To develop a system of self-governance for large corporations that increases the participation of shareholders and directors in company decisionmaking, that better informs stockholders and affected communities of the economic and social impact of corporate activities, that better protects the rights of employees, that establishes public policy responsibilities of directors, officers, and managing agents of corporations, and that provides penalties for violations of those responsibilities.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 1980

By Mr. Rosenthal (for himself, Mr. Thompson, Mr. Weiss, Mr. Kastenmeier, Mr. Conyers, Mr. Rangel, Mr. Lowey, Mr. Clay, and Mr. Edwards of California) introduced the following bill; which was referred jointly to the Committees on Interstate and Foreign Commerce, the Judiciary, and Education and Labor

A BILL

To develop a system of self-governance for large corporations that increases the participation of shareholders and directors in company decisionmaking, that better informs stockholders and affected communities of the economic and social impact of corporate activities, that better protects the rights of employees, that establishes public policy responsibilities of directors, officers, and managing agents of corporations, and that provides penalties for violations of those responsibilities.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,
That this Act may be cited as the “Corporate Democracy
Act of 1980”.

FINDINGS

Sec. 2. The Congress finds that—

(1) the system of State chartering of national and
multinational corporations is archaic and totally ineffec-
tual as a mechanism for accomplishing the purpose of
effective corporate governance;

(2) shareholders and directors are generally ex-
cluded from the meaningful participation in the deci-
sionmaking processes of large corporations;

(3) while the economies of local communities can
be severely damaged by the decisions of large corpora-
tions to close or relocate major plants or production
facilities, these communities are too often denied ade-
quate notice of, compensation for and opportunity to
affect such decisions;

(4) employees of many large companies can now
legally be dismissed without just cause;

(5) the traditional criminal and civil law sanctions
applicable to corporate misdeeds have not been effec-
tive in deterring abuses by large companies or their di-
rectors, officers, and managing agents; and
(6) the limited nature and extent of information on
corporate operations and activities, currently required
to be reported to shareholders, employees, government
agencies, local communities and the general public,
prevent effective consideration, by these entities, of a
corporation’s impact on our society and its institutions.

TITLE I—DIRECTORS AND SHAREHOLDERS

COMPOSITION OF BOARDS OF DIRECTORS

Sec. 101. (a) For purposes of this Act an independent
director is an individual member of a board of directors
who—

(1) is not, and was not within the five years pre-
ceding his election as director an officer or managing
agent of the corporation or any of its parents, subsid-
iaries, or affiliates;

(2) is not the parent, spouse, child, spouse of a
child, uncle, aunt, or first cousin of a director, officer,
or managing agent of the corporation;

(3) is not a lawyer who, or a member of a law
firm which, receives or in the past three years has re-
ceived a fee from the corporation:

(4) is not a director, partner, officer, or employee
of an investment or commercial banking company
which in the past three years has performed any serv-
ices for the corporation; and
(5) is not and has not been an officer, director, employee, or more than 1 per centum equity owner of a supplier or customer who received, during any one of the three preceding calendar years, more than 1 per centum of its consolidated gross revenues or more than $5,000,000, whichever is less, from a corporation subject to this Act.

(b) A majority of the board of directors of any corporation subject to this Act shall be independent directors.

(c)(1) No individual may serve as a director or officer of more than two corporations subject to this Act.

(2) The Clayton Act is amended by inserting immediately after section 8 the following new section:

"Sec. 8A. Any person who is a director or officer of any corporation subject to the Corporate Democracy Act of 1980 may not at the same time be a director or officer of more than two corporations subject to that Act. Any person who violates this section is liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is in violation of this section."

DIRECTOR'S DUTY OF LOYALTY

Sec. 102. (a) Each director of a corporation subject to this Act shall owe that corporation a duty of loyalty equivalent to that which a reasonably prudent person would exercise under similar conditions in personal business affairs. In
every situation in which a director’s personal interest conflicts with the interests of the corporation, the duty of loyalty to the corporation shall prevail over the personal interest.

(b) A director of a corporation shall not derive personal profit or advantage by reason of his position which is not enjoyed in common by all stockholders, and shall be jointly and severally liable to the corporation for the benefit of its creditors or shareholders, to the extent of any injury suffered by such persons, respectively, as a result of such action.

