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Senate

The Senate met at 11 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You have made gratitude the powerful antidote to grief. As a Senate family we thank You for our dear friends Paul and Sheila Wellstone. We are grateful for Senator Wellstone's courageous leadership and his indefatigable commitment to help the poor and disadvantaged of our society. We praise You for his prophetic zeal for righteousness and justice for all people. Thank You for the way Senator Wellstone befriended all the Senate staff and employees, particularly police officers, maintenance personnel, pages, and those who serve to make the Senate run smoothly. He knew people's names, always had time to stop and visit, and made people feel valued. Dear God, You have enriched all our lives with the affirmation and encouragement communicated so generously through Paul and Sheila Wellstone. They have done justly, loved mercy, and walked humbly with You. Heal our grief over their untimely deaths and fill us with Your Shalom. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 13, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, today the Senate will have a period of morning business until 12:30 p.m. The Chair will shortly announce that. That time is equally divided between the two leaders or their designees.

We will have our regular party conferences from 12:30 to 2:15 p.m. today. At 2:15, there will be a period of morning business for one-half hour, and at 2:45 p.m. the Senate will vote on cloture on the Gramm-Miller amendment to the homeland defense bill.

There are additional rollcall votes expected today and tomorrow and Friday. We hope we can complete most of the business. It is my understanding the House is going to recess, and they may be in pro forma sessions for some time after that, but basically they are going home this week. So there is a lot of work to do with conference reports. We need cooperation from all Members. We hope we can get that done.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, and with the time to be equally divided between the two leaders or their designees.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IN REMEMBRANCE OF PAUL WELLSTONE

Mrs. MURRAY. Madam President, on October 25, I lost a good friend, the Senate lost a leader, and the American people lost an advocate who was never afraid to stand up and speak for those who had no voice.

I rise today to honor my friend and colleague, Senator Paul Wellstone, who inspired so many people to speak up and to serve. Even as I stand here today, I cannot imagine that when I turn around I won't see Paul standing at his desk, his arms flailing in the air, making some point with great passion.

Paul, with his energy and optimism, has left a mark on all of us. In 1990, when Paul Wellstone ran for the Senate, a lot of people were watching him and following his race. Political pundits said he could not win. But as I watched him, I became motivated. At the time, I was serving in the Washington State Senate, and I, too, was frustrated by what I saw happening in Washington, DC.

In Paul I saw someone who cared about the little guy and who spoke passionately. Paul was never afraid to voice his ideas or take on big fights. Not only did he win that Senate race, but in the process he inspired a generation of young people to serve their communities.

On a more personal level, Paul inspired me to run for the U.S. Senate. His brilliant example reminded me that you don't need to be powerful or rich—or even tall—to make a difference. You just need to have an honest concern for others, an optimistic spirit, and the courage to act.

Over the last 10 years, I have agreed—and disagreed—with Paul on any number of issues. But never once did I doubt his conviction, and never once did Paul let his policy disagreements soften the love and friendship he felt for all of us. Paul and I worked on everything from domestic violence and education to providing health care for veterans and protecting families from asbestos.

I could always count on Paul to remind me that so many Americans have been dealt a tough hand in life. So many families, through no fault of their own, find themselves struggling, and they need an advocate to speak out for them in this Congress.

No matter what pressures he faced in the Senate or even with his own health, Paul always reminded me how lucky we are to be able to serve in the U.S. Senate.

One thing I will not forget about Paul is that every one of us was important to him and he proved that time and again. A few months ago, I held a meeting in my office to develop a legislative strategy on a bill. I wanted to keep the discussion small and focused and frank, so I invited two other Senators and told them not to bring any staff members. When it was time to start the meeting, Paul bounced through the door with three people in tow. Even though staff were not invited, Paul didn't mind. But these weren't his staff—they were his interns. He proudly introduced each one of them to us, and they all stayed for the entire meeting. We were still able to get everything done that we needed to do in the short time we had. Those young students got to see democracy up close. They got to sit in on a closed-door meeting, and they got a sense—just for a moment—that they, too, belonged there and they, too, could do it.

Paul never stopped showing people what they could accomplish, and that is because he knew that people—plain old people—were important. He didn't care about pollsters and consultants; he cared about people. His love did not depend on whether they could write him a check.

My favorite all-time campaign event with Paul was not a fundraiser, but—in true Paul style—it was a ''time-raiser.'' On a cold Saturday morning, Paul jammed a hall with folks who could not write a check but who could donate 2 hours of time to call or leaflet or answer phones. Judging from the enthusiasm of that crowd, yelling to the rooftops in the packed room, Paul was their Senator and their guy. He valued them and they valued him.

I remember another event when Paul wasn't even scheduled to speak, but he ended up stealing the show. Earlier this year, I was at a press conference on education in the Dirksen Building. Senators KENNEDY, HARKIN, REED, and others were scheduled to talk about making classrooms less crowded. Out of nowhere, Paul Wellstone rushed into the room looking a bit confused. My colleagues and I looked surprised because Senator Wellstone was not scheduled to speak and was not on the agenda. When Paul got to the podium, the first thing he said was:

I am not sure if I am in the right room. When I ran into Ted Kennedy on the floor a while ago, he asked me if I was going to the education press conference, and I said I hadn't heard about it, but I would be there.

He continued:

Frankly, I don't even know if I am talking to the right group, but I am going to tell you why we need to fight for our kids.

Everyone laughed. Paul went on to give a passionate, off-the-cuff speech that wowed and inspired every person in that room.

To me, that really captures Paul's spirit. Wherever some cause needed a voice, he would rush in—regardless of the schedule—and give his impassioned best. If there were a need, he would be there to speak out.

Paul had said he didn't know if he was in the right room, but today I can say with confidence that Paul was in the right place all along.

We are all poorer for the loss of Paul Wellstone, his wife Sheila, his daughter Marcia, the members of his staff, and the pilots who were taken from us on that dark day. It is sad to say that the Senate will no doubt change without Paul. No one will pace down this aisle and speak as passionately as Paul did for so many causes. But I hope that each one of us who are here will take on part of Paul's legacy—for example, the spirit to speak out for the underprivileged, for students in classrooms with leaky roofs, for the woman on welfare not because she wants to be, but because of domestic violence and she is trying to get back on her feet.

I hope we will pick up his legacy and speak out for the workers who are out of a job because this economy has left them behind, or for those who are trying to overcome mental illness and just need some help from their insurance company.

I hope, too, that we will carry on Paul's legacy of respect. Paul spoke from the heart and he spoke passionately. But he never held any disrespect for those with different views. I saw him so many times debate long and hard against another Senator and then step away from the microphone and share a laugh or a hug with the very person he had just debated a few moments before.

If we can remember to fight for all Americans, no matter what challenges they have been dealt, and if we do it with respect and dignity, then Paul's legacy will live on in the Senate, as it lives on in our hearts and in our minds. I, for one, am going to miss him very much. He was all heart and soul. He is impossible to replace.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I rise to speak in morning business to pay tribute to Paul and Sheila Wellstone. It is a difficult thing to do. It is a difficult thing for all of us to do. It is easier for me, right now, to imagine Paul standing over there and articulating a great point, a great point that would be for the consideration of some group of people or an individual about whom he would be deeply concerned—he was clear, passionate, and very forceful in his advocacy for them—rather than to think of him as being gone but he is.

You cannot really measure the height of a tree until it is down. That is, unfortunately, again, the case for Paul and Sheila Wellstone. He was a really tall man. They were really tall trees in what they did.

I had the great fortune to be able to work with both Paul and Sheila on an issue we cared a lot about—the trafficking of individuals across country borders, generally for reasons of prostitution but also for other purposes. We found this was going on.

Actually, Sheila discovered this was happening by visiting with a number of Ukrainian women, some of whom had been trafficked themselves when the Soviet Union fell, when the superstructure that was the Soviet Union came down.

It turned out that gangs, groups came in, the Mafia-type organizations, to operate in the former Soviet Union, and they would run a number of different things. They would run drugs, they would run weaponry, and they would run people. It turned out the trafficking of people was actually their third most profitable operation. It was a real despicable thing they were doing. They would actually go into communities, trick young ladies, generally—sometimes young boys, but generally young girls—saying: We have this great bit of excitement for you. We are going to be able to have you travel to Europe or to the Middle East.

With the fall of the Soviet Union, they didn't see hope or opportunity in their own country, and they would sign on, only to have their papers taken away once they crossed the border. They would be put into a brothel, in some cases chained and tortured until they would submit to prostitution. And then they would even be moved from brothel to brothel. It was a real seamy, dirty, ugly thing that was taking place. It was a dark side of the globalizing economy. It was a dark side of the fall of the Soviet Union. And Sheila found out about it by meeting with Ukrainian women.

Now, I am sure there were not many votes at all in Minnesota that were going to hinge on whether or not Paul or Sheila were going to work on the issue of the trafficking of young girls from the former Soviet Union, Nepal, and India, or from other places. Generally, there was trafficking from poorer countries into richer countries. But Paul was such a champion of the value and the beauty of each person and the needs and the dignity of that individual, and Sheila was as well, that they were willing to put this issue forward and fight for it over a period of a couple years, until we could get the bill passed.

Sheila found out about it. She brought it to Paul's attention. He learned about it and talked with some of these women who had been trafficked. I started to hear about it. I met with women who had been trafficked and found out about the despicable nature of this new form of human slavery, a human slavery of which one person even wrote a book entitled, ''Disposable People,'' because it happened in a situation where they would be moved from one brothel to another, and then, as they would get sick or diseased—in some cases they would get tuberculosis, AIDS—the owners would even throw them out on the street and say: Well, we are done with that one. It was just the most ugly act.

I remember being in a home for girls who had been trafficked and returned to Nepal. There were 50 girls, 16 to 18 years of age. Many of them had been trafficked when they were 12 to 14 years of age. And a lady was helping run this home. This was a recovery house for girls after they would come back from the brothels. This woman was trying to teach them a trade, trying to get them back into the community in Nepal. She would point around the room and say: That girl has tuberculosis and AIDS and she is dying. This girl is dying. That girl has this disease; I don't know if she is going to make it. These were girls who were 16 years of age who should have been in the very flower of their lives, and they were all dying.

They saw it. They were willing to fight for these other people. And we were able to get through legislation on sex trafficking.

Paul joked with me afterwards. He is a more liberal Member and I am a more conservative Member. After that legislative session, he commented that he moved from being the most liberal Member to the second most liberal Member of the Senate, and he blamed it on working with me. I said: Well, just hang around with me, Paul, and we will get you reelected.

He had that kind of humor. He was a friend. He was a friend that was not

scared of ideology splitting people apart. He had his beliefs; I had mine. We all do. But he did not let that separate him. He did not judge a person's soul by their ideology. He judged people by their character and their heart, where they would be willing to stand.

I would often see him come over to greet and talk with JESSE HELMS. He and JESSE disagreed on a number of issues, but they both had passion, soul, and heart. That is what they respected and loved about each other, and that is what I continue to see and love about Paul and Sheila Wellstone, that passion, heart, and soul that would carry them forward.

I do not know that there is a better quote one could put forward than from Dr. Martin Luther King. He once noted that the ultimate measure of a man is not where he stands in moments of comfort but where he stands at times of challenge and controversy.

If we measure Paul and Sheila by that measurement, they stand as a very tall tree. Paul knew controversy. He knew difficulty. He knew challenge. It rallied him. It made him taller. It made him stronger. It was not comfort that he sought. It was not comfort that he wanted to have. I have often thought that in this life it is challenges that build us, it is not comfort that builds us; that God has created us to meet challenges, not to sit back and to eat bon-bons or to let things go by in a measurable way, but He puts challenges in front of us. The more we are willing to accept, the more He is willing to give, and the more He is willing to test us.

Paul and Sheila accepted challenge after challenge, controversy after controversy, always with a pure heart, wanting to do the right thing to help people, regardless of what it might mean to themselves. They were there to do it and they wanted to do it. They relished doing it and they grew in doing it. He was a spirited fighter.

I remember reading about—certainly I was not in this body then—when Hubert Humphrey served in this body and was dying of cancer and they had a tribute to him in Time magazine. I remember so vividly reading about it. The title of it was ''Happy Warrior,'' because he was a warrior and he was happy about it, that his course, his challenge, in life was to be a warrior. He relished in the opportunity to be a warrior.

I did not know him personally, but he could not imagine, as I understand his personality, that there would be any calling any better than to be a warrior.

Paul followed in those footsteps in a great and magnificent way. He was a happy warrior, happily fighting for his cause, happily pressing forward, knowing that people disagreed with him. I disagreed with him often, but I could never disagree with that passion. Nor could I ever disagree with that heart. We developed a really good friendship.

He is a man I was very fond of and I am fond of even now. As I say, it is hard to think of him being gone. I suppose that is because he and Sheila really probably still are here.

My prayers have been with them, with the other people who went down in that plane. So tragically their lives were ended early. None of us will know why on this side of eternity, but we can always learn and grow from him. We are caused to grow in our life by each person with whom we come in contact. I was caused to grow in a very profound and very personal way by my contact with Paul and Sheila. I am indebted to them. I pay tribute to them and what they have done. God bless them.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I would like to join my colleague, Senator BROWNBACK, in paying tribute to the life of Paul and Sheila Wellstone. It is also so important for us to remember the staff and others who were on that airplane. We have people in this country who serve every one of us, and their lives were given in service of their country also.

Paul was a unique individual, no doubt about it, a man who made us smile even when we were in debate against him. He was a happy warrior. I think that is a good description of him.

All of this points out, as the Scripture says, that life is but a vapor. We are only here a short time. We might as well pour ourselves into it and fight for what we believe. Else, what is life all about?

He did that. He poured himself into his job, poured himself into his view of the world and life in general and fought for that. His political agenda was an expanded government. He wanted to help people in need. He was passionate about that. He wanted to help people. To a large degree, I suppose the disagreement I had with him was that he believed that government was the way to make that happen, but the goal was good. I know Paul liked me, and I loved him. He was an individual who was very special.

I feel real sad about this entire event, as do all of us in this Senate. I remember his vote against the Iraq resolution, which was something I felt very strongly in favor of. He was the only Member of this body who was up for reelection who had to answer to the voters on that issue. He did not see it the way I saw it, and he did not tack to the wind. He voted against that resolution and went back home and answered to people of Minnesota. He told them why he did it, and either they agreed with him or they forgave him. He was able to cast what many thought was an unpopular vote and not suffer the apparent political consequences.

I believe Paul was a special person. He set a good example for all of us to realize that life is short. We are only given this opportunity to serve in the greatest deliberative body of the greatest country in the history of the world for what we have to assume is a very short time. We might think constantly that therefore we should use this office for the people's good, and if we do that, we will have honored his name, honored the commitment he made to public service, and honored the people of the United States.

I will miss Paul. He was a man of great strength and character. This body will be poorer for his absence. Our thoughts and prayers go out to his family and friends.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I take a moment to pay my personal tribute to Paul Wellstone. Paul was a dear friend and someone for whom I had a great deal of respect, someone with whom I enjoyed working. We served on the Health, Education, and Labor Committee together. We served on the Workforce Protections Subcommittee together. We had many opportunities to deal on differing positions, obviously, on that committee, but always with great congeniality and with a great deal of affection for one another.

He and I were both in very heated reelection campaigns, very tight reelection campaigns, and oftentimes discussed before the adjournment our mutual desire to be able to campaign in our States.

I share the grief of my colleagues in the loss we have all experienced, the State of Minnesota has experienced, along with his family and what they are enduring. We also look back with a great deal of joy at the life he lived and the contribution he made not only to his State, to his country, but to each one of our lives.

I recall so often Paul standing at his desk. He took the desk of one of my predecessors in the Senate, Dale Bumpers from Arkansas. He was a good successor for that position. Where Senator Bumpers would often walk up and down that aisle with great passion, so, too, Paul Wellstone would use the entire length as he wandered that aisle and as he spoke with such passion and such conviction.

I remember often his referring to himself, as he would speak, ''as a Senator from the State of Minnesota.'' He would use that expression. I don't know if that is as commonly used as he used it—''as the Senator from the State of Minnesota''—and he stated his position and conviction. I thought that phrase, ''a Senator from the State of Minnesota,'' summed up an awful lot of Paul Wellstone. He was proud of the State of Minnesota, representing the State of Minnesota and the people of Minnesota. He was proud also of this institution, being a Senator. He never lost the love and the awe for serving in

this great institution. In my mind, I will always be able to hear echoing Paul Wellstone as he spoke on issue after issue as a Senator from the State of Minnesota.

The area in which we found mutual interest and, though from very opposite ends of the political spectrum, similar feelings was the area of human rights, especially on the cause of China and the people of China, telling the world about the human rights abuses that continue even to this day in China. Paul and I held many press conferences with Members, colleagues from the House, who shared concerns about China. He and I made many floor speeches about the remembrance of the Tiananmen Square massacre and some of the tragedies in the past.

I speak today with great affection, great admiration, and a great sense of loss about Paul Wellstone. He was a person who had great convictions. He was a man of great conscience. He was a man who did not mind if he upset the political order. He did not care that it might disrupt someone's schedule if he needed to make a speech on a position about which he felt very deeply. As one who admired him for his conscience and his passion, I simply pause today to express my appreciation and admiration for the contribution he has made to all of us.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. Mr. President, I would like to add my voice to the many already heard today in remembrance of a passionate, intelligent, spirited man, Paul Wellstone.

Senator Wellstone was an original in a crowd abounding with characters. Paul first gained notoriety for earning this office logging miles on a green school bus, traveling across the State of Minnesota touching the lives of everyone he came across. Once in Washington, Paul made his mark quickly on each Senator, aide, reporter, and officer who has been lucky enough to serve this institution, with him.

Paul Wellstone was a man of principle who provided thoughtful analysis of every issue, but unlike some passionate statesmen, for Paul it was never personal. He respected differences in opinion though he was unwavering in his own beliefs. And although I only served with him for two years, I saw many times his warmth towards those around him regardless of political ideology.

A few weeks ago we were on the floor giving tribute to another of our Members, Senator JESSE HELMS, who will be retiring this year. Senator Wellstone eloquently praised Senator HELMS, who has been so often on the other side of the ideological divide. At the conclusion of his remarks, he embraced Senator HELMS.

Paul was a man of ideas, but also a man of the people. He will be sorely missed and our thoughts and prayers are with his sons, the Wellstone staff, and the people of Minnesota during this difficult time.

Mr. CONRAD. Mr. President, I rise today to remember a man who is deeply missed. He was a colleague, a leader and a friend: Senator Paul Wellstone of Minnesota. Since joining the Senate in 1990, Paul earned his reputation as a great leader and a man of the people. He had strong convictions and an unparalleled passion for supporting the under-represented.

As a member of the Health, Education, Labor, and Pensions Committee, Senator Wellstone was a tireless advocate for the concerns of working Americans. He pushed for expanded school funding and for improved teacher quality. He championed expanded financial aid to make sure that money was not an insurmountable hurdle for those who wanted to go to college. He fought for a higher minimum wage and better working conditions. He wanted to help the average American by working to provide better, more affordable, more available health care. It was visible to all who watched him that Paul truly loved his work, and the people for whom he did that work.

Paul was a strong voice in the Senate and across the country in the battle for human rights. For example, Paul and his wife Sheila crossed the country fighting against domestic abuse. But his concern for the dignity of human beings did not stop at our country's borders. He championed a trade policy that would protect foreign workers from being exploited by multi-national corporations. He was a vigorous supporter for peace in the Middle East and an advocate of foreign aid to help vulnerable children and the persecuted of all races and religions around the world. There wasn't an issue that affected human beings or our quality of life that Paul did not actively pursue; he fought for the people, stood up for his beliefs and let the political chips fall where they might.

Senator Wellstone was also a leading proponent for American Veterans and their families. Year after year, in ways small and large, Paul Wellstone fought to improve health care and other benefits for those who had served their country. Many veterans disagreed with his views on defense and foreign policy, but that did not matter to Senator Wellstone. He understood that those who had put their lives on the line for their country deserved special treatment and special respect whether they supported him or opposed him.

People didn't always agree with his position, but he was always forthright. There was never a question of motives with Paul. Senator Wellstone never let policy disagreements get personal; he always had a ready wink or smile or joke to share when the debate had ended. And he had a sense of humor that was downright infectious.

I worked most closely with Senator Wellstone on agriculture issues. Paul was a fighter. He worked tirelessly to improve policy for the farmers in Minnesota and other rural states. Minnesota's dairy farmers couldn't have asked for a more vigorous ambassador in the fight for a fairer dairy program; his efforts paid off in the 2002 farm bill, which made great strides in leveling the playing field for Midwestern dairy farmers. Paul worked on conservation issues, supported farm payment programs to family farmers and worked to improve nutrition programs in the farm bill. Senator Wellstone also understood the value of strong communities in rural areas and tirelessly pushed for rural economic development. As with everything else he worked on, Paul brought a unique passion and unceasing efforts to these battles.

Paul also worked side-by-side with me after the Red River flooded Grand Forks and East Grand Forks in one of the worst flood disasters in our history. His advocacy was invaluable as we secured disaster aid to rebuild the communities that had been devastated by flooding and fires. When a battle was truly important and people's livelihoods were on the line, there was no one who would fight harder than PAUL WELLSTONE.

We also worked together on the issue of mental health parity. I can well remember when Senator Wellstone took this issue to the Senate floor during the debate on health insurance portability. The managers of the bill had crafted a delicately balanced bill and agreed to oppose all amendments in order to preserve their compromise. But that would not stop Paul Wellstone. He offered his amendment, and gave a typically passionate, personal plea to put an end to the injustice that condemns those with mental illnesses to inferior health care coverage. I was privileged to join Senator DOMENICI and former Senator Alan Simpson in making the case for this amendment. And, despite the bipartisan opposition of the leadership on the bill, Paul's passion and the personal stories shared by his allies carried the day overwhelmingly.

Paul's enthusiasm was infectious and deeply respected by his colleagues. No loss on an amendment or other setback could keep Paul down; he was always ready to rejoin the fight and perpetually optimistic that he would expand his coalition and find a way to win the battle the next time. It is his character and good humor that we remember, and it is his unquenchable desire to help human beings of all kinds that will prove to be the greatest loss.

Mr. ROCKEFELLER. Mr. President, Paul Wellstone was a committed and effective Senator who will be deeply missed by millions of often ignored

Americans, people who relied on him not only to fight their battles, but to win important victories on their behalf.

I worked closely with Senator Wellstone for many years, in a number of areas important to both of us.

As Chairman of the Senate Committee on Veterans' Affairs, I know that he was a tireless fighter for the men and women who had served in America's armed forces, especially for ill and aging veterans, those least able to fight for themselves, yet most in need of our help.

He fought for children, for their education and health care. And he worked to fashion a welfare system that encouraged work and protected children, without becoming punitive or unreasonable.

He also worked on behalf of the unskilled and unemployed, for a living minimum wage, for job training, and for education benefits to promote workers' 21st century skills. And I knew I could always count on his support for West Virginia's steelworkers and all workers threatened by unfair practices in an increasingly complex economy.

Senator Wellstone's many battles earned him a reputation as an ideologue and a firebrand. But I saw him reach across the aisle many times in his career. His first loyalty was to people, not to party, and his work with Senator DOMENICI on the groundbreaking Mental Health Parity Act stands as testimony to the strength of his priorities and the effectiveness of his approach. I am proud to be able to continue his work to bring equitable treatment to those who suffer from mental illness.

Paul Wellstone never believed that having principles and sticking to them somehow meant you couldn't get things done in the United States Senate. Instead, he believed that you had to stick to your principles, or you couldn't get anything worthwhile done. It was an approach that made him unique and won him unusual respect and admiration from every member of this body.

Senator Wellstone's tragic death, along with the deaths of Sheila and Marcia Wellstone, staffers Tom Lapic, Mary McEvoy, and Will McLaughlin, and pilots Richard Conroy and Michael Guess, have left a void in the Senate and in our hearts.

But all of us who worked with him, or knew of the work he did, will find some cheer in the memory of Minnesota's great voice for justice and opportunity.

Many will remember him for his fiery speeches and outspoken opinions.

But atomic veterans finally receiving treatment for their service-related disabilities, and homeless veterans with a new chance to find their way off the streets; parents whose children are learning from better teachers and enjoying better access to health care; activists who found an ally in their struggle to end violence against women; workers receiving job training; and entrepreneurs, especially women, minorities, and the urban poor, profiting from a changed and expanded federal small business loan regime.

All these people will remember Paul Wellstone, as I will, not just for what he said, but what he did.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:40 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. REID).

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 2:45 p.m. today, with the time from now until 2:45 to be equally divided between the two leaders or their designees.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate recess subject to the call of the Chair.

There being no objection, the Senate, at 2:19 p.m., recessed subject to the call of the Chair and reassembled at 2:29 p.m., when called to order by the Presiding Officer (Mr. EDWARDS).

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. Yes.

Mr. LIEBERMAN. Mr. President, I rise to support the motion for cloture that will be voted on in about 15 minutes. This is a way to begin bringing this debate on the creation of a Department of Homeland Security to a close and to allow our Government to begin the urgent business of creating this new Department.

For those of us who have supported this idea for over a year now, this moment is long overdue.

I am troubled by the draft of the substitute bill that began circulating yesterday which, in my view, has not only a number of very good parts in it which are quite similar to those contained in the bipartisan bill reported out of the Governmental Affairs Committee but also has a number of serious shortcomings that I hope to discuss when it comes to the floor either later today or tomorrow.

I am especially concerned that this new substitute bill creating a Department of Homeland Security also contains a number of special interest provisions that are being sprung on the Senate without prior warning or consideration. This is really not the time for that. We all ought to be focusing on the terrorist threat, the need to create a Department of Homeland Security to meet that threat, and not on using a vehicle that is probably moving to passage to put into it a host of pet personal projects. This is clearly not the time for that, and I hope the President and members of the leadership will discourage Senators and Members of the House from using this homeland security debate as a vehicle for accomplishing those more special purposes.

More than 14 months have now passed since September 11, 2001, that day when terrorists viciously exploited our vulnerability and took the lives of 3,000 of our friends, family, and fellow Americans. Fifteen months have now passed since October of 2001, when Senator SPECTER and I initially proposed legislation creating a Department of Homeland Security to meet and beat the terrorist threat. This measure was not just bipartisan. It was, in fact, intended to be nonpartisan. Our proposal had nothing to do with politics and everything to do with giving our Government the ability to protect the American people from another terrorist attack. I point this out now, not out of pride but to make clear how far we have come, in some ways in the wrong direction, and how much time we have taken before making this urgent transformation.

In the beginning, the vision of a Homeland Security Department was a recommendation and a report issued by a nonpartisan commission chaired by our former colleagues, Warren Rudman and Gary Hart. Then it was put forward in our committee bill. Then, as often happens to good ideas in a democracy, it gained support and steam in Congress.

At the outset, President Bush and most Republicans in Congress resisted our legislation. I never took that resistance to be partisan, and I do not believe it was. The President argued that the coordinating Office of Homeland Security within the White House led by Governor Ridge would be strong enough to do this massive and complex job. So for 8 months, the administration did oppose the creation of a Homeland Security Department.

In the meantime, the Governmental Affairs Committee held a total of 18 hearings, exploring every possible aspect of our homeland defense vulnerabilities and how they should be fixed. On May 22 of this year, the product of that work, a new version of the

bill, was reported out of our committee, unfortunately, on a party line vote with all Democrats voting in favor of a Department of Homeland Security and all Republicans opposed.

That partisan split did not last for long. A month or so later, last June, I was very pleased when the President and most of our Republican colleagues endorsed a proposal to create a Department of Homeland Security.

Somebody once said it is common in Washington to see people change their positions but rare to see them change their minds. I like to believe that is exactly what happened in the White House. Based on experience, the President and his assistants changed their minds about the desirability of a Department of Homeland Security. We then worked with the White House and Senate Republicans to build the greatest possible support for a bipartisan bill.

In July of this year, our committee sent such a bipartisan proposal to the Senate floor, which we began to debate in early September. We had a good debate on this proposal. As was acknowledged by all people on both sides, our committee legislation overlapped with the President's proposal and the House-passed bill on 90 or 95 percent of the issues and decisions involved. Somehow, despite finding ourselves on the same page, we could not find a way to turn the page together to create a more secure nation.

The major sticking point was civil service protections and collective bargaining rights for homeland security employees. We tried in good faith to bridge that divide. We pushed repeatedly for a vote on a very reasonable bipartisan proposal.

I ask unanimous consent that I be given 5 additional minutes to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair. We pushed repeatedly for a vote on a very reasonable bipartisan proposal crafted by Senators BREAUX, NELSON, and CHAFEE, to break the unnecessary logjam over the rights of Federal workers. But that was not to be had.

Our colleagues on the other side did not yield. Five times they refused to allow a vote on their own bill, even though Democrats had time and again given ground and simply wanted a vote on the compromise amendment.

As will be remembered, mostly because of Senator DASCHLE's totally justified expression of anger on this floor, the Bush administration even began to question the patriotism of Democratic Senators rather than joining us on this good-faith area of disagreement to try to come to an agreement.

In a new low in the tawdry business of political campaign advertising, two of our colleagues, Senator CLELAND and Senator CARNAHAN, were subjected to ads that took votes they cast out of context on homeland security and questioned their patriotism. That was outrageous and unacceptable. The fact is that these two Senators, CARNAHAN and CLELAND, had been early supporters of a Department of Homeland Security. So what started out as a nonpartisan effort to protect America's national security, unfortunately, became a very partisan effort to decide elections. Now the campaign is over. It is time to turn the page once again.

Benjamin Franklin said, you may delay, but time will not. I say this afternoon we may delay, but the terrorists will not. Senators Hart and Rudman issued another report within the last week or two and they have predicted another terrorist attack:

> The next attack will result in even greater casualties and widespread disruption to American lives and the American economy. The need for immediate action is made more imminent by the prospects of the United States going to war with Iraq and the possibility that Saddam Hussein might threaten the use of weapons of mass destruction in America.

