

ESTABLISHING A DEPARTMENT OF THE TREASURY
FORFEITURE FUND

September 14 (legislative day, SEPTEMBER 8), 1992.—Ordered to be printed

Mr. BENTSEN, from the Committee on Finance,
submitted the following

REPORT

[To accompany S. 3230]

The Committee on Finance, having considered an original bill to establish a Department of the Treasury Forfeiture Fund, reports favorably thereon and recommends that the bill do pass.

I. SUMMARY

The Committee bill establishes in the Department of the Treasury an asset forfeiture fund ("Treasury Forfeiture Fund" or "Fund") to be administered by the Secretary of the Treasury. The Fund is patterned after the Department of Justice Assets Forfeiture Fund (28 U.S.C. 524(c)) and the Customs Forfeiture Fund (19 U.S.C. 1613b). The Fund shall be available to the Secretary of the Treasury to pay or reimburse certain costs and expenses related to seizures and forfeitures that occur pursuant to the Department of the Treasury's law enforcement organizations include the United States Customs Service, United States Secret Service, the Internal Revenue Service (IRS) (except pursuant to sections 7301 or 7302 of the Internal Revenue Code), the Bureau of Alcohol, Tobacco, and Firearms (BATF), the Financial Crimes Enforcement Network, and the Federal Law Enforcement Training Center. In addition, the United States Coast Guard would participate in the Treasury Forfeiture Fund just as it now participates in the Customs Forfeiture Fund.

If the Fund is applied to reimburse seizure or forfeiture expenses that were paid originally from an appropriation which has since lapsed, the Secretary may use the Fund to credit the current ap-

appropriation for those purposes. The costs and expenses for which the Fund will be available to the Secretary of the Treasury are set forth in Part II below.

The bill also contains modifications to the Department of Justice Assets Forfeiture Fund to ensure that the authorized uses of both forfeiture funds are substantially identical.

Just as the Customs Service and the Department of Justice currently have a permanent indefinite appropriation to pay certain costs related to seizure and forfeiture the Treasury Fund will be available for similar expenses with the same fiscal limitations. Moreover, most of authorized uses of the Fund exist in substance for the Customs Forfeiture Fund and the Department of Justice Assets Forfeiture Fund and are merely extended to the other bureaus and offices that will participate in the Treasury Fund. Where examples of authorized uses are listed, the lists are non-exclusive.

II. GENERAL EXPLANATION

The Committee on Finance reports an original bill to establish in the Department of the Treasury an asset forfeiture fund. Currently, under 19 U.S.C. 1613b, the proceeds from assets seized and forfeited from investigations by Customs Service officials are deposited into the Customs Forfeiture Fund. For all other Department of the Treasury law enforcement bureaus, proceeds from seized and forfeited assets are deposited into the Department of Justice Assets Forfeiture Fund, 28 U.S.C. 524(c). Under current law, any transfers made from the Department of Justice Fund to the Department of the Treasury law enforcement bureaus, except for the Customs Service and except for uncapped, nondiscretionary expenses, are made to the discretion of the Department of Justice, subject to certain statutory restrictions.

A section-by-section analysis of the bill follows.

Section 1.—Section 1 provides that the short title of this Act is the “Treasury Forfeiture Fund Act of 1992.”

Section 2.—Section 2 creates a new section 9703 of title 31, United States Code.

Section 9703(a)(1) sets forth payments for which the Fund is available, and for which a permanent indefinite appropriation is provided in section 9703(g)(1).

Paragraph 9703(a)(1)(A) generally provides that the Fund shall be available to pay all proper expenses of seizure or the proceedings of forfeiture and sale, examples of which are listed.

Paragraph 9703(a)(1)(B) provides that the Fund shall be available to pay the costs associated with contracting out postseizure property management services or reimbursement of any Federal, State, or local agencies that perform these services.

Paragraph 9703(a)(1)(C) provides that the Fund shall be available to pay awards to informers section 619 of the Tariff Act of 1930, as amended.

Paragraph 9703(a)(1)(D) provides that the Fund shall be available to pay liens for freight, charges, and contributions in general average, where notice has been filed with the appropriate Customs officer according to law, and, subject to the discretion of the Secretary of the Treasury, to pay other liens and mortgages.

Paragraph 9703(a)(1)(E) provides that the Fund shall be available to pay expenses if the forfeiture is remitted or mitigated.

Paragraph 9703(a)(1)(F) provides that the Fund shall be available to pay good claims of parties in interest for property disposed under 19 U.S.C. 1612(b) because the property is not likely to produce an economically viable return.

Paragraph 9703(a)(1)(G) is included to explicitly provide that the Fund shall be available to make equitable sharing payments out of deposited currency or proceeds for law enforcement agencies that participated directly or indirectly in a seizure or forfeiture effected by a Department of the Treasury law enforcement organization.