(c) Whenever a director of a corporation has a personal interest in a contract or transaction involving that corporation, such director shall disclose in writing the extent and nature of such personal interest to the board of directors prior to any board action on that matter.

(d) Upon being informed of a personal interest under subsection (c), the board of directors of a corporation subject to this Act shall ascertain that the terms of the proposed transaction or contract are as favorable to the corporation as those available from any other party.

(e) A board member or officer who has disclosed a personal interest under subsection (c) shall not be counted in any vote of the board of directors or of any committee of the board of directors, pertaining to such matters.
DIRECTOR'S DUTY OF CARE

SEC. 103. (a) Each director of a corporation subject to this Act shall owe that company a duty of care to perform the duties of such position in good faith, in a manner such individual reasonably believes to be in the best interests of the corporation and with such care as ordinarily prudent individuals in like positions would exercise under similar circumstances. In performing such duties, such a director shall be entitled to rely on information, reports, statements prepared by officers, employees, counsel, accountants, or board committees whom the director reasonably believes to be reliable and competent. Such a director shall not be considered to be acting in good faith if such individual relies on such information, reports, or statements with knowledge that such reliance is unwarranted. To ensure that directors can perform these duties, any such director shall be entitled to obtain from any present director, officer, or managing agent of an affected company, information or access to records as may reasonably be requested.

(b) Each director of a corporation subject to this Act who votes for or assents to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this Act or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the
1 amount of such dividend which is paid or the value of such
2 assets which are distributed in excess of the amount of such
3 dividend or distribution which could have been paid or dis-
4 tributed without a violation of the provisions of this Act or
5 the restrictions in the articles of incorporation.
6 (c) Each director of a corporation subject to this Act
7 who votes for or assents to any distribution of assets of such
8 corporation to its shareholders during the liquidation of the
9 corporation without the payment and discharge of, or making
10 adequate provision for, all known debts, obligations, and li-
11 abilities of the corporation shall be jointly and severally liable
12 to the corporation for the value of such assets which are dis-
13 tributed, to the extent that such debts, obligations, and liabil-
14 ities of the corporation are not thereafter paid and dis-
15 charged.
16 (d) A director of a corporation subject to this Act who is
17 present at a meeting of its board of directors at which action
18 on any corporate matter is taken shall be presumed to have
19 assented to the action taken unless his dissent shall be en-
20 tered in the minutes of the meeting or unless he shall file his
21 written dissent to such action with the secretary of the meet-
22 ing before the adjournment thereof or shall forward such dis-
23 sent by registered mail to the secretary of the corporation
24 within five business days after the adjournment of the meet-
ing. Such right to dissent shall not apply to a director who voted in favor or such action.

(e) A director of a corporation subject to this Act shall not be liable under subsection (b) or (c) of this section if he relied and acted in good faith upon financial statements of the corporation represented to him to be correct by the president or the officer of such corporation having charge of its books of account, or stated in a written report by an independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of such corporation, nor shall he be so liable if in good faith in determining the amount available for any such dividend or distribution he considered the assets to be of their book value.

(f) Any director of a corporation subject to this Act against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this Act, in proportion to the amounts received by them.

(g) Any director of a corporation subject to this Act against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other
directors who voted for or assented to the action upon which
the claim is asserted. This paragraph shall not apply to direc-
tors who acted in good faith pursuant to subsection (e).

BOARD COMMITTEES

SEC. 104. (a) Each corporation subject to this Act shall
have a supervisory committee and a public policy committee
as follows:

(1) The supervisory committee, to be comprised of
a majority of independent members, shall have the fol-
lowing responsibilities:

(A) recommending to the full board profes-
sionals to be retained as accountants, lawyers,
and auditors;

(B) overseeing, investigating, and receiving
complaints from employees and shareholders con-
cerning policies and practices of the corporation
(and the committee shall include in the annual
report a summary of complaints received and ac-
tions taken);

(C) recommending the salary and bonus
schedules for officers, directors, and managing
agents; and

(D) designing internal mechanisms and incen-
tives to insure that corporate officers and manag-
(1) Owners and directors of corporate entities are to ensure that their agents comply with corporate policies and relevant law.

(2) The public policy committee, to be comprised of a majority of independent members, shall have the following responsibilities:

(A) overseeing, investigating, and receiving complaints from sources outside the corporation pertinent to corporate policies and practices in the following areas: consumer protection, environmental protection, community relations, and law compliance; and

(B) recommending to the full board of directors positions and activities of public policy and political issues, including lobbying, campaign contributions to candidates for Federal office, and political advertising.