Our vulnerabilities remain painfully serious, our disorganization in terms of our national apparatus to combat terrorism and protect national security, homeland security, dangerously disorganized. That is why it is so critical to pass a bill creating a Department of Homeland Security, led by a strong and accountable Secretary. That will start to close our vulnerabilities and improve our homeland defenses. Safety in this new age is a civil right. When Americans live in fear, their rights are compromised. By invoking cloture and moving toward a resolution on a Department of Homeland Security today, we will be saying loudly and clearly that we as a Nation do not succumb to fear. We will face what threatens us with strength. We will not be shaken by the voice that once again has threatened us on audiotape because we will secure our own future by working together in Congress to better organize our government and thereby to secure more control of our own destiny. Fear, uncertainty, and delay will be overcome by strength, unity, and American ingenuity. We will protect our friends, our family, and our children against the worst designs of our terrorist enemies by drawing on the best in each of us and, hopefully, in the days ahead we will do it together.

I urge my colleagues to vote for cloture on this vital legislation. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think I have 5 minutes and then we have a vote, so I will try to be brief. It is fair to say at the beginning of the process, no one conceived there could be partisanship on homeland security. Neither party sought the partisanship, but yet in the process it came. We ended up as the session ended with a situation no one may have chosen, but the reality was every Democrat except one was opposed to the President's program, and every Republican except one was for it. The definition of partisanship is when you have an issue that produces a division right down the middle aisle. That is what we had. We had an election. I do think the American people spoke clearly on this issue. If there was a dominant theme in the election, it was that the American people were unhappy that we had not found our way to a bipartisan solution to our homeland security dilemma.

Today we have an opportunity to fix that. We have the opportunity to fix it by the following procedure. We need to vote yes on cloture on the Gramm amendment, which I intend to vote yes on. There will then be a motion to table the Lieberman amendment which, if it is successful, and I hope it will be successful, will knock down the whole superstructure that has been piled on top of the underlying Homeland Security bill. That will give us an opportunity to offer a bipartisan compromise that has been hammered out over the last 4 or 5 days. There is, at least in terms of what people have said in the reported media, a majority of the membership that is in favor of that compromise. Even as we speak, the House is debating a rule under which they will consider that compromise. Tonight, about 6 p.m., it is my understanding they will vote on that compromise. If they adopt it—and we have every reason to believe they will adopt it overwhelmingly—if we do the same, we will have been successful in a bipartisan effort to provide for Homeland Security.

I conclude by simply noting when we have the kind of debate we had for 6 weeks, it is easy to have hard feelings about it, it is easy to say ''I want to prevail'' after all the effort. I hope now we have had an election, we have all had an opportunity to go home and tell our side of the story, we can now come together.

I do think we have a good agreement. It does not do everything I want to do. It does some things in ways that I would choose not to do. Overall, it has two redeeming qualities. One, it gives the President the power he needs to get the job done, and the President and all those who would be working with him to create and run this new Department say with this compromise, they can get the job done.

Second, at least if everyone stays where they said they are, we have a majority of Members willing to vote for it. No matter what you think, or no matter what perfection would be, if, after 6 weeks of very difficult partisan debate, you have a proposal that will get the job done, a proposal that is supported by the person who has the constitutional responsibility for doing the job—the President—a proposal that those who would implement say they can make work, and a proposal the majority of Members have decided they are for, I am hoping we can get a very big vote here and put this behind us.

Finally, in the waning days of a session, obviously any individual member has extraordinary power. If someone

decides they want to try to disrupt the process, they can. This is not an extreme proposal. It is a compromise. It has dealt with many of the issues that have been raised, from the appropriations issue Senator BYRD raised to numerous other issues discussed. I hope we will today begin the process that will quickly allow us to pass this bill.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738 to H.R. 5005, the Homeland Security legislation:

Harry Reid, Ben Nelson of Nebraska, Hillary Rodham Clinton, Debbie Stabenow, Mark Dayton, Patrick Leahy, John Breaux, Tom Carper, Tom Daschle, Byron L. Dorgan, Jack Reed, Jim Jeffords, Tim Johnson, Mary Landrieu, Max Baucus, Daniel K. Inouye.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Gramm amendment No. 4738 to H.R. 5005, an act to establish the Department of Homeland Security, shall be brought to a close? The yeas and nays are required under rule XXII.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 89, nays 8, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—89

Akaka	DeWine	Levin
Allard	Dodd	Lieberman
Allen	Domenici	Lincoln
Barkley	Dorgan	Lott
Baucus	Durbin	Lugar
Bayh	Edwards	McCain
Bennett	Ensign	McConnell
Biden	Enzi	Mikulski
Bingaman	Feinstein	Miller
Bond	Fitzgerald	Murkowski
Breaux	Frist	Murray
Brownback	Graham	Nelson (FL)
Bunning	Gramm	Nelson (NE)
Burns	Grassley	Nickles
Campbell	Gregg	Reid
Cantwell	Hagel	Roberts
Carnahan	Hatch	Rockefeller
Carper	Hollings	Santorum
Chafee	Hutchinson	Schumer
Cleland	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kerry	Snowe
Craig	Kohl	Specter
Crapo	Kyl	Stabenow
Daschle	Landrieu	Stevens
Dayton	Leahy	Thomas
Thompson	Thurmond	Warner
	Voinovich	Wyden

NAYS—8

Boxer	Feingold	Reed
Byrd	Jeffords	Sarbanes
Corzine	Kennedy	

NOT VOTING—3

Harkin	Helms	Torricelli

The PRESIDING OFFICER (Mr. EDWARDS). On this vote, the yeas are 89, the nays are 8. Three-fifths of the Senate duly chosen and sworn having voted in the affirmative, the motion is agreed to.

HOMELAND SECURITY ACT OF 2002—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman Amendment No. 4471, in the nature of a substitute.

Gramm/Miller Amendment No. 4738 (to Amendment No. 4471), of a perfecting nature, to prevent terrorist attacks within the United States.

Nelson (NE) Amendment No. 4740 (to Amendment No. 4738), to modify certain personnel provisions.

Daschle motion to commit the bill to the Committee on Governmental Affairs and that it be reported back forthwith with the pending Lieberman Amendment No. 4471, listed above, as amended.

Daschle Amendment No. 4742 (to the instructions of the motion to commit H.R. 5005 to the Committee on Governmental Affairs) of a perfecting nature, to prevent terrorist attacks within the United States.

Daschle Amendment No. 4743 (to Amendment No. 4742), to modify certain personnel provisions.

The PRESIDING OFFICER. Cloture having been invoked, the pending motion to recommit falls.

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I move to table the pending Lieberman amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. It appears there is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. The Senator from West Virginia could not hear the motion. Would the Chair get order? Let's hear the motion again.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. If we can't do this, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their conversations to the cloakrooms.

The Senator from West Virginia.

Mr. BYRD. I would just like to hear what the motion was.

The PRESIDING OFFICER. The Senator from Tennessee has moved to table the Lieberman substitute. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—50

Allard	Enzi	Murkowski
Allen	Fitzgerald	Nickles
Barkley	Frist	Roberts
Bennett	Gramm	Santorum
Bond	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith (NH)
Burns	Hatch	Smith (OR)
Campbell	Hutchinson	Snowe
Chafee	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Kyl	Thomas
Craig	Lott	Thompson
Crapo	Lugar	Thurmond
DeWine	McCain	Voinovich
Domenici	McConnell	Warner
Ensign	Miller	

NAYS—47

Akaka	Dayton	Leahy
Baucus	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Breaux	Feinstein	Nelson (FL)
Byrd	Graham	Nelson (NE)
Cantwell	Hollings	Reed
Carnahan	Inouye	Reid
Carper	Jeffords	Rockefeller
Cleland	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kerry	Stabenow
Corzine	Kohl	Wyden
Daschle	Landrieu	

NOT VOTING—3

Harkin	Helms	Torricelli

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT REQUEST

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 4546, the Department of Defense authorization bill; that there be 75 minutes equally divided and controlled by Senators LEVIN and WARNER or their designees; that upon the use or yielding back of the time with no intervening action or debate the Senate proceed to vote on the adoption of the conference report; that upon the adoption of the conference report and the Senate resuming consideration of H.R. 5005, Senator THOMPSON be recognized to offer a substitute amendment; that immediately upon the reporting of the Thompson amendment Senator LIEBERMAN be recognized to offer an amendment to the Thompson amendment; and, following that, Senator

FEINGOLD be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object——

Mr. REID. I added to the unanimous consent request, which the minority leader did not have a chance to review, that Senator FEINGOLD be recognized following the Thompson amendment, which, as I understand it, deals with the cost-of-living increase.

Mr. GRAMM. Mr. President, maybe something could be worked out, but that was not part of the agreement that we had sent over. On that basis, I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. The Senator is absolutely right. I only did that to get approval on our side, and I should have checked with the Senator first. I apologize.

Does the Senator from Texas only object to the Feingold part of the unanimous consent?

Mr. GRAMM. Mr. President, if the distinguished Democratic floor leader will yield, we had met and canvased our Members on the original agreement that we had reached. That agreement entailed bringing up the Defense authorization bill, having a 75-minute time limit on it, voting on it, and then having Senator THOMPSON be recognized to offer the Gramm-Miller substitute. Subsequently, the Senator from Nevada made a change in that agreement which has not been canvased on my side. So I am required to object to the unanimous consent request as the Senator has changed it. But the original one we would stand ready to accept.

Mr. REID. The Senator is absolutely right. Standard procedure around here is to check with the other side. I did not do that. I apologize for that.

Would the Senators agree that we could go do the first part of this unanimous consent request; that is, that we would go to the Department of Defense authorization conference report and have 75 minutes of debate on that? And, of course, following the disposal of that, Senator DASCHLE or Senator LOTT or the two managers of the bill would have the first right of recognition. I am sure that would accomplish the same thing anyway.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 4546, the Department of Defense authorization bill; that there be 75 minutes of debate equally divided and controlled between Senators LEVIN and WARNER; that following disposition of that matter, the Senate proceed to vote on the adoption of the conference report; that upon adoption of the conference report, we return to the consideration of H.R. 5005, which would be the regular order anyway.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object—and I shall not—could we be more explicit as to whether or not we believe there should be a recorded vote because that is a time element. At this point, I think I would speak. We want to convenience the leadership in the expediting of the matters before the Senate. I do not know if there has been a request for a recorded vote because you are looking at 30 minutes for that probably. I just make that clarification.

Mr. REID. We have been told that on your side there is a vote required.

Mr. WARNER. OK.

I thank the Chair.

Mr. REID. I say to my friend from Wisconsin, the Senator from Wisconsin is not in any way jeopardized with anything in the first part of this unanimous consent request. If we can go to the Defense Department authorization conference report, H.R. 5005 reappears automatically anyway.

Mr. FEINGOLD. Mr. President, I object to this request.

The PRESIDING OFFICER. Objection is heard.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, if there would be an understanding that my amendment would follow this process as a separate agreement, I would be happy to lift my objection.

Mr. REID. Mr. President, as I said to my friend from Wisconsin, I will do what I can to make sure he has an opportunity to offer an amendment. I cannot guarantee that. I can only do that with a unanimous consent request.

AMENDMENT NO. 4900

(Purpose: To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2003)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 4900.

At the appropriate place in the bill insert the following sections:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2003.

Mr. FEINGOLD. Mr. President, my amendment is very straightforward. It would eliminate the roughly $5,000 pay raise scheduled to go into effect next January for Members of Congress.

Put simply, this is the wrong time for Congress to give itself a pay hike.

Our economy is still recovering from the recent slowdown. The financial markets have been rocked, wiping out a chunk of the life savings and retirement accounts of many families. Thousands of workers who were laid off have not returned to work, and families face increasing financial pressures.

Our budget is, once again, back in deficit. Even under the most optimistic scenarios, we are facing serious budget deficits for many years to come. The on-budget deficit for the fiscal year that just ended on September 30 is well over $300 billion, and the Office of Management and Budget projects deficits totaling over one trillion dollars over the next five years.

In fact, the Federal Government is spending all of the Social Security Trust Fund surpluses, and then some, something we should do only to meet the most critical national priorities.

A pay raise of nearly $5,000 for Members is not a critical national priority.

Nor can one argue that this pay raise is justified because Members have not had one in a while. This is the fourth pay raise in as many years. On January 1, 2000, Members received a $4,600 pay raise. On January 1, 2001, Members received a $3,800 pay raise. On January 1, 2002, Members received a $4,900 pay raise. And unless we stop it, this coming January, Members will receive a $4,700 pay raise.

That will mean that, as of this coming January, Members will have received four consecutive pay hikes totaling $18,000—$18,000 per year.

That is more than the average annual Social Security benefit for a retired worker and spouse. It is more than the average annual Social Security benefit for a disabled worker, spouse, and child. It is more than someone working minimum wage can make in a year and a half.

This automatic, stealth, pay raise system is absolutely wrong. It is an unusual thing to have the power to raise our own pay. Few people have that ability. Most of our constituents do not have that power.

That this power is so unusual is a good reason for the Congress to exercise that power openly, and to exercise it subject to regular procedures that include debate, amendment, and a vote on the record.

That is why this process of pay raises without accountability must end. It is offensive. It is wrong. And I believe it may be unconstitutional. The 27th Amendment to the Constitution states:

No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.

I recognize that some of our colleagues may feel they deserve a pay raise. I certainly respect that position. Last year, a colleague said to me that Members deserved a pay increase because of all that we had been through. Again, I strongly disagreed with that assessment last year, but I understood the sentiment.

But even those who favor a pay hike should support voting for it on the record. Certainly, having an open and public vote on the record for a pay hike is better than the stealth pay raise that takes place with no action.

Standing up and making the case before the public is far better than quietly letting the pay raise take effect.

We really should scrap the current stealth pay raise system, and I have introduced legislation to stop this practice. But the amendment I offer today does not go that far. All it does is to stop the pay raise that is scheduled to go into effect in January—the fourth pay raise in four years.

Let's stop this backdoor pay raise, and then let's enact legislation to end this practice once and for all.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I move to table the Feingold amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Missouri (Mrs. CARNAHAN), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Idaho (Mr. CRAIG) are necessarily absent.

The PRESIDING OFFICER (Ms. CANTWELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—58

Akaka	Dodd	Lugar
Allen	Domenici	McConnell
Barkley	Durbin	Mikulski
Bennett	Enzi	Murkowski
Biden	Feinstein	Nelson (NE)
Bingaman	Frist	Nickles
Bond	Graham	Reed
Boxer	Gramm	Reid
Breaux	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Shelby
Cantwell	Inhofe	Stevens
Carper	Inouye	Thomas
Chafee	Jeffords	Thompson
Cochran	Kohl	Thurmond
Conrad	Kyl	Voinovich
Crapo	Levin	Warner
Daschle	Lieberman	
Dayton	Lott	

NAYS—36

Allard	Dorgan	Landrieu
Baucus	Edwards	Leahy
Bayh	Ensign	Lincoln
Brownback	Feingold	McCain
Bunning	Fitzgerald	Miller
Cleland	Grassley	Murray
Clinton	Hutchinson	Nelson (FL)
Collins	Hutchison	Roberts
Corzine	Johnson	Schumer
DeWine	Kerry	Sessions
Smith (NH)	Snowe	Stabenow
Smith (OR)	Specter	Wyden

NOT VOTING—6

Carnahan	Harkin	Kennedy
Craig	Helms	Torricelli

Mr. REID. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FISCAL YEAR 2003—CONFERENCE REPORT

Mr. REID. I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 4546, the Department of Defense authorization bill; that there be 75 minutes of debate equally divided and controlled between Senators LEVIN and WARNER or their designees; that upon the use or yielding back of time, without any intervening action or debate, the Senate proceed to vote on adoption of the conference report; that upon adoption of the conference report, Senator SANTORUM be recognized to offer a unanimous consent request; and that following the disposal of that, the Senate resume consideration of H.R. 5005, with Senator THOMPSON recognized to offer a substitute amendment; and immediately upon the reporting of the Thompson amendment, Senator LIEBERMAN be recognized to offer an amendment to the Thompson amendment.

Mr. NICKLES. Reserving the right to object—and I shall not object—is it the assistant Democratic leader's intention to have a rollcall vote on the DOD authorization?

Mr. REID. We had a request from that side of the aisle to have the rollcall vote.

We do not have a rollcall vote request.

Mr. NICKLES. To my knowledge, that request has been withdrawn.

For the information of our colleagues, it may well be possible to pass the Department of Defense authorization bill by a voice vote.

Mr. REID. That sounds good. We have a number of Senators who have other things to do. That would be helpful.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the conference report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 5010), to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of November 12, 2002.)

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Madam President, we are pleased to bring to the floor the conference report on the Bob Stump National Defense Authorization Act for Fiscal Year 2003. The conference report would not have been possible without the dedicated work, over many months, of the members of our committee on both sides of the aisle, particularly our subcommittee chairmen and ranking members who bore the brunt of the workload in bringing this bill to this point.

I particularly thank my dear friend and colleague, Senator WARNER, the ranking minority member, soon to be chairman of the Armed Services Committee, for the absolutely essential role he has played throughout this process. Right up to the last minute, we were not sure we would get a bill. Senator WARNER was able to help us accomplish that and get us to that goal line that we finally think we will cross. I thank him for that.

Mr. WARNER. It was a team effort, Madam President. I thank my distinguished chairman.

Mr. LEVIN. This conference report is named after Congressman BOB STUMP, who will be retiring, in honor of all the work he has done, for the dedication of his entire congressional career supporting our men and women in uniform. The bill is deservedly named in his honor. Of course, IKE SKELTON on the House side, the ranking member of the House Armed Services Committee, made an absolutely essential contribution as well.

Last month, we passed H.J. Res. 114 that authorized the President to use the Armed Forces of the United States as he determines to be necessary and appropriate to defend the national security of the United States against the continuing threat posed by Iraq and to enforce all relevant U.N. Security Council resolutions in that regard.

It has been widely reported that the United States has already started the prepositioning of forces and supplies in anticipation of possible military action against Iraq in accordance with this resolution. As we stand poised on the brink of possible military action, hopefully action that will not be necessary but nonetheless possible military action, this bill will provide the men and women in uniform with the tools they need and the pay and benefits they deserve.

For instance, this bill approves a significant military pay raise, including an across-the-board pay raise at 4.1 percent, with an additional targeted pay raise for midcareer personnel that would result in pay raises ranging from 5.5 percent to 6.5 percent. The bill will authorize a new assignment incentive pay of up to $1,500 per month to encourage service members to volunteer for hard-to-fill assignments. It will authorize $10.4 billion for new construction of military facilities and housing, which is an increase of about $740 million above the requested level. The bill will add more than $900 million to the Navy shipbuilding account. It will authorize an increase of $42 million in funding for the U.S. Special Operations Command. It provides an increase—and we are talking about increases above the requested budget level from the administration, but when I make reference to increase, that is the reference I am making. Here is a reference of more than $100 million for defense against chemical and biological weapons, in addition to approving the budget request of $1.4 billion for such efforts. We approved $2 billion which was requested for force protection improvements to DOD installations around the world and in order to help address shortfalls in the Department's high-demand, low-density assets, including the EC–130 Commando Solo aircraft and the EA–6B electronic warfare aircraft fleet.

Depite all of these important provisions, we came very close to not having a conference report this year, because of the opposition of the White House to a single provision that was included in both the authorization bills passed by both the Senate and the House of Representatives. This provision would permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay earned through years of military service and disability compensation from the Department of Veterans' Affairs based on their disability. Currently, military retirees who receive VA disability pay have their military retired pay offset by the amount of their VA disability pay.

Both the House and Senate versions of our bill included provisions phasing in the payment of both military retired pay and VA disability pay to qualifying military retirees, although the Senate provision was more generous and more expensive than the House version.

In June, the Office of Management and Budget issued a Statement of Administration Position indicating their opposition to authorizing concurrent receipt of military retired pay and VA disability pay. As a result of this veto threat, the House conferees then decided that they would not accept even their own concurrent receipt provision. The House conferees took this position despite the fact that the House voted 391 to 0 to instruct the conferees to agree to the Senate position on current receipt in conference.

When it became clear that the President's veto threat would make it impossible for us to achieve a conference report containing either the Senate concurrent receipt provision or the House concurrent receipt provision, we had the choice of giving up on the defense bill for the year, or finding an alternative that would be acceptable to the White House and the Republican leadership of the House of Representatives. With the yeoman services and the extraordinary efforts of Senator WARNER, we finally agreed to include a provision that would authorize an enhanced special compensation for certain military retirees with 20 years of service equal to the amount of retired pay forfeited because of the receipt of veterans' disability compensation.

That is just a part of what we tried to accomplish. I commend Senator REID of Nevada and others who have fought so hard for this provision.

There are many members of our committee and many Members of this Chamber who have really tried for years to address this concurrent receipt problem. We moved the ball forward perhaps 20 yards this year. It is, as I think Senator WARNER has described, a beachhead. We are glad we were able to do this much. But it is disappointing that the veto threat that was hurled at us by the Office of Management and Budget made it impossible for us to do even more, despite all of our efforts.

Again, I thank Senator WARNER. Without some provision on this subject, frankly, this bill would not have been brought back to the floor. We had to make some progress on this issue before we could, in good conscience, bring a bill back to the floor.

But I emphasize it is just some progress. It is not anywhere near what the Senate did. It is not even close to what the House did. But it is clearly better than not making any progress at all.

The special compensation that is provided for in the bill would be available to retirees who incur a disability attributable to an injury for which a Purple Heart was awarded—that is one group—regardless of the percent of disability, and the other group is a service-connected disability rated at 60 percent or higher that was incurred as a result of any of four circumstances: Either the result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war. Any of those four circumstances, if the disability is rated at 60 percent or higher, will result in the special compensation being made available to our veterans.

These disabilities are sometimes called ''combat-related'' disabilities for short. But that is really a misnomer. It is actually misleading to call certain of them ''combat-related disabilities'' because the categories are far broader than simply combat-related.

I see Senator REID on the floor. Again, I extend my thanks to him. Without his driving concern on this issue of concurrent receipt, we would not have been able to even advance the bill to the 20-yard line at which perhaps we are right now. It is progress—but minimal progress. Again, it was the only way we could obtain this bill. We would not have gotten to this point without the tenacity of Senator HARRY REID. There are others who joined with him over the years. But it is that persistence which has gotten us to this point.

Mr. REID. Madam President, will my friend yield? I know there is limited time.

I want to say very briefly this compromise only affects up to 15,000 veterans. But having said that, 15,000 people deserve it as much as anyone deserves anything in the world. They are going to get help. That says a lot. There are hundreds of thousands of other people which the original legislation would have helped. We are going to work on that later.

I say to my friend, the chairman—and the soon-to-be chairman—how much I appreciate their tenacity. We have worked this bill over the years. We have received, frankly, no help from the House in years past. I am happy. And I congratulate the President for easing off on his statement that he was going to veto this legislation if there was anything in it for concurrent receipt. I appreciate the President backing off. I wish he would have allowed us to have everything. He didn't. But I take what we have gotten, and I am happy we have what we have.

I say to those 15,000 veterans that I introduced the first legislation. But this has been a team effort. We have worked very hard to get to this point. It is a large step forward.

I say for the third time this will help 15,000 people, most of whom are Korean and World War II veterans—and a sizable number of Vietnam veterans also, of course. But it is for mostly World War II veterans. I am so happy. I wish we had more.

But I want to say to my two friends who are here on the floor that this is important legislation. It is landmark legislation.

I underline and underscore what I have said in the past about the two managers of this legislation. They could have caved in a month ago, and we would have had a Defense authorization bill, and we could have shouted at the hilltops about this legislation. They did not do that because of this issue. I applaud and commend both of them for sticking to a matter of principle. That was correct. Words cannot adequately convey how strongly I feel about the two of them for sticking with it. I am not on the committee. I couldn't comment. I couldn't be there to give a speech. I didn't have an opportunity to issue a written statement. That is how our conferences work. But the two of them did what they had to do. These 15,000 people owe it all to them.

I have heard some people say we can't afford to take care of our veterans. We can afford to take care of our veterans. This is a tremendous step forward. We are taking care of our veterans.

Mr. WARNER. Madam President, if I might again say how much the two of us—Chairman LEVIN and I—appreciate the strong support of Senator REID throughout particularly this year, building on what he did last year, to see that this issue was kept at the very forefront of our legislative objectives with the annual authorization bill.

I say to my good friend that when the group of us gathered with the President's Chief of Staff at the White House, we were there with Mr. Principi, the chief of the Veterans Administration, the rough calculation was that there are about 33,000 who will be embraced with the formulation we have included in this bill. I think, as you say, and as I have said, it is a beachhead.

Mr. REID. That is even twice as good as I thought. That will amplify my remarks, that 30,000 is twice as good as 15,000.

Mr. LEVIN. Madam President, I can assure also the Senator from Nevada that even though he might not physically be on the Armed Services Committee, he was very much present every step of the way even when he wasn't present. Everyone is very much aware of his effort here, and of Senator BOB SMITH's effort. Senator HUTCHINSON was extremely active, too. Senator WELLSTONE, of course, on this kind of veterans issue, was deeply involved.

Mr. WARNER. We should include Senator MAX CLELAND. Very definitely, he worked very hard.

Mr. LEVIN. I will also mention the role of Senator CLELAND, Senator CARNAHAN, and others on this issue on the Armed Services Committee in a few moments. Again, I thank the Senator for that.

Mr. WARNER. Madam President, Senator REID and I and Senator LEVIN in our colloquy are discussing the importance of this bill including a provision on concurrent receipts. Following the election, recognizing that I would become chairman at the appropriate point in time when the chairmanships are established formally, that I make an effort to try and reconcile the differences and get a provision in this bill because, give or take a few, I would think almost all 435 Members of the House of Representatives, in the course of their campaigns, had a colloquy with their veterans on this subject.

I know from experience on the Senate side, those of us 30 plus who were up for reelection this time and others seeking election had to address this issue and respond to our veterans. Therefore, I felt it was a matter of principle for the Congress of the United States not just to rely on campaign rhetoric, but to include in this very historic bill a provision directed at compensation for those veterans we deemed formed that category deserving of added funds.

I was privileged to work on drafts. I have showed them to our distinguished chairman. While he had views that were somewhat different on this issue in the course of the deliberations, without his final acknowledgment to agree with me that this was as much as we could achieve, we would not be here today. It was a joint effort, I say to the chairman, and he encouraged his colleagues to sign the conference report as I encouraged our colleagues.

I went to the White House with Congressman DUNCAN HUNTER who was standing in for Chairman STUMP in the final days of the conference negotiations. We were joined by Secretary Principi and the Deputy OMB Director, Mrs. Dorn. We met with the President's chief of staff, and in due course worked out what I felt was the best compromise we could achieve.

I wish to say I felt the White House was very cooperative—Mitch Daniels, the Director of the Office of Management and Budget, the chief of staff, and others. Mr. Principi was exceedingly helpful. I had several days before I joined him at the Vietnam Veterans Memorial to read the names of those who bear witness to freedom and their sacrifices on that wall. It was interesting, as we were sitting there on that cold twilight afternoon, I had a little piece of paper, and we were sketching out the framework of what the two of us felt could be achieved. So I thank Mr. Principi for his efforts.

DUNCAN HUNTER was just a tremendously strong working partner throughout this entire deliberation. I thank those individuals, and certainly Mr. Card, who is the President's chief of staff, for at some point in the meeting saying: That's it, we're going to do it.

It is interesting, earlier that day Mr. Principi and I had attended an early meeting at the White House with the President when he addressed a number of veterans. I remember in the front row were a number of Congressional Medal of Honor veterans. We had some veterans from the United Kingdom, and the Chief of Staff of the Army, and the Chief of Staff of the Air Force and others were present.

It was a very moving statement by our President acknowledging this Nation's eternal gratitude to generations of veterans who made possible our life today in these United States, our quality of life, our freedom.

It seemed to be an appropriate time to bring up with the President this issue once again, and he said: We are going to take a good look at it, and that they did. So I am most grateful. Actually, it was not that day, for that day I left that meeting at the White House and went up to Maine to participate in the christening of a destroyer to honor John Chafee, a United States Senator whom the Presiding Officer and I held in the greatest esteem and affection. It was the day following the White House meeting.

I refer to this as a beachhead, and I do so respectfully because throughout this deliberation, in total fairness, we are faced with an extraordinary demand on the Department of Defense now, and particularly the men and women who are currently in uniform, as well as the Guard and Reserve. We are in the course of transitioning in the roles and missions, the equipment, and the training of our military departments to meet the threat of terrorism today. Therefore, the utilization of dollars from the United States taxpayers that go to the Department of Defense has to be prioritized against that threat today.

The dollars involved in this we estimate to be perhaps as much as $10 billion over 10 years. That is a considerable factor to take into consideration in the competition for these dollars.

I, speaking for myself, am ever mindful of the rising public debt necessitated in large part by this war on terrorism.

So in fairness to the President and his advisers who looked at this issue and have looked at it for some period of time, there are other factors that had to be considered. In the final analysis, I believe, with the help of the chairman and others, we crafted the best possible compromise we could get. I thank the distinguished chairman once again.

Mr. LEVIN. Madam President, how much time, may I ask the Chair, is remaining?

The PRESIDING OFFICER. Twenty-three and one-half minutes.

Mr. LEVIN. Are 10 minutes exhausted?

The PRESIDING OFFICER. Yes.

Mr. LEVIN. I thank the Chair. I yield myself 5 additional minutes.

There are a number of other important initiatives in this bill we will enact into law shortly. Here are just a few of them.

In the area of missile defense, the conference report, such as the Senate bill, authorizes the President to reallocate $814 million, should he choose, from missile defense expenditures which, at least to some of us, appears to be unjustified or duplicative in combating terrorism. And he can reallocate the $814 million to the effort to combat terrorism. Again, that is left to his discretion. But this bill does, this year, require that he identify whether or not he has made that choice.

The bill also would ensure better oversight and management of missile defense programs in a number of ways. We are going to require programmatic information on ballistic missile defense programs with the budget justification materials that come to Congress.