Paragraph 9703(a)(1)(H) provides that the Fund shall be available to pay the costs of certain experts and consultants retained by the Department of the Treasury law enforcement organizations to carry out their duties related to seizure and forfeiture. Contracts for the services of experts and consultants under this paragraph are subject to 5 U.S.C. 3109, unless specifically excepted pursuant to the new section 31 U.S.C. 9703(b)(3), as necessary to protect the security and confidentiality of related ongoing criminal investigations (the same authority currently exercised by the Attorney General).

Section 9703(a)(2) sets forth payments which the Secretary, in his discretion, may make from amounts appropriated in section 9703(g)(2) for various expenses.

Paragraphs 9703(a)(2)(A) and (2)(B) provide that the Fund shall be available to pay for information or assistance leading to certain recoveries or for evidence or information of violations of certain laws enforced or administered by the Department of the Treasury organizations. The listed offenses generally track current law, but the offenses added in sections (c)(1) and (c)(2) of the bill to 18 U.S.C. 981 and 982 are added here also.

Paragraph 9703(a)(2)(C) provides that the Fund shall be available to pay for expenses relating to the publication of availability of awards to informers under section 619 of the Tariff Act of 1930, as amended.

Paragraph 9703(a)(2)(D) provides that the Fund shall be available for equipment for any vessel, vehicle, or aircraft for official use by Department of the Treasury law enforcement organizations or for other equipment when directly related to the Department of the Treasury law enforcement organizations' seizure and forfeiture duties. The list of such other equipment is not exclusive and includes that equipment specified and any operation and maintenance costs for any such equipment.

Paragraph 9703(a)(2)(E) provides that the Fund shall be available for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency if the equipment would enable the law enforcement agency to assist in joint law enforcement operations with any Department of the Treasury law enforcement organization.

Paragraph 9703(a)(2)(F) provides that the Fund shall be available to pay overtime salaries, expenses, and training of State and local law enforcement agencies that are incurred in joint law enforcement operations with any Department of the Treasury law enforcement organization.

Paragraph 9703(a)(2)(G) provides that the Fund shall be available to reimburse, at the Secretary of the Treasury's discretion, private persons for expenses incurred in assisting Department of the Treasury law enforcement organizations in investigations and undercover law enforcement operations.

Paragraph 9703(a)(2)(H) provides that the Fund shall be available, at the discretion of the Secretary of the Treasury, to pay expenses for training foreign law enforcement personnel regarding seizure and forfeiture laws enforced and administered by Department of the Treasury law enforcement organizations.

Paragraph 9703(a)(2)(I) provides that the Fund shall be available to pay expenses, pursuant to regulations promulgated by the Secretary of the Treasury, that are necessary and directly related to seizure and forfeiture programs including, but not limited to, automatic data processing equipment, training, printing, and contracting services to assist in identifying assets which may be subject to forfeiture, the processing of and accounting for forfeitures, and expenses of storage, maintenance, protection, and destruction of controlled substances.

Section 9703(b) places limitations on certain of the above listed payments. Subsection (b)(1) limits satisfaction of liens and payments of remission or mitigation of forfeitures to the value of the property at the time the claimant was deprived of possession. Subsection (b)(2) limits all equitable sharing payments to not exceed the value of the asset at the time of its disposition. Subsection (b)(3) authorizes the Secretary to exempt the procurement of contract services under the Fund from any provision of law in order to protect ongoing related criminal investigations. This authority is identical to that which is currently exercised by the Attorney General. Subsection (b)(4) requires that the Secretary of the Treasury assure that any equitable sharing payment or property transferred to a State or local law enforcement agency bears a reasonable relationship to that agency's participation in the effort leading to the forfeiture and serves to further such cooperation. This assurance requirement is not intended to require a tighter nexus than the statute authorizing the transfer.

Section 9703(c) provides for the continuation of payments to the United States Coast Guard. Previously, such payments were authorized in the Customs Forfeiture Fund. The new provision in the Treasury Fund is not intended in any substantive way to change existing treatment of the Coast Guard. Thus, the new provision in the Treasury Fund is substantially identical to that for the Coast Guard under the Customs Fund, except that the word "net" is inserted in the Treasury Fund language to make explicit Customs' longstanding practice that costs associated directly with the disposition of property are deducted from the proceeds paid to the Coast Guard.