(b) The board of directors of each corporation subject to this Act shall assure that the supervisory and public policy committees are provided such staff and resources necessary to fulfill the duties specified in subsection (a).

(c) The board of directors shall be responsible for insuring that all provisions of this section are complied with and for considering the recommendations of the supervisory and public policy committees as provided for by subsection (a)(1)(A) and (C) and (a)(2)(B).
BOARD SELECTION

SEC. 105. (a) Shareholders of voting stock of any corporation subject to this Act shall have the right to nominate candidates for the board of directors of such corporation if the nomination of each such candidate is supported by a reasonable minimum number or percentage of shares as determined by the Securities and Exchange Commission.

(b) Only the beneficial owners of stock of a corporation subject to this Act shall be eligible to nominate a candidate or to vote for candidates for the board of directors.

(c) All candidates nominated pursuant to subsection (a) shall have the opportunity to provide each shareholder, through the proxy material circulated by the corporation, at least three weeks prior to the shareholders meeting to elect directors, a brief written statement as to their qualifications for the position.

(d) All nominees for board of directors shall receive from the corporation an equal amount of money to solicit proxies in favor of their election.

(e) Every shareholder entitled to vote in any election of directors of any corporation subject to this Act may cumulate such shareholder’s votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the shareholder’s shares are entitled. Classification, and the staggered election
of directors, or any other method of election which has the
effect of undermining the purposes of cumulative voting in
protecting the minority representation is prohibited with re-
spect to any such corporation. This section shall apply to all
corporations chartered on the date of enactment of and sub-
ject to this Act.

SHAREHOLDER REVIEW OF BOARD

Sec. 106. Shareholders of a corporation subject to this
Act shall be entitled to vote on any transaction involving the
purchase, sale, lease, merger, consolidation, financing, refi-
nancing, dissolution, or liquidation if such transaction in-
volves an amount of funds equal to 5 per centum of the firm’s
total assets, or the sale or redemption of 5 per centum of the
company’s outstanding stock, or the authorization of corpo-
rate stock or securities in any amount. At least three weeks
before a shareholder vote on any such matter, the board shall
forward a written statement to all shareholders indicating the
vote of directors on the issue, reasons from the majority for
their approval, reasons from the minority for their disapprov-
al, and the foreseeable benefits and risks of implementing the
proposal.

TITLE II—CORPORATE DISCLOSURE

ANNUAL REPORT

Sec. 201. (a) Each corporation subject to this Act shall
publish the following information in its annual report:
(1) The distribution of its work force by sex, race, and job classification in the same format as that required to be reported to the equal Employment Opportunity Commission pursuant to section 709(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–8(c)). In addition, the category of directors, officers, and managing agents shall be added to the job classifications required for such report and the net increase or decrease over the previous year in the number of employees at year end in each category shall be indicated.

(2) For each of the five largest of its facilities which report to the Environmental Protection Agency and to State health authorities on air and water pollution, such facility’s actual average daily emissions and effluents for each pollutant required to be reported under section 114(a)(1) of the Clean Air Act of 1972 (42 U.S.C. 1714(a)(1)), together with the allowable emissions and effluents thereunder. In addition, each such corporation shall list and briefly describe in its annual report any pending administrative or judicial proceedings involving environmental requirements at each of these facilities.

(3) The total of all occupational injuries and illnesses incurred during the past year on an annual basis for each plant or facility operated by the corporation.
This total shall be based on data recorded on the form required pursuant to section 8(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(c)), and aggregated for all plants owned and operated by the corporation.

(4) The chemical constituents of any chemical product manufactured by the corporation and identified only as a trade named substance, except that nothing in this section shall be construed to require the disclosure of any process or technique which is a protected trade secret.

(5)(A) The twenty largest shareholders of record and, if known, the twenty largest beneficial holders of voting shares in the corporation excluding any holder with less than one-twentieth of 1 per centum of the outstanding shares. For any such holder, the annual report shall list the name, address, and type of holder (bank, broker, holding company, individual, or other), the number of voting shares held (as of the end of the preceding calendar year) and the number of shares over which the holder has sole voting power, shared voting power, or no voting power under any circumstances.