We are going to require the Joint Requirements Oversight Council, the so-called JROC, to perform a review of the cost, schedule, and performance criteria for ballistic missile defense programs so that the validity of those criteria in relationship to military requirements can be assessed.

We are going to require the Department of Defense to establish a more disciplined process for the evolutionary acquisition and spiral development of major defense acquisition programs, including missile defense programs, by issuing guidance and instituting a process for the approval of acquisition plans.

Second, in the area of nuclear weapons, we have taken a number of steps to ensure that the Department of Defense and the Department of Energy do not take any precipitous actions to develop new nuclear weapons.

First, we rejected a House provision that would have repealed the current law prohibiting the research, development, and production of low-yield nuclear weapons.

Second, we included a Senate provision that would require the Secretary of Energy to specifically identify any funds requested for new or modified nuclear weapons. If there is such a request, it cannot be buried in some other subject. It has to be identified as such in the budget material.

Third, we prohibited the Secretary of Energy from spending any funds for the Robust Nuclear Earth Penetrator unless and until the Secretary of Defense submits a report setting forth the requirements for such a system and the employment policy behind such a system, as well as the potential for conventional alternatives to that Robust Nuclear Earth Penetrator.

And we prohibited the use of any funds authorized in the bill for nuclear-tipped missile defense interceptors.

We have a number of initiatives to ensure that the resources our taxpayers provide for national defense are spent wisely. Some of these initiatives include a major initiative based on the recommendations of the Defense Science Board and the Department of Defense Director of Operational Test and Evaluation to address budget shortfalls and organizational shortcomings in the Department's test and evaluation infrastructure that have led to inadequate testing of major weapons systems.

We have advanced last year's initiative by the committee to improve the way in which the Department manages its $50 billion of services contracts, which we anticipate will save $600 million.

We included a provision that will address the Department's inability to produce reliable financial information and to achieve $400 million of savings by deferring spending on new financial systems that would be inconsistent with a comprehensive financial management enterprise architecture that is currently being developed by the Department.

We also have required, in this bill, that the Department establish new internal controls to address recurring problems with the abuse of purchase cards and travel cards by military and civilian personnel.

In the area of efforts to combat terrorism and to lessen the danger posed by weapons of mass destruction, we have taken the following initiatives:

A title of the bill sets aside $10 billion to fund ongoing operations in the war against international terrorism during fiscal year 2003. This is a very important provision in the Senate bill. It was very important to the administration that we not use those funds for some other purpose. We did not. This will be the subject of the later appropriation, but, nonetheless, we set aside that $10 billion fund for the ongoing operations in the war against terrorism.

Next, we fully funded the Nunn-Lugar Cooperative Threat Reduction Program, including funding for the destruction of chemical weapons in Russia. And we fully funded the proliferation preventions at the Department of Energy.

We took an important step to give the President greater flexibility to waive any of the conditions precedent to carrying out that CTR program or the Freedom Support Act programs for three fiscal years. So now the President can proceed with the Comprehensive Threat Reduction programs even if they do not meet technical criteria for spending that money if it is in the national interest that he do so.

He has that waiver authority under this bill for 3 years. He has not had it before. This is an important addition to the fight against proliferation, particularly of chemical and biological weapons.

In addition, and finally, we addressed a number of very difficult environmental issues. The conference report includes, first of all, some environmentally sound provisions that we adopted in the Senate.

Two of these provisions would authorize the Department of Defense to enter into agreements with non-Federal entities to manage lands adjacent to military installations and to create buffer zones between training areas and the surrounding population. Those are two provisions which will help protect the environment.

A third one requires the Department to strengthen its program for the acquisition of procurement items that are environmentally preferable or are made with recycled materials.

We also, in the environmental area, succeeded in removing two ill-advised House provisions. One would have exempted some DOD activities from the Endangered Species Act. That is not within the jurisdiction of our committee. We were able to obtain the removal of that provision. And the other provision which we were able to remove would have provided special exemptions from environmental controls for the training range in Utah.

We were able to modify a House provision which authorized the exemption of certain Department of Defense activities from the provisions of the Migratory Bird Treaty Act. That was a highly controversial action on the part of the House. We were able to obtain some important concessions in the conference relative to that provision, including an agreement to structure the provisions so that the Department of Interior will be required to exercise its regulatory powers over the Department of Defense activities impacting migratory birds and to require appropriate actions to mitigate the impact of Department of Defense actions on migratory birds.

I hope and believe that the tradeoff that we made in dropping the endangered species provision and the Utah provision and getting a modification of the migratory bird provision was a sound one. I believe that we made some real progress, given the point that we were starting with in the Senate, which was facing all this language on the House side, which we had to either remove or to modify, as well as preserving our own provisions which were very supportive of environmental protection.

I was very disappointed that we were unable to include a Senate provision that would repeal the statutory prohibitions on the use of Department of Defense facilities for legal abortions so that military women overseas could get a legal abortion, at their own expense, in a DOD medical facility overseas. This was a provision that, if we were able to maintain it, would have led to a veto of this bill.

Again, we faced the House conferees who were determined that there would be no bill if this provision was in it. So now we continue for another year what I consider to be the absurdity of forcing women who are obtaining a legal abortion to come home. These are women in the military, committed to the service of their country, who are going to be required, for another year, until we face this issue again next year, to return home to obtain an abortion, which is legal, which they have chosen to obtain.

I find this to be an unconscionable provision in our law. And we are going to continue to try, to the best of our ability, to change that provision. But this year we did not prevail, did not succeed, and we would have faced a veto of this bill. The Office of Management and Budget was very clear in a letter that they would recommend the veto of this bill if the Senate provision, which removed this impediment to legal abortions, at their own expense, by women who are serving this Nation—if that, in fact, prevailed, there would have been a veto.

Madam President, our Armed Forces are ready to help keep the peace, to deter traditional and nontraditional threats to our security and our vital interests around the world. And they are prepared to win any conflict decisively. The success of our forces in Afghanistan is a tribute to the men and women of the Armed Forces and the investments in national defense that Congress and the Department of Defense and administrations over time have made for many years.

The investments in previous years, indeed in previous decades, in equipment, in treating our personnel properly, in raising morale, in readiness—

these investments by prior Congresses, by this and prior administrations, have paid off. And future success on the battlefield will likewise depend upon the success of Congress and the Department to prepare and to train and to equip our military for tomorrow's missions.

So as we stand on the brink of possible conflict in Iraq, the conference report builds on the considerable strengths of our military forces and their record of success by preserving a high quality of life for U.S. forces and their families, by sustaining readiness, and by our efforts to transform the Armed Forces to meet the threats and the challenges of tomorrow.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I, once again, thank the chairman for his service. We have been together now for 24 years on the Senate Armed Services Committee. And, given the results of the recent elections, we will be here for another 6.

When I yielded the chairmanship 2 years ago, thereabouts, Senator LEVIN just moved one place over. Now I will just move back to that one place. We have conducted the affairs of this committee in a very spirited way, but I think it reflects as high a degree of bipartisanship as can be achieved in this magnificent institution, the Senate.

I commend the chairman, and I commend him for this bill. He has worked long and hard on it, with me at his side, together with our respective Members. It is a good bill, a very good bill.

(Mr. JEFFORDS assumed the Chair.)

Mr. LEVIN. Mr. President, I thank my good friend from Virginia. I had no doubt he would be back. I am glad to see him back. We kept the chair warm for him. The gavel will be handed over with—I will not say with unmixed feelings because, obviously, there are mixed feelings, but I cannot think of anyone I would rather hand the gavel to, if it is not on our side of the aisle, than my dear friend from Virginia.

Mr. WARNER. Mr. President, I thank my colleague.

Mr. President, we, as a Nation, were astonished, once again, in the past few days to see the face of Osama bin Laden and hear the remarks he (allegedly) made. I am not here to in any way lend credence to the validity of this, but nevertheless, those in the position to determine will eventually determine the validity of that piece of tape. But it did bring home to America the threats that this Nation faces and the fact that we, under the leadership of a brilliant President, are engaged in all-out war, together with our allies and others, in a war on terrorism. This bill is an essential building block in that war.

Questions were raised in the course of our deliberations on this bill: Can we as a Nation afford, can the military take on the obligation to engage the enemy of terrorism in the worldwide effort and, at the same time, if it is necessary—and I repeat, if it is necessary—to use force against Saddam Hussein and his regime—not the people of Iraq, but Saddam Hussein and his regime? And I say this bill provides that measure of support such that our President, in his role as Commander in Chief, can conduct the full range of options militarily necessary to protect this Nation, be it from terrorism or the possible use of force in Iraq.

That brings me to another point. As we all watch the developments in Iraq and, indeed, today, very interesting developments, I stop to think we would not as a free world be in the position of having this new resolution from the United Nations had it not been first and foremost for the courageous leadership of our President who, over a period of a year or more, has been constantly reminding the world, not just our citizens, of the threats from Saddam Hussein and his weapons of mass destruction, and the need to address those threats.

Wisely, he sought to go to the United Nations where he put forth that historic speech. Had it not been for the vision, the foresight, and the commitment of this President, we would not be seeing today the unfolding of what I hope will be a successful resolution of the destruction of the weapons of mass destruction now possessed by Saddam Hussein without the use of force.

The second factor in achieving the action by the United Nations was the fact that the men and women in the U.S. military are trained, are ready, and would respond to the Commander in Chief's order, if that were necessary, to resolve this critical worldwide issue by the use of force. They are ready. Saddam Hussein knows that. So I salute the men and women of our Armed Forces who are as much responsible for what we hope will be the successful resolution of this issue pursuant to the most recent resolution of the U.N. It is just as important a factor as the deliberations of the U.N. itself and indeed the valiant efforts of our President, and I wish to acknowledge that.

Congress also played an important role by passing a strong resolution in support of the President; a resolution authorizing the use of force against Iraq. The militaries of the U.S. and our allies stand by, ready to use force if necessary, pursuant to that authorization by the Congress.

I think this bill should remove any doubt of our commitment to fight terrorism, to use force if it becomes necessary in Iraq, and to defend the interests of Americans and our allies throughout the world.

An undertaking of the magnitude of this bill is ultimately a bipartisan effort. Our committee has a long tradition of bipartisanship. Senator LEVIN and I have served under Chairman Stennis, Senator Goldwater, Senator Tower, Senator Nunn, and now the two of us are privileged to have that responsibility, I as ranking member, and Chairman STROM THURMOND, who is now present on the floor, all of whom tried to have the highest possible bipartisanship in this committee. Our chairman and I have continued that tradition.

When it comes to the welfare of the men and women of the armed services, when it comes to the importance of the security of this Nation and the recognition by our allies that we stand to support them, we should have, and do have, that degree of bipartisanship. Consequently, there are many people deserving of recognition and thanks who have kept that tradition.

I especially want to thank my chairman for his leadership. I want to thank all of our subcommittee chairmen and ranking members for their tireless efforts in ensuring that our troops have the tools they need for peace to accomplish such missions as they may have to undertake.

At this point, I would like to pay special tribute to three Republican Members of our Committee who will not be returning next year. Senator STROM THURMOND has proudly served as a Member of the Senate Armed Services Committee since January 14, 1959, during the Eisenhower Administration. During nine successive Administrations, Senator THURMOND has provided a steady hand, sage advice and strong support for our men and women in uniform. He also had a distinguished military career, leading members of the ''Greatest Generation'' ashore on the beaches in Normandy and rising to the rank of Major General in the Army Reserve. He is a true American hero, and he will be missed in the years ahead. Senator BOB SMITH has been a Member of the Committee since 1991, serving most recently as the Chairman of the Strategic Subcommittee from 1997–1999. A distinguished Navy veteran who served in Vietnam, Senator SMITH has been a champion of veterans issues, joining Senators REID and HUTCHINSON in the efforts on concurrent receipt. And finally, Senator TIM HUTCHINSON has made significant contributions during his four years of service on the Committee. As the Chairman and then Ranking Member of the Personnel Subcommittee, Senator HUTCHINSON has been committed to improving the quality of life of our military personnel. He joined me in crafting legislation—TRICARE for Life—to ensure that we meet our commitment to our military retirees to provide them with health care for life. In addition, he has been instrumental in ensuring significant pay raises for the military for four consecutive years and major improvements in educational benefits. They have all been valuable Members of the Committee and they will all be missed.

No committee succeeds without a dedicated professional staff. I especially want to recognize the unwavering leadership of Judy Ansley of the minority staff, who will soon be moving over to become chief of staff of the

majority, and of David Lyles who likewise will shift his desk a slight distance and continue the partnership that these two magnificent professionals have, as well as the wonderful service they render to the Senate, and indeed our country.

I also want to thank Peter Levine, counsel to both sides. He is good, and we call on him. Fortunately, we do not have to pay his salary out of our allocation, but we get the full measure of his brilliance.

Each of them have a marvelous professional staff. I would like to recognize each of them individually. On the Republican staff: Chuck Alsup, David Cherington, Marie Dickinson, Ed Edens, Brian Green, Bill Greenwalt, Gary Hall, Carolyn Hanna, Mary Alice Hayward, Bruce Hock, George Lauffer, Patty Lewis, Tom MacKenzie, Ann Mittermeyer, Joe Sixeas, Leslie Stone, Scott Stucky and Dick Walsh. On the Majority and non-designated staff: Dara Alpert, Ken Barbee, Mike Berger, June Borawski, Leah Brewer, Chris Cowart, Dan Cox, Madelyn Creedon, Mitch Crosswait, Rick DeBobes, Brie Eisen, Evelyn Farkas, Richard Fieldhouse, Daniel Goldsmith, Creighton Greene, Jeremy Hekhuis, Gary Howard, Drew Kent, Jennifer Key, Maren Leed, Gary Leeling, Mike McCord, Tom Moore, Cindy Pearson, Arun Seraphin, Christina Still, Mary Louise Wagner, Nick West, and Bridget Whalen. So I pay my respects, for they deserve credit and recognition.

The conference report before the Senate represents an important step forward in ensuring the readiness of our Armed Forces, protecting our homeland, and ensuring success in the ongoing global war against terrorism. During this critical time in our history, with our Nation at war and preparing, together with the United Nations, to meet the threats posed by Iraq—I should say posed by Saddam Hussein, not posed by the people of Iraq—it is essential that we provide our President and the Armed Forces with the vital resources they need to defend our Nation to fight the scourge of terrorism both at home and abroad, and to prepare for future threats.

I use the word ''home'' purposely because in my lifetime, I have seen incredible transition, the focal point being 9/11. I look upon the armed services of the United States as one of the greatest assets the American people have, and we should constantly look for ways in which they can, within the legal framework of our laws, be a full partner with those who are entrusted with our homeland defense. I am not just speaking of the Guard, the Reserve and others, but I am talking about the security forces, the police, be they Federal, State or local, the people who provide medical assistance, the people who provide all types of assistance in the event of a problem at home. We have to continue to strengthen and move in that direction, again within the framework of the laws.

As President George Washington stated in his first inaugural address to Congress on January 8, 1790, and I quote:

> To be prepared for war is one of the most effectual means of preserving the peace.

That is what this bill is about, to be prepared. We can all take pride in this legislation. It represents the bipartisan work of all committee members in both Chambers to support our men and women in uniform, and their families.

I want to commend Chairman STUMP, ranking member IKE SKELTON, and DUNCAN HUNTER. They were marvelous working partners in the House for the chairman and I to conclude this conference. This bill is named in honor of Chairman STUMP, a World War II veteran who lied about his age and joined the Navy when he was 15 years old and saw combat before his 18th birthday. I guess that is one of the reasons that generation, of which I am a very small and modest part having come into the tail end, is referred to as the greatest generation.

Chairman STUMP exemplifies that name: The greatest generation. The fact that this legislation is named in his honor is a fitting tribute to that true patriot.

I believe the Presiding Officer served in the House of Representatives at one time with Chairman STUMP.

I also want to thank DUNCAN HUNTER and IKE SKELTON for their unwavering efforts.

Our President sent the first signal to strengthen defense by asking Congress to increase spending, a very considerable increase in this legislation. This conference report sends a further signal to our citizens and to nations around the world that the United States is committed to a strong national defense. More importantly, this conference report sends a clear signal to our men and women in uniform, from the newest private to the most senior flag or general officer, that we are clearly behind them and we support their efforts around the world, and we are behind their families.

We must always pause to remember that the men and women in the Armed Forces rely first and foremost on the support they receive from their loved ones.

I want to thank the Department of Defense. I have had very cordial and strong working relations with Secretary Rumsfeld—we go way back together in the Nixon administration—as well as the Deputy Secretary of Defense and others. I think he has put together a good team. Yes, we do battle with them. We did battle with them on concurrent receipts, but in the end they swung in and gave us the technical advice to write this particular section on concurrent receipts in a way that creates a very special class of deserving career veterans, career military veterans.

To reiterate, I am proud to join Chairman LEVIN in recommending this conference report to the Senate. This has been a long and difficult conference; but, we have achieved our goal of providing for our men and women in uniform.

An undertaking of this magnitude is ultimately a bipartisan team effort. Our Committee has a long tradition of bipartisanship. Consequently, there are many people deserving of recognition and thanks. I especially want to thank my friend and colleague of 24 years in this Chamber and on the committee, Chairman CARL LEVIN, for the leadership he has shown in bringing this conference to a successful conclusion. I also want to thank all of our subcommittee chairs and ranking members for their tireless efforts in ensuring our troops have the tools they need to accomplish their missions. No committee without a dedicated, professional staff. I especially want to recognize the unwavering leadership efforts of David Lyles, Judy Ansley, and Peter Levine in bringing this process to a successful conclusion. They have led a great staff, all of whom deserve great credit and recognition.

The conference report before the Senate represents an important step forward in ensuring the readiness of our armed forces, protecting our homeland, and ensuring success in the on-going global war against terrorism. During this critical time in our history, with our nation at war and preparing—together with the United Nations—to meet the threat posed by Saddam Hussein, it is essential that we provide our President and our armed forces the vital resources they need to defend our Nation, fight the scourge of terrorism at home and abroad, and prepare for future threats.

As President George Washington stated in his first annual address to Congress on January 8, 1790:

> To be prepared for war is one of the most effectual means of preserving the peace.

We can all take pride in this legislation. It represents the bipartisan work of all committee members—in both Chambers—working together to support our men and women in uniform, and their families. I especially want to thank Chairman BOB STUMP for his efforts this year and congratulate him for his outstanding work on behalf of our men and women in uniform for the 26 years he has served on the House Armed Services Committee. The fact that this legislation is named in his honor is a fitting tribute to a true patriot. I also want to thank Congressmen DUNCAN HUNTER and IKE SKELTON for their unwavering efforts to ensure we have a strong defense authorization act for our nation.

Our President sent the first signal by asking Congress to increase defense spending. This conference report sends a further signal to our citizens, and to nations and around the world, that the United States is committed to a strong national defense. More importantly, this conference report sends a clear signal to our men and women in uniform, from the newest private to the most

senior flag officers, that we are clearly behind them and we support their efforts around the world.

The conference report before us contains the largest defense increase in over 20 years—an increase of $45.0 billion over the fiscal year 2002 appropriated level. The good news story associated with this much needed increase is that it has the full, bipartisan support of the Congress. While there are always minor disagreements over how some of the money in this bill should be allotted, there was no dissent about the need for this significant increase in the top line for defense. This is a remarkable display of unity behind our President, so important and fitting with our Nation at war.

In line with the request of the President, the conference report significantly increases the major defense accounts over the Fiscal Year 2002 appropriated levels:

It increases spending on military personnel by over 14 percent including a 4.1 percent pay raise for our servicemen and women.

The bill increases the procurement account by over 20 percent. This will enable our military departments to procure the equipment they need to replace aging and heavily used assets, as well as to buy the things they need to protect our facilities, infrastructure and people in these increasingly uncertain and dangerous times.

Additionally, the bill increases spending on research and development by almost 17 percent, ensuring that critical investment is being made to develop the capabilities we need in the future to deter and defeat emerging threats to our national security.

The bill also sets aside a $10.0 billion reserve fund, as requested by the President, to pay for ongoing and future military operations in the global war on terrorism.

The threats to our nation and the ongoing war on terrorism demand this increased investment in national security, both now and in the future.

The bill contains many key provisions which will improve the quality of life of our men and women in uniform, our military retirees, and their families. In addition to the 4.1 percent pay raise I mentioned earlier, additional funding is included for facilities and services that will greatly improve the quality of life for our service personnel and their families, both at home and abroad. This legislation also contains key provisions that will better organize the Department of Defense to support the critical homeland defense mission, including: creation of an Under Secretary of Defense for Intelligence; authorization to add an Assistant Secretary of Defense for Homeland Defense; and, a requirement that the Secretary of Defense establish at least one Weapons of Mass Destruction-Civil Support Team within every state and territory.

One of the most difficult issues facing the conference was how to ensure that our military retirees, who have incurred disabilities, receive a measure of military compensation.

Concurrent receipt of retired pay and disability pay is as complex an issue as I have dealt with in my 24 years on this committee. Here is how I view this issue: success in certain military operations requires extensive planning, establishment of a ''beachhead,'' and then long term effort to determine the equities and priorities for the future.

We have crafted such a ''beachhead'' in this conference report—I call it ''Purple Heart-Plus-Others.'' The provision in this conference report provides substantial recognition and compensation for those who were injured in combat, that is, all those with disabilities resulting from injuries for which they received the Purple Heart. In addition, those retirees most severely disabled in combat related operations, in preparation for combat, and in performing hazardous service, that is, those with disabilities rated at 60 percent or greater, would receive additional compensation. We will rely on the Secretary of Defense to exercise his discretion to further define the nature of this service. In both cases, those career retirees who have a certain degree of disability would receive the same amount of compensation—under a new, special compensation program—as if we had removed the prohibition on concurrent receipt.

We all know that this is a complex issue and an emotional issue. Inaction is not an option. We must establish our ''beachhead'' today. I commit to holding early hearings next year to fully establish a body of fact on this issue. I see great merit in establishing a Presidential commission that can objectively examine the many issues related to the adequacy of compensation provided to our disabled veterans. I await the views of the veterans to be expressed at hearings.

It is important to note that this conference report supports and fully funds virtually all of the priorities established by the Department of Defense for the development and procurement of major weapons systems, including the Joint Strike Fighter, the F–22, the Army's Future Combat System, and unmanned aerial vehicle programs. I remain committed to supporting investment in technologies that will enable us to field significant numbers of unmanned aerial and ground combat vehicles, as soon as feasible.

In addition, I am pleased that the conference was able to add $229 million to the CVN(X) aircraft carrier to restore the original development and fielding schedule for this essential program. The carrier has proved its worth again and again in the global war on terrorism—a war which has relied extensively on carrier-based assets. This bill supports acceleration of this important program.

The world as we knew it changed forever on September 11. We lost not only many lives and much property that day, but we also lost our uniquely American feeling of invulnerability. But, from our darkest hour, our nation has quickly emerged stronger and more united than ever. Our President has rallied our country and many nations around the world to fight the evil of terrorism, and to confront those who threaten peace and freedom around the world.

As we conclude the 107th Congress, our nation is at war. U.S. soldiers, sailors, airmen, and marines, together with their coalition partners, are engaged on the front lines in the global war against terrorism, with a mission to root out terrorism at its source in the hopes of preventing future attacks. We are now faced with the possibility of war with Iraq, if the current U.S. led U.N. efforts fail.

Our armed forces have responded to the call of duty in the finest traditions of our nation, and they are prepared to protect our security in future conflicts. It is critical that the Congress keep faith with our troops by providing the resources and capabilities our President—our Commander-in-Chief—has requested.

Homeland security is now, without a doubt, our top priority. We have a solemn obligation to protect our nation and our citizens from all known and anticipated threats—whatever their source or means of delivery. Our President, George W. Bush, has promised our nation that homeland security is his most urgent priority. The fiscal year 2003 budget the President submitted reflected this priority.

The conference report before us funds the urgent security needs of our nation by doubling the funding for combating terrorism at home and abroad, in supporting the President's request for missile defense, and investing in new technologies to detect weapons of mass destruction and to deter their development.

I urge my colleagues to support this conference report that upholds the President's fundamental national security priorities and makes the right investments in future capabilities. It is imperative that we send our President, our fellow citizens and the world a message of resolve from the Congress—a National Defense Authorization Conference Report that provides the resources and authorities our Nation's leaders and our armed forces require to protect our Nation and our vital interests around the world.

Mr. LEVIN. Let me again thank my dear friend from Virginia. I yield 5 minutes to the Senator from Hawaii. If the Senator needs additional time, it will now be available.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today to express my support for the conference report to the National Defense Authorization Act for Fiscal Year 2003. I thank my ranking member, Senator INHOFE, for his support and cooperation. It is truly an honor to work

with him as we both seek to advance the readiness of our armed forces. I also commend Senator LEVIN and Senator WARNER for their tireless efforts during a challenging conference.

As the chairman of the Armed Services Subcommittee on Readiness and Management Support, I want to highlight a few provisions in the conference report which enhance the readiness of the men and women in our armed forces. The bill protects the $10 billion the President requested for operating costs of the ongoing war on terrorism. Fully funding this request reinforces our country's commitment to continuing the war on terrorism, and it also means that in so doing we will not have to rob funds from the operation and maintenance accounts needed to fund all of our other critical ongoing defense activities such as training and maintenance.

Conferees also took actions to ensure that our forces can continue to make the most prudent use of existing training assets. To do this, we authorized exemption of the Department of Defense from the Migratory Bird Treaty Act when training events result in incidental takings, but required DOD to take appropriate actions to avoid any unnecessary takings. We also authorized the Department of Defense to enter into partnerships to purchase land, or easements on land, that would protect training ranges, and provided $7.2 million for improvements to those ranges.

While the conferees believed that this change to the Migratory Bird Treaty Act was necessary to protect readiness in light of recent court actions, the conferees did not believe the administration made the case that the exemptions it sought from the Endangered Species Act for the Department of Defense were warranted. I continue to believe that when the Department's training needs for land, sea and air space conflict with other needs in our society, whether it is protecting the environment or accommodating the surrounding civilian populations, our focus should be first and foremost on ensuring that all parties involved work together in a spirit of cooperation.

To help to address longer term readiness challenges, the conferees, continued our efforts from last year to enhance the Department of Defense's coordination of anti-corrosion programs. Studies estimate that corrosion costs the Department up to $20 billion annually, and that corrosion continues to be a serious maintenance challenge and manpower drain. We therefore recommended that DOD designate a senior official to oversee anti-corrosion plans and policies, and added over $10 million to fund those efforts and other anti-corrosion testing, research, and product applications.

In an effort to continue efforts to improve the quality of life, conferees authorized the requested increases to improve the buildings where servicemembers live and work, and added an additional $740 million in military construction funding, which will be enough to maintain the level of investment in our facilities at last year's level. Included in this amount is over $700 million in funding specifically dedicated to enhancing the security of our installations.

To improve DOD management, the bill includes a number of provisions to expand DOD's authority to acquire major weapon systems more efficiently. With respect to services contracts, we built on last year's legislation requiring improved management of the $50 billion DOD spends annually on services by establishing specific goals for the use of competitive contracts and performance-based contracting. These goals should help ensure that the Department of Defense achieves contract services savings through specific management improvements rather than through program reductions. The conference report also requires DOD to develop a comprehensive financial management enterprise architecture, and addresses recurring problems with the abuse of purchase cards and travel cards by certain military and civilian personnel.

I also want to mention an issue of significant importance to the people of Hawaii—the cleanup of the island of Kahoolawe. I commend the Navy and the State of Hawaii for working to resolve a number of challenges. I am pleased about the Navy's commitment to continue clearance efforts until November 11, 2003, and its continued efforts to meet the intent and goals of the memorandum of agreement between the Navy and the State of Hawaii signed in 1994.

While I am disappointed that the conference report does not include the provisions passed by the Senate with respect to concurrent receipt, I believe the conference report strongly supports the readiness of our forces, both now and in the future. I urge my colleagues to support this bill.

Mr. LEVIN. I thank the Senator from Hawaii for his invaluable service to our committee as well as his statement. He has been the chairman of our Readiness Subcommittee and has done it with a wonderful spirit and great success. I thank him. We do not know what the subcommittee structures will look like next year, but hopefully he will continue to be a valuable part of our committee. I thank him for it.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SESSIONS. Mr. President, how much time is allotted on this side?

The PRESIDING OFFICER. Thirteen minutes is available.

Mr. SESSIONS. I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am very pleased with this defense bill. I congratulate Chairman LEVIN. He is a master leader in the Senate. His skill at managing complex matters is very well known. He works with all members of the committee, Republican and Democrat. We are able to reach agreements that sometimes would not be reached, and I believe he has guided us in a good way. I also appreciate the leadership of the ranking Republican, Senator JOHN WARNER, a man who has given his life to the defense of this country, served it ably in so many different capacities, and all the members of the committee and all the staff. Particularly, I note Archie Galloway on my staff who has worked tirelessly on this effort, a retired colonel infantry combat veteran who does a great job for me.

Money will not tell us everything, but we have the largest increase in spending on this defense bill in over 10 years, nearly a $50 billion increase. That is very healthy in light of the significant declines our Defense Department has suffered since the Gulf War in 1991. After the Berlin wall fell and after the Gulf War, we went into a significant reduction in our spending, virtually 40-percent reduction in personnel, and cuts in many different areas. After the collapse of the Soviet Union, some reductions were appropriate. Most experts would say today we went too far, that we forgot we needed to transform our military, and we forgot to meet the new challenges and to utilize the new equipment and technologies available to make our soldiers more effective, less at risk, able to target enemy troops and not hit enemy civilians, as has happened in previous wars. I am afraid we did not invest enough in the last decade in these efforts.

Within the last several years we moved aggressively forward. When I came on the committee our defense budget was under $300 billion. This year it will hit $393 billion, I believe, nearly $50 billion more than just last year. This allows us to continue to provide quality pay raises and personnel benefits for our men and women in uniform. These efforts have strengthened their ability to make a career of the armed services. Moreover, we authorized incentive income pay of up to $1,500 per month to keep key personnel in key positions, the kind of thing we need to do to maintain the most proficient military in the world.