Section 9703(d) provides that all forfeited currency and proceeds from all forfeitures occurring under any law enforced or administered by the United States Customs Service or the United States Coast Guard during fiscal year 1993, and, for fiscal years after fiscal year 1993, by the Department of the Treasury law enforcement organizations (other than 26 U.S.C. 7301 and 7302) or the United States Coast Guard, shall be deposited into the Fund. This

section also provides for the deposit of all income from investments pursuant to subsection (e). Finally, this section provides for the deposit of "reverse equitable sharing" payments from any foreign, Federal, State, local or foreign agency reflecting a Treasury or Coast Guard contribution to seizures or forfeitures effected by such Federal, State, local, or foreign agency. This would include transfers from the Attorney General to the Secretary pursuant to section 524(c)(1)(H).

Section 9703(e) provides that amounts the Secretary of the Treasury determines are not currently needed for the purposes of the Treasury Fund shall be deposited or invested in obligations of, or guaranteed by, the United States, and earnings on such investments are to be deposited in the Fund.

Section 9703(f) requires the Secretary of the Treasury to submit certain annual reports to the Congress. This subsection is patterned after, but is somewhat more expansive than, the annual reports required in connection with the Customs Forfeiture Fund (19 U.S.C. 1613b(e)). A complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) is among the required reports.

Section 9703(g) authorizes a permanent indefinite appropriation from the Fund to pay for such sums as may be necessary to carry out certain purposes set forth in section 9703(a)(1). These uncapped funds are to be used for the nearly identical purposes as the current Customs and Justice Forfeiture Funds allow. The remainder of the funds are "capped" and subject to appropriation, consistent with current law. For fiscal year 1993, the bill authorizes appropriations of \$25 million for these "capped" funds. The bill authorizes appropriations of \$50 million for each fiscal year after fiscal year 1993.

Section 9703(g) also contains authority for the Secretary that is patterned after the transfer and retention authority the Attorney General currently exercises (28 U.S.C. 524 (c)(9)). It provides that if the Secretary of the Treasury determines there are excess unobligated amounts in the Fund at the end of the fiscal year that are not needed for any future obligations of the Fund, then, after retention of an "administrative carry-over" amount not to exceed \$50 million or up to one-tenth of the total obligations of the Funds from the preceding fiscal year, for fiscal years 1994 and 1995 the Secretary may transfer up to \$10 million from the Fund to the Special Forfeiture Fund authorized in the Anti-Drug Abuse Act of 1988 for use in the "Drug Free Schools and Communities" Federal program (20 U.S.C. 3181). This subsection further provides that after making the transfer of amounts authorized above, if any, and remaining "super-surplus" amounts are available to the Secretary of the Treasury, without fiscal year limitation, for: (1) reimbursement to the Attorney General of an amount reflecting the Department of the Treasury's pro rata share of the amount contributed by the Attorney General to the Special Forfeiture Fund, taking into account any direct transfers from the Secretary to the Special Forfeiture Fund; (2) enforcement activities of any Federal agency or the Department of the Treasury (subject to certain notification procedures of Public Law 101-515, which tracks the provisions of the Department of Justice Assets Forfeiture Fund).

Section 9703(h) codifies in Title 31 discretionary authority for retention or transfer of property forfeited by any Department of the Treasury law enforcement organization. It is patterned after, but explicitly does not derogate from, the authority under 19 U.S.C. 1616a, or under 18 U.S.C. 981. The Secretary may retain any Treasury-forfeited property for official use or transfer any of the property to any State or local law enforcement agency or to any foreign country (consistent with the Foreign Assistance Act of 1961) if any of these entities participated directly or indirectly in the seizure or forfeiture of the property.

Section 9703(i) authorizes the Secretary of the Treasury to promulgate any rules or regulations as may be necessary to carry out the provisions of this section.

Section 9703(j) holds in abeyance the use of the Customs Forfeiture Fund (19 U.S.C. 1613b) during the existence of the Treasury Fund.

Section 9703(k) explicitly preserves the immunity of the United States from liability for actions or omissions occurring after property is transferred under the new 31 U.S.C. 9703 or the existing 19 U.S.C. 1616a.

Section 9703(l) provides the Secretary of the Treasury with the discretionary authority to warrant clear title to property forfeited under any law enforced or administered by any Department of the Treasury law enforcement organization.

Section 9703(m) clarifies that property will be deemed forfeited under a law enforced or administered by the United States Customs Service or the United States Coast Guard, and for fiscal years after fiscal year 1993, under a law (other than sections 7301 or 7302 of the Internal Revenue Code of 1986, as amended) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard, if the underlying seizure was made by such officer or if custody was maintained by such organization (other than as a custodial agent for the Department of Justice, for example pursuant to a memorandum of understanding regarding post-seizure property management), or if forfeiture was effected administratively by such organization. This provision is intended to be read in conjunction with 28 U.S.C. 524(c)(11), as amended by section (3)(c) of this bill.