(B) In determining the number of shares held for purposes of subparagraph (A), all nominee and other
accounts of each shareholder, including the accounts
held by any depository trust company, shall be aggre-
gated and reported as one account in the name of the
bank, broker, holding company, individual, or other
identified shareholder.

(6) A description of each debt of the corporation
and each revolving credit agreement which is not due
to be repaid within one year and with a principal in
excess of $1,000,000. Each such corporation shall in-
clude the following information pertaining to debts or
credit agreements—

(A) the name of the creditor;

(B) the character of the debt or agreement;

(C) the date of origin;

(D) the date of maturity;

(E) the total amount of the debt; and

(F) the rate of interest.

In addition, each such corporation shall include a copy
of any and all restrictive covenants attached to the in-
debtedness and a description of all interest in the cor-
poration's property by creditors. For each revolving
credit agreement, the corporation shall report the total
amount of credit available, the commitment fee, and
the average amount outstanding during each month of
the previous calendar year.
(7) The names and addresses of each member of
the board of directors and a description of their busi-
ness activities in the calendar year to which the annual
report applies including—

(A) the primary employment affiliation of
each board member;

(B) the nature and extent of all business con-
ducted between the corporation and any organiza-
tion with which a board member is affiliated (ex-
cluding nonprofit organizations);

(C) the committees on which the board
member serves;

(D) the number of full board meetings at-
tended by the member and the number of such
meetings held;

(E) the number of committee meetings at-
tended by the member and the number of such
meetings held;

(F) the number of years that the member has
served on the corporation's board of directors; and

(G) the total number and names of corporate
boards on which the board member serves.

(8) The corporation's assets, gross revenues, total
expenses, income tax paid, net income, and number of
employees at the end of the calendar year to which the
annual report applies, allocated in each case to the fol-
lowing geographic regions:

(A) United States;

(B) North America (excluding United States);

(C) Asia-Australia;

(D) Europe;

(E) Middle East;

(F) Latin America/Caribbean;

(G) Africa; and

(H) South America.

(9) The same information as required by para-
graph (8) of this subsection for the four countries (ex-
cluding the United States) in which the corporation
and its subsidiaries had the largest sales and assets
during the calendar year to which the annual report
applies.

(10) The total annual cost of legal and auditing
services, classified according to the portion of such fees
which are paid to outside firms and the portion which
are paid to employees of the corporation, and the four
law firms and four accounting firms that received the
largest fees, and the amounts of those fees.

(11) The corporation's effective annual tax rate,
defined as current Federal tax liability, divided by net
income before Federal taxes, broken down by the
United States tax rate on domestic income and the United States tax rate on foreign income.

(12) The total value for the annual report year of all (A) Federal contracts, (B) Federal grants, (C) Federal subsidies, (D) Federal patent grants, and (E) Federal tax expenditures annually.

(13) The amount of money that the corporation has spent, in the calendar year to which the annual report applies, on—

(A) political activities as defined in section 162 of the Internal Revenue Code, including a description of each such activity;

(B) contributions to candidates for Federal office, including the names of each candidate receiving contributions and the sum given; and

(C) paid political or advocacy advertisements, including any and all payments to media consulting firms for this purpose.

(b) The corporation shall furnish a copy of its annual report to any member of the public upon request. The corporation may charge a reasonable fee to any member of the public, not a stockholder, who requests an annual report. Such fee shall not exceed the cost of reproduction of the report.
FURTHER DISCLOSURE

SEC. 202. The Securities and Exchange Commission may require further disclosure to enable stockholders to make judgments on a corporation's performance and its impact on the community and on the natural environment, including but not limited to, subject matters specified in this Act.

TITLE III—EMPLOYMENT MAINTENANCE

NOTICE OF INTENT TO CHANGE OPERATIONS

SEC. 301. (a) Whenever a corporation subject to this Act intends to undertake a change of operations at an establishment that, within six months after such change, would result in a loss or reduction in employment to five hundred or more individuals, then such corporation shall, not less than twenty-four months prior to such change, furnish the Secretary of Labor, affected employees, and community representatives written notice of the timing and the extent of any closing, transfer, or reduction resulting from such change.

(b) If the Secretary finds that the corporation could not reasonably have predicted its intention to undertake a change of operations described in subsection (a), the Secretary may allow such shorter notice as may be reasonable under the circumstances.