I have been a critic of our spending habits, thinking we have cut our defense too much. To the American people, let me say we need not underestimate the strength and capability of today's military. Ours is clearly the greatest military in the history of the world. We are much more technologically oriented and as a result, we need personnel who serve longer, who have trained with the newest equipment, who constantly train with our best aircraft, weapons, night vision equipment, and communication systems—all the things that allow them to place the maximum possible threat and force on the enemy, while protecting the lives of our own soldiers

and innocent civilians as much as possible. We have done a tremendous job. They are exceptional military men and women. There is no Army, Navy, Air Force, or Marine unit in the world that can compete with ours. They are the best there is, perhaps the best that have ever been. We should be very proud of them.

It allows the President, in times like this, to talk plainly to the United Nations and talk firmly to the Taliban in Afghanistan. It allows the President to speak directly to Saddam Hussein, and Saddam Hussein knows and the Nations around the world know his are not idle threats. We have the capability to carry out any commitments we make in terms of military force. I am pleased with where we are. We are making great progress.

I mentioned a few things that are important in this budget. Progress was made on concurrent receipt. In over 100 years we have not had additional benefits, other than tax advantages, for disabled veterans. This bill takes a big step forward with the ''Purple Heart Plus'' compromise and will be the first step we have made in that direction. I am pleased with this first step.

This will be the fourth year in a row we have had a significant pay raise, a 4.1 percent across-the-board hike and higher for other pay grades. I am pleased with that.

We have $10.4 billion for new military construction for facilities and housing for our personnel, many of which are below standard. Frankly, we can do a better job, in my view, of providing quality housing. I visited military houses and found out what they cost. They spend almost as much on them as private housing in the suburbs in Alabama and other places that seem to cost less or no more. We need to improve the quality of our construction as we go forward in the future.

We added $900 million to the Navy shipbuilding accounts. I was the ranking Republican on the Ship Seapower Subcommittee, serving with Senator TED KENNEDY, the Chairman. We were pleased in the end that our Navy did not take hits. At one point, it looked like that might occur. We are pleased that the shipbuilding account finally came in with a healthy number. This allows us to move forward for such things as refueling and nuclear submarine, refueling and developing nuclear submarines, providing additional advanced procurement for the CVN next generation of aircraft carrier, providing additional payments for prior incurred shipbuilding costs that we had obligated for the DDG–51 class destroyer, and LPD–17 class amphibious ships. We made some real progress there. We need to continue this transformation.

At one point or another, we may disagree with Secretary Rumsfeld's views regarding one weapons systems or another weapons system. But I think few of us can honestly disagree and ought to do nothing other than support his firm and clear determination—supported by the President of the United States—to transform our military to move us from a cold war configuration to a configuration that helped us meet the challenges we had in 1991 with Iraq, as we have had in Kosovo, as we have had in Afghanistan, and as we might have in the future in Iraq. We need to transform our military forces to do that.

We sometimes accuse the military of being stubborn, and slow to change. I would say that is true of our institution, the Congress. It is also true of the military. But our military is the most transformable, the most committed to change, and the most committed to the introduction of new technology of any military in the history of the world.

I am, all in all, very pleased with the leadership in our military today and their commitment to bring on board as soon as possible new ways of conducting warfare that protect our people, that put threat on the enemy, and that protect innocent civilians. I think we are doing well. I am very pleased with that.

The President has made clear that this Nation—the strongest military power in the world—is the single power capable of protecting its own forces and that of its allies in the most difficult areas of the world. How much more difficult could you find it to protect American forces than in Afghanistan? He is committed to doing that.

Sometimes we may wish it were not so. But my own personal view is that there will be continual challenges around the world and that the wise and proper surgical application of military power can save lives, promote peace, and promote economic prosperity around the world. Indeed, this Nation has the opportunity to help lead the world out of what could be a disintegrating chaos of independent states—many of them rogue nations—and into a more stable environment, and promote peace and prosperity for everybody in the world.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I will conclude by saying this budget moves us in that direction.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Alabama have whatever time he may need.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I will take a couple more minutes. I thank Chairman LEVIN for his courtesy as always.

But we are at a point where this Nation will have the need from time to time to utilize force around the world to protect our just and legitimate national interests. We don't need to do that recklessly, or arrogantly, or without careful thought. But at times we will be able to help defend our just national interests and at the same time promote peace and prosperity in the world. That is a high calling. I think it is falling to us at this time in history.

I am pleased that we are not only strengthening our defense budget, but that we are strengthening it intelligently. We are strengthening it with technology. We are training our personnel. We are keeping our good men and women longer, so they can become even more proficient in operating our ships, our command centers, our missiles, and so forth.

I am also pleased that we did maintain the President's request for funding for national missile defense. That is a key ingredient in our Nation's defense in the decades to come. We made that commitment in this bill also. I feel good about it.

Again, I would like to thank Senator LEVIN for his leadership, the staff for their work, and Senator WARNER for his leadership and support.

I yield the floor.

Mr. LEVIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Four minutes fifteen seconds.

Mr. LEVIN. Mr. President, first of all, I thank my friend from Alabama for his very fine presentation as well as for his kind words about me. I enjoy working on the committee with the Senator from Alabama. He has always been willing to listen and try to work out issues. There are all kinds of issues that come up—thank God, rarely on a partisan basis—complicated issues that have to be worked out. He has worked not only on the Seapower Subcommittee but on the full committee to address those issues. I am grateful for that participation.

Senator THURMOND was on the floor a few minutes ago. It reminded me that this will be, of course, his last term. No Senator serving today can appreciate what this body will be like when STROM THURMOND leaves this year. He has served longer in this body than any other Senator in history. His 48 years in the Senate span the terms of 10 Presidents of the United States. He keeps pictures of all 10 of those Presidents on his wall in the office.

When I joined the Armed Services Committee in 1979, Senator THURMOND by then was on the committee already 20 years.

His love for and dedication to the U.S. military goes back even further, though, to his commission as an Army Reserve second lieutenant of infantry in 1924 at the age of 21. He served with distinction in both the European and Pacific Theaters in the Second World War, receiving numerous decorations that include the Legion of Merit, the Bronze Star medal with ''V'' device, the Army Commendation Medal, the Belgian Order of the Crown, and the French Croix de Guerre. He landed in a glider on Normandy with the 82nd Airborne Division on D-Day and went on to win 5 battle stars. In 1959—the year that he joined the Senate Armed Services Committee—Senator THURMOND was promoted to major general in the U.S. Army Reserve.

During Senator THURMOND's tenure on the Armed Services Committee, our

Armed Forces have faced challenge after challenge in Western Europe, Vietnam, the Middle East, the Caribbean basin, the Persian Gulf, the Balkans, and Afghanistan. Through it all, Senator THURMOND has persevered in his unwavering support for our men and women in uniform. His steadfast commitment to our national defense has been a rock upon which they could all rely and has helped ensure that our military has always been ready to answer the call whenever and wherever needed.

Senator THURMOND served as chairman of the Senate Armed Services Committee in the 104th and 105th Congresses. I had the honor and pleasure to serve as his ranking member in 1997 and 1998. I know from personal experience how seriously Senator THURMOND treated his duties as chairman and how hard he worked to be fair and even-handed with every member of the committee. I am sure that I speak for all of our colleagues in saying just how much we appreciate not only the commitment that Senator THURMOND brought to his duties as chairman, but also his lifelong dedication to the defense of our Nation and to the welfare of the men and women in uniform.

He came to the floor a few minutes ago just to check things out—basically to satisfy himself that this Defense authorization bill was moving along. So he made the effort to come to the floor just to see for himself that things were OK.

I left the floor momentarily to just go out and thank him for coming over and to wish him well on behalf of the entire committee and the Senate, as we will not be seeing too much more of him because he is going to be moving on hopefully to other adventures.

Mr. SESSIONS. Mr. President, if the Senator will yield, I was going to add that Senator THURMOND, at the age of 99 and soon to be 100, was at the Republican Conference luncheon today. And here it is, a quarter to 6, and he just left the floor a few minutes ago. He has been fully engaged all day today. He is a true American.

I remember my first foreign trip with him to China. They respect age in China. So we were well respected. We went out to a Chinese Army military base. They asked him to review the troops. I was standing there—this Senator from rural Alabama—watching the famous STROM THURMOND troop in front of a group of Chinese Communist troops. Afterwards, I told him, ''I never thought I would ever see that, STROM.'' I never thought I would have been there.

He is a remarkable man, a thorough expert in military affairs, and an absolute patriot. I thank Senator LEVIN for recognizing his service to our country.

Mr. LEVIN. Mr. President, if I could yield myself 5 additional minutes—if I am not taking the time of colleagues who are waiting to speak—to ask unanimous consent to add a word or two.

Mr. LIEBERMAN. Mr. President, if the Senator from Michigan will yield, I was hoping the chairman planned for further discussion because I would like a few moments myself to speak in favor of the Defense authorization bill.

Mr. LEVIN. Why don't I finish with a comment about Senator THURMOND and then yield to the Senator from Connecticut. We are going to be here anyway.

I have one other comment about Senator THURMOND, and then I will yield the floor.

My first trip with Senator THURMOND wasn't to a foreign country. It was to California. I will leave it at that.

(Laughter.) But he was only, I guess, 75 years old because it would have been 24 years ago.

I remember we were staying at a military base. We were studying a number of issues. I had just joined the Armed Services Committee. And I heard somebody, at about 5:30 or 6 in the morning, below my window running. I was trying to figure out who was up at 5:30 in the morning running. I knew it was a military base, but still 5:30 is a little early. That was STROM THURMOND running.

He was and is someone who really has put a lot of emphasis not just on his own health but on the health of his colleagues. How many times did he lean over to me, in the Armed Services Committee, and ask, are you watching your diet or are you getting exercise?

Here is a man who is really concerned that his colleagues would take care of themselves. I don't think any of us did the exercising he did and watched our diet quite the way he does, but, at any rate, he will be missed for all kinds of reasons.

The Senator from Connecticut is ready to speak. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair and my friend and colleague from Michigan.

Mr. President, I rise today to support the Defense authorization bill and to thank the chairman of our committee, Senator LEVIN, for his leadership in this effort, obviously supported, in a very strong partnership, by Senator WARNER, the ranking member, and other members of the committee of both parties.

It is particularly important we pass this bill now, not only because our forces are preparing for the possibility of combat to remove the threat Saddam Hussein represents, but also because this proposal has important provisions that will lead to transforming our military to ensure it is even more capable of protecting the American people in the uncertain and dangerous future ahead of us.

I do want to give credit to Senator LEVIN, who really has earned the gratitude of every American for his dedication and commitment not only to our national security in general but to the men and women in our Armed Forces. He has certainly ably explained the important provisions in this bill.

Obviously, there will soon be a transition in the leadership of the committee. Senator WARNER, I presume, will return as chairman. The fact these two colleagues have worked so well and so productively across party lines should give us all a sense of encouragement and hope about the work of this committee in the future.

I have been particularly proud to have been able to have worked on some provisions I believe will improve the readiness of our military in the years to come, and that will help our military become a more important part of the national homeland security team.

It has been a great honor to serve on the Armed Services Committee and to have worked with Senator LEVIN and Senator WARNER in the actions they have taken, particularly to improve the compensation and quality of life of our military.

I have also had the privilege, for the last year and a half—and I should say thanks to the occupant of the chair—to have served as the chair of the Airland Subcommittee, working very closely with Senator SANTORUM of Pennsylvania as my ranking member. We have now spent two sessions of Congress, as chair and ranking member, alternating our roles. I am particularly proud of the work our subcommittee has done with the full committee in providing additional resources to accelerate the Army's future force and to fully resource the combat aircraft that will serve as the backbone of our air forces and ensure our continued dominance of the air far into the future.

It has also been good to work with Senator SANTORUM and others on provisions that will permit more timely transition of promising leap-ahead technologies from research to full utilization, and to require the Department of Defense to fully assess its role in homeland security, each of which are parts of the Defense authorization legislation that is now before the Senate.

I worked with fellow members of both parties on the committee on a controversial matter that has reached resolution. It is a resolution that is unsatisfactory, but I know we have to move ahead with it; that is, the efforts to redress this longstanding inequity of a double standard that has allowed all Government retirees except our military retirees to receive both their full retirement pay and the disability compensation they are entitled to. Our original provision would have allowed all military retirees to draw both full-retired pay and any disability compensation they are entitled to.

To me, this is an issue of fundamental fairness. As Senator LEVIN has explained, we were forced by administration opposition to scale back the provision with regard to military retirees.

The compromise now in this conference report greatly reduces the number of retirees who will be able to draw both benefits I have described and

that they are entitled to. It does authorize an enhanced special compensation only for military retirees with 20 or more years of service who incurred a qualifying combat-related disability. That means any rate of disability attributable to an injury for which the retiree was awarded the Purple Heart, or a service-connected disability rated at 60 percent or higher incurred as a direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war.

This, unfortunately, does not cover all the retirees who should be eligible. It greatly reduces the number who will be covered. It is a step forward, and a significant step forward, for those who will benefit, but I hope—and I would guess that members of both parties on the Armed Services Committee join in the hope—in the years ahead, beginning next year, we continue to extend the number of retirees who are entitled to receive both retirement pay and disability compensation but do not, and to reach the point where all of them, in fact, receive it. That seems to be our moral responsibility in this case, and we are not yet fully meeting it.

Bottom line, this is a critically important, otherwise not just adequate but adequate to the special needs of the moment, authorization bill. We are, after all, a nation at war. We forget that sometimes because our enemy does not have the normal attributes of enemies in war. They are not able to be seen on a battlefield massing their troops. They are not in ships at sea that we can observe. They certainly are not in the conventional military aircraft. But they are out there. They are plotting. They are planning. They are arming in conventional and unconventional ways to do us damage.

This authorization bill will continue to provide the men and women who serve us in uniform, and those civilians who support them, the resources they need to keep us not only defended but the mightiest Nation in the history of the world.

I thank Senator LEVIN, Senator WARNER, and all the members of the committee for the work they have done on this legislation. I look forward to supporting this conference report.

I thank the Chair and yield the floor.

CUSTOMS SERVICE

Mr. GRASSLEY. I would like to engage in a colloquy with Senator BAUCUS on provisions in the homeland security bill pertaining to commercial operations of the Customs Service.

Mr. BAUCUS. This is a very important topic. As my good friend will recall, the Finance Committee held a hearing on this issue last July, which we followed up with a letter to the Chairman and Ranking Member of the Committee on Governmental Affairs. We stressed the importance of preserving the revenue collection and trade facilitation functions of the U.S. Customs Service, even as that agency moves into a Department with a national security focus. I would be pleased to engage in a colloquy on this topic with the Senator form Iowa.

Mr. GRASSLEY. I appreciate the Senator's recalling our hearing of last July. I would note that following the hearing and our letter to the Committee on Governmental Affairs, we worked closely with that Committee and with the Administration to develop text that would keep intact the commercial functions of the Customs Service. That text has evolved. I note that the bill now before the Senate provides, as a general matter, for the transfer of Customs Service functions and personnel to the new Department of Homeland Security. Notwithstanding that, authorities vested in the Secretary of the Treasury relating to customs revenue functions are to remain with the Secretary of the Treasury unless delegated to the Secretary of Homeland Security. My understanding is that this exclusion from transfer pertains to authorities now exercised by the Secretary of the Treasury to issue revenue regulations developed by the Customs Service, and authority to provide oversight and supervision of the Customs Service in this area, especially with regard to policy matters.

Mr. BAUCUS. I share the Senator's understanding on this point.

Mr. GRASSLEY. I note that, technically, the bill allows even revenue-related authorities to be delegated. However, it is my understanding that a wholesale—or even a large-scale—delegation of such authorities is not contemplated by this legislation.

Mr. BAUCUS. I agree with the Senator from Iowa. This bill should not be read as permission for the Secretary of the Treasury to undertake a wholesale or large-scale transfer of revenue-related authorities to the Secretary of Homeland Security. That would be an abdication of the responsibility that this bill assigns to the Secretary of the Treasury.

Mr. GRASSLEY. I thank the Senator from Montana. I also would note that the issue of Customs' revenue functions is dealt with differently in this bill than in the draft bill originally sent to Congress by the Administration. In the Administration's draft bill, all Customs functions would have been transferred to the Department of Homeland Security without any further action by any government official. That is, no Customs-related authorities would have been retained by the Secretary of the Treasury. Would the Senator from Montana agree that this contrast further supports the point that the bill now before the Senate is not intended to give the Secretary of the Treasury blanket permission to engage in a wholesale or large-scale transfer of revenue-related authorities to the Secretary of Homeland Security?

Mr. BAUCUS. I fully agree with the Senator's observation. The Congress has taken a different approach from the one originally proposed by the Administration. Under the approach in this bill, significant revenue-related authorities remain at the Treasury Department. It would not make sense to take this different approach if the result would be a wholesale delegation of these authorities after enactment. Accordingly, the bill should be interpreted as establishing a presumption that those authorities should not be delegated in the absence of a compelling reason for their delegation. Moreover, while delegations in this area are indeed allowable under the legislation, it is fair to conclude that they will be scrutinized closely by those of us responsible for these provisions.

Mr. GRASSLEY. I appreciate this colloquy, and I thank the Senator for engaging in this colloquy on a very important topic.

MIGRATORY BIRD TREATY ACT

Mr. JEFFORD. Mr. President, I would like to engage my colleague Chairman LEVIN of the Armed Services Committee, in a colloquy on a provision relating to the Migratory Bird Treaty Act.

The Migratory Bird Treaty Act is one of our nation's oldest wildlife protection laws. Before this law was passed in 1918, many migratory birds were on the brink of extinction. However through international coordination and domestic conservation programs, the MBTA has succeeded in restoring many species of migratory birds. This law is within the jurisdiction of the Environment and Public Works Committee which I chair.

As the Chairman is aware, the conference report before us today contains an exemption for the Department of Defense from incidental takings of Migratory Birds related to military readiness activities. I think it is unfortunate that this provision was included, however, I know Chairman LEVIN worked tirelessly on this and many other difficult tissues in conference, and I thank him for his efforts.

While I am concerned that these provisions were never subjected to scrutiny in the committee of jurisdiction, I have yet to agree that these provisions, or any other provisions affording special treatment to the Department of Defense, are necessary. For years our military has efficiently and effectively trained for conflict in full compliance with environmental laws. Our defense agencies have taken pride in their stewardship of the environment. I applaud Chairman LEVIN for rightly insisting that these provisions not be included in the Senate DoD Authorization bill.

I would like to confirm my understanding of these provisions with Chairman LEVIN who was a principal negotiator of this legislation. First, it is clear in Subsection (d) that the authority of the Secretary of the Interior to prescribe regulations for the incidental taking of migratory birds during military readiness activities is limited to the Secretary's authority under section 3(a) of the Migratory Bird Treaty Act.

Mr. LEVIN. That is correct. This authority must be consistent with the authority in section 3(a) of the Act, and in no way changes our obligations under the Migratory Bird Treaties.

Mr. JEFFORD. I would also like to point out that the Department of Interior has a mandatory obligation to promulgate regulations to permit the incidental taking of migratory birds by DOD within one year of the enactment of this Act. Subsection (d) of the provision clearly provides that ''not later than the expiration of the one-year period beginning on the date of the enactment of this Act, the Secretary of Interior shall exercise the authority . . . to prescribe regulations to exempt the Armed Forces for the incidental taking of migratory birds during military readiness activities.''

Mr. LEVIN. Yes, it is quite clear that the Department of Interior has a statutory obligation to promulgate regulations within one year.

Mr. JEFFORDS. Also, according to subsection (b), in the one-year time period between the enactment of this Act and the promulgation of regulations by the Department of Interior, the Secretary of Defense must, ''identify measures to minimize and mitigate . . . any adverse impacts of authorized military readiness activities on affected species of migratory birds.'' Is it the Chairman's understanding that DOD has a mandatory obligation to implement these measures?

Mr. LEVIN. That is correct, the Secretary of Defense must not only take measures to minimize and mitigate adverse impacts on migratory birds, they must also ensure that such measures are implemented.

Mr. JEFFORDS. Finally, according to subsection (b), in the time period in which the regulations promulgated pursuant to subsection (d) are in effect, the Secretary of Defense must, ''identify measures to minimize and mitigate . . . any adverse impacts of authorized military readiness activities on affected species of migratory birds'' and ''monitor the impacts of such military readiness activities on affected species of migratory birds.'' Is it the Chairman's understanding that these minimization and monitoring measures must be addressed in the regulations promulgated pursuant to subsection (d), to ensure that those regulations are consistent with the Migratory Bird Treaty Act?

Mr. LEVIN. That is correct, the regulations must prescribe measures to minimize, mitigate and monitor impacts of military training activities on migratory birds, so that the regulations are consistent with section 3(a) of the Migratory Bird Treaty Act. The two key changes made by the conferees to the House provisions: (1) require the Department of the Interior to exercise its regulatory authority over DOD activities impacting migratory birds and (2) require appropriate actions to mitigate the impact of DOD actions on migratory birds. The Senate conferees agreed to accept the provision only because of these changes.

Mr. MCCAIN. Mr. President, I rise today in support of H.R. 4546, the National Defense Authorization Act for Fiscal Year 2003. Overall, the House and Senate Armed Services Committee Conferees have produced a bill which is deserving of approval and is generally supportive of the brave servicemen and women in our armed forces, in terms of training, pay, family quality-of-life benefits, and providing modern equipment and weapon systems.

Building upon evaluations and recommendations regarding growing readiness and modernization problems throughout the services, the Conference Committee has done an admirable job of addressing some of the more pressing issues contributing to the multiple problems that have been brought to Congress' attention over the past several years.

Unfortunately, there are areas that the Conference Committee did not adequately address. First and foremost is Concurrent Receipt. It was tremendously important to me that the Senate version of the defense authorization bill and report would authorize, at a minimum, payment of retired pay and disability pay for all military retirees with disabilities, a practice known as Concurrent Receipt. For the past eleven years, I have offered legislation on this issue. This matter is of great significance to many of our country's military retirees, because it would reverse existing, unfair regulations that strip retirement pay from military retirees who are also disabled, and costs them any realistic opportunity for post-service earnings.

While I commend the Chairmen and Ranking Members of the Armed Service Committees for going further in addressing a longstanding inequity in the compensation of military retirees' pay, this bill does not go far enough and falls far short of the much broader provision that was included in the Senate, or even the House. However, it was important that a compromise was reached with regards to Concurrent Receipt. The defense authorization bill provides many critical quality-of-life and pay benefits for our servicemen and women. Foregoing a defense authorization bill because full Concurrent Receipt was not included would be wrong because I believe we would be hurting an even greater number of servicemembers who are currently serving, reservists who have been mobilized in support of Operations Noble Eagle and Enduring Freedom, and their families who endure long periods without a spouse or parent during periods of training or deployment. More must be done on Concurrent Receipt. More will be done.

The compromise legislation, in effect, de facto Concurrent Receipt would increase payments under legislation I previously introduced in 1999, Special Compensation for Severely Disabled Military Retirees, in an amount equaling the monthly disability compensation prescribed by the VA for disabling conditions of that percentage.

Eligible recipients would include those military retirees with 20-years military service who have a disability, 10 to 100 percent, that is a result of an injury for which the member was awarded the Purple Heart; or have a 60 percent or more combat-related disability to include disabling conditions incurred as a result of armed conflict, including, PTSD, Agent Orange, and Persian Gulf War disease; while engaged in hazardous service such as atomic veterans; under conditions simulating war such as military training; or caused by an instrumentality of war like accidents involving military equipment.

Again, while this legislative compromise will provide critical help to an additional 35,000 disabled military retirees, it is not good enough to only correct this injustice for a select few no matter how deserving.

We must do more to restore retirement pay for those military retirees who are disabled. I have stated this before, and I am compelled to reiterate now; retirement pay and disability pay are distinct types of pay. Retirement pay is for service rendered through 20 years of military service. Disability pay is for physical or mental pain or suffering that occurs during and as a result of military service. In this case, members with decades of military service receive the same compensation as similarly disabled members who served only a few years. This practice fails to recognize their extended, more demanding careers of service to our country.

This is patently unfair, and I will continue to work diligently to correct this inequity for all career military servicemembers who are disabled.

Fully enacting concurrent receipt, for all who deserve it, is the next step to ensuring that we recognize the military service of those military retirees who by no fault of their own become disabled during their career military service.

Another disappointing action was the removal of language I sponsored, modifying the calculation of back pay for persons who were approved for promotion as members of the Navy and Marine Corps while interned as prisoners of war during World War II. Last year's Defense authorization bill authorized back pay to World War II veterans who were not promoted on time due to the arcane Navy Department rules of the early 1900s. Unfortunately, when the law was changed, an adjustment for inflation was not taken into account. While these men received the back pay they deserved, it was not adjusted for inflation. A simple fix to this problem would be to take into account changes in the Consumer Price Index. Though included in the original version of this year's Defense Authorization Act, the language was removed from the final version of the legislation.

I also am disappointed that the Conferees dropped the Senate Armed Services Committee's recommendation submitted by the Administration to waive certain buy America restrictions. The Senate authorized the Secretary of Defense to waive domestic source or content requirements for close defense allies that provide reciprocal treatment for our defense products. ''Buy America'' restrictions divert necessary funds to ensure our military is properly equipped. An additional $5 billion can be saved per year by eliminating ''Buy America'' restrictions that are protected by the Berry amendment that only undermine U.S. competitiveness overseas. Every dollar we spend on archaic procurement policies, such as ''Buy America,'' is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, paying full concurrent receipt, maintaining force structure, replacing old weapons systems, and advancing our military technology.

Although I have shown that there are numerous examples of why this bill is far from perfect, I am putting my reservations aside to support the final passage of the Fiscal Year 2003 National Defense Authorization Act Conference Report. I feel that taken as a whole this legislation represents a step forward for our Nation's military.

The bill contains a package of benefits for servicemembers and their families that would go a long way toward addressing the readiness problems facing all the services. It includes a 4.1 percent across-the-board pay raise for all active and reserve servicemembers, with an additional targeted pay raise ranging from 5.5 percent to 6.5 percent for sergeants, petty officers and chiefs.

Military pay, by almost all accounts, has fallen considerably behind civilian pay. Arguments can be made as to the precise pay differential, and at which pay grades and mission areas the gap is greatest, but there is no credible argument as to whether or not we need to address the issue of compensation.

Additionally, the Committee approved a provision that would authorize a new assignment incentive pay of up to $1,500 per month to encourage servicemembers to serve in difficult-to-fill assignments, like Korea or the Persian Gulf region.

The Committee approved a significant legislative provision directing the Secretary of Defense to review personnel compensation laws and policies, including the Reserve retirement system, to determine how well they address the needs of Guard and Reserve servicemembers. This provision is particularly noteworthy since the Secretary of Defense recalled nearly 95,000 Reserve Component servicemembers for Operations Enduring Freedom and Noble Eagle. Oftentimes the collective memory of our active duty, including active duty reserve servicemembers, is short and a comprehensive examination of reserve force policies, if done right, will help address waning retention of reservists and continued support by employers of reservists.

I forcefully endorse the Conference Committee's inclusion of an amendment that will direct the Secretary of the Air Force to obtain specific authorization and appropriation to lease 100 Boeing 767 tanker aircraft that was previously approved by the Department of Defense Appropriations Act of Fiscal Year 2002.

Many Senate Armed Services Committee Members expressed concern that the payment of leasing of major weapon systems, aircraft, vessels, and combat vehicles, should not come from critical funds providing for readiness spending, such as training, spare parts, flying hours, and maintenance of weapons systems and barracks. There appeared to be a sense of agreement that any lease for major weapon systems should instead be funded from the procurement accounts.

During posture hearings, the Service Secretaries and Chiefs confirmed that readiness unfunded requirements still exist and submitted lists to meet their readiness requirements. Robbing ''Peter to pay Paul'' so that Air Force Secretary Jim Roche can modernize the tanker fleet is questionable at best and several reports by the GAO, OMB and CBO bear this out. I will not take the time of this body today to again articulate the reasons why Secretary Roche's and the Appropriations' Committee Boeing 767 leasing scheme is a rip-off of the taxpayers as I have stated on the floor of the Senate in the past. However, servicemen and women will someday look at this lease of aerial tankers and wonder how Congress was duped into agreeing to a provision that was so costly and in the end irresponsible.

I fully support the Conference Committee's inclusion of the ''National Call to Service Act,'' which provides for strong incentives to encourage young Americans to enlist in the Armed Services.

The Committee adopted provision is the military component of the ''Call to Service Act,'' introduced by Senator EVAN BAYH (D–IN) and myself, which also expands civilian service opportunities in AmeriCorps and SeniorCorps and in other service organizations.

This is a very significant boost to a bill that will give Americans concrete opportunities to serve in causes greater than self interest. By encouraging more military enlistments, this legislation could greatly assist our war against terror.

Under the ''National Call to Service Act,'' individuals who volunteer to serve under this new program would be required to serve on active duty for 15 months in the Armed Services after completion of initial entry training and could complete the remainder of their military service obligation by choosing service on active duty, in the Selected Reserve or in the Individual Ready Reserve. The reserve obligation could also be fulfilled by serving in a civilian national service program such as the Peace Corps or AmeriCorps.

In return for service, the legislation provides the choice of incentives including a $5,000 bonus, repayment of a student loan up to $18,000, an educational allowance under the Montgomery GI Bill.

At this time of national challenge, Americans are yearning for opportunities to serve. I hope Congress will expeditiously take action on this entire legislation to create more options in both the areas of military and civilian service.