Section 9703(n) provides for transfers from the Fund to the Attorney General or Postmaster General of amounts appropriate to reflect the net contributions of Department of Justice law enforcement agencies and the United States Postal Service, respectively. A reciprocal provision amending Title 28 follows in this bill at section (3)(c) and requires transfers from the Department of Justice Assets Forfeiture Fund to the Secretary of the Treasury of amounts appropriated to reflect the net contributions of Department of the Treasury law enforcement organizations. A reciprocal provision also follows in this bill at section (3)(d) and requires that the Postmaster General make similar transfers to the Secretary of the Treasury.

Section 9703(o) is a procedural amendment relating to the BATF. It authorizes the use of Customs forfeiture procedures for BATF forfeitures. However, it is intended that the IRS disposition provisions at 26 U.S.C. 5872 will continue to apply to all IRS forfeitures.

Section 9703(p) defines the terms "Department of the Treasury law enforcement organizations" and "Secretary" as used in this section.

Section 3.—Section 3 sets forth technical and conforming amendments to the Anti-Drug Abuse Act of 1988 and Titles 18, 28, and 39 of the United States Code.

Section 3(a) of the bill is a technical amendment to the Anti-Drug Abuse Act of 1988 to make explicit that certain transfers and deposits from the Treasury Fund to the Special Forfeiture Fund are authorized if done in conformance with 31 U.S.C. 9703(g) or 28 U.S.C. 524(c)(9).

Section 3(b) of the bill provides miscellaneous amendments to the civil and criminal forfeiture provisions of Title 18, United States Code. These amendments are intended to add the listed offenses as independent bases for forfeiture under sections 981 and 982. They cover many, though not all, of the statutes within the jurisdiction of the Department of the Treasury law enforcement organizations. These offenses are also built into the purchase of evidence or information authority in the Fund at new section 31 U.S.C. 9703(a)(2), discussed *supra*.

Section 3(c) of the bill sets forth various technical and conforming amendments to the Department of Justice Assets Forfeiture Fund, 28 U.S.C. 524(c). First, section 524(c)(1)(A) is redrafted to copy this section as it appears in current law but also to add for the Justice Fund those provisions perceived as unique to the Customs Fund. Second, there is a reciprocal transfer provision requiring that the Attorney General transfer to the Treasury Fund amounts appropriate to reflect the net contributions of Treasury agencies to forfeitures that resulted in deposits to the Justice Fund. Third, the deposits section of the Justice Fund is amended to authorize the deposit of similar transfers from the Secretary of the Treasury to the Justice Fund. Fourth, the Justice Fund is amended to provide that the "super-surplus" of the Justice Fund is available for Federal law enforcement activities. Finally, there is a technical amendment to the Department of Justice Assets Forfeiture Fund to define property that is forfeited pursuant to a law enforced or administered by a Department of Justice law enforcement component. Property maintained by the United States Marshals Service as a custodial agent for a Department of the Treasury law enforcement organization, pursuant to a memorandum of understanding for example, is not included in this definition. This definition is meant to be read in conjunction with the definition of property forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization set forth in the new section 31 U.S.C. 9703(m), that is created in this bill, *supra*.

Section (d) of the bill is a technical amendment providing for the Postal Service Fund a reciprocal provision to the transfers required of the Secretary of the Treasury (discussed, *supra*). It amends 39 U.S.C. 2003 and requires the Postmaster General to transfer to the Secretary of the Treasury amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations in forfeitures pursuant to laws enforced or administered by the United States Postal Service.

The Committee believes that the establishment of the Treasury Forfeiture Fund will provide the Secretary of the Treasury with the tools and mechanisms necessary to manage properly the law enforcement activities under the Treasury Secretary's jurisdiction. The Committee is convinced that this bill, which consolidates all forfeiture and seizure activities of Treasury Department law enforcement organizations under a single and appropriate chain of command within the Department of the Treasury, will result in increased efficiencies and improved accountability.

It is the Committee's expectation that the Secretary will establish uniform forfeiture procedures, budgetary requests and oversight mechanisms for all Treasury law enforcement organizations. Further, the Committee expects that the Treasury Department will be able to administer the Fund effectively using existing available resources. It is the Committee's understanding that the Departments of the Treasury and Justice have agreed to establish a high level inter-departmental working group to identify and resolve any inconsistencies that may exist in the forfeiture activities of any Federal law enforcement agencies. The Committee applauds this agreement, and expects the Department of the Treasury to report to the Finance Committee at periodic intervals on the actions of the inter-departmental working group.

III. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the Committee states that the bill was ordered favorably reported by voice vote.