(c) No later than thirty days after the Secretary receives the notice required in subsection (a), the Secretary shall inform each employee at the establishment with respect to
which such notice is given, of all rights, protections, services, and assistance available to such employee under this title.

INVESTIGATION OF INTENDED CHANGE OF OPERATIONS

SEC. 302. (a) In the case of any change of operations at an establishment with respect to which notice is required in section 301(a) the Secretary shall conduct an investigation into, and shall hold public hearings on, the matters described in subsection (b) if the Secretary receives, not later than sixty days after such notice is given, a written request for such investigation from any authorized representative of any affected labor organization, or from not less than 10 per centum of the employees, at such establishment.

(b) An investigation conducted by the Secretary under subsection (a) shall be directed to the following: The economic reasons for the intended change of operations; the estimated extent of any economic or social loss to the employees affected by such change of operations; the estimated extent of any economic or social loss to any affected unit of general local government and to any affected group of residents in the geographical area in which such establishment is located; and the feasibility of preventing or minimizing such employment loss by the modification of product lines and production techniques at such establishment.

(c) For the purpose of conducting any investigation under subsection (a), the Secretary may issue subpenas re-
quiring the attendance and testimony of witnesses and requiring the production of any evidence.

REPORT OF INVESTIGATION

SEC. 303. After any investigation conducted under section 302(a) is concluded, the Secretary shall prepare and publish a report containing his findings with respect to the matters described in section 302(b) and his recommendations regarding actions required to be taken in order to prevent or minimize the harmful economic and social effects which will result from the change of operations at the establishment with respect to which such investigation is conducted.

TRANSITIONAL ASSISTANCE BY BUSINESS CONCERNS

SEC. 304. (a) Any corporation required to give notice under section 301(a) shall, for a period not to exceed one year—

(1) pay to each employee who suffers an employment loss at such establishment a weekly income maintenance payment—

(A) equal to 85 per centum of the employee's prior average weekly pay, or

(B) equal to 100 per centum of such pay if such employee is participating in any training program provided by the Secretary, and

(2) make payments with respect to such employee as if such employee had not suffered such employment
loss, to any employee benefit plan in effect at such es-

tablishment to which such corporation is obligated to

contribute with respect to such employee.

(b) A payment payable under subsection (a)(1) shall be

reduced by an amount equal to any wages or compensation

from other sources.

(c) No corporation shall be required to make total pay-
ments under subsection (a)(1) to an employee exceeding

$25,000 for any fifty-two-week period, or to an employee for

any week beginning after such employee refuses to accept

employment offered under section 305(a), located within a

reasonable commuting distance of the regular residence of

such employee, or to an employee for any week during which

such employee refuses to participate, or fails to make satis-

factory progress, without good cause, in any training or

placement program made available by the Secretary.

TRANSFER OF EMPLOYEES

Sec. 305. (a)(1) In accordance with rules promulgated

by the Secretary, a corporation required to given notice

under section 301(a) shall offer to any employee who suffers

an employment loss at an establishment with respect to

which such notice is required any employment which be-

comes available at any establishment of such corporation in

the three-year period beginning on the date such employment

loss occurs and which such employee is qualified to perform,
to the extent that such corporation can provide such employment under this paragraph without violating any provision of any collective bargaining agreement in effect with respect to such employment, such establishment, or such corporation.

(2) Such employment shall provide equivalent wages and benefits as the prior employment.

(b) Any employee who is aggrieved by any failure of a corporation to comply with subsection (a) may seek relief in accordance with section 311.

EMPLOYEE BENEFIT PLANS

SEC. 306. (a) An employee who participates in any employee benefit plan of an establishment and with respect to whom payments to such plan are required under section 304(a)(2) shall be eligible to participate in such plan during any period for which such payments are required.

(b) If an employee participates under subsection (a) in any employee pension benefit plan and has participated in such plan for not less than five years prior to the loss of employment, then such employee’s rights in such plan shall vest completely and nonforfeittably on the date such loss occurs.

LIABILITY FOR LOSS OR REVENUE

SEC. 307. (a)(1) Any corporation is required to give notice under section 301(a) shall be liable as provided in paragraph (2) to each unit of general local government to
which such corporation was liable for any revenue payable
with respect to real or personal property at the establishment
involved, in any of the three preceding fiscal years.