In conclusion, I would like to reiterate my belief in the importance of enacting meaningful improvements for active duty and Reserve service members. They risk their lives in Afghanistan and elsewhere to defend our shores and preserve democracy, and we cannot thank them enough for their service. But, we can and should pay them more, improve the benefits for their families, and support the Reserve Components in a manner similar to the active forces. Our service members past, present, and future need these improvements. We also cannot continue with this ''business as usual'' mindset. We must reform the Department of Defense and not fall prey to the special interest groups that attempt to warp our perspective and misdirect our spending. We owe so much more to our men and women in uniform who defend our country. They are our greatest resource, and I believe they are woefully underrepresented. We must continue to do better.

Mr. BYRD. Mr. President, the Fiscal Year 2003 Defense authorization bill was in conference for nearly 16 weeks. This bill, which creates the policies and programs that will guide the Department of Defense during this fiscal year, is the counterpart to the defense appropriations bill, which was passed by Congress and signed into law last month. After the President challenged Congress to make the defense budget a priority, why did it take so long for Congress to complete action on the defense authorization bill?

This bill has wide support in the Senate, having originally been passed on June 27, 2002, by a vote of 97 to 2. So the bill is not so divisive that controversy among Members of the Senate could have delayed its completion.

The chairman and the ranking member of the Armed Services Committee, Senator LEVIN and Senator WARNER, worked diligently during this extended period of time to be able to produce a defense authorization bill for this year. They cannot be blamed for it taking so long to completing conference on the bill.

The true reason for the delay was the myopic veto threats that emanated from the White House over provisions in the Senate- and House-passed bills that would have expanded benefits to disabled veterans. The reason the White House opposed these benefits is clear: the President's advisors were

only looking at the bottom line. It just does not make sense that we can pass a defense budget that will spend a billion dollars a day during the next 12 months, and we can spend more than a billion dollars a month on military operations in Afghanistan, but when it comes to providing benefits to disabled veterans, suddenly we do not have the money.

The veterans' benefit that was proposed in the Senate version of the Defense authorization bill would allow an individual with a disability who retired from the military after 20 years of service to receive the full amount of his military retirement pay and his veterans' disability pay, without reduction from either. Under current law, these two payments are offset, in effect forcing these individuals to pay for their own disability checks.

The Senator from Nevada, Mr. REID, has authored a bill to correct this situation. I am one of 82 cosponsors of that bill. The House version of this bill has 403 cosponsors. These bills are of the highest priority to a great number of veterans' groups and of great importance to thousands of disabled veterans around the country. Despite such broad support, the White House veto threats torpedoed the full expansion of these benefits in the Defense authorization bill.

The conference report to the Fiscal Year 2003 Defense authorization bill that we will soon vote on contains a limited expansion of benefits to some veterans, depending on their level of disability and how their injuries were inflicted. It is well short of what veterans deserve.

I will vote in favor of the conference report, however, because the bill makes improvements to a number of other programs that are important to the men and women who serve our country in uniform. The Defense authorization bill provides for an across the board pay increase, creates new bonus payments for hardship assignments, and reduces housing costs for military families. The bill also authorizes $10.4 billion for military construction, which includes funding to replace dilapidated housing at military bases throughout the United States. This bill will help to improve the quality of life of those who now serve in the military.

Although this bill does not make enough progress in getting veterans the benefits that they have earned, the passage of this Defense authorization bill will not be an end to that issue. There is strong support in Congress to allow disabled veterans to receive the full amount of their military retired pay and their disability compensation, and I am certain that this issue will be raised again.

In the meantime, I urge the thousands of veterans who contacted me in support of expanding these benefits to let the President know how important this issue is to you. No veteran should doubt who is responsible for killing this proposal. Veterans and their families should hold the President accountable for his stand against benefits for disabled veterans.

Mrs. MURRAY. Mr. President, I rise today to express my deep disappointment that the Murray/Snowe amendment was dropped, once again, in conference.

The Murray/Snowe amendment would guarantee that women serving in our military overseas have access to safe, affordable and legal abortions. This amendment passed the Senate on a 52 to 40 vote. A similar amendment also passed in 1996 and was dropped in conference. Once again, reproductive health care needs of women were abandoned behind closed doors.

The DOD authorization bill before us today will ensure that our men and women in the armed forces have the equipment and resources they need to protect us. Every day our service men and women work overtime, often in hostile, dangerous environments to protect our citizens and to secure the freedoms and values we cherish. They deserve our full support.

Suprisingly, as the women of our military, fight for our freedoms overseas, they are actually denied some of these freedoms during their service. Here at home, women have the right to chose. They have constitutionally-protected access to safe and legal reproductive health services. But, this is not the case for women serving overseas. The Murray/Snowe amendment would have ensured that women serving in the military are not forced to check their rights at the U.S. border.

Under current restrictions, women who have volunteered to serve their country are not allowed to exercise their legally guaranteed right to make their own reproductive health decisions simply because they are serving overseas.

These women are committed to protecting our rights as free citizens, yet they are denied one of the most basic rights afforded women in this country. Our amendment would not, and let me stress does not require any direct federal funding of abortion related services. The amendment would have required women to pay for any direct costs associated with an abortion in a military facility. The Murray/Snowe amendment does not, and again let me stress does not, compel a medical provider to perform abortions. All branches of the military allow medical personnel who have religious or ethical objections to abortion not to participate. Finally, this amendment would not have changed or altered conscience clauses for military medical personnel. This is an important and critical women's health issue. Women should be able to depend on their base hospital and military health care providers to meet all of their health care needs, including reproductive health. To single out abortion-related services could jeopardize a woman's health.

Opponents of this amendment have argued that the military does ensure access for women. Under current practices, a woman who requires abortion related services can seek the approval of her commanding officer for transport back to the U.S. as unscheduled leave: not medical leave, but unscheduled leave.

In addition to the serious risk posed by delaying an abortion, this policy compromises a woman's privacy rights by forcing her to release her medical condition and needs to her superiors. This policy also forces women to seek abortions outside of the military establishment in foreign countries. Many women have little or no understanding of the laws or restrictions in the host country and may have significant language and cultural barriers as well.

In this country, we take for granted the safety of our health care services. When we seek care in a doctor's office or clinic, we assume that all safety and health standards are adhered to. Unfortunately, this is not the case in many other countries.

In addition, many of our military personnel serve in areas that are hostile to women's reproductive rights and choices. In some countries, women can be severely punished for seeking abortion-related services or family planning. This is the environment that many women face.

Regardless of one's view on abortion, it is simply wrong to place women at risk. This amendment would have required the women to pay the full cost associated with the abortion. It would prohibit any direct federal funding.

Ensuring that women have access to safe, legal and timely abortion related services is an important health guarantee. It is not a political statement. It is essential that women have access to a full range of reproductive health care services. That's why the Murray/Snowe amendment was endorsed by the American College of Obstetricians and Gynecologists, the Americans Medical Women's Association, Physicians for Reproductive Choice and Health, Planned Parenthood of America, National Family Planning and Reproductive Health Association, and the National Partnership for Women and Families.

As we send out troops into the war on terrorism to protect our safety and freedoms, we should ensure that female military personnel are not asked to sacrifice their rights and protections as well. Allowing extreme ideology to dictate military health care policy is simply wrong. Women have suffered a major set back today. Dropping the Murray/Snowe amendment sends the wrong message to our military servicewomen. It is simply wrong to deny women their basic rights behind closed doors.

I will not give up. I will be back again to fight for this important reproductive health care protection. Eventually, we will do the right thing and enact the Murray/Snowe amendment.

Mr. ALLARD. Mr. President, this week our Nation honored our veterans; the men and women who have served

the United States with distinction. Although we take one day of the year to recognize what veterans have done for us, it is understood that we are in constant debt to those who defended our country's liberty. It is said that ''Freedom is not free''. There is a cost, and this cost has been paid by America's veterans. They have sacrificed for our country, and increasingly for our world. Around the globe, from Asia to Europe to the Middle East to right here at home, the millions of men and women who have served in our armed forces deserve as much honor and respect as we can give them.

Knowing this, there is not one member of this body who would not want our veterans to receive benefits that they have earned. Unfortunately, the House and the Senate have chosen not to give full concurrent receipt to our veterans, and for this reason I did not sign the Conference Report to the Defense Authorization. While I applaud the inclusion of a special compensation for some categories of war veterans, I believe that more work needs to be done and I will continue to push for these benefits in the future.

The withholding of my signature to the Conference Report should not, however, be seen as my disapproval for the entire bill. In fact, overall I am very pleased with the outcome of the defense authorization for this year. I believe that the work we have done will continue to ensure that our men and women in the armed forces have access to the tools they need to perform their critical missions across the globe. Also, we should not overlook the impact that increasing basic pay will have on our military personnel, any commitment that Congress shows to our armed services in this regard is a positive gain for the American people.

As I have stated on this floor many times before, it is abundantly clear more and more each day how important missile defense is to our country. The development of this program is central to homeland defense and the protection of our friends, allies and deployed forces against threats that are serious and growing. The authorized levels of funding for critical ballistic missile defense systems and their components is an outstanding accomplishment for this Congress. As the ranking member of the Strategic Subcommittee, ensuring full support of missile defense is my most important priority and it will continue to be as we begin work in the 108th Congress.

The Defense authorization conference also provided for a number of developmental programs critical to space-based systems and technologies. The Network, Information, and Space Security Center will facilitate cooperation for protecting information and information systems, which is becoming increasingly important in the face of cyberterrorism threats from around the world. The Center for Geosciences is a leading-edge environmental research center continuously improving weather forecasts for our military forces around the world. TechSat 21 will demonstrate the technical and operational feasibility of microsatellites, a truly transformational approach to space-based systems. And finally, the GPS Jammer Detection and location System will enable our military commanders to rely on GPS and GPS-supported systems such without the threat of interference or jamming by the enemy.

One of my particular interests for several years has been the use of commercial imagery to help meet the Nation's geospatial and imagery requirements. I do not believe that the Department of Defense has been aggressive enough either in crafting a strategy or in providing funding for this purpose. I am gratified that we have included a substantial increase for commercial imagery acquisition, and some very helpful words in report language that I expect will drive the Department toward establishing a sound relationship with the commercial imagery industry.

Closer to home, I know that my constituents in Colorado are pleased that we not only fully funded the Rocky Flats Environment Technology Site and its cleanup activities but also added an extra $18 million for included security costs at the site. I also appreciate the support of the new Department of Energy environmental cleanup reform initiative that will incentivize cleanup sites to do their important work faster and more efficiently. The accelerated cleanup initiative will reduce risk to the workers, communities and the environment, shorten the schedule by decades, and save tens of billions of dollars over the life of the cleanup.

Let me make it very clear that I chose not to sign the Defense Authorization Conference Report because of our failure to include the full Senate provision for concurrent receipt, but I strongly support the bill for providing the technology and resources our military men and women need to protect our national security.

Mr. NELSON of Florida. Mr. President, I rise to address a number of issues in the Defense authorization bill. I am voting for this bill because it contains many provisions critical to fighting the war on terror and it provides pay raises for the men and women of our military. But it fails to rectify a longstanding inequity for disabled military retirees. It's wrong that disabled retirees are forced to pay for their own disability benefits. While this bill ends the penalty for some 30,000 retirees, there are more than half a million veterans out there who still are forced to pay for their own disability benefits.

For the many good things we have in this bill, I'd like to thank leadership of our Chairman, Senator LEVIN, and Ranking Member, Senator WARNER. Americans can be assured of their devotion to the security of our nation and the welfare of the men and women in uniform around the world today serving in harm's way.

I would also like to say I am grateful for the opportunity to have served on this committee for two years with the Senior Senator from Georgia, MAX CLELAND.

MAX CLELAND has been an inspiration making countless sacrifices during his lifetime of service to our Nation. I have turned to Senator CLELAND again and again over the years on the most challenging issues confronting us—from the war on terror to the welfare of our service members and their families, our military retirees and our veterans.

Deep within the chest of Senator MAX CLELAND beats the heart of an American Soldier, an American who has given much in the defense of freedom; an American who has much, much more to give. I know that I will call upon my friend and colleague again and again, no matter where he is, when I need the clear insight and straightforward counsel of a soldier.

This has been a very important year in American history. We have learned much about the dangers that confront our Nation at home and around the world. We have learned much about the capability of our Armed Forces to confront and defeat these dangers. I am confident we will win the war on terror, there can be no question among the American people, or in the minds of our friends and enemies.

This bill goes beyond the President's request and beefs up our arsenal with additional warships, better fighting aircraft and improved security at our military bases.

This is a strong bill for our service members and their families. This bill provides for important increases in pay, bonuses, special pays, medicare care and family housing.

This is a major piece of legislation that lays the foundation for how this Nation will prosecute the war on terror at home and abroad; how this Nation will transfer its military for the dangers that may confront us in the future; and, how this Nation will care for the soldiers, sailors, airmen and Marines, and their families, that put themselves in harms way everyday.

I would like to highlight two provisions in this bill, for which I am grateful for the support of my colleagues in the Senate and the House's conferees.

Earlier this year, the Defense Department acknowledgement that Navy ship defense and vulnerability experimentation during the Cold War, known as Shipboard Hazard and Defense or Project SHAD, used chemical and biological agents that exposed sailors unwittingly to potentially lethal toxins.

While the military necessity of anticipating, understanding, and mitigating the vulnerability of our fleet to gas attack is indisputable, using our sailors, intentionally or not, as human guinea pigs is reprehensible.

A provision that I sponsored and included in this bill (Section 709) directs

the Department of Defense to submit to the Congress, within 90 days, a comprehensive plan for the review, declassification and submission to the Veterans Administration all medical records and information relating to the SHAD project. Subsequent reports are required every six months allowing the Congress to evaluate the Defense Department's progress in executing the plan.

We owe this level of effort to the sailors that may have been exposed to potentially toxic agents and get them the medical care to which they are entitled.

I also sponsored a provision included in this bill, Section 583, that requires the Department of Defense to provide the Congress a report, classified and unclassified, on their progress toward resolving the fate of Navy Captain Michael Scott Speicher. Captain Speicher is the only American still unaccounted for from our war with Iraq nearly twelve years ago. In that time, the Defense Department has painfully mismanaged the search for and subsequent classification of Captain Speicher.

Section 583 of the bill requires the Defense Department to report to Congress not later than 90 days of enactment, and every 120 days thereafter, providing specific details on their efforts to resolve the fate of Captain Speicher. We need to give American service members the certain knowledge that we are not a nation that casually or negligently abandons its military men and women during or after a conflict.

I share the hope of so many of Captain Speicher's shipments, friends and family that we will one day know his fate. I am proud to have sponsored this provision and expect that the Defense Department's efforts will reflect the Nation's interest in bringing peace and comfort to all.

There is also heartbreak in what we were not able to do in this bill, especially for our military retirees. This bill fails to repeal the prohibition on the concurrent receipt of retired pay and disability compensation, as we had provided in our Senate version of the bill.

Instead we have a compromise acceptable to the President who is unwilling to pay the cost of correcting the injustice of requiring our military retirees to pay for their own disability compensation.

This is an intolerable disappointment for the hundreds of thousands of military retirees and their families hurt by the policy. We failed them again and I am deeply disappointed.

It has been clear to all that President Bush has worked hard against the interests of our military retirees in this instance. And, with the help of the civilian leadership in the Department of Defense and the Republican leadership in the House of Representatives, he's got what he wanted, controlling federal spending on the backs of our retired veterans.

I would have preferred that we as a Congress had done the right thing and passed the Senate version of the bill giving our retired military authority to receive their full pay and disability compensation.

I would have preferred that we had passed full concurrent receipt as eighty-two Senators and 403 members of the House have already agreed to support as cosponsors on separate legislation.

I would have preferred that we had passed full concurrent receipt and forced the President's veto. I would have proudly voted to override a veto and fix the injustice once and for all. And, I believe an override could have been easily achieved.

Sadly, this effort was lost in the partisan, election engineering of this Administration, the civilian leadership in the Defense Department, and the Republican leadership in the House of Representatives. For weeks we have delayed resolution of this issue in this bill in order to avoid forcing the President to take an action contrary to the interests of veterans.

Hopefully, veterans will quickly learn that there are those of us who truly care about meeting our obligations to them; and, they do have a place to go where their voices will be heard, where America's promises will be kept, and where their needs will be met.

I am ready to take up this fight in our next session. I am proud to represent the interests of our veterans and our military retirees. I am also proud to represent the interests of our retirees' surviving spouses, military widows, and their children. We have a lot of work to do correcting some of the injustices created over the years with conflicting and inconsistent benefits policies that seem to be concentrated in our Armed Services and Veterans programs. I look forward to taking up these challenges and working with my colleagues to rationalize and simplify our benefits systems so that we keep our promises to those who have given their all to the Nation.

I would like to close with a quintessentially American expression of what we need to do by President Teddy Roosevelt, ''A man who is good enough to shed his blood for his country is good enough to be given a square deal afterward.'' I believe that there should be at least eighty-two of my colleagues in this chamber who will agree with this and be willing to make it a reality next session.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that all time has expired.

The PRESIDING OFFICER. That is correct.

Mr. REID. The chairman of the committee wishes to enter a statement in the RECORD that will take less than 5 minutes. I would only state there are a number of Senators who wish to attend the service for Senator Wellstone and his wife, which begins at 7 o'clock, so I would hope everyone can keep that in mind and we can move forward with this legislation.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. My understanding is there is no need for a rollcall vote on this bill.

Mr. President, just two additional moments I appreciate taking here. One relates to Senator CLELAND.

Senator CLELAND has been a true champion of the men and women who serve our country in uniform. He is directly responsible for a great deal of important legislation, including the transferability of GI bill benefits to a military member's spouse and children. This was a major retention initiative.

Secondly, this year he led the effort for a new special assignment incentive pay to encourage military members to serve in hard-to-fill positions.

This year he warned us that our military services are too small to meet our ongoing and growing commitments, and he is proving to be prescient in that regard because of the needs we see for our military services in the way in which they are involved in so many parts of the world.

But in addition to his role on the Personnel Subcommittee, Senator CLELAND continually reminded us of the pitfalls of committing U.S. Armed Forces to conflict without clearly defined objectives supported by the Congress and the American people.

Senator CLELAND's careful and thoughtful approach to national security has been appreciated by every member of the Armed Services Committee, every Member of this body. His advice and his judgment are going to continue to be needed by us individually, and we will be calling upon him. His indomitable spirit has inspired us, and it will continue to do so.

Senator CARNAHAN has been a valued member of the Armed Services Committee for the last 2 years. She was able to quickly get up to speed. She played an important role in the committee's deliberations on a wide array of issues.

She had a particular interest, and had a significant impact, in a number of areas, including Reserve health care and counterproliferation programs.

In the area of Reserve health care, Senator CARNAHAN played a key role in extending the period during which Reservists remain eligible for military health care after being released from active duty, and in initiating a review of alternative means for providing health care to the Reserves.

In the area of counterproliferation, Senator CARNAHAN played a key role in developing legislation to improve our nonproliferation programs to address the problem of radiological weapons and so-called ''dirty bombs.''

She has always been a strong advocate of efforts to expand these programs to countries outside of the former Soviet Union. Her thoughtful,

balanced approach to legislation will be missed on our committee, and her good and gentle nature will be missed by every Member of this body.

Finally, Senator BOB SMITH and Senator TIM HUTCHINSON were key members of our committee.

I take this opportunity to recognize the contribution that Senator BOB SMITH has made to the work of the Armed Services Committee and the national security of this country over his 12 years of service on this Committee.

Most recently Senator SMITH has served as both the Chairman and Ranking Member of our Strategic Subcommittee where he was a strong advocate of national security space programs, ballistic missile defense programs, and the modernization of our strategic nuclear triad. He did not limit his work on the Committee to the work of one or two subcommittees, however. He made it a point to involve himself in the whole range of issues that came before the Committee and the Committee's deliberations and conclusions were always improved by his involvement. This past year for example, he worked very hard on the issue of concurrent receipt for our deserving veterans.

Every member of the Armed Services Committee will miss Senator SMITH's thoughtful advice and collegial approach to national security issues in the next Congress.

I would also like to take this opportunity to recognize and thank Senator HUTCHINSON for his service on the Armed Services Committee for the last 6 years. In particular, I would like to recognize his service as Chairman and Ranking Member of the Personnel Subcommittee.

Senator HUTCHINSON demonstrated great leadership in helping our military recruiters. He was a major player in enacting TRICARE for Life, significantly increasing the pay of our troops, and reducing the out-of-pocket housing expenses for military personnel not able to live on a military installation. In response to requests for help from enlisted recruiters, he initiated legislation that ensures that military recruiters have the same access to secondary school students as is provided to colleges, universities, and other potential employers.

Our service members and our Nation have greatly benefitted from Senator TIM HUTCHINSON's service here in the Senate on the Armed Services Committee. We thank him.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent to make a few remarks about Senators SMITH and HUTCHINSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I join with Senator LEVIN in his high compliments of Senators CLELAND and CARNAHAN. Both have served this committee exceedingly well.

BOB SMITH is a true American patriot. He loves his country. He served in the Navy. He was a history teacher. He came down here with a ''Mr. Smith Comes to Washington'' view of the highest possible values he could bring to bear. He loved the Defense Department. He gave it extraordinary interest. He was a top leader in national missile defense and high technology defense. He was a leader on the Strategic Subcommittee and chaired it for a number of years.

He was a champion for lost POWs. No Senator in this body spent more time and effort fighting to make sure every single prisoner of war of the United States was recovered or we knew about. He led on the Mike Speicher case, the missing pilot in Iraq.

TIM HUTCHINSON came in with me. I love TIM and watched him lead in this body year after year. He was a tremendous contributor to the Armed Services Committee. He chaired the Personnel Subcommittee. In that subcommittee, he fought hard to improve the pay, benefits, and living conditions of our men and women in uniform. He also fought successfully to break down the barriers where some of our colleges would not let military recruiters come on campus to recruit. He led a tough battle to change some of those laws.

He was a leader, as was Senator SMITH, in the concurrent receipt battle to make sure our veterans who have been injured and disabled received better compensation.

I thank Senator LEVIN for mentioning these Senators at this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, as Senator WARNER did, I add my thanks to our staffs: David Lyles, chief of staff on the Democratic side; Judy Ansley, taking the same responsibility on the Republican side. We are deeply in debt to them and to their entire crew which works with them.

Without our staffs, needless to say, we could not even come close, not just procedurally, not just mechanically, to accomplishing this goal of a conference report, but also for the wisdom, the advice they give us on substantive issues as well which is so important to us.

I don't know of anybody else who wants to speak. I don't know of a request for a roll call. I yield the floor and hope we can adopt the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report?

If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, what is the business now before the Senate?

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized to offer an amendment.

Mr. REID. Mr. President, I appreciate that. I noted previously that Senator SANTORUM was going to be recognized after we disposed of the Defense authorization bill. Senator SANTORUM, due to the fact we are having a ceremony for Senator Wellstone at 7 o'clock, agreed to do that after we bring up the port security legislation tomorrow, after that vote. Everyone should expect Senator SANTORUM to offer a unanimous consent request at that time dealing with the CARE Act.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 4901

Mr. THOMPSON. Mr. President, on behalf of Senators GRAMM, MILLER, VOINOVICH, and myself I call up an amendment that is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. GRAMM, for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH, proposes an amendment numbered 4901.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized.

AMENDMENT NO. 4902 TO AMENDMENT NO. 4901

Mr. LIEBERMAN. I thank the Chair. Mr. President, I have an amendment which I send to the desk on behalf of Senator MCCAIN and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska, proposes an amendment numbered 4902 to amendment No. 4901.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. THOMPSON. Mr. President, I send a cloture motion to the desk to the pending substitute amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the substitute amendment No. 4901 for H.R. 5005, the Homeland Security legislation.

John Breaux, Ben Nelson of Nebraska, Larry E. Craig, Jon Kyl, Mike DeWine, Don Nickles, Craig Thomas, Rick Santorum, Trent Lott, Fred Thompson, Phil Gramm, Pete Domenici, Richard G. Lugar, Olympia J. Snowe, Mitch McConnell.

The PRESIDING OFFICER. The Senator from Tennessee.

CLOTURE MOTION

Mr. THOMPSON. Mr. President, I now send a cloture motion to the desk to the pending bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 529, H.R. 5005, the Homeland Security legislation.

John Breaux, Ben Nelson of Nebraska, Larry E. Craig, Jon Kyl, Mike DeWine, Don Nickles, Craig Thomas, Rick Santorum, Trent Lott, Fred Thompson, Phil Gramm, Pete Domenici, Richard G. Lugar, Olympia J. Snowe, Mitch McConnell.

Mr. THOMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the legislative situation in the Senate at this moment?

The PRESIDING OFFICER. There is a pending Lieberman second-degree amendment to the Thompson first-degree amendment to H.R. 5005. Cloture motions have been filed on the Thompson amendment and on the bill itself.

Mr. BYRD. So two cloture motions have been filed?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. And in order of precedence, which is the first?

The PRESIDING OFFICER. The first cloture motion is on the Thompson amendment.

Mr. BYRD. And the second is on the——

The PRESIDING OFFICER. On the underlying bill.

Mr. BYRD. The underlying bill being House bill 5005.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair. I have nothing further. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEPENDENT COMMISSION TO INVESTIGATE SEPTEMBER 11 ATTACKS

Mr. MCCAIN. Mr. President, the legislation Senator LIEBERMAN and I introduced last year to create an independent commission to investigate the September 11 attacks passed the Senate as an amendment to the homeland security bill by a vote of 90 to 8 in September. Days before the vote, the administration issued a letter supporting the creation of an independent commission. But Congress is about to adjourn without having done so, to get it done.

The agreement that was reached on the homeland security bill is a welcome development and will make our Nation more secure. But the agreed text does not include our independent commission proposal, despite an overwhelming Senate vote in September and despite its previous inclusion in both the Lieberman and Gramm-Miller bills.

I believe President bush and his team have responded admirably and with a sense of purpose to the terrorist attacks, and the joint intelligence committee investigation into the associated intelligence failings has added to our understanding of what went wrong. But neither the administration nor Congress is alone capable of conducting a thorough, nonpartisan, independent inquiry into what happened on September 11, or to propose far-reaching measures to protect our people and our institutions against such assault in the future.

To this day, we have little information on how 19 men armed with boxcutters could have so effectively struck America. After every other such tragedy in our Nation's history, like Pearl Harbor and President Kennedy's assassination, independent investigations were immediately appointed to examine what went wrong and recommend needed reforms to prevent such tragedies from happening again. There has been no such review since September 11.

This is what our proposed commission would do. Its goal would be to make a full accounting of the circumstances surrounding the attacks, including how prepared we were, and how well we responded to this unprecedented assault. The commission would also make comprehensive recommendations on how to protect our homeland in the future. It would examine not just intelligence but the range of Government agencies and policies, from border control to aviation security to diplomacy.

Learning the lessons of September 11 will require asking hard questions. It will require digging deep into the resources of the full range of Government agencies. It will demand objective judgment into what went wrong, what we did right, and what else we need to do to deter and defeat depraved assaults by our enemies in the future.

No such review has occurred to date. Passage of the homeland security legislation is a good start to making needed reforms, but to some extent we are flying blind in our efforts to reform our approach to homeland defense because we still do not know what parts and policies of the Government failed the American people last September 11.

We do know, thanks to press leaks and the work of the joint intelligence committee, that significant failures occurred.

The chairman and ranking member of the Senate Intelligence Committee have suggested we might have prevented the September 11 attacks had we properly analyzed available information. They strongly support our independent commission legislation to carry on the work their joint intelligence investigation started. Together with Senators BOB GRAHAM and DICK SHELBY, we have been negotiating intensively with the White House and remain hopeful we might reach an agreement with them to create a commission, but we believe Congress must speak on this issue.

The families of September 11 will not rest until they have answers about how their Government let them down and what we can do to make sure such tragedy never strikes America again. This is not a witch hunt. It is a search for the answers that will enable us to

better protect our Nation against future attack by terrorists. It is about the future, not the past. It is worthy of the strong bipartisan support it has already received. I urge my colleagues to support this amendment.

I want to thank my friend from Connecticut for his efforts on behalf of this commission. I want to thank him for his efforts on behalf of the families, and I want to thank the White House for their continued negotiations. It is time we wrapped up these negotiations so this commission can be part of the Homeland Security bill.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my dear friend from Arizona for his strong statement, for joining me in introducing this amendment, and for his characteristic steadfastness in pursuit of an important cause regardless of the opposition and where it comes from.

He and I introduced legislation last December. We are approaching a year ago. It was a few months after the tragic attacks of September 11. We felt there should be an independent citizen commission, nonpartisan, with full powers of subpoena and adequate resources to investigate how could September 11 have happened, because clearly the fact it did happen said we were not adequately protecting the American people. We were insistent that this kind of investigation occur so we could learn how to prevent it from ever happening again.

There have been roadblocks along the way, but we have continued to state, and we state again, we are not going to give up this fight until such an independent commission is created because we cannot rest until the truth and the whole truth, so help us God, as best as anyone is able to find it, is determined about September 11. Because without that unlimited, unvarnished, uninhibited truth, we are not going to be able to inform this new Department of Homeland Security adequately.

This measure of ours passed the Senate earlier this year when we were considering the Homeland Security measure. It passed overwhelmingly with bipartisan support. In fact, the so-called Gramm-Miller substitute incorporated this provision, which I was very grateful to Senator GRAMM and Senator MILLER for doing, and Senator MCCAIN was a great advocate for that cause.

In the substitute introduced by Senator THOMPSON, in coordination with the White House and the House, the commission proposal is not in it, and that is not acceptable. Senator MCCAIN has said happily we continue to negotiate with the White House up until this moment, hopeful that an agreement can be secured that will create the aggressive, independent, nonpolitical commission this tragedy requires. But if it is not, and we have not reached an agreement yet, we are going to do everything we can to reinsert this commission into this Homeland Security bill where it belongs.

I think I can say for my friend from Arizona and myself if for some reason that does not work, we are going to keep introducing it wherever and whenever we think we can get a vote that will make it law. We owe this to the families of the September 11 victims.

I have met with them, as Senator MCCAIN has, several times. Their desire for this commission is in some ways the strongest and most compelling argument anyone can make on its behalf, because they asked us and they asked America, having lost loved ones, how could September 11 have happened? We owe them an answer to that question, and we have not given it to them yet.