IV. BUDGETARY IMPACT OF THE BILL

In compliance with sections 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following letter has been received from the Congressional Budget Office regarding the budgetary impact of the bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 18, 1992.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed an original bill, the Treasury Forfeiture Fund Act of 1992, as ordered reported by the Senate Committee on Finance on August 4, 1992. We estimate that enactment of the bill would result in no net cost to the federal government. Because enactment of this legislation would affect direct spending in fiscal years 1994 through 1997, the bill would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

BILL PURPOSE

The bill would create a Department of the Treasury Forfeiture Fund to be administered and managed by the Department of the Treasury. Currently, proceeds from assets seized and forfeited from investigations by Treasury law enforcement bureaus—except the Customs Service—are deposited into either the general fund of the treasury or the Department of Justice Assets Forfeiture Fund. Proceeds from assets seized and forfeited from investigations by the Customs Service are deposited into the Customs Forfeiture Fund. Under the bill, proceeds from assets seized and forfeited from investigations by Treasury law enforcement bureaus—the Customs Service, the Bureau of Alcohol, Tobacco, and Firearms (BATF), the Secret Service, the Internal Revenue Service (IRS), the Federal Law Enforcement Training Center, and the Financial Crimes Enforcement Network—and the Coast Guard, which currently are deposited into the Assets Forfeiture Fund, the Customs Forfeiture Fund, or the general fund, would be deposited into the Treasury Forfeiture Fund after fiscal year 1993. (In fiscal year 1993, only proceeds from assets seized and forfeited from investigations by the Customs Service and the Coast Guard would be deposited into the Treasury Forfeiture Fund.)

The Customs Forfeiture Fund would be eliminated and its balances transferred to the Treasury Forfeiture Fund. Under the bill, in each of fiscal years 1994 and 1995, not more than \$10 million of excess unobligated amounts in the Treasury Forfeiture Fund could be transferred to the Special Forfeiture Fund for activities authorized under the Drug Free Schools and Communities Act.

PAY-AS-YOU-GO EFFECTS

Currently, the BATF, Secret Service, and IRS contribute a total of about \$50 million annually in deposits into the Assets Forfeiture Fund or the general fund of the Treasury, and the Customs Service and Coast Guard deposit about \$200 million annually into the Customs Forfeiture Fund. The Assets Forfeiture Fund and the Customs Forfeiture Fund have permanent direct spending authority for asset-related expenditures associated with these forfeitures. The Treasury Forfeiture fund also would have such direct spending authority. Therefore, under the bill, any decrease in receipts and spending for the Assets Forfeiture or Customs Forfeiture funds or the general fund would be offset by equal increases in receipts and spending for the Treasury Forfeiture Fund.

The bill would affect direct spending in two ways but would result in no net change. First, at present, the Attorney General has authority to transfer any unobligated amounts remaining in the Assets Forfeiture Fund at the end of each fiscal year to any federal agency. Under baseline assumptions, CBO projects that such spending authority would be about \$50 million in 1992, \$27 million in 1993, and another \$228 million over the 1994–1997 period. Under the bill, a portion of these unobligated balances would now appear in the Treasury Forfeiture Fund. As a result, transfer to federal agencies would diminish because the Secretary of the Treasury would reserve end-of-year unobligated balances in the fund (up to \$50 million) rather than transfer such balances. CBO estimates

that this reduction in spending would be less than \$5 million per year in fiscal years 1994 through 1997.

Under the bill, unobligated balances in the Treasury Forfeiture Fund could be transferred to the Special Forfeiture Fund in fiscal years 1994 and 1995. The Secretary of the Treasury, however, may retain in the fund at the beginning of each fiscal year after 1993 up to \$50 million (or one-tenth of the total obligations from the fund in the preceding fiscal year, whichever is greater). The budget resolution baseline assumes that \$15 million in unobligated balances would remain in the Customs Forfeiture Fund at the end of each of the fiscal years 1992-1997. We estimate that this amount, plus less than \$10 million annually from the Assets Forfeiture Fund, would comprise the unobligated balances in the Treasury Forfeiture Fund. Thus, CBO estimates that the unobligated balances remaining in the Treasury Forfeiture Fund would be \$15 million at the end of fiscal year 1993, less than \$25 million at the end of fiscal year 1994, less than \$35 million at the end of fiscal year 1995, and so forth, with the unobligated balances increasing by less than \$10 million annually. We estimate that such balances would be less than \$50 million through the end of fiscal year 1997 and, therefore, that no unobligated balances would be transferred to the Special Forfeiture Fund. (If such unobligated balances were to be transferred, the resulting spending would be considered direct spending.)

Second, the bill provides that expenditures incurred by the IRS related to forfeitures that lead to deposits into the general fund will be paid out of the Treasury Forfeiture Fund. CBO estimates that these expenditures are less than \$5 million annually. This provision will therefore increase direct spending by less than \$5 million annually.