(2) The amount for which such corporation shall be
liable under paragraph (1) to such unit of general local gov-
ernment shall be determined by the Secretary of Labor and
shall be an amount equal to 85 per centum of the projected
loss of revenue for a one-year period to such unit. Payments
under this paragraph shall be for a period not to exceed one
year.

(b)(1) Any corporation required to give notice under sec-
tion 301(a) with respect to an establishment that undertakes
a change of operations from such establishment to an estab-
lishment outside the United States when an economically
viable alternative to such transfer exists, then such corpora-
tion shall be liable to the United States as provided in para-
graph (2).

(2) The amount for which such corporation shall be
liable under paragraph (1) shall be determined by the Secre-
tary of Labor and shall be an amount equal to 300 per
centum of the projected loss of revenue to the United States
for a one-year period.

FEDERAL ASSISTANCE TO EMPLOYEES

Sec. 308. The Secretary, in consultation with the Na-
tional Employment Priorities Advisory Council, shall imple-
ment a comprehensive program to provide assistance to em-
ployees who suffer or may suffer an employment loss at an
establishment with respect to which notice is required under
section 301(a). Such program shall include (1) training pro-
grams, and (2) job placement services.

ASSISTANCE TO CERTAIN EMPLOYERS AND TO
COOPERATIVE ASSOCIATIONS OF EMPLOYEES

SEC. 309. The Secretary may provide, on such terms
and conditions as the Secretary deems to be appropriate, to
any employer or cooperative association of employees which
is deemed eligible, loans, loan guarantees, and technical as-
sistance for the purpose of—

(1) expanding operations at, or acquiring owner-
ship of, an establishment with respect to which notice
is required under section 301(a);

(2) constructing new establishments in the same
vicinity; or

(3) undertaking research and development projects
designed to identify new markets and additional em-
ployment opportunities related to entry into such mar-
kets, and new production and marketing techniques.

CIVIL VIOLATIONS AND PENALTIES

SEC. 310. (a) It shall be unlawful for any corporation to
fail—

(1) to give notice required in section 302(a),
(2) to provide assistance with respect to employees under section 304.

(3) To offer employment with respect to employees under section 305.

(b) If, after a hearing conducted by the Secretary, the Secretary finds that a corporation has violated subsection (a), then the Secretary shall assess against such corporation an appropriate civil penalty, but not in excess of $5,000 per day, determined in accordance with regulations prescribed by the Secretary.

EQUITABLE RELIEF TO EMPLOYEES

SEC. 311. (a) It shall be unlawful for any corporation required to give notice under section 302(a) to fail to comply with section 304(a) in the case of any employee who suffers an employment loss at any establishment with respect to which such notice is required.

(b) It shall be unlawful for any corporation to discriminate against any employee because such employee participated in, assisted in any manner, or requested any investigation, hearing, or other proceeding under this title.

(c) If the Secretary finds that a violation of subsection (a) or subsection (b) has occurred, then the corporation which committed such violation shall take such action with respect to such employee as the Secretary finds equitable and orders,
including the transfer or reinstatement of such employee, and
the payment of lost wages.

TITLE IV—RIGHTS OF EMPLOYEES

AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT

Sec. 401. (a) Section 1 of the National Labor Relations
Act is amended by adding at the end thereof the following
new paragraph:

"It is further declared to be the policy of the United
States to protect employees in the security of their employ-
ment by ensuring that they are not deprived of such employ-
ment on the basis of their having exercised their constitution-
al, civil, or other legal rights, or because of their refusal to
engage in unlawful conduct as a condition of employment."

(b) Section 2 of the National Labor Relations Act is
amended by adding at the end thereof the following new
paragraph:

"(15) The term 'just cause' shall be defined in accord-
ance with the common law of labor contracts established pur-
suant to section 301 of the National Labor Relations Act,
except that such term shall not include (A) the exercise of
constitutional, civil, or legal rights; (B) the refusal to engage
in unlawful conduct as a condition of employment; (C) the
refusal to submit to polygraph or other similar tests; or (D)
the refusal to submit to a search of someone’s person or prop-
erty, other than routine inspections, conducted by an em-
ployer without legal process.”.

(c) Section 7 of the National Labor Relations Act is
amended by adding at the end thereof the following: “Em-
ployees shall have the further right to be secure in their em-
ployment from discharge or adverse action with respect to
the terms or conditions of their employment except for just
cause.”.