As Senator MCCAIN said, the work by the Joint Intelligence Committee has revealed information, media investigations have revealed information, that only increases our understanding of how much more we need to know. The Senate coleaders of the Intelligence Committee, Senator GRAHAM and Senator SHELBY, are now strong supporters of this commission idea.

Going back to the families of the September 11 victims, I do want to say the persistent advocacy of these families, led by Steve Push, Kristen Breitweiser, Mary Fetchet, Beverly Eckert, and so many others, despite their great personal loss, has inspired not only my deep admiration but our continuing commitment to fight for this commission until it comes to fruition. We are not interested in pointing fingers. This is all about our common security, and improving it is our common responsibility.

I hope our colleagues will join us in supporting this amendment to the Homeland Security bill and restoring this provision to create an independent commission on September 11.

Mr. MCCAIN. Will the Senator yield?

Mr. LIEBERMAN. I yield to my friend.

Mr. MCCAIN. Will the Senator agree it is a bit surprising we have not been able to make greater progress on this commission since there was a recorded vote in the Senate of 90 to 8, and it was included in the Homeland Security bills prior to this latest iteration?

Again, I want to thank the White House for their active participation, but I hope that mandate would be felt by one and all. A 90-to-8 vote usually does not seem to have difficulty, at least from the Senate side, in becoming a part of legislation.

Interestingly, we do not find it in the Homeland Security bill. In the interest of straight talk, if there is a cloture vote and it is not in there at that time, then the amendment for a commission will fall because of nongermaneness, a situation which I do not think is really what was intended when we had a 90-to-8 vote on this issue in the Senate.

Mr. LIEBERMAN. The Senator from Arizona is quite right. He remembers the numbers exactly. It was a 90-to-8 vote—very strong bipartisan support for this idea. That support ought not be frustrated.

I have seen public opinion surveys that say it represents the desire and opinion, quite naturally, not just of the families of September 11 victims but of the American people. So while I join my friend from Arizona in expressing my gratitude that the White House has again today restarted negotiations to try to reach an agreement, I must say leaving this proposal for a commission out of this substitute that is now put in to create a Department of Homeland Security is inexplicable. I hope we can explain it by either putting it back in or coming to an agreement with the White House. It is that critical.

Mr. MCCAIN. Will the Senator yield for one more question?

Mr. LIEBERMAN. I would be glad to.

Mr. MCCAIN. Is it not true, from conversations with the families, that the families do not want this commission created by executive order because then it would not have the input of the legislative branch? And second of all, that other commissions in the past have all been created by acts of Congress, not by executive order? Is that the Senator's understanding?

Mr. LIEBERMAN. The Senator from Arizona again is correct. There have been some commissions created by other bodies. But the ones in the most important cases have been created by Congress. On the first point, which is a powerful point, it is the clear desire of the families of the victims of September 11 that this commission be created by Congress. We ought to create it. This was a national catastrophe.

As we create a Department of Homeland Security to protect the American people from that ever happening again, we ought to, as the representatives of all the people of this country, all of them in this terrible new era we have entered, potentially victims of terrorism—we, as their representatives, ought to say loudly and together, hopefully together with the administration, we can never know too much about how September 11 happened. We do not know enough now how September 11 happened. The one best way to know as much as we can of the truth about September 11 is to create a strong, nonpolitical commission with full resources and powers of subpoena to get to the truth.

The day for this commission will come. The arguments for it are irresistible. Let us hope that day is sooner than later. I thank my friend from Arizona for his persistence and advocacy. Also, it is an honor to work with him. We will stand shoulder to shoulder with a lot of other Members, of both parties, of this body to get this commission created.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONFIRMATION OF JOHNNY MACK BROWN TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, I am pleased that the Senate has confirmed Johnny Mack Brown to be United States Marshal for the District of South Carolina. Johnny Mack Brown is a man of outstanding character and is highly qualified to serve as a United States Marshal. He will serve our Nation well.

Johnny Mack has over 30 years' experience in law enforcement. In 1966, he went to work for the South Carolina Department of Probation, Parole & Pardon, serving as a probation officer. From there, he joined the Thirteenth Circuit Solicitor's Office and worked as an investigator for four years.

Mr. Brown's success soon provided him with opportunities to showcase his substantial leadership skills. In 1973, he became the director of the Municipal Offender Program at the Greenville City Municipal Court in Greenville, SC. From 1974 to 1976, he served as Director of the Pre-Trial Diversion Program in the Thirteenth Circuit Solicitor's Office.

After his time at the Solicitor's office, Johnny Mack decided to run for office himself. He was elected in 1976 as the Sheriff of Greenville County, SC. He was subsequently re-elected five times and served a total of 24 years as Greenville's beloved sheriff.

As sheriff, Johnny Mack Brown served with distinction. He proved himself to be a strong leader, and it is no wonder that he was elected to a total of six terms. There is no doubt that Johnny Mack Brown's constituents felt secure with him as their sheriff. The voters' repeated endorsement of Johnny Mack is a tribute to his skill and professionalism.

During his time as sheriff, Johnny Mack contributed to the State and national law enforcement community in various ways. For example, he has written numerous articles for law enforcement publications. These writings have dealt with topics such as the professionalizing of sheriff's offices, the use of information technologies, and the implementation of community programs for crime prevention.

Mr. Brown has also served in prominent leadership positions at both the state and national levels. In 1983, he served as President of the South Carolina Sheriffs' Association. Ten years later, he was elected President of the National Sheriff's Association. Johnny Mack's selection to these prestigious positions is a testament to his capacity to lead others.

Johnny Mack Brown has also been the recipient of numerous awards. In 1990, the Lion's Club of Greenville awarded Johnny Mack the Distinguished Citizen Award, and in 1998, the Blue Ridge Council of the Boy Scouts of America awarded him another Distinguished Citizen Award. In 1999, the Pleasantburg Lion's Club named him as its Citizen of the Year. Johnny Mack Brown is also a 1993 recipient of the Order of the Palmetto, South Carolina's highest civilian award.

Johnny Mack Brown's law enforcement credentials and his leadership skills will serve him well as United States Marshal in the District of South Carolina. He is truly a deserving man who has striven to serve the public with honor and integrity for many years. He will be a very successful United States Marshal, and I am proud to see him confirmed.

TRIBUTE TO JESSE HELMS

Mr. CONRAD. Madam President, I take this opportunity to recognize the distinguished career of one of our retiring colleagues, the senior Senator from North Carolina, Senator HELMS.

Senator HELMS began his service in the U.S. Senate in January of 1973. When he retires at the end of this year, at the conclusion of his fifth term, he will have served the public as a U.S. Senator for a full 30 years. Those of us who have had the privilege of being a member of this institution understand well the commitment, hard work, dedication, and personal sacrifice that make such a record possible.

Senator HELMS' lengthy career in the Senate actually represented the continuation of an already notable and varied public life that included, among other things, service in the U.S. Navy from 1942 to 1945, senior staff positions under two U.S. Senators, two terms on the Raleigh, NC, City Council, and a host of leadership positions with civic, business, and educational organizations.

During our time in the Senate, I have come to know Senator HELMS best as a fellow member of the Committee on Agriculture, Nutrition, and Forestry. While on the Committee, he proved to be an outspoken and vigorous defender of those commodities, such as peanuts and tobacco, that are important to North Carolina's vital agricultural sector. But he has also shown himself to be a leader for all of U.S. agriculture, as when he chaired the Agriculture Committee during the period when Congress wrote the Food Security Act of 1985, otherwise known as the 1985 farm bill. That legislation is recognized even today for its groundbreaking commitment to keeping U.S. agriculture competitive in the international marketplace through such programs as the Export Enhancement Program and the Targeted Export Assistance program—now the Market Access Program—and for its landmark provisions in support of natural resource conservation, such as the Conservation Reserve Program.

When I think of Senator HELMS as a person, two characteristics stand out. First and foremost, I think of him as a gentleman always, one who gives current meaning to an old-fashioned term: courtly. Refined in his manners and respectful toward others, he brings a Southern charm and grace to all that he does, and a civility to political discourse that sadly is too often lacking today.

Second, he has displayed even in the twilight of his career an openness and a tolerance toward others who hold views that he may not always have shared. In that respect, he has displayed a capacity for growth and understanding that should serve as an inspiration to the rest of us.

I know that I am joined by all of my colleagues in wishing Senator HELMS and his wife Dorothy a long restful, and fulfilling retirement together in North Carolina.

PASSAGE OF S. 1868

Mr. BIDEN. Madam President, I am pleased the Senate passed S. 1868 by unanimous consent on October 17, along with a Biden-Thurmond substitute. Enactment of this measure will make our children safer, and I rise today to explain several of the bill's provisions.

Today, 87 million of our children are involved in activities provided by child and youth organizations which depend heavily on volunteers to deliver their services. Millions more elderly and disabled adults are served by public and private service organizations. Organizations across the country, like the Boys and Girls Clubs, often rely solely on volunteers to make these safe havens for kids a place where they can learn. The Boys and Girls Clubs and others don't just provide services to kids, their work reverberates throughout our communities, as the after-school programs they provide help keep kids out of trouble. This is juvenile crime prevention at its best, and I salute the volunteers who help make these programs work.

Unfortunately, some of these volunteers and employees come to their jobs with less than the best of intentions. According to the National Mentoring Partnership, incidents of child sexual abuse in child care settings, foster homes and schools ranges from 1 to 7 percent. Organizations have tried to weed out bad apples, and today most conduct background checks on applicants who seek to work with children. Unfortunately, these checks can often take months to complete, can be expensive, and many organizations do not have access to the FBI's national fingerprint database. These time delays

and scope limitations are dangerous: a prospective volunteer could pass a name-based background check in one State, only to have a past felony committed in another jurisdiction go undetected.

The intent of S. 1868 and the substitute, the Biden-Thurmond National Child Protection and Volunteers for Children Improvement Act, are to streamline the process for organizations to check the backgrounds of potential volunteers and employees. A review of the statutory background in this area is appropriate.

Effective December 20, 1993, the National Child Protection Act, ''NCPA,'' P.L. 103–209, encouraged States to adopt legislation to authorize a national criminal history background check to determine an employee's or volunteer's fitness to care for the safety and well-being of children. On September 13, 1994, the Violent Crime Control and Law Enforcement Act of 1994, P.L. 103–322, expanded the scope of the NCPA to include the elderly and individuals with disabilities.

As envisioned by Congress, the NCPA was to encourage States to have in effect national background check procedures that enable a ''qualified entity'' to determine whether an individual applicant is fit to care for the safety and well-being of children, the elderly, or individuals with disabilities. The procedures permit this entity to ask an authorized State agency to request that the Attorney General run a nationwide criminal history background check on an applicant provider. ''Qualified entity'' is defined at 42 U.S.C. 5119c as ''a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services....''. The authorized agency should access and review State and Federal criminal history records through the national criminal history background check system and make reasonable efforts to respond to an inquiry within 15 business days.

Congress addressed this issue again in 1998 through enactment of the Volunteers for Children Act, Sections 221 and 222 of P.L. 105–251, ''VCA''. The VCA amended the NCPA to permit child care, elder care, and volunteer organizations to request background checks through State agencies in the absence of state laws implementing the NCPA.

Thus, the NCPA, as amended by the VCA, authorizes national fingerprint-based criminal history background checks of volunteers and employees, including applicants for employment, of qualified entities who provide care for children, the elderly, or individuals with disabilities, and those who have unsupervised access to such populations, regardless of employment or volunteer status, for the purpose of determining whether they have been convicted of crimes that bear upon their fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

Two years ago, organizations seeking to conduct background checks on their employees and volunteers made me aware of serious problems with the current background check system, problems that were jeopardizing the safety of children. Groups like the Boys and Girls Clubs of America alerted me that, despite the authorities provided in the NCPA and the VCA, national check requests were often delayed, in some jurisdictions they were never processed, and that the prohibitive costs of some of these checks were discouraging entities from seeking the reviews.

Under current law, whether they want a State or national criminal background check, organizations must apply through their state-authorized agency. The State agency then performs the State check and forwards the request to the FBI for a national check. The FBI responds back to the State agency, which then forwards the information back to the volunteer organization. In Delaware, the State Police Bureau of Identification works with groups to fingerprint prospective workers and check their backgrounds.

A patchwork of statutes and regulations govern background checks at the State level; there are currently over 1,200 State statutes concerning criminal record checks. This has led to widely different situations in each State: different agencies are authorized to perform the checks for different types of organizations, distinct forms and information are required, and the results are returned in various formats that can be difficult to interpret. States have not been consistent in their interpretation of the NCPA and VCA. Put simply, the current system is extremely cumbersome, particularly for those organizations that must check criminal records in multiple States, and for those groups employing seasonal workers, such as summer camps, for whom time is of the essence when seeking the results of background checks.

After careful study of this issue it became clear to me that the concerns of groups such as the National mentoring Partnership and the Boys and Girls Clubs are not merely anecdotal. In 1998, the FBI's Criminal Justice Information Services, ''CJIS'', Division performed an analysis of fingerprints submitted for civil applicant purposes. CJIS found that the average transmission time from the point of fingerprint to the State bureau was 51.0 days, and from the State bureau to the FBI was another 66.6 days, for a total of 117.6 days from fingerprinting to receipt by the FBI. The worst performing jurisdiction took 544.8 days from fingerprinting to receipt by the FBI. In a survey conducted by the National mentoring Partnership, mentoring organizations on average waited 6 weeks for the results of a national criminal background check to be returned.

The danger these delays pose to mentoring groups and others cannot be overstated. Suppose a group seeks to hire a volunteer who grew up in a neighboring jurisdiction to work with children. The group has the volunteer fingerprinted at their local police department, forwards those prints along to the agency designated by State statute or procedure to receive such requests, and then waits for the national results. FBI data indicates they will wait close to four months, on average, for the final results of the background check. That's too long. It forces groups to choose between taking a risk on someone's background, not making the hire at all, or seeking out only candidates from their jurisdiction for whom a full national background check may not be necessary.

Delay is not the only problem with the current system. The NCPA/VCA caps the fees the FBI can charge for national background checks at $24 for employees. For State fees, the NMCPA/VCA requires States to ''establish fee systems that insure that fees to nonprofit entities for background checks do not discourage volunteers from participating in child care programs.'' In a survey of mentoring organizations, the National mentoring Partnership found that organizations were paying on average $10 for a State records check, plus the fee for a national check. For organizations utilizing hundreds of volunteers and employees, the costs of conducting through background checks can be exorbitant. Small, community-based organizations with limited funding often must choose between funding services to children or checking the criminal history records of prospective volunteers.

In an attempt at addressing some of these concerns with the current NCPA/VCA system, at the conclusion of the 106th Congress I introduced S. 3252. I reintroduced the same bill as S. 1868 in this Congress, and I am proud to have Senator THURMOND as a cosponsor. As introduced, S. 1868 would have permitted qualified entities like the Boys and Girls Clubs to apply to a clearinghouse within the Justice Department for national criminal history background checks. Checks would have been affordable and results would have been quickly returned to the qualified entities. The Judiciary Committee took up and passed the bill, along with a Biden/Thurmond/DeWine amendment in the nature of a substitute.

On June 18, 2002, the Justice Department sent me a letter outlining their views on the legislation as reported by the Committee. In its letter, the Department noted that the bill's goal of providing effective, efficient national criminal history background checks will ''help to protect children and other vulnerable segments of the nation's population, [and will] promote volunteerism in the United States, which is one of the President's priorities.''

The Department went on to raise several concerns with the legislation.

First, they noted that the funds authorized by the bill to perform the checks and operate a new clearinghouse within the Department may be prohibitive. The Biden-Thurmond substitute the Senate considers today addresses those concerns. In a change from the measure reported by the committee, the substitute authorizes the Attorney General to charge a modest fee $5 for volunteer checks. In addition, the substitute dramatically scales back the duties of the clearinghouse, now labeled the ''Office for Volunteer and Provider Screening.'' Where the bill as reported charged the clearinghouse with developing model fitness standards and applying standards against each applicant utilizing the resources of the clearinghouse, the version we consider today eliminates this fitness determination requirement. While I still feel it would be preferable for the Department to assist qualified entities in making these fitness determinations, the substitute provides that model standards will be developed and envisions qualified entities then using these standards to make their own fitness determinations. S. 1868 as reported by committee authorized $180 million over five years to cover the costs of volunteer checks and to establish the clearinghouse. The vision we consider today has scaled this authorization back to $100 million.

Second, the Department expressed concerns with language in S. 1868, added in Committee at the behest of Senator DEWINE and drawn directly from his S. 1830, which made amendments to the National Criminal History Access an Child Protection Act. There is a difference of opinion between the Justice Department and SEARCH, a group created by the States to improve the criminal justice system and the quality of justice, as to the impact of this language. Resolution has not been reached on the matter, and because I do not believe the issue raised by language drawn from S. 1830 to be directly related to the issue at hand of providing quick and effective background check results to qualified entities, the substitute the Senate considers today deletes the language objected to by the Justice Department.

Third, the Department expressed administrative and constitutional concerns with the makeup and operations of the clearinghouse described in the bill reported out of Committee. I have reviewed the Department's concerns and find them to be valid. The language objected to by the Department is not a part of the substitute amendment considered today.

Since introduction of S. 1868, through the Committee markup process, and stemming from extensive discussions regarding this measure over the past several months, I have agreed to modify the impact of the bill in several critical ways. Raised first in Committee by Senator DEWINE, and then later by SEARCH and other groups, arguments were made to me that S. 1868 could unintentionally undercut the work done in many States to process background check requests. Senator DEWINE rightfully pointed out to me that in some States, the system that the Congress put in place after enactment of the National Child Protection Act in 1993 and the Volunteers for Children Act in 1998 is working. In those cases, we should not uproot a system that is effective. The substitute we consider today acknowledges this concern. Upon enactment, the clock will toll on a one-year period during which the Attorney General will review the extent to which States have participated in the NCPA/VCA system. At the conclusion of that one year period, the Attorney General is charged with designating states as having ''qualified state programs''. The substitute lays out several objective criteria designed to guide the Attorney General's decision. States that are quickly, cheaply, and reliably processing background checks will be recognized as having a ''qualified State program'' by the Attorney General and will continue to process background check requests as under current law. But if the Attorney General determines that a State does not have a qualified State program, based upon the criteria delineated in the version of S. 1868 we consider today, qualified entities in those jurisdictions are permitted to apply directly to the Justice Department for background checks. This legislation thus creates a separate track for qualified entities seeking national criminal history background checks. This track will only be available, however, to qualified entities doing business in States without a qualified State program, as determined by the Attorney General.

A concern has been raised during drafting of this measure that the substitute does not give the Attorney General the discretion to label a State's program as qualified for one category of qualified entities, but not qualified for another. The intention of the authors of S. 1868 is to give the Attorney General that discretion. The language of the substitute considered by the Senate today does not require the Attorney General to make a blanket determination for a State's entire universe of qualified entities. The substitute should be interpreted by the Attorney General to permit States to be qualified for some categories of qualified entities but not all categories if necessary.

Other provisions of the version of S. 1868 we consider today deserve mention. SEARCH and others have suggested to me that one of the main impediments States face in fully implementing the NCPA/VCA is that current law does not authorize the Attorney General and States to deliver criminal history records information directly to qualified entities. S. 1868 changes this and makes clear that the Attorney General and States may provide this information to qualified entities should they desire to do so.

Also, we have authorized in this measure grants to the States so they can purchase so-called Live-Scan fingerprint technology. These devices permit prints to be electronically transmitted, obviating the need for fingerprint cards. Wide dissemination of this technology would facilitate nationwide background checks, and I am hopeful this grant program will be adequately funded so that this equipment can be installed throughout the country.

I would like to thank Robbie Callaway and Steve Salem of the Boys and Girls Clubs of America, Margo Pedroso of the National Mentoring Partnership, and Abby Shannon of the National Center for Missing and Exploited Children for their tireless advocacy on behalf of S. 1868. Captain David Deputy of the Delaware State Police and Director of Delaware's State Bureau of Identification offered invaluable comments throughout the drafting of this measure, and I thank him for his assistance. Thanks also to Bob Belair, General Counsel of SEARCH, for his helpful suggestions. I would like to pay a special tribute to Senator THURMOND, as well as to his Judiciary Committee counsel Scott Frick, for their dedication to this bill. I appreciate the assistance of Chairman LEAHY and Senator HATCH for agreeing to report S. 1868 out of Committee last spring. I am also appreciative of the efforts made by Senator DEWINE and his staff to move this legislation along. Finally, I thank Congressman MARK FOLEY, the author of the Volunteers for Children Act, as well as Elizabeth Nicolson and Bradley Schreiber of his staff, for agreeing to introduce this legislation as H.R. 5556 in the other body.

I remain hopeful that S. 1868 can be taken up by the other body and sent to the President for signature this year.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 11, 2001 in College Park, MD. Around 1 p.m. on National Coming Out Day, a 22 year-old woman wearing gay-supportive pins was hanging her bicycle on her car rack when a man approached her from behind and struck her on the back of the head, pushing her head into the rack and knocking her to the ground. The assailant kicked her several times and hurled anti-gay epithets, according to police. The victim was treated at the university health center for injuries sustained during the attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out

of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VETERANS DAY

Mr. KERRY. Madam President, on Monday I was privileged to stand with thousands upon thousands of veterans and their families who traveled to Washington to visit the Vietnam Wall for its 20th anniversary, to reconnect with those with whom we had served, and above all to honor our fallen brothers and sisters.

These veterans, some of whom traveled for days and all at their own expense, proved something I think every American knows deep down in their heart—something that cuts to the quick of what we as Americans stand for—that part of being an American means keeping faith with our citizens and those heroes who gave so much to our country. That responsibility extends to those of us who have the honor to serve here in the Chambers of Congress.

Today, my friends, after another Veterans Day where words of praise for America's veterans were spoken, at a time when it is an increasingly real possibility that more Americans will be sent into harm's way for their Nation, we must keep faith—in deeds and not just words—with the veterans of our country. We must do the duty we were sent here to do, as they did their duty wearing the uniform of our country.

Because of a 111 year-old law, when our soldiers have returned from combat wounded, debilitated by illness, missing limbs, confined to wheelchairs—disabled for life these veterans have been told that their retired pay would be reduced dollar-for-dollar for any VA disability benefits they received. Yesterday the House and Senate reached a compromise on the issue of concurrent receipt in the National Defense Authorization Act. The authorization act has been held up for weeks because the administration has threatened a veto if concurrent receipt language was included in this bill. The compromise that was reached yesterday begins to correct the injustice created by this archaic law but it does not go nearly far enough.

The compromise language applies only to veterans injured during combat, combat-oriented training, or certain other hazardous activities, with a disability rating of 60 percent or greater, and those with a rating of at least 10 percent if they received a Purple Heart. This compromise leaves a bitter taste in the mouths of anyone who believes we have a faith to keep with our veterans. On October 10, the House passed overwhelmingly a motion to instruct their conferees to accept the far more comprehensive Senate-passed concurrent receipt language—which would have provided all disabled veterans the full amount of their disability benefits and their retirement pay. There is strong bipartisan support for full concurrent receipt in both Chambers of Congress, yet because of the considerable pressure from this administration we have been forced to accept a compromise that will leave hundreds of thousands of our veterans behind.

I cannot believe that this administration is willing to tell a veteran who, through service to his country, has suffered an injury leaving him 50 percent disabled, that he is not entitled to both disability compensation and retirement pay earned for 20 years of service. Military retirees are the only category of federal employees who are required to relinquish a portion of their retirement pay when they receive VA disability benefits. Not only does this practice unjustly penalize our disabled career soldiers—it weakens our military by effectively encouraging injured servicemembers to leave the military early in their careers. We have been working for years to right this wrong. This change in law is a beginning, but much remains to be done.

The issue of compensation for our disabled veterans is only one aspect of a much larger problem—we are failing to meet our promises to the people who have so courageously served our country. Nothing punctuates this fact more than the ongoing financial crisis facing the veterans health care system.

We must address simple mathematics. From 1996 to the present, the number of veterans seeking health care from the VA has grown from 2.9 million to 4.5 million, while the VA's health care staff has decreased from 195,000 to 183,000—forcing many veterans to wait 6 months or longer for care. But this administration's continued refusal to fully fund our VA has done nothing to help them hire new staff, let alone offer better care to our Nation's veterans.

The overall thrust of their approach to this funding crisis has been to push reforms aimed at reducing enrollment in the veterans health system rather than providing the funds necessary to ensure that every veteran gets the best health care we have to offer. Even VA Secretary Principi identified a $400 million shortfall in the fiscal year 2002 budget of the VA health care system. But the administration requested only $142 million to compensate for this shortfall, and plans to make up much of the remainder of the shortfall by imposing ''efficiencies'' on a system that's already reached a crashing point.

In July Congress passed $417 million for veterans health care as part of the fiscal year 2002 emergency supplemental—to reduce waiting times for health care, keep clinics open, and establish new Community Based Out-patient Clinics. But in August the President blocked $275 million of the amount provided by Congress, announcing the administration would only spend the $142 million it requested for VA health care.

This is not the way to keep faith with our veterans. They are aging and in need of medicine and health care, they are sitting in our waiting rooms, and struggling to pay hefty bills and still afford rent and food. Many are homeless—in fact, nearly one quarter of all homeless Americans are veterans. By any measure, we are not doing enough for those who have done so much for us.

That is why I am asking the Congress to provide full funding for veterans medical care in the fiscal year 2003 VA/HUD Appropriations bill. The committee reported bills in the Senate and House both provide $25.3 billion for the VA health system, an increase of $3.3 billion over the fiscal year 2002 level, and $1.8 billion more than the administration's request for 2003.

Because we are not doing enough for our veterans, I am asking the Senate to reject the President's proposed $1,500 health care deductible for Priority 7 veterans included in his fiscal year 2003 VA/HUD budget. So far the House and the Senate have rejected the President's request to include this deductible in the VA/HUD Appropriations bill.

I am also asking this body to join me in urging the administration to rescind the VA memo dated July 18, 2002 that ordered the directors of every veterans health care network in the country to cease outreach activities such as health fairs, open houses, newsletters, and public service announcements.

And I ask the Senate to call on the VA to rescind its new regulations which require the rationing of health care. These regulations—which give priority for health care to veterans with service-connected conditions, without taking into account the medical needs of patients—could add to the VA's red tape, making the already long waiting times at many VA facilities even longer.

I believe it is also important the Senate join in supporting Senator JOHNSON's Veterans Health Care Funding Guarantee Act, which would assure adequate funding of these important priorities.

Regrettably, this administration has launched an assault on Priority 7 veterans, those who lack a service-connected disability and whose income is higher than the current VA eligibility standard—$24,500 for a single person. Priority 7 veterans have grown from 2 percent of VA patients in 1995 to about 33 percent currently—a total of 1.6 million veterans. Although this increase coincides with the 1996 law that changed the VA's eligibility system, veterans have turned to the VA mainly because they have nowhere else to go for affordable prescription drugs. These are the same people who would benefit most from a Medicare prescription drug benefit—their incomes are too high for Medicaid, but too low to handle the health system's growing reliance on expensive prescription drugs.

Where are our priorities when we are content with not passing a prescription benefit plan for our seniors—including these honorable men and women—and then say that we will not fight for adequate funding for our VA hospitals? I find these misplaced priorities disturbing and I think it high time we finally did something about it.

We should remember the words of George Washington: ''The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation.'' Today, after one of the most meaningful days in our year, it is time for us to show our commitment to our veterans and, by doing so, show our soldiers that their service means something to this country and to this government—that we won't just send them into harms way and forget about them when they come home. We will remember their service and always keep faith.

AMERICA'S POWER

Mr. SESSIONS. Madam President, I join my colleagues today to commemorate September 11, 2002, and the Special Joint Session of Congress held in New York City. Americans are a generous people, with both our time and our money. We are a people committed to our religious beliefs. We are a people who place great value on education and the individual. We seek opportunity at every turn for our children, and we strive to take care of those who are elderly, infirm, and less fortunate.

We are also a people who take great pride in the protections we collectively offer one another through a common defense. We wear most humbly the mantle of ''Super Power.''

Last September 11, our collective vulnerability in securing the borders of our nation was made known to all. In those initial chaotic hours, we watched the opening battle of what is now called the ''War on Terror.''

Like many states, Alabama lost sons and daughters that day. Indeed, five Alabamians died in the Pentagon. Families were broken and great symbols of our might and entrepreneurial achievement made waste. We felt, and I believe we still feel, a collective pain in our hearts that will never heal. But the world has witnessed the development of a new resolve among Americans. A resolve too quiet for too long.

In the past year, we have taken a long and hard look at our defense posture. We have found great problems that must be fixed. We have found strength. We have committed our uniform services to battle, and we must give our President tools and the authority to get the job done.

Nearly a year has elapsed. Our emotions still run high.

America is demanding much from itself and its governmental leaders. The creation of the Department of Homeland Security has resulted in a vigorous and healthy debate and a strong interest in making our homeland safer and improving our intelligence gathering capabilities.

Fundamentally, the homeland defense debate is about change. Specifically, it is about protection of American citizens.

I am proud of this country and how we have reacted. Everything has not been perfect, but great progress has been made. Noted columnist Mr. Charles Krauthammer recently wrote, ''National character does not change in a day. September 11 did not alter the American character, it merely revealed it.'' I could not agree more.

The American character displayed ''courage, resolve, resourcefulness and above all resilience'' Krauthammer wrote and I agree. We are a great power and indeed a super power.

We are a nation that believes in freedom and progress and are forgiving and slow to anger, but when aroused we have proven once again we can be a terrible force.

Our President is leading us with strength and resolve. Homeland defense is but a part—an important part—of that resolve. Foreign policy initiatives, social policy changes and prosecution of the War on Terror are other aspects as well. Of the latter, winning is no simple matter. Patience, superior planning, and the support of the military are all required to complete the tasks which lie ahead.

