securities registered on a national securities exchange (other than bonds, debentures, and other evidences of indebtedness) transacted by such broker or dealer otherwise than on such an exchange during each preceding calendar year: *Provided, however,* That no payment shall be required for any calendar year in which such payment would be less than one hundred dollars. The Commission, by rule, may exempt any sale of securities or any class of sales of securities from any fee imposed by this section, if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system.]

SEC. 31. TRANSACTION FEES.

(a) *RECOVERY OF COST OF SERVICES.*—The Commission shall, in accordance with this subsection, collect transaction fees that are de-

signed to recover the costs to the Government of the supervision and regulation of securities markets and securities professionals, and costs related to such supervision and regulation, including enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.

(b) *EXCHANGE-TRADED SECURITIES*.—Every national securities exchange shall pay to the Commission a fee at a rate equal to \$33 for each \$1,000,000 of the aggregate dollar amount of sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on such national securities exchange, except that for fiscal year 2002 or any succeeding fiscal year such rate shall be equal to \$25 for each \$1,000,000 of such aggregate dollar amount of sales. Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

(c) *OFF-EXCHANGE-TRADES OF EXCHANGE-REGISTERED SECURITIES*.—Every national securities association shall pay to the Commission a fee at a rate equal to \$33 for each \$1,000,000 of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities registered on such an exchange (other than bonds, debentures, and other evidences of indebtedness), except that for fiscal year 2002 or any succeeding fiscal year such rate shall be equal to \$25 for each \$1,000,000 of such aggregate dollar amount of sales. Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

(d) *OFF-EXCHANGE-TRADES OF LAST-SALE-REPORTED SECURITIES*.—

(1) *COVERED TRANSACTIONS*.—Every national securities association shall pay to the Commission a fee at a rate equal to the dollar amount determined under paragraph (2) for each \$1,000,000 of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities (other than bonds, debentures, and other evidences of indebtedness) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which a fee is paid under subsection (c).

(2) *FEE RATES*.—Except as provided in paragraph (4), the dollar amount determined under this paragraph is—

(A) \$12 for fiscal year 1997;

(B) \$14 for fiscal year 1998;

(C) \$17 for fiscal year 1999;

(D) \$18 for fiscal year 2000;

(E) \$20 for fiscal year 2001; and

(F) \$25 for fiscal year 2002 or for any succeeding fiscal year.

(3) *LIMITATION; DEPOSIT OF FEES*.—Except as provided in paragraph (4), no amounts shall be collected pursuant to this subsection (d) for any fiscal year beginning before October 1, 2001, except to the extent provided in advance in appropriations Acts. Fees collected during any such fiscal year pursuant to this subsection shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, except that any amounts in excess of the following

amounts (and any amount collected for fiscal years beginning on or after October 1, 2001) shall be deposited and credited as general revenues of the Treasury:

- (A) \$20,000,000 for fiscal year 1997;
- (B) \$26,000,000 for fiscal year 1998;
- (C) \$32,000,000 for fiscal year 1999;
- (D) \$32,000,000 for fiscal year 2000;
- (E) \$32,000,000 for fiscal year 2001; and
- (F) \$0 for fiscal year 2002 and any succeeding fiscal year.

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

(e) *DATES FOR PAYMENT OF FEES.*—The fees required by subsections (b), (c), and (d) of this section shall be paid—

(1) on or before March 15, with respect to transactions and sales occurring during the period beginning on the preceding September 1 and ending at the close of the preceding December 31; and

(2) on or before September 30, with respect to transactions and sales occurring during the period beginning on the preceding January 1 and ending at the close of the preceding August 31.

(f) *EXEMPTIONS.*—The Commission, by rule, may exempt any sale of securities or any class of sales of securities from any fee imposed by this section, if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system.

(g) *PUBLICATION.*—The Commission shall publish in the Federal Register notices of the fee rates applicable under this section for each fiscal year.

* * * * *

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 35. There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission—

[(1) \$178,023,000 for the fiscal year ending September 30, 1990; and

[(2) \$212,609,000 for the fiscal year ending September 30, 1991.]

SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission \$317,000,000 for fiscal year 1997.