(d) Section 8(a) of the National Labor Relations Act is
amended by striking out the period at the end of paragraph
(5) and inserting in lieu thereof a semicolon and by adding
after such paragraph the following:

“(6) to discharge or otherwise discriminate against
an employee except for just cause.”.

TITLE V—CRIMINAL AND CIVIL SANCTIONS

NOTICE

Sec. 501. A Federal court, in imposing a sentence on a
corporation which has been found guilty or has plead guilty
or nolo contendere to a violation of any Act for which crimi-
nal penalties can be imposed, may order, in addition to any
other sentence imposed, that the corporation give notice and
explanation of the conviction, by mail, or by other appropri-
ate means, in such form as the court may approve, to share-
holders and the class of persons injured by the violation.
ORDER OF RESTITUTION

Sec. 502. A Federal district court, in imposing a sentence on a corporation which has been found guilty of an offense causing bodily injury or property damage or other loss, may order, in addition to any other sentence imposed, that the defendant make restitution in an amount and manner set by the court.

DOUBLE DAMAGES

Sec. 503. A corporation which has been found guilty of an offense through which pecuniary gain was derived, or of an offense resulting in bodily injury or damage to the natural environment, shall be sentenced to pay a fine that does not exceed twice the gross gain derived or twice the gross loss caused, whichever is greater.

DISQUALIFICATION

Sec. 504. When a director, officer, or managing agent of a corporation is convicted of a violation of law arising out of his or her employment, a court of equity may disqualify such director, officer, or managing agent from exercising similar functions in the same or other corporations subject to this Act, for a period not to exceed the maximum sentence for which an individual may be imprisoned for such a violation.

JUDICIAL OVERSIGHT

Sec. 505. In its discretion, and in light of a pattern of abuses of Federal law, a court of equity may appoint a Spe-
cial Master to oversee relevant corporate operations, and
may order such other relief as may be necessary to assure
corporate compliance with Federal laws.

OMISSION TO PERFORM A DUTY ON BEHALF OF A
CORPORATION

SEC. 506. Except as otherwise expressly provided,
whenever a duty to act is imposed by a Federal statute, regu-
lation, rule or court order upon a corporation subject to this
Act, a director, officer, or managing agent having direct and
significant responsibility for the subject matter to which the
duty relates shall be liable for a violation thereof if such
agent knew or resonably should have known that the omis-
sion would lead to the violation.

RECKLESSS FAILURE TO SUPERVISE CONDUCT OF A
CORPORATION

SEC. 507. Except as otherwise expressly provided, a
director, officer, or managing agent reponsible for supervising
particular activities on behalf of a corporation subject to this
Act who, by a reckless failure to supervise adequately those
activities, permits or contributes to the commission of a viola-
tion of Federal statute, regulation, or rule by such corpora-
tion shall be criminally liable for the offense.

DUTY TO REPORT RISK

SEC. 508. (a) Whenever a director, officer, or managing
agent of a corporation knows or reasonably should know,
that a product, business process, or service of such corpora-
tion may cause death or serious injury to any employee, cus-
tomer, or other person, such director, officer, or managing
agent shall report such risk to a Federal or State authority
which such director, officer, or managing agent believes has
jurisdiction over the subject matter. Any violation of this sec-
tion may be punished by a fine of not more than $50,000 or
imprisonment for not more than two years, or both.

(b) Each corporation subject to this Act shall post
prominently in their various workplaces notice of subsection
(a) of this section and a list of those State and Federal agen-
cies charged with regulating their products, services, opera-
tions and working conditions.

TITLE VII—JURISDICTION, ENFORCEMENT, AND
RIGHT OF ACTION

APPLICATION OF ACT

Sec. 601. (a) This Act shall, with respect to any calen-
dar year beginning on or after the effective date of this Act,
apply to any manufacturing, mining, retailing, and utility cor-
porations, organized and doing business in the United States
which has more than $250,000,000 in total assets or annual
sales, or more than five thousand employees, in any of the
three calendar years preceding such calendar year, except
that title I shall not apply to a corporation with fewer than
twenty-five stockholders. American subsidiaries of foreign
corporations which have assets, sales, or employees in excess of such amounts in the United States are subject to this Act as if they were domestic corporations, except that title I does not apply unless such subsidiaries are listed on a stock exchange in the United States.