The nation has met the challenge this year. Now we must work hard as the memories of the horror of September 11 fade, to finish the job of making our homeland safe and ensuring that our magnificent military continues to expand its capabilities and world leadership. We must not sleep.

CLARENCE MILLER POST OFFICE

Mr. VOINOVICH. Madam President, I speak today on behalf of a bill considered by the Senate, H.R. 4755, to designate a post office in Lancaster, OH, as the ''Clarence Miller Post Office Building.'' I strongly support this bill honoring a long-time Member of the Ohio Congressional delegation.

Clarence Miller is a native and lifelong resident of Lancaster, OH. The third of six children, Clarence grew up during the difficult times of the Great Depression. He learned the value of hard work at an early age and began his professional life by delivering newspapers for the Lancaster Eagle Gazette. After graduating from high school, he started his career at Ohio Fuel and Gas digging ditches. Through determination and hard work he eventually earned a position of electrical engineer. While employed full time at Ohio Fuel, he joined his family in opening a small electric wiring business in Lancaster and worked there during his ''off'' hours.

At Ohio Fuel, Clarence was introduced to politics when he participated in a civics course offered to help employees better understand government. Clarence was enthralled by the subject and soon began teaching the course.

He was able to put into practice all he learned when he was appointed to fill a vacancy on the Lancaster City Council. Subsequently, he was elected to a full term and then was elected mayor. Following his term as mayor, Clarence served the people of 10th District of Ohio in the U.S. House of Representatives for 27 years, from 1966–1993. Representative Miller served for 6 years on the House Agriculture Committee and the Public Works and Transportation Committee, and then he was selected to serve on the Appropriations Committee, where he served for 20 years, and fought hard to reduce Federal spending during times of skyrocketing deficits.

Mr. Miller's achievements did not go unrecognized by his fellow Ohioans. His many awards include honorary doctorate degrees from Marietta College and Rio Grande College, and the Phillips Medal of Public Service from Ohio University.

I thank my colleagues for their consideration of this matter important to the people of Ohio.

ADDITIONAL STATEMENTS

CHANDLER RAYMOND KELLER: IN MEMORIAM

• Mrs. BOXER. Mr. President, I take this opportunity to share with my colleagues the memory of one of my constituents, Chandler Keller, of Manhattan Beach, California, who lost his life on September 11, 2001. He was a passenger on American Airlines Flight 77. As we all know, that plane crashed into the Pentagon, killing everyone on board. Mr. Keller was a 29 year-old lead propulsion engineer and project manager with Boeing Satellite Systems in El Segundo, California.

Chandler Keller was known to his family and friends as ''Chad''. He was born in Manhattan Beach, California. Chad mostly grew up there, with the exception of some time spent in Hong Kong, New York and Sydney, Australia due to his father's work assignments with Security Pacific Corporation.

As a child, Chad enjoyed a great love of rocketry and an avid interest in space. As a young boy he had an innate ability to understand machines and how to make them work. In 1993, Chad graduated from the University of Colorado's aerospace engineering program and pursued his career at Hughes/Boeing, working in their satellite launching program.

Chad and his wife, Lisa Hurley Keller, were married on July 22, 2000 at the Old Mission in Santa Barbara. During their brief time together Chad and Lisa enjoyed travel, outdoor activities, and most of all, being with one another.

Chad Keller enjoyed surfing, skiing and snowboarding. He loved to cook

and possessed a wonderful sense of humor. ''He had the ability to bond with people, and he touched many lives during his short life. He lived his life to its fullest,'' says his father, Dick Keller.

In celebration of his life, the Keller family established the Chandler Keller Memorial Scholarship at the University of Colorado. It is to be awarded to well-rounded aerospace engineering students. Chad was posthumously awarded the Defense of Freedom medal for his work with the Department of Defense in conjunction with Boeing Satellite Systems.

Chad Keller is survived by his wife, Lisa Hurley Keller; parents Kathy and Dick Keller; brothers Brandon and Gavin; mother-in-law and father-in-law Shirley Ann and Jim Hurley; and brother-in-law James Hurley.

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer this tribute to one of the 54 Californians who perished on that awful morning. I want to assure the family of Chad Keller, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.●

DINO XAVIER SUAREZ RAMIREZ: IN MEMORIAM

● Mrs. BOXER. Mr. President, I take this opportunity to share with my colleagues the memory of one of my constituents, Dino Xavier Suarez Ramirez, who lost his life on September 11, 2001. Mr. Ramirez was a 41-year-old civil engineer returning to Los Angeles from vacation when the flight he was on, American Airlines Flight 11, was hijacked by terrorists. As we all know, that plane crashed into the World Trade Center, killing everyone on board.

Xavier Ramirez was born in Guayaquil, Ecuador and completed his primary and secondary education there, receiving certification in mathematics, physics, chemistry and biology. Mr. Ramirez achieved his goal of becoming a civil engineer by working during the day and completing his university studies at night. He majored in civil engineering at the University Laica Vicenete Rocafuerte de Guayaquil. ''He was very intelligent, and his hobby was reading. He knew very much about the history of nations because of his reading,'' recalls his mother, Blanca Vilma Ramirez.

Upon coming to this country, Mr. Ramirez worked to have his degree recognized here. In his native country of Ecuador he worked in the construction of roads. His mother further recalls that, ''He worked very hard and was not afraid of any kind of job, wanting only to go beyond himself in what he did.'' Xavier Ramirez is survived by his mother, Blanca and his brother, Klinger David Suarez Ramirez.

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one of the 54 Californians who perished on that awful morning. I want to assure the family of Dino Ramirez, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.●

JOHN D. YAMNICKY, SR.: IN MEMORIAM

● Mrs. BOXER. Mr. President, I take this opportunity to share with the Senate the memory of Captain John D. Yamnicky, Sr., of Waldorf, Maryland, who lost his life on September 11, 2001. He was a passenger on American Airlines Flight 77. As we all know, that flight was hijacked by terrorists and crashed into the Pentagon, killing everyone on board. Captain Yamnicky was a 71-year-old retired naval aviator who, since his retirement from the United States Navy in 1979, continued to work as a defense contractor for Veridian Engineering.

Captain Yamnicky was a gentleman and a scholar. He graduated from the Naval Academy in 1952, and devoted a 26-year career in service to this country. He served a combat tour in Korea and served two tours in Southeast Asia flying from aircraft carriers. He earned several military honors, including the Distinguished Flying Cross.

After graduating from the Naval Test Pilot School at Patuxent River, Maryland, in 1961, one of his first assignments was to determine the minimum acceptable airspeed for the A–4 aircraft after a catapult launch from an aircraft carrier. He was inducted into the Society of Experimental Test Pilots in recognition of his contributions. In 1963, after that honor, Captain Yamnicky reported to VA–146 at NAS in Lemoore, California.

Captain Yamnicky met his wife, Jann, while she was working as a nurse at Jacksonville Naval Hospital. They married in 1959 and had four children. Their son John David, of California, said of his father, ''This guy was the head of the family, he made everyone feel safe. If he ever talked about accomplishing something, it was as a group or a team. He was a modest man.''

Friend and colleague, Dennis Plautz, commented that, ''John Yamnicky emphasized teamwork. His style was never to leave a teammate straggling, rather work with them, help them, encourage them to maximize their potential.''

He applied this attitude in all areas of his life, including his community contributions. Captain Yamnicky served on the Board of Directors at his daughter Lorraine's high school, St. Mary's Academy, was a member of the Knights of Columbus, and the Elks Lodge. He was proud of his volunteer contributions to the De La Brooke Foxhounds Hunt Club, where he and Jann were members for 25 years.

His best times were spent away from the office, riding on a tractor through the fields of his Waldorf horse farm. ''He loved being out there. His nature was not to stand around. He was always out in the fields, always working on something,'' remembers his son, John.

Captain Yamnicky is survived by his wife Jann and their four children, John, Jr., Lorraine, Mark and Jennifer.

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one American who perished on that awful morning. I want to assure the family of Captain John D. Yamnicky, Sr., and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.●

DOROTHY A. DEARAUJO: IN MEMORIAM

● Mrs. BOXER. Mr. President, I take this opportunity to share with my colleagues the memory of one of my constituents, Dorothy A. deAraujo, of Long Beach, California, who lost her life on September 11, 2001. Mrs. deAraujo was an 80-year-old retiree when the flight she was on, United Airlines Flight 175, was hijacked by terrorists. As we all know, that flight crashed into the World Trade Center killing everyone on board.

Mrs. deAraujo was returning to her home in Long Beach after enjoying a lengthy visit with her son, Joaquim (''Tim''), his wife Rita and their two sons, Jonathan and Jason in Bedford, Massachusetts.

Dorothy worked as an Executive Administrative Assistant in the business office of California State University, Long Beach for 20 years. She retired in 1979 and returned to the University as a student, earning her Bachelor's Degree in Fine Art. During her retirement, Mrs. deAraujo traveled extensively and pursued her passion for watercolor painting. She was a talented artist, and her paintings won several prizes in various competitions.

During the 1970's Dorothy successfully overcame breast cancer. She was active in her community and devoted her spare time to the American Cancer Society. She was especially involved in operating the American Cancer Society's Discovery Shop in Belmont Shore.

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one of the 54 Californians who perished on that awful morning. I want to assure the family of Dorothy deAraujo, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.●

ALAN BEAVEN: IN MEMORIAM

● Mrs. BOXER. Mr. President, I take this opportunity to share with my colleagues the memory of one of my constituents, Alan Beaven, who lost his life on September 11, 2001. Mr. Beaven was a 48-year-old environmental lawyer when the flight he was on, United Airlines Flight 93, was hijacked by terrorists. As we all know, that plane crashed in a Pennsylvania field, killing everyone on board.

Mr. Beaven was born in New Zealand and was educated at the University of Auckland, New Zealand where he was a recipient of the Butterworth Prize. He taught law and practiced in the areas of securities, class actions and environmental law in New Zealand, England, New York and California.

Considered one of our nation's leading environmental lawyers, over the past nine years Mr. Beaven prosecuted nearly 100 clean water cases. His law firm partner, Joe Tabbacco, observes, ''This is an absolutely remarkable record. Alan's efforts had almost single-handedly cleaned up the waters in Northern California through his aggressive prosecutions.''

California lost an environmental champion, and Mr. Beaven's family lost a loving and devoted husband and father. His proudest achievement was his family. His wife, Kimi Beaven, recalls, ''He would do anything for his children and spent hour after hour reading to Sonali, playing ball with John and scuba diving with Chris.''

Mr. Beaven was flying back to California to prosecute one more water pollution case before taking a sabbatical in India where he was to volunteer his services as an environmental lawyer. Alan Beaven was one of many heroes on Flight 93 who, aware of the terrorist attacks on the World Trade Center and the Pentagon, chose to fight back against the hijacking terrorists. His voice was recognized by his family on the cockpit voice recorder, and his remains were found in the wreckage of the cockpit.

His son John perhaps describes Alan Beaven best when he writes, ''His love for simplicity and genuine appreciation for the happiness he held within was not lost on others; friends would always leave his company with uplifted spirits.''

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one of the 54 Californians who perished on that awful morning. I want to assure the family of Alan Beaven, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.●

TRIBUTE TO DOUG DENLER

● Mr. BURNS. Madam President, I rise today to ask my colleagues to join me in paying tribute to a dedicated member of the Montana Department of Fish, Wildlife and Parks, FWP, as he concludes over 30 years of service to his State and Nation. We are proud that much of this Montanan's working life has been dedicated to serving the citizens of and visitors to our great State.

Mr. Doug Denler deserves this honor. We owe our gratitude for his contributions to the conservation of Montana's wildlife and natural resources, as well as preserving the outdoor heritage in the Rocky Mountain west.

Doug Denler's personal and professional career accomplishments truly reflect the values of rural life under the big sky. His loyal service with our military forces, followed by public service in several Montana State agencies are a testament to all who find value in outdoor experiences. I would like to take a moment to reflect upon Doug's career as he embarks on a new phase of life beyond government service.

Doug was born and raised in Boise, ID and attended college at Montana State University in Bozeman. Following graduation he was commissioned as a Second Lieutenant in the U.S. Army and shortly thereafter received orders to join a unit deployed to South Viet Nam. During that assignment Doug was highly decorated for service in combat, receiving the Air Medal and Bronze Star. Subsequently he continued uniformed service, and having completed 10 years on active duty he then elected to resign his commission and move his family to Montana.

Doug's first job in State government was as human resource manager with the Department of Administration where he was instrumental in crafting legislation to enable hiring temporary workers in State government. His approach for quickly and efficiently engaging short-term workers continues today as a foundation for many State agencies whose missions include part-time and seasonal tasks. He then spent two years at the Department of Highways before being selected in 1989 to be the Human Resource Bureau Chief at FWP.

Bringing diverse experience and unbounded enthusiasm to his assignment Doug embarked on innovative ventures in pay plans, safety, training, labor relations, recruitment, and retention. Among his first achievements was crafting a comprehensive Policy Manual that is now widely used by FWP managers and is an essential component of new employee orientation.

Turning his attention toward safe operating practices, he created an FWP statewide safety program that incorporated management oversight, documentation of mishap statistics and costs, and funding generated by savings from lowered accident rates. Demonstrating leadership ability and dedication, Doug volunteered to chair the new safety committee. A measure of his success is reflected in the fact that during the past three years FWP has twice received Governor's Award recognition for surpassing accident prevention goals.

In 1999 Doug took the lead to initiate an Alternative Pay Plan for the Department's employees. This effort required his team to analyze market data, establish performance standards, initiate agency wide competencies, and obtain funding. Among the first of such plans approved by the Legislature and implemented the next year, the pay plan in use at FWP today typifies Doug's tireless efforts to find common ground and craft sensible solutions for both management and rank and file employees.

Over the past year Doug stepped up yet again when asked to take on additional duties following the unexpected retirement of an executive manager. For eight months Doug served as the acting Chief of Administration and Finance. Along with performing his normal duties he provided oversight for a troubled $8 million computer development project, assisted with the preparations for a special session of the Legislature, and finalized a $62 million biennium budget.

Doug Denler is highly regarded among his peers and the public for his devotion to resource conservation and his unmatched appreciation for Montana's hunting and fishing lifestyle. Embracing the FWP mission both in and outside the office makes Doug a consummate professional, and his retirement will leave a gap in knowledge and ability that FWP will find difficult to replace.

It is a great honor for me to present these credentials of Doug Denler before the Senate today. It is clear through his many accomplishments that Doug

has dedicated himself to public service, in and out of uniform, and to further the many benefits we enjoy as Americans. His actions consistently reflect a true leader who has served with courage and commitment.

As Doug departs from public service I ask my colleagues to join with me in delivering an appreciative tribute from a grateful State and Nation, along with our best wishes for a rewarding retirement.●

TRIBUTE TO REX ROBLEY

● Mr. BUNNING. Madam President, I rise today among my fellow colleagues to honor and pay tribute to Kentucky's last surviving World War I veteran. Of the 84,000 Kentuckians who were sent to fight in World War I, Rex Robley, 91 years young from Louisville, KY, is believed to be the only one still alive. This man has sacrificed and accomplished so much in just one lifetime. He truly exemplifies the American spirit.

Monday, we as a Nation came together to celebrate Veterans Day. On this very important day, every American has the opportunity and the obligation to thank and honor those who so valiantly fought for our freedoms, rights and liberties in the trenches of France, the beaches of Normandy, the jungles of Korea and Vietnam and the deserts of Iraq. These men and women fought so that future generations would be able to live under a blanket of freedom that reaches from coast to coast.

Sadly, thousands of these veterans are dying off in large numbers every year. During the 1990s, the number of World War II veterans in Kentucky decreased by nearly 54,000. The Kentucky Department of Veteran Affairs calculates that, on an average day, Kentucky loses 22 military veterans, of whom 17 were in World War II. To ensure that this country continues to build and prosper, we must make a promise to ourselves to never forget the sacrifices these individuals have made. It is their memory that will guide us in the right direction.●

TRIBUTE TO BILL CAPPEL

● Mr. BUNNING. Madam President, I rise today to honor Bill Cappel of Covington, KY for his years of dedicated and selfless service to this nation and to the Commonwealth of Kentucky. Yesterday, Mr. Cappel celebrated his 90th birthday.

In honor of this event, city officials in Covington presented Mr. Cappel with a key to the city, read a proclamation in his honor and even provided him with a special police escort as they officially named the Bill Cappel Youth Sports Complex after him.

Bill Cappel is one of those rare individuals in life who has the innate ability to put a positive spin on every situation. The only thing harder than getting him out in a softball game is getting him to take that permanent smile off his face. As a soldier in World War II, not only did Bill Cappel earn the Legion of Merit and the Bronze Star for his courageous military service, he also organized baseball and softball games for the soldiers while on tours of duty in Africa and Europe as a way for the men to escape the darkness that surrounds war. It is this type of service that has led many to think of Bill Cappel as a saint.

In 1933, Mr. Cappel organized a women's softball league in Covington as way to get more women involved in the sporting world. Nearly 30 years later, he founded the Covington Major Girls League at Meinken Field. Three of the teams from the Covington Major Girls League won national championships. Bill learned that when you treat people like champions, they play and act like champions.

Throughout his life, Bill Cappel has given much to his country and the people of Northern Kentucky. He has always found a way to give back to the local community. In his mind, his actions do not merit any sort of special attention. He is simply trying to do for others what they have done for him. Whether it has been as a soldier, umpire, coach, player or friend, Bill Cappel has managed to make the world around him a better place for people to live. It truly is amazing how the actions of one man could positively affect so many.

I believe we all can take something away from the life Bill Cappel has lived. In politics, we each took an oath to serve the people and uphold the Constitution of the United States of America. While Mr. Cappel never swore an oath, he has demonstrated to thousands of people how far the human spirit can travel.●

RETIREMENT OF DOCTOR IRVING GUTTENBERG

● Mr. DODD. Madam President, I rise today to honor a constituent of mine, Dr. Irving Guttenberg, on the occasion of his retirement.

For 35 years, Dr. Guttenberg has specialized in ear, nose, and throat medicine in Meriden, CT. Over the course of his career, he treated and cured virtually thousands of neighbors in Meriden and surrounding communities, gradually earning the trust and admiration of an entire region.

I had the pleasure of having Dr. Guttenberg's daughter, Lisa Guttenberg Weiss, on my Connecticut staff for many years. Last month, I was deeply touched by an affectionate letter Lisa wrote to the Meriden Record Journal describing her father's dedication to his patients and chosen profession. I would like that letter printed in the CONGRESSIONAL RECORD following my remarks.

I know that the people of Meriden and central Connecticut will truly miss Dr. Guttenberg. Once again, I commend Dr. Guttenberg on the occasion of his retirement, and I wish him success in all of his future endeavors.

The letter follows:

AN END OF AN ERA FOR DR. GUTTENBERG

It is with a sense of pride and a few tears that I write to mark the end of an era and the retirement of Dr. Irving Guttenberg, my father. With my mother's help, he opened his medical office, now known as Ear, Nose and Throat Specialists, P.C. in 1967 at 219 West Main Street in Meriden. He officially retired September 30.

I imagine he has treated at least half the people in town, not to mention Wallingford and Cheshire. I cannot even guess how many tonsils he has removed or strep throats and sinus infections he has treated. But, I know that he has performed well over 50,000 pressure-equalizing tubes procedures (because he told me so). I also know that he is greatly admired, if not beloved, by his patients. My knowledge comes from the school vacations I spent working in his offices when I would schedule patient appointments, often triple-booking his days because so many patients wanted to see ''Dr. G''. As a young girl and now as an adult in my late thirties, I have seen Dad's patients' come up to him at the movies, at restaurants, at the grocery store, everywhere to thank him for all his good work and kindness. People still come up to me and tell me how great and dedicated and smart my father is. I know and I agree.

My father has always taken his responsibilities for his patients seriously. Even after he purchased his first pager and cell phone, it seemed like he would not leave the house if he were ''on call''. Forget about going to the movies. Do not even think about asking him to change his schedule to go away for some occasion. If he was on call, he was staying home, close to the phone and close to the hospital.

When I was growing up, my father left early in the morning and returned home relatively late, often eating dinner well after the rest of the family had finished. During weekends Dad had early morning and late afternoon ''rounds'' at Meriden's two hospitals. Sometimes he brought my brother and me with him and we would wait for an eternity in the doctor's lounge or near the nurses' station. (We are rumored to have been wheelchair racers, but there is no proof.) Other times, when we awoke Mom told us that Dad went to the hospital in the middle of the night to operate on someone.

Now, after 35 years in practice and after having served as Chief of Surgery and Chief of Ear Nose and Throat (ENT) at WWII Veterans' Memorial Hospital and Chief of ENT at MidState Medical Center and as a clinical instructor at Yale School of Medicine, my father is retiring. I do not know what he will do next. He told me he would sleep for a week and then baby-sit for my kids. I think there is some talk about travel too. Was that Dad or was that Mom? Whatever they do, I hope they both enjoy Dad's retirement. It is well deserved. Best wishes from me and everyone who knows and appreciates you.

Your daughter,

LISA GUTTENBERG WEISS.●

BENEFICIARY ACCESS AND MEDICARE PAYMENT EQUITY

● Mr. NELSON of Nebraska. Madam President, today I urge the Senate to act on the Beneficiary Access and Medicare Payment Equity package before the end of the session. Nebraska's health care providers are hurting financially. They need help from Congress to stop these Medicare reimbursement cuts or many will not be able to provide treatment to Medicare patients. Our 40 million seniors who depend on the Medicare system for their

health care coverage need to know they have access to quality, affordable care. The bill addresses a number of Medicare inequities including cuts to hospitals, home health care providers, physical therapists, physicians, and skilled nursing facilities.

The Nebraska Hospital Association estimates that in this bill Nebraska hospitals would receive approximately $56 million in additional revenue for one year and $120 million over three years. the hospitals in my State need this funding to survive financially.

This legislation would have a tremendous impact on Nebraska's teaching hospitals. Teaching hospitals receive indirect medical education (IME) payments because they have higher patient care costs than non-teaching hospitals due to the extra costs incurred for teaching. The Balanced Budget Act, BBA, of 1997 cut these payments, and a provision in this bill would provide for additional relief. Nebraska has two academic medical centers—the University of Nebraska Medical Center and Creighton University Medical Center—and both would benefit from this legislation. Other hospitals in my State would also benefit including: Alegent Bergan Mercy in Omaha, Alegent Immanuel in Omaha, Nebraska Methodist in Omaha, BryanLGH Medical Center in Lincoln, St. Elizabeth Regional Medical Center in Lincoln, Good Samaritan in Kearney, and St. Francis in Grand Island.

The legislation also increases the Federal Medicaid disproportionate share hospital, DSH, allotment in extremely low-DSH States, such as Nebraska, from 1 percent to 3 percent of program costs. Even though the allotment percentage would be tripled, it is still far less than the national average. The DSH program provides relief to safety net hospitals that provide critical health care access to 42 million uninsured people in our country. Nebraska and 14 other States receive far less funding through the Medicaid DSH program per Medicaid and uninsured resident than the rest of the Nation and this lack of funding threatens the viability of many safety net hospitals.

A number of other important provisions are included that would help Nebraska's hospitals including: equalizing the standardized amount for rural and other urban hospitals; adjusting the wage index rate; increasing Medicare DSH payments to rural hospitals; extending the hold harmless provision for rural hospitals for outpatient services for an other year; and improving the Critical Access Hospital program by allowing more flexibility in allocating swing and inpatient acute care beds.

In addition to providing much-needed relief to hospitals, the bill also eliminates the 15 percent reduction in home health payments. This cut would reduce payments to home health care providers in my State by nearly $2 million per year. Nebraska providers cannot afford this cut. The legislation also recognizes the additional costs incurred by rural home health care providers and give them an addition 10 percent in payments.

I am also pleased that the bill eliminates the $1500 outpatient therapy cap for two years. This arbitrary limit discriminates against Medicare beneficiaries who desperately need outpatient therapy to help them recuperate from surgery, a stroke, or other medical condition.

As I mentioned last month, we also need to rectify the physician payment cut. Under current law, Medicare's physician payment rates are projected to fall by 12 percent over the next three years. Nebraska physicians' losses due to the 2003–2005 cuts will total about $63 million or $17,230 per physician. This comes on top of a 5.4 percent payment cut which cost Nebraska doctors a total of $12.9 million or about $3,875 per physician in 2002.

I also spoke of the need to help skilled nursing facilities which are experiencing severe financial difficulty. If action isn't taken, Nebraska's facilities will lose $28..48 per patient per day next year for a total of $10 million.

Finally, I have spoken many times about providing fiscal relief to our States. This legislation also includes $5 billion in fiscal relief to States by increasing the Federal Medicaid matching rate and by providing a temporary social services block grant. This provision, that I helped author, would give Governors some needed flexibility in assessing the needs of their States. States would be eligible for the Medicaid funding increase as long as the eligibility levels they had in place on January 2, 2002 are maintained. Unfortunately, the Nebraska Legislature made Medicaid eligibility cuts in the recent special session, and these cuts would prevent our State from receiving the full funding available. However, I crafted a provision that would allow Nebraska to receive the funding if they reinstate these Medicaid cuts in the future.

We need to pass this legislation before the session ends. Our Nation's seniors need to know that they can depend on the Medicare system for their health care needs. I look forward to working with my colleagues in addressing these important issues.●

IDAHO'S TEACHER OF THE YEAR

● Mr. CRAIG. Madam President, I rise today to salute a very special teacher in my State, Patti Perry, who was recently named as Idaho's Teacher of the Year.

Patti Perry teaches first grade at Skyway Elementary School in Coeur d'Alene. She has taught in Coeur d'Alene for 30 years, and there are many people in the community who look back fondly on the lessons they learned from her. In fact, one of her former students said that she has ''been in my heart since the first day of first grade.'' I'm sure this is a sentiment shared by many.

I come from a family of teachers, so I know how much a good teacher can affect the life of a student. What that teacher imparts in a classroom can stay with a student for the rest of his or her life. It's obvious that Mrs. Perry has had such an impact. She assesses every student individually and tailors her lessons to them. She is a leader in the school and a mentor to other teachers. And, most important of all, she inspires her students to strive for their highest possible performance, academically and otherwise.

It's not really a surprise that Mrs. Perry won this award. What is remarkable, though, is that she's Coeur d'Alene School District's third teacher in five years to be named as Idaho's Teacher of the Year. It's clear that the Coeur d'Alene District is doing something right. Kootenai County, which has Coeur d'Alene as its county seat, is one of the fastest growing counties in Idaho, and I suspect this might have something to do with the outstanding quality of schools in the county. I'm very proud of Mrs. Perry, and I'm also very proud of the Coeur D'Alene School District. They are both setting a great example for the rest of Idaho, and the rest of the Nation, to follow.●

MESSAGES FROM THE HOUSE

At 11:04 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At 2:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 124. A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

The message also announced that the House has agreed to the following resolution:

H. Res. 598. Resolution stating that the House has heard with profound sorrow of the death of the Honorable Paul D. Wellstone, a Senator from the State of Minnesota.

The message further announced that pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), and upon recommendation for the Majority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Advisory Committee on Student Financial Assistance for a 3-year term: Ms. Judith Flink of Morton Grove, Illinois.

The message also announced that pursuant to section 4404(c)(2) of Public Law 107–171, the Majority Leader appoints the following individual on the part of the House of Representatives to the Board of Trustees of the Congressional Hunger Fellows Program: Mr. Max Finberg of New York.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1070) to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2546) to amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate pre-arranged ground transportation service, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3389) to reauthorize the National Sea Grant College Program Act, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3394) to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4878) to provide for estimates and reports of improper payments by Federal agencies.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–9429. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney Models JT8D–209, 217, 217A, 217C and 219 Turbofan Engines'' ((RIN2120–AA64)(2002–0438)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9430. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D & Class E Airspace; Bloomington, IN: Correction; Docket No. 01–AGL–06 ''((2120–AA66)(2002–0160)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9431. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrumental Approach Procedures; Miscellaneous Amendments (33); Amdt No. 3026'' ((2120–AA65)(2002–0053)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9432. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Aircraft Ground Deicing and Anti Icing Program and Training and Checking in Ground Icing Conditions'' ((RINS2120–AE70)(2120–AF09)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9433. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Digital Flight Recorder Requirements'' (2120–AH81) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9434. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Child Restraint Systems; Labeling Requirements (the TREAD Act)'' (RIN2127–AI55) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9435. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Child Restraint Systems; Interim Final Rule on Seat-Mounted Vests'' (RIN2127–AI88) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9436. A communication from the Deputy Assistant Administrator, Office of Response and Restoration/Damage Assessment Center, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule, Natural Resource Damage Assessments, Oil Pollution Act of 1990'', received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9437. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI) . This action is necessary to prevent exceeding the 2002 Atka mackerel total allowable catch in this area''; received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9438. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications; Pacific Mackerel Fishery'' (RIN0648–AP43) received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9439. A communication from the Attorney/Advisor, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a nomination confirmed for the position of Administrator, Federal Aviation Administration, received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9440. A communication from the Undersecretary of Defense, transmitting, pursuant to law, the report of fiscal year 2000 Defense Environmental Restoration Program; to the Committee on Armed Services.

EC–9441. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the report on the Third Party Collection Program; received on October 9, 2002; to the Committee on Armed Services.

EC–9442. A communication from the Secretary of Defense, transmitting, pursuant to law, a report regarding the President's approval of changes to the 2002 Unified Command Plan (UCP) that specifies the missions and responsibilities of the unified combatant command; to the Committee on Armed Services.

EC–9443. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, a report relative to the Department of Defense Operational Use of Mefloquine; to the Committee on Armed Services.

EC–9444. A communication from the Under Secretary of Defense, Technology and Logistics, transmitting, pursuant to law, a report on Nuclear-Powered Submarine Force Structure; to the Committee on Armed Services.

EC–9445. A communication from the Under Secretary of Defense, Technology and Logistics, transmitting, a report relative to the Defense Environmental Technology Program; to the Committee on Armed Services.