EFFECTS ON APPROPRIATED ACCOUNTS

Enactment of the bill would also have no net effect on appropriated accounts.

First, the increase in direct spending relating to IRS forfeitures will permit a reduction in the discretionary appropriation for IRS salaries and expenses of less than \$5 million per year.

Second, the Department of the Treasury will incur additional costs to manage the Treasury Forfeiture Fund. CBO estimates that any such costs would be less than \$5 million annually, assuming appropriation of the necessary amounts.

Enactment of the bill would not affect the budgets of state or local governments.

If you wish further details on the estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

V. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 11(b) of the Standing Rules of the Senate, the Committee states that the bill will not significantly regulate any individuals or businesses, will not impact on the per-

sonal privacy of individuals, and will result in no significant additional paperwork.

VI. CHANGES IN EXISTING LAW

Pursuant to the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 3230, 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):

UNITED STATES CODE

* * * * *

TITLE 18.—CRIMES AND CRIMINAL PROCEDURE

* * * * *

CHAPTER 46—FORFEITURE

Sec.

981. Civil forfeiture.

982. Criminal forfeiture.

§ 981. Civil forfeiture

(a)(1) Except as provided in paragraph (2), the following property is subject to forfeiture to the United States:

* * * * *

(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 656, 657, 842, 844, 1005, 1006, 1007, 1014, 1028, 1029, 1030, 1032, or 1344 of this title, or a violation of section 1341 or 1343 of such title affecting a financial institution.

* * * * *

§ 982. Criminal forfeiture

(a)(1) * * *

* * * * *

[(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.]

(2) *The court, in imposing sentence on a person convicted of a violation, or a conspiracy to violate—*

(A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution; or

(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.

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TITLE 21.—FOOD AND DRUGS

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CHAPTER 20—NATIONAL DRUG CONTROL PROGRAM

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§ 1509. Establishment of special forfeiture fund

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[(b) DEPOSITS.—Deposits in the Fund shall be made by transfer from the Department of Justice Assets Forfeiture Fund in the manner provided in section 524(c)(9) of Title 28.]

(b) DEPOSITS.—There may be transferred to and deposited into the Special Forfeiture Fund, amounts from—

(1) the Department of Justice Assets Forfeiture Fund pursuant to section 524(c)(9) of title 28, United States Code, and

(2) the Department of the Treasury Forfeiture Fund pursuant to section 9703(g)(3)(A) of title 31, United States Code.

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TITLE 28.—JUDICIARY AND JUDICIAL PROCEDURE

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CHAPTER 31—THE ATTORNEY GENERAL

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§ 524. Availability of appropriations

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(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the “Fund”) which shall be available to the Attorney General without fiscal year limitation for the following law enforcement purposes—

[(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary

expenses incident to the seizure, detention, or forfeiture of such property; such payments may include—

[(i) payments for contract services, the employment of outside contractors to operate and manage properties or provide other specialized services as necessary to dispose of such properties in an effort maximize the return from such properties, and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions; and

[(ii) payments made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than a majority of which use will be program related), training, printing, contracting for services directly related to the identification of forfeitable assets ¹ processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;]

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property including—

(i) payment for—

(I) contract services,

(II) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties, and

(III) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this clause;

(ii) payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures;

(iii) payments for contracting for the services of experts and consultants needed by the Department of Justice to assist in carrying out duties related to asset seizure and forfeiture; and

(iv) payments made pursuant to guidelines promulgated by the Attorney General if such payments are necessary and directly related to seizure and forfeiture program expenses for—

(I) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program),

(II) training,

(III) printing,

(IV) the storage, protection, and destruction of controlled substances, and

(V) contracting for services directly related to the identification of forfeitable assets, and the processing of and accounting for forfeitures;

* * * * *

[(F) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by any federal agency participating in the Fund;]

(F)(i) for equipping for law enforcement functions of any Government-owned or leased vessel, vehicle, or aircraft available for official use by any Federal agency participating in the Fund;

(ii) for equipping any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in a joint law enforcement operation with a Federal agency participating in the Fund; and

(iii) payments for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;”

(G) for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, chapter 96 of title 18, or sections 1956 and 1957 of title 18; **[and]**

(H) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement operation with a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund;”

[(H)] (I) after all reimbursements and program-related expenses have been met at the end of fiscal year 1989, the Attorney General may transfer deposits from the Fund to the building and facilities account of the Federal prison system for the construction of correctional institutions.