(b) Unless otherwise provided by Act of Congress, numbers specified in subsection (a) shall be increased by 10 per centum each calendar year following the first such year for which this Act is effective.

EFFECTIVE DATE

SEC. 602. This Act shall become effective for the first calendar year commencing more than six months after the date of its enactment. Within six months of the date of enactment, the Securities and Exchange Commission, the Department of Labor, and the National Labor Relations Board shall propose and promulgate, in accordance with the requirements of chapter 5 of title 5, United States Code, all rules and regulations necessary to effect the provisions of this Act.

PRIVATE RIGHT OF ACTION

SEC. 603. Any person aggrieved by a violation of this Act may commence a civil action in Federal district court for money damages or injunctive relief against any corporation subject to this Act or director, officer, or managing agent thereof alleged to have violated this Act, or against the Secretary of Labor, the National Labor Relations Board, or the
Securities and Exchange Commission for failure to enforce the standards and requirements set forth in this Act.

**STOCKHOLDERS’ DERIVATIVE SUITS**

SEC. 604. (a) An action may be brought in the right of a corporation subject to this Act to procure a judgment in its favor, by the holder of shares or of voting trust certificates of the corporation or of a beneficial interest in such shares or certificates, or by the holder of a debt security convertible into such shares or certificates.

(b) In any such action, it shall be made to appear that the plaintiff is such a holder at the time of bringing the action and either (1) that he was such a holder at the time of the transaction of which he complains, or (2) that his shares or his interest therein devolved upon him by operation of law, or (3) that he did not have actual knowledge of the transaction of which he complains and that the corporation had not made the facts of such transaction known in a public manner at or prior to the time that he acquired his interest.

(c) Suit may be brought under this section to recover any losses or damages suffered by a corporation subject to this Act in connection with a breach of a legal or equitable obligation to the corporation or to recover any expenses incurred by the corporation in connection with a violation of law by the corporation. In computing the amount recoverable under this section, the court may disregard any benefit that
resulted to the corporation if such offset would frustrate public policy under this or any other provision of law.

(d) No action under this section against any present or former directors or employees of a corporation subject to this Act, in which it is alleged that any such person personally benefited from his conduct or that such person failed to exercise his duty of due care, may be dismissed on motion of any defendant on grounds that the board of directors or any committee thereof exercised its business judgment not to bring such suit, or that it is in the best interest of the corporation that such suit not be brought, except as otherwise provided in subsection (e).

(e) In the discretion of the court, a suit brought under this section may be dismissed if all of the following conditions are satisfied:

(1) It is established by the moving party that a majority of the board of directors is composed of persons who are both independent and not interested in the transaction that is subject to the suit.

(2) The board of directors approved the discontinuance of the suit by an affirmative vote of a majority of the full board of directors, and that such majority did not include the vote of any person who disclosed an interest in the transaction pursuant to section 102(c) of this Act or who was not independent.
(3) It is established by the moving party that the board of directors investigated and considered the merits of the suit with due care commensurate with the gravity of the claim.

(4) The transaction did not involve any personal dealings, directly or indirectly, between the corporation or a subsidiary and any present executive officer of the corporation.

(5) The court determines that the action of the board is fair, reasonable, and in good faith.

COMPLIANCE REVIEW

Sec. 605. (a) Any shareholder of a corporation subject to this Act may request the Securities and Exchange Commission to investigate such corporation's compliance with the provisions of this Act. In conducting an investigation the Securities and Exchange Commission shall be permitted to subpoena witnesses and documents from the corporation.

(b) The Securities and Exchange Commission shall have authority to take civil action against corporations and their directors, officers, and managing agents when it has reasonable cause to believe them to have violated provisions of this Act.

COSTS OF LITIGATION

Sec. 606. Any party, other than the Government, shall be entitled in action under section 603 to recover reasonable
attorneys' fees and other reasonable costs of litigation against a corporation subject to this Act if (1) the party substantially prevails in a court of final jurisdiction, (2) the court determines that such action served an important public purpose, and (3) either the party can demonstrate that its economic interest is small in comparison to its costs of effective participation or that it lacks sufficient resources to participate effectively in the action absent an award.

SUPPLEMENTARY NATURE OF ACT

Sec. 607. The rights and remedies provided for in this Act shall be in addition to and not in lieu of any other rights and remedies provided by common law or under other Federal or State law.