* * * * *

SECTION 6 OF THE SECURITIES ACT OF 1933

TITLE I

* * * * *

REGISTRATION OF SECURITIES AND SIGNING OF REGISTRATION
STATEMENT

SEC. 6. (a) * * *

[(b) At the time of filing a registration statement the applicant shall pay to the Commission a fee of one-fiftieth of 1 per centum of the maximum aggregate price at which such securities are proposed to be offered, but in no case shall such fee be less than \$100.]

(b) REGISTRATION FEE.—

(1) RECOVERY OF COST OF SERVICES.—*The Commission shall, in accordance with this subsection, collect registration fees that are designed to recover the costs to the government of the securities registration process, and costs related to such process, including enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.*

(2) FEE PAYMENT REQUIRED.—*At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the sum of the amounts (if any) determined under the rates established by paragraphs (3) and (4). The Commission shall publish in the Federal Register notices of the fee rates applicable under this section for each fiscal year. In no case shall the fee required by this subsection be less than \$200, except that during fiscal year 2002 or any succeeding fiscal year such minimum fee shall be \$182.*

(3) GENERAL REVENUE FEES.—*The rate determined under this paragraph is a rate equal to \$200 for each \$1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2002 and any succeeding fiscal year such rate is equal to \$182 for each \$1,000,000 of the maximum aggregate price at which such securities are proposed to be offered. Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as general revenues of the Treasury.*

(4) OFFSETTING COLLECTION FEES.—

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

- (i) \$103 during fiscal year 1997;
- (ii) \$70 during fiscal year 1998;
- (iii) \$38 during fiscal year 1999;
- (iv) \$17 during fiscal year 2000; and
- (v) \$0 during fiscal year 2001 or any succeeding fiscal year.

(B) LIMITATION; DEPOSIT.—*Except as provided in subparagraph (C), no amounts shall be collected pursuant to*

this paragraph (4) for any fiscal year except to the extent provided in advance in appropriations acts. Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

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

* * * * *

A P P E N D I X
ESTIMATE OF OFFSETTING COLLECTIONS FROM A DECLINING FEE RATE UNDER SECTION 6(b) OF THE 1933 SECURITIES ACT AND THE EXPANSION OF SECTION 31 OF THE 1934 SECURITIES EXCHANGE ACT TO THE NASDAQ

	Fiscal year 1996		Fiscal year 1997		Fiscal year 1998		Fiscal year 1999		Fiscal year 2000		Fiscal year 2001		Fiscal year 2002	
	\$M	6(b) rate	\$M	6(b) rate	\$M	6(b) rate	\$M	6(b) rate	\$M	6(b) rate	\$M	6(b) rate	\$M	6(b) rate
Offsetting collections:														
Section 6(b) of 1933 Act	\$184	1/29 of 1	\$134	1/33 of 1	\$93	1/37 of 1	\$52	1/42 of 1	\$24	1/46 of 1	\$0	1/50 of 1	\$0	1/55 of 1
		per-cent.		per-cent.		per-cent.		per-cent.		per-cent.		per-cent.		per-cent.
Section 31 of 1934 Act	\$0	.....	\$20	1/800 of 1	\$26	1/700 of 1	\$32	1/600 of 1	\$32	1/550 of 1	\$32	1/500 of 1	\$0	1/400 of 1
		.....		per-cent.		per-cent.		per-cent.		per-cent.		per-cent.		per-cent.
Total offsetting collections	\$184	.....	\$154	.....	\$119	.....	\$84	.....	\$56	.....	\$32	.....	\$0	.....
Change from prior year—Reductions in offsetting collections to be covered by general fund appropriations.			(\$30)		(\$35)		(\$35)		(\$27)		(\$25)		(\$32)	

Notes:
The amount of offsetting collections in each year is based on revenue estimated to be received from a decrease in the rate of fees under Section 6(b) of the Securities Act of 1933 and from an expansion of Section 31 of the Securities Exchange Act of 1934 to the NASDAQ.
This chart assumes that all FY 2002 fee revenue will be deposited as general revenue into the U.S. Treasury.
While the rate of fees under Section 31 of the 1934 Securities Exchange Act continue to increase in each fiscal year to a maximum rate of 1/400 of 1 percent, the amount of using offsetting collections available to fund the SEC in FYs 2000 and 2001 are capped at the FY 1999 amount of \$32 million.
Due to timing concerns in the first year of implementation, Section 31 fee revenue in fiscal 1997 is based on eleven months of NASDAQ transactions. All subsequent years are on a twelve month basis.