Amounts for paying the expenses authorized by subparagraphs **[(A)(ii)]** (A)(iv) (B), (C), (F), **[and (G)]** (G and H) shall be specified in appropriations acts. Amounts for other authorized expenditures and payments from the Fund, including equitable sharing payments, are not required to be specified in appropriations acts. The Attorney General may exempt the procurement of contract services under subparagraph (A) under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

* * * * *

(4) There shall be deposited in the Fund—

* * * * *

(B) all amounts representing the Federal equitable share from the forfeiture of property under any *Federal*, State, local

or foreign law, for any Federal agency participating in the Fund [.] ; and

(C) all amounts transferred by the Secretary of the Treasury pursuant to section 9703(g)(4)(A)(ii) of title 31.

* * * * *

(6) The Attorney General shall transmit to the Congress, not later than 4 months after the end of each fiscal year detailed reports as follows:

* * * * *

(B) a report on—

* * * * *

[(v) any defendant's equity in property valued at \$1,000,000 or more; and]

(v) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1,000,000 or more; and

* * * * *

(9)(A) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs [(A)(ii)] (A)(iv), (B), (C), (F), [and G] (G), and (H) of paragraph (1).

* * * * *

(E) Subject to the notification procedures contained in section 606 of Public Law 101-515, and after reserving the amounts authorized in subparagraph (D) above, any unobligated balances remaining in the Fund on September 30, 1991, and on September 30 of each fiscal year thereafter shall be available to the Attorney General, without fiscal year limitation, to be transferred to any Federal agency [to procure vehicles, equipment, and other capital investment items] for law enforcement, prosecution and correctional activities, and related training requirements.

* * * * *

[(11) For the purposes of this subsection, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

[(A) any criminal forfeiture proceeding;

[(B) any civil judicial forfeiture proceeding; or

[(C) any civil administrative forfeiture proceeding conducted by the Department of Justice.

except to the extent that the seizure was effected by a Customs officer or that custody was maintained by the United States Customs Service in which case the provisions of section 613A of the Tariff Act of 1930 (19 U.S.C. 1613a) shall apply.]

(11) The Attorney General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of the Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Department of Justice.

(12) For purposes of this subsection and notwithstanding section 9703 of title 31 or any other law, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund or the property was maintained by the United States Marshals Service; or

(B) a civil administrative forfeiture proceeding conducted by a Department of Justice law enforcement component.

* * * * *

TITLE 31.—MONEY AND FINANCE

* * * * *

CHAPTER 97—MISCELLANEOUS

Sec.

9701. Fees and charges for Government services and thing of value.

9702. Investment of trust funds.

9703. Department of the Treasury Forfeiture Fund.

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§ 9702. Investment of trust funds

* * * * *

§ 9703. Department of the Treasury Forfeiture Fund

(a) *IN GENERAL.*—There is established in the Treasury of the United States a fund to be known as the “Department of the Treasury Forfeiture Fund” (referred to in this section as the “Fund”), which shall be available to the Secretary, without fiscal year limitation, with respect to seizures and forfeitures made pursuant to any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard for the following law enforcement purposes.

(1)(A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.

(B) Payment for—

(i) contract services:

(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.

(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).

(D) Satisfaction of—

(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and

(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization.

To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.

(E) Payment of amounts authorized by law with respect to remission and mitigation.

(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612), in the amounts applicable to such claims at the time of seizure.

(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.

(H) Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.

(2) At the discretion of the Secretary—

(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;

(B) purchases of evidence or information by—

(i) a Department of the Treasury law enforcement organization with respect to—

(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering, or

(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18;

(ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);

(iii) the United States Secret Service with respect to a violation of—

(I) section 1028, 1029, or 1030 of title 18,

(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government, or

(III) any law of the United States which the United States Secret Service is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any Federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation;

(iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act); and

(v) the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—

(I) section 842(h) of title 18,

(II) section 844 (d), (e), (f), (g), (h), or (i) of title 18,

or

(III) section 924(c) of title 18;

(C) payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

(E) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;

(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization;

(G) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations;

(H) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury; and

(I) payment made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—

(i) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

- (ii) training;
- (iii) printing; and
- (iv) contracting for services directly related to—
 - (I) the identification of forfeitable assets,
 - (II) the processing of and accounting for forfeitures, and
 - (III) the storage, maintenance, protection, and destruction of controlled substances.

(b) LIMITATIONS.—

(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture (a)(1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

(3) The Secretary may exempt the procurement of contract services under the Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

(4) The Secretary shall assure that any equitable sharing payment made to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—

(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account total value of all property forfeited and the total law enforcement effort with respect to the violation law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title 28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.

(c) FUNDS AVAILABLE TO UNITED STATES COAST GUARD.—

(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of \$10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.

(2) Funds made available under this subsection may be used to—

(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard

to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency or enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;

(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard; and

(D) pay for expenses incurred in bringing vessels into compliance with to compliance with applicable environmental laws prior to disposal by sinking.

(d) DEPOSITS AND CREDITS.—

(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited during fiscal year 1993, and all proceeds from forfeitures during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of the United States Customs Service or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeitures after fiscal year 1993, under law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of a Department of the Treasury law enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(e) **INVESTMENTS.**—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(f) **REPORT TO CONGRESS.**—The Secretary shall transmit to the Congress, not later than February 1 of each year—

(1) a report on—

(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and

(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and

(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and

(2) a report on—

(A) the balance of the Fund at the beginning of the preceding fiscal year;

(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;

(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried out into the current fiscal year;

(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1,000,000 or more;

(E) the total dollar value of uncontested seizures of monetary instruments having a value of over \$100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;

(F) the balance of the Fund at the end of the preceding fiscal year;

(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;

(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101-576); and

(I) an analysis of income and expenses showing the revenue received or lost—

(i) by property category (such as general property, vehicles, vessel, aircraft, cash, and real property); and

(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).

The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101-576).

(g) APPROPRIATIONS.—

(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).

(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—

(A) \$25,000,000 for fiscal year 1993; and

(B) \$50,000,000 for each fiscal year after fiscal year 1993.

(3)(A) Subject to subparagraphs (B) and (C), in each of fiscal years 1994 and 1995, the Secretary may transfer from the Fund not more than \$10,000,000 to the Special Forfeiture Fund, established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), for activities authorized under the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.).

(B) Transfers pursuant to subparagraph (A) may be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a).

(C) The Secretary of the Treasury shall reserve an amount not to exceed \$30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section. Such amount shall be available for any expenses or activities authorized under this section. At the end of fiscal year 1993, and at the end of each fiscal year thereafter, the Secretary shall reserve in the Fund an amount not to exceed \$50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year.

(4)(A)(i) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.

(ii) Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury's pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.

(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30 of each fiscal year thereafter, shall, subject to subparagraph (C), be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii) and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.

(C) Any obligation or expenditure in excess of \$500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.

(h) RETENTION OR TRANSFER OF PROPERTY.—

(1) *The Secretary may, with respect to any property forfeited under any law (other than section 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury—*

(A) *retain any of the property for official use; or*

(B) *transfer any of the property to—*

(i) *any other Federal agency; or*

(ii) *any State or local enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.*

(2) *The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—*

(A) *is one with which the Secretary of State has agreed;*

(B) *is authorized in an international agreement between the United States and the foreign country; and*

(C) *is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).*

(3) *Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).*

(i) **REGULATIONS.**—*The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.*

(j) **CUSTOMS FORFEITURE FUND.**—*Notwithstanding any other provision of law—*

(1) *during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—*

(A) *all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and*

(B) *no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and*

(2) *any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.*

(k) **LIMITATION OF LIABILITY.**—*The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.*

(l) **AUTHORITY TO WARRANT TITLE.**—*Following the completion of procedures for the forfeiture of property pursuant to any law en-*

forced or administered by the Department of the Treasury, the Secretary is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

(m) **FORFEITED PROPERTY.**—For purposes of this section and notwithstanding section 524(c)(11) of title 28 or any other law—

(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or

(B) a civil administrative forfeiture proceeding conducted by the United States Customs Service; and

(2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

(n) **TRANSFERS TO ATTORNEY GENERAL AND POSTMASTER GENERAL.**—

(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a "participating Federal agency" is an agency that participates in the Department of Justice Assets Forfeiture Fund.

(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

(o) **BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.**—

(1) Except as provided in paragraph (2) and Section 5872(b) of the Internal Revenue Code of 1986, the provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws;

(B) the remission or mitigation of such forfeiture; and

(C) the compromise of claims,

shall apply to seizures and forfeitures incurred or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms.

(2) For purposes of paragraph (1), duties that are imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Secretary.

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

(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATION.—The term ‘Department of the Treasury law enforcement organization’ means the United States Customs Service, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the Federal Law Environment Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

* * * * *

TITLE 39.—POSTAL SERVICE

CHAPTER 20—FINANCE

* * * * *

§ 2003. The Postal Service Fund

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(b) There shall be deposited in the Fund, subject to withdrawal by check by the Postal Service—

* * * * *

(6) the balance in the Post Office Department Fund established under former section 2202 of title 39 as of the commencement of operations of the Postal Service; [and]

(7) amounts (including proceeds from the sale of forfeited items) from any civil forfeiture conducted by the Postal Service [.] ; and

(8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes.

* * * * *

(e)(1) The Fund shall be available for the payment of all expenses incurred by the Postal Service in carrying out its functions as provided by law and, subject to the provisions of section 3604 of this title, all of the expenses of the Postal Rate Commission. The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture

Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service. Neither the Fund nor any of the funds credited to it shall be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31.

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