EC–9446. A communication from the Chairman, United States International Trade Commission, transmitting, a report on the Andean Trade Preference Act-Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution; to the Committee on Finance.

EC–9447. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled ''Clean Coal Technology Demonstration Program, Program Update 2001''; to the Committee on Energy and Natural Resources.

EC–9448. A communication from the Congressional Review Coordinator , Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Cold Treatment of Fruit''; received on October 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9449. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Annual Animal Welfare Enforcement Report for Fiscal Year 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9450. A communication from the Congressional Review Coordinator , Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Change in Disease Status of Poland Because of BSE'' (Docket No. 02–068–2) received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9451. A communication from the Congressional Review Coordinator , Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Karnal Bunt; Regulated Areas'' (Docket No. 02–037–1) received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9452. A communication from the Congressional Review Coordinator , Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oriental Fruit Fly; Designation of Quarantined Area'' (Docket No. 02–096–1) received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9453. A communication from the Under Secretary of Agriculture, transmitting, pursuant to law, the report of a rule entitled

''Rural Business Opportunity Grants; Definition of 'rural and rural areas''' (RIN0570–AA37) received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9454. A communication from the Under Secretary of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Rural Business Enterprise Grants and Television Demonstration Grants'' received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9455. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, the Annual Performance and Accountability Report Fiscal Year 2001; received on October 16, 2002; to the Committee on Governmental Affairs.

EC–9456. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Annual Report to Congress on EPA Implementation of the Federal Financial Assistance Management Improvement Act of 1999; received on October 9, 2002; to the Committee on Governmental Affairs.

EC–9457. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, a report relative to the Federal Emergency Management Agency's grant making processes; to the Committee on Governmental Affairs.

E–9458. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Certification of the Fiscal Year 2002 Revenue Projection in Support of the District's $283,870,000 Multimodal General Obligation Bonds and Refunding Bonds''; to the Committee on Governmental Affairs.

EC–9459. A communication from the Under Secretary of Defense, Technology and Logistics, transmitting, pursuant to law, a report on the Performance of Commercial Activities; to the Committee on Governmental Affairs.

EC–9460. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Mismanaged Special Education Payment System Vulnerable to Fraud, Waste, and Abuse''; to the Committee on Governmental Affairs.

EC–9461. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 2B For Fiscal Years 2000, 2001, 2002 Through March 31, 2002''; to the Committee on Governmental Affairs.

EC–9462. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office Reports for April 2002; to the Committee on Governmental Affairs.

EC–9463. A communication from the Acting Director of the Peace Corps of the United States, transmitting, pursuant to law, the semi-annual report of the Peace Corps' Inspector General for the six-month period ending March 31, 2002; to the Committee on Governmental Affairs.

EC–9464. A communication from the Comptroller General of the United States, Government Accounting Office, transmitting, pursuant to law, the report of the list of General Accounting Office reports for July 2002; to the Committee on Governmental Affairs.

EC–9465. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period April 1, 2002 through September 30, 2002; ordered to lie on the table.

EC–9466. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administrator, transmitting, pursuant to law, the report of a rule amending the NASA Federal Acquisition Regulation (FAR) Supplement to require when relevant, consideration of safety and risk-based acquisition management; to the Committee on Commerce, Science, and Transportation.

EC–9467. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administrator, transmitting, pursuant to law, the report of a rule amending the NASA Federal Acquisition Regulation (FAR) Supplement to specify the approval authority for contract actions; to the Committee on Commerce, Science, and Transportation.

EC–9468. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Inspector General, received on October 15, 2002; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with amendments:

S. 2928: A bill to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 2000 to modify provisions relating to the Lake Champlain basin. (Rept. No. 107–339).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 1989: To reauthorize various fishing conservation management programs, and for other purposes. (Rept. No. 107–340).

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Foreign Relations and placed on the Executive Calendar pursuant to the order of November 13, 2002:

OVERSEAS PRIVATE INVESTMENT CORPORATION

Collister Johnson, Jr., of Virginia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004. (Reappointment)

DEPARTMENT OF STATE

John Randle Hamilton, of North Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John R. Hamilton.

Post Guatemala.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Donna Jean Hamilton, none.

3. Children and Spouses: Kathryn Jean Hamilton, none; Erin Randle Hamilton, none.

4. Parents: Susan Gordon Hamilton, none; John P. Hamilton (deceased).

5. Grandparents: Deceased.

6. Brothers and Spouses: Joshua Pearre and Judy H. Hamilton, none; James Gordon and Brenda H. Hamilton, none; Joseph Lytton and Catherine H. Hamilton, none.

7. Sisters and Spouses: Mary Louisa and Thom W. Blair, none.

John F. Keane of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John Francis Keane.

Post: Asuncion, Paraguay.

Contributions, Amounts, Date, and Donee:

1. Self, $2,000, November 29, 2000, Bush/Cheney Transition Team.

2. Spouse: Graciela C. Keane, none.

3. Children and Spouses: Robert A. Keane and Edward A. Keane, none.

4. Parents: Gustave R. and Constance V. Keane (deceased).

5. Grandparents: Deceased.

6. Brothers and Spouses: Robert V. Keane, none.

7. Sisters and Spouses: None.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Irene B. Brooks, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Susan Bayh.

Allen I. Olson, of Minnesota, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Alice Chamberlin.

DEPARTMENT OF STATE

David N. Greenlee, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: David N. Greenlee.

Post: Republic of Bolivia.

Contributions, Amount, Date, and Donee:

1. Self, None.

2. Spouse: Clara Murillo Greenlee, none.

3. Children and Spouses: Nicole M. Greenlee, none; Gabrielle M. Greenlee, none; Daniel N. Greenlee (Martina Smetanove, none; Patrick A. Greenlee (Teresa Cuesta de Greenlee), none.

4. Parents: Virginia T. and Richard S. Greenlee (deceased).

5. Grandparents: Not available.

6. Brothers and Spouses: Richard S. Greenlee, III, none.

7. Sisters and Spouses: Ann Sinton Stafford (widow), none; Virginia Powers and Thomas Kirkwood, $50, 1999, Democratic Party.

Peter DeShazo, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Deputy Permanent Representative of the United States of America to the Organization of American States.

OVERSEAS PRIVATE INVESTMENT CORPORATION

John L. Morrison, of Minnesota, to be a Member of the Board of Directors of the

Overseas Private Investment Corporation for a term expiring December 17, 2004, vice John J. Pikarski, Jr., term expired.

DEPARTMENT OF STATE

J. Cofer Black, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large, vice Francis Xavier Taylor.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: J. Cofer Black.

Post: Ambassador-at-Large, S/CT.

Contributions, Amount, Date, and Donee:

1. Self, None.

2. Spouse: Suzanne S. Black, none.

3. Children and Spouses: Nicolas Black, none.

4. Parents: Thelma and Edward Black (deceased).

5. Grandparents: (deceased).

6. Brothers and Spouses: Not applicable.

7. Sisters and Spouses: Laura Ellen Black, none.

BROADCASTING BOARD OF GOVERNORS

Blanquita Walsh Cullum, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005, vice Cheryl F. Halpern, term expired.

FOREIGN SERVICE

Nominations in the Foreign Service received by the Senate on October 8, 2002, beginning with William Joseph Burns, of Pennsylvania, and ending with Michael L. Young, of Colorado.

Nominations in the Foreign Service received by the Senate on October 8, 2002, beginning with Jon Christopher Karber, of Arizona, and ending with Peter Fernandez, of New York.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAMM:

S. 3150. A bill to authorize negotiation of free trade agreements with Turkey, and for other purposes; to the Committee on Finance.

By Mr. GRAMM:

S. 3151. A bill to authorize negotiation of free trade agreements with Afghanistan, and for other purposes; to the Committee on Finance.

By Mr. ALLEN:

S. 3152. A bill to clarify the boundaries of the Plum Island Unit of the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 3153. A bill to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 3154. A bill to amend the Internal Revenue Code of 1986 to combat fuel excise tax fraud; to the Committee on Finance.

By Mr. HELMS:

S. 3155. A bill to authorize the President to establish and maintain the Foreign Language and Cultural Institute program; to the Committee on Foreign Relations.

By Mr. INOUYE:

S.J. Res. 52. A joint resolution approving the location of the commemorative work in the District of Columbia honoring Dwight D. Eisenhower; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 355. A resolution extending the authorities relating to the Senate National Security Working Group; considered and agreed to.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. Con. Res. 156. A concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an ''American Jewish History Month'', and for other purposes; to the Committee on the Judiciary.

By Mrs. LINCOLN:

S. Con. Res. 157. A concurrent resolution expressing the sense of Congress that United States Diplomatic missions should provide the full and complete protection of the United States to certain citizens of the United States living abroad; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 677

At the request of Mr. HATCH, the names of the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 719

At the request of Mr. CORZINE, his name was added as a cosponsor of S. 719, a bill to amend Federal election law to provide for clean elections funded by clean money.

S. 2521

At the request of Mr. KERRY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2521, a bill to amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds $2,000 and to provide for a graduated implementation of such provision on amounts above such $2,000 amount.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2874

At the request of Mr. DAYTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2874, a bill to provide benefits to domestic partners of Federal employees.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 3018

At the request of Mr. BAUCUS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

S. 3096

At the request of Mr. KOHL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 3096, a bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies.

S. 3098

At the request of Mr. GRAHAM, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3098, a bill to amend title XVIII of the Social Security Act to establish a program for the competitive acquisition of items and services under the medicare program.

S. 3118

At the request of Ms. CANTWELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3118, a bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes.

S.RES. 307

At the request of Mr. TORRICELLI, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 307, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S.RES. 322

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Res. 322, a resolution designating November 2002, as ''National Epilepsy Awareness Month.''

S. CON. RES. 129

At the request of Mr. CRAPO, the name of the Senator from Arkansas

(Mr. HUTCHINSON) was added as a cosponsor of S. Con. Res. 129, a concurrent resolution expressing the sense of Congress regarding the establishment of the month of November each year as ''Chronic Obstructive Pulmonary Disease Awareness Month.''

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 138, a concurrent resolution expressing the sense of Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 154

At the request of Mr. CORZINE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Con. Res. 154, a concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued honoring Gunnery Sergeant John Basilone, a great American hero.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMM:

S. 3150. A bill to authorize negotiation of free trade agreements with Turkey, and for other purposes; to the Committee on Finance.

By Mr. GRAMM:

S. 3151. A bill to authorize negotiation of free trade agreements with Afghanistan, and for other purposes; to the Committee on Finance.

Mr. GRAMM. Mr. President, today I am introducing legislation to authorize the President to negotiate free trade agreements with the countries of Turkey and Afghanistan. Trade is a powerful engine in the promotion of prosperity and in the strengthening of freedom. The more we promote trade, the more we benefit and the more our trading partners benefit.

The legislation builds upon the Bipartisan Trade Promotion Authority Act of 2002, enacted earlier in the year. Within the structure of that Act, each of these bills would give the sanction of the Congress to undertaking free trade negotiations with Turkey and with Afghanistan. That sanction would remain in place for five years, ample time to conclude these important agreements.

Turkey has correctly been called the eastern anchor of NATO, an ally of the United States across some five decades in the effort to keep the world free. Turkey is a secular nation with a predominantly Muslim population and historic ties to the United States. For nearly one hundred years Turkey has served as an important force for modernization in the eastern Mediterranean and central Asian area.

Turkey's successes have provided important examples to many of the new nations of the former Soviet union located on the southern border of Russia. As these nations map out their future, they do so with frequent reference to the experience of Turkey. A free trade agreement with Turkey would mean that we would be a lasting, positive part of that future, contributing to Turkey's continued growth and democratic development, and influence that would be sure to have a beneficial effect on Turkey's neighbors. Such an agreement would operate well in light of our existing free trade agreements with Israel and with Jordan.

Afghanistan is at an historical turning point. What better way to rebuild the Afghan economy and set the Afghan people firmly on the road to prosperity than with a free trade agreement with the United States?

In addition, history has shown the powerful effect of trade and other economic freedoms in creating a stable basis for the growth and maintenance of political freedom. In Germany, Italy, Japan, Taiwan, South Korea, Chile, and elsewhere, we have seen authoritarian regimes replaced by stable, free societies preceded by the growth of trade and economic freedom. A free trade agreement between the United States and Afghanistan can and should be a powerful tool in our efforts to bring peace and prosperity to a land that has known little of either.

I ask unanimous consent that the text of the two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Turkey Free Trade Agreement Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The economic prosperity of the United States and Turkey will increase by reducing trade barriers between the 2 countries.

(2) Trade protection endangers economic prosperity in the United States and Turkey and undermines civil liberty and constitutionally limited government.

(3) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the world, enhancing prosperity in place of the cycle of increasing trade barriers and deepening poverty that results from a resort to protectionism and trade retaliation.

(4) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(5) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), and the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AREA FOR TURKEY.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with Turkey, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

SEC. 4. FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.

(a) IN GENERAL.—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804(a)), subsection (b) shall apply to any agreement negotiated under section 3(a), subject to subsection (c).

(b) TREATMENT OF AGREEMENTS.—Subject to subsection (c), in the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 2104(a) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804(a)) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2105(b)(1)(B) of such Act shall not be in order on the basis of a failure or refusal to comply with the provisions of section 2104(a) of such Act; and

(2) the President shall, as soon as feasible after the commencement of negotiations under section 3(a)—

(A) notify the Congress of such negotiations, the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 2104(a)(2) of such Act and the Congressional Oversight Group convened under section 2107 of such Act.

(c) TERMINATION OF AUTHORITY.—The authority of this section shall apply only to agreements entered into before January 1, 2008.

S. 3151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Afghanistan Free Trade Agreement Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The economic prosperity of the United States and Afghanistan will increase by reducing trade barriers.

(2) Trade protection endangers economic prosperity in the United States and Afghanistan and undermines civil liberty and constitutionally limited government.

(3) Free trade between the United States and Afghanistan will help in strengthening of Afghanistan's economic security.

(4) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the world, enhancing prosperity in place of the cycle of increasing trade barriers, and deepening poverty that results from a resort to protectionism and trade retaliation.

(5) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(6) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), and the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AGREEMENT WITH AFGHANISTAN.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with Afghanistan, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

SEC. 4. FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.

(a) IN GENERAL.—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804(a)), subsection (b) shall apply to any agreement negotiated under section 3(a), subject to subsection (c).

(b) TREATMENT OF AGREEMENTS.—Subject to subsection (c), in the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 2104(a) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804(a)) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2105(b)(1)(B) of such Act shall not be in order on the basis of a failure or refusal to comply with the provisions of section 2104(a) of such Act; and

(2) the President shall, as soon as feasible after the commencement of negotiations under section 3(a)—

(A) notify the Congress of such negotiations, the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 2104(a)(2) of such Act and the Congressional Oversight Group convened under section 2107 of such Act.

(c) TERMINATION OF AUTHORITY.—The authority of this section shall apply only to agreements entered into before January 1, 2008.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 3154. A bill to amend the Internal Revenue Code of 1986 to combat fuel excise tax fraud; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER BY REGISTERED PIPELINE OR VESSEL REQUIRED FOR FUEL TAX EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) of the Internal Revenue Code of 1986 (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of the pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 of the Internal Revenue Code of 1986 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6717. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any taxable fuel (as defined in section 4083(a)(1)) is willfully carried by pipeline or vessel the operator of which is not registered under section 4101, then such operator shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be $10,000.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

''Sec. 6717. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 2. RETURNS FILED ELECTRONICALLY.

(a) IN GENERAL.—Section 4083 of the Internal Revenue Code of 1986 (relating to definitions; special rule; administrative authority) is amended by adding at the end the following new subsection:

''(d) RETURNS REQUIRED TO BE FILED ELECTRONICALLY.—

''(1) FUEL.—Any registered operator of a terminal, refinery, pipeline, or vessel, or any registered dealer in aviation fuel, having more than 25 transactions in a month shall file by electronic format any return required by the Secretary for the tracking of fuel.

''(2) VEHICLES.—Any person required to file a return under section 4481 having at least 25 vehicles shall file such return by electronic format.''.

(b) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing—

(1) in the case of returns described in section 4083(d)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)), not later than 30 days after the date of the enactment of this Act, and

(2) in the case of returns described in section 4083(d)(2) of such Code (as so added), not later than 90 days after such date.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to returns due after the date the Secretary of the Treasury describes the format for filing under subsection (b).

SEC. 3. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) of the Internal Revenue Code of 1986 (defining diesel fuel) is amended by adding at the end the following new sentence: ''For purposes of section 4081(a)(1)(A)(iv), such term includes any liquid (other than gasoline) sold or offered for sale whether or not such fuel is suitable for such use.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. CIVIL PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part II of subchapter B of chapter 68 of the Internal Revenue Code of 1986 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 6718. REFUSAL OF ENTRY.

''In addition to any criminal penalty provided by law, in the case of any person with the intent to transport and distribute untaxed, adulterated fuel mixtures or to transport and distribute dyed diesel for taxable use, if such person refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(c)(1), then such person shall pay a penalty of $1,000 for such refusal.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(c)(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) CIVIL PENALTY.—For a civil penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6718.''.

(2) The table of sections for part II of subchapter B of chapter 68 of such Code, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 6718. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 5. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Section 4101 of the Internal Revenue Code of 1986 (relating to registration and bond) is amended by adding at the end the following new subsection:

''(e) DISPLAY OF REGISTRATION.—Every person required by the Secretary to register under this section with respect to tax imposed by section 4041(a)(1), 4081, or 4091 shall receive and display proof of registration on vessels used in transporting fuel.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 6. UNTAXED ADULTERATED FUEL MIXTURES TREATED AS DYED FUELS UNDER PENALTY PROVISION.

(a) IN GENERAL.—Section 6715(c)(1) of the Internal Revenue Code of 1986 (defining dyed fuel) is amended by inserting '', any dyed

diesel fuel or kerosene which has been chemically altered in an attempt to remove the dye, or any other adulterated fuel mixture not previously taxed'' after ''section 4082''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 7. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) IN GENERAL.—Section 4081(a)(1) of the Internal Revenue Code of 1986 (relating to tax on entry, removal, or sale) is amended by adding at the end the following new subparagraph:

''(C) TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(iii), if the person entering the taxable fuel is not registered under section 4101, the imposition of the tax is at the time and point of entry.

''(ii) JEOPARDY ASSESSMENT.—The collection of any tax imposed on fuel described in clause (i) shall be deemed to be in jeopardy and the Secretary shall make an immediate assessment under section 6862.

''(iii) ENFORCEMENT OF ASSESSMENT.—The fuel described in clause (i) and the vehicle or vessel in which such fuel was transported shall be detained for the period ending with—

''(I) the filing of a bond by the importer of record under section 6863(a), or

''(II) if such a bond is not filed within the 5-day period beginning with such detaining, the sale of such fuel as provided under section 6336.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 8. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) INCREASE IN RATE OF TAX.—The table contained in section 4481(a) of the Internal Revenue Code of 1986 (relating to imposition of tax) is amended by striking ''$550'' and inserting ''$600''.

(b) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) of the Internal Revenue Code of 1986 (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE DESTROYED OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is destroyed or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was destroyed or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) of such Code (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every person, agency, or instrumentality which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than October 1 with respect to each taxable period, receive and display on such vehicle a proof of payment decal.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6156 of such Code (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 of such Code is amended by striking the item relating to section 6156.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

SEC. 9. ADDITIONAL RULES REGARDING INSPECTIONS OF RECORDS.

(a) PROVISION OF COPIES OF RECORDS.—Section 4102 of the Internal Revenue Code of 1986 (relating to inspection of records by local officers) is amended by inserting '', and copies shall be furnished upon request of,'' after ''inspection by''.

(b) INSPECTION BY OTHER ENFORCEMENT AGENCIES.—Section 4102 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by inserting '', and information on returns required to be filed with respect to taxes under section 4481 shall be open to inspection by officers of any State agency charged with the registration and licensing of vehicles described in such section and officers of any other Federal or State agency charged with the enforcement of Federal or State law regarding motor fuels or criminal activities regarding motor fuels'' after ''section 4083)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(c)(1)(A) of the Internal Revenue Code of 1986 (relating to administrative authority) is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records to determine the names and addresses of the persons selling or purchasing such fuel, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 11. PROHIBITION OF ADMINISTRATIVE REVIEW OF PENALTY FOR TAXABLE USE OF DYED DIESEL FUEL.

(a) IN GENERAL.—Section 6406 of the Internal Revenue Code of 1986 (relating to prohibition of administrative review of decisions) is amended—

(1) by striking ''In the absence'' and inserting ''(a) IN GENERAL.—In the absence'', and

(2) by adding at the end the following new subsection:

''(b) PENALTY DECISION REGARDING TAXABLE USE OF DYED DIESEL FUEL.—In the absence of fraud or mistake in chemical analysis or mathematical calculation, if the findings of fact by chemical analysis show the presence of dye in diesel fuel being used on the highway, the assertion of the penalty under section 6715 shall not be subject to appeal to or review by any other administrative or accounting officer, employee, or agent of the United States.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

By Mr. HELMS:

S. 3155. A bill to authorize the President to establish and maintain the Foreign Language and Cultural Institute program; to the Committee on Foreign Relations.

Mr. HELMS. Mr. President, I am today introducing a bill entitled the Language Mastery Support Act of 2002. I don't expect this Senate to act on it this year, but I hope and believe it can serve as a model for the 108th Congress.

This bill addresses the dangerous shortage of government officials who possess critical foreign languages skills and expert knowledge of foreign cultures. A report issue this year by the General Accounting Office concluded that foreign language skills are critical to the success of our diplomatic and intelligence agencies and that the shortage of skilled personnel has adversely affected American law enforcement, intelligence, counter-terrorism, diplomatic and military efforts.

The end of the Cold War and the rise of terrorism have exacerbated this problem because the most serious shortages involved those languages found in Asia and the Middle East. In fact, we have received warning signals. For example, the disclosure that intercepts of suspected terrorists were translated long after the events they discussed had taken place should be viewed with alarm.

Even before 9/11, Senator COCHRAN referred to a ''crisis in federal language capabilities'' when the intelligence community disclosed that the United States could be faced with a ''technical surprise'' because thousands of foreign scientific papers could not be translated due to the lack of skilled translators.

Our governments has experienced this shortage of skilled personnel going back to the beginning of the Cold War. Intermittent attempts to solve the problem over the years have left us with an accumulation of patchwork fixes. As the recent GAO report demonstrates clearly, this approach has not succeeded. It is time to take a fresh approach and seek a broader, long-term solution.

This bill will establish a national program in our academic institutions that encourages students to pursue critical language skills, supports their academic careers and provides a clear employment path to Federal agencies. It does so by making maximum use of existing academic programs and facilities with minimal additional resources.

Students enrolled in this program would be required to meet certain academic standards for which they would receive reasonable stipends, equivalent to those provided under the ROTC program.

During the academic summers, under this legislation, participants would receive specialized training at underutilization Federal and academic facilities, instructed by a faculty composed of both Federal Government and civilian instructors. The participants could also travel to overseas posts for so-called ''immersion'' training in foreign languages and cultures at U.S. diplomatic and military facilities.

At the beginning of their senior year, participants would receive offers of employment from interests Federal agencies which they must accept or reject within 30 days. This would allow their processing to be completed by the time they graduate, allowing them to enter the Federal workforce without the current delays attributable to security clearances and administrative processing.

The program would be embodied in an Institute. This Institute would not

be composed of bricks and mortar but of a nationwide enrollment of students at colleges and universities who would receive specialized training during their academic summers. The Institute would be run by a Chairman of the Board, appointed by the President. The Chairman would be supported by a Board composed of representatives from each of the participating Federal agencies. Staff would be minimal and provided by the participating agencies.

Each agency would still be able to set its own qualifications issue its own employment offers and maintain its own security requirements. But it could do so in a manner that is competitive with private industry employment opportunities that are available to graduates, after an opportunity to evaluate potential employees throughout the course of their involvement in the Institute and with the added benefit of the financial incentive that the Institute would provide.

This program will broaden the pool of available candidates for Federal employment, allow Federal agencies to compete efficiently for these skilled language specialists and make Federal employment more attractive.

So far, we have avoided serious consequences from the lack of language skills in the Federal Government. This bill constitutes a new approach to this problem. It is long overdue and desperately needed. I ask that each of my colleagues give it prompt and serious consideration.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Language Mastery Support Act of 2002''.

SEC. 2. PURPOSE.

The purpose of this Act is to establish a program of study and overseas training in critical foreign languages and cultures, including the establishment of a Foreign Language and Cultural Institute, in order to—

(1) increase in Federal Government service the number of persons possessing critical skills that are in short supply;

(2) create a pool of prospective candidates for employment in those agencies of the Federal Government that rely on significant levels of overseas assignments;

(3) provide monetary and employment incentives for candidates to participate in the program;

(4) facilitate the identification of potential Federal Government employees with the pool of prospective candidates;

(5) provide additional opportunities for candidate development and evaluation;

(6) substantially shorten the delay between identification of a desirable candidate and entry upon service by the candidate;

(7) minimize the necessity for training during the initial period of employment;

(8) provide for ''cross-fertilization'' through the incorporation of both private sector and Government instructors in the faculty of the Institute;

(9) reduce the underutilization of existing Government and educational facilities; and

(10) achieve these objectives for a minimal cost, that would be partially offset by a reduction in the amount of initial training provided by participating agencies for new employees.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROVED FACILITIES.—The term ''approved facilities'' means—

(A) excess Government facilities, including former military installations; and

(B) institutions of higher education that are underutilized in the summer months.

(2) BOARD.—The term ''Board'' means the Interagency Critical Foreign Languages and Cultures Board established by section 4(c).

(3) CRITICAL FOREIGN LANGUAGES AND CULTURES.—The term ''critical foreign languages and cultures'' means foreign languages and cultures—

(A) identified by the Board as necessary for the effective implementation of United States national security policy; and

(B) with respect to which there exists a shortage of skilled personnel among the personnel of participating agencies.

(4) INSTITUTE.—The term ''Institute'' means the program established under section 4(a).

(5) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(6) PARTICIPANT.—The term ''participant'' means a person who is enrolled in the Institute.

(7) PARTICIPATING AGENCY.—The term ''participating agency'' means the Department of State, the Department of Defense, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation.

(8) PARTICIPATION AGREEMENT.—The term ''participation agreement'' means an agreement between the Institute and a person otherwise eligible for enrollment in the Institute under which—

(A) the person agrees—

(i) to respond to any offer of employment extended by a participating agency, not later than 30 days after the commencement of the participant's final academic year, by accepting or rejecting such employment; and

(ii) to serve in that agency for a period not less than the period specified in the agreement; and

(B) the Institute agrees to provide the allowances established by the Board pursuant to section 4(g)(1).

SEC. 4. ESTABLISHMENT OF THE INSTITUTE.

(a) IN GENERAL.—To carry out the purpose of section 2, the President is authorized to establish and maintain a study and training program described in section 5 that shall be known as the ''Foreign Language and Cultural Institute''.

(b) IMPLEMENTATION.—The President shall exercise the authority of subsection (a) through the Interagency Critical Foreign Languages and Cultures Board established in subsection (c).

(c) ESTABLISHMENT OF INTERAGENCY BOARD.—

(1) ESTABLISHMENT.—There is established an Interagency Critical Foreign Languages and Cultures Board that shall consist of seven members, as follows:

(A) One member appointed by the President from among individuals in the private sector having expertise in matters within the purpose of this Act, who shall serve as Chairman of the Board.

(B) Six members, of whom one each shall be an official of a participating agency, who shall be designated by the head of the agency to serve on the Board.

(2) DUTIES OF THE BOARD.—The Board shall, under the supervision of the Chairman—

(A) develop the curriculum of the Institute;

(B) provide policy recommendations to the President regarding the administration of the Institute;

(C) establish procedures for the operation of the Institute; and

(D) provide oversight for the operation of the Institute.

(3) TERMS.—The term of office for the Chairman and for each other member of the Board shall be three years.

(4) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each member of the Board shall serve without compensation.

(B) COMPENSATION OF THE CHAIRMAN.—The Chairman shall be paid at the rate of basic pay for positions classified at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(C) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Board.

(5) ADMINISTRATIVE SUPPORT.—The Secretary of State shall provide such staff personnel and other administrative services as may be necessary to support the Board. Additional staff may be provided by participating agencies.

SEC. 5. PROGRAM DESCRIPTION.

(a) REGULAR PROGRAM.—Each participant in the Institute shall undertake a program of study and training in critical foreign languages and cultures that shall primarily consist of courses of study or training taken at accredited institutions of higher learning during the normal academic year.

(b) SUPPLEMENTAL INSTRUCTION.—

(1) IN GENERAL.—The program described in subsection (a) shall be supplemented by instruction at Institute facilities approved by the Board, at least one of which shall be located in each major geographic region in the United States.

(2) PROGRAM PERIODS.—Such supplemental instruction shall be given through the Institute during specified periods in each of three consecutive years, as follows:

(A) For the first year of participation, courses of study taken during the summer period between the participant's sophomore and junior undergraduate years.

(B) For the second year of participation, courses of study or training which may include training at diplomatic missions or consular posts, taken during the summer period between the participant's junior and senior undergraduate years or at such times as the Board may determine.

(C) For the third year of participation, courses of study, or training which may include training at diplomatic or consular posts, taken during the summer period that follows award of a baccalaureate or equivalent degree to the participant or at such times as the Board may determine.

(3) ADDITIONAL ACTIVITIES.—Supplemental instruction under this subsection may include such other activities as the Board may determine. The Board may modify the instruction provided for under subparagraph (A), (B), or (C) of paragraph (2).

(c) ELIGIBILITY.—To be enrolled as a participant in the Institute a person shall—

(1) be a citizen of the United States;

(2) be enrolled as a sophomore, junior, or senior in an institution of higher education

or graduate of such an institution during the preceding year;

(3) be selected for participation in the Institute under procedures prescribed by the Board; and

(4) have entered into a participation agreement pursuant to procedures established by the Board.

(d) CONDITIONAL OFFER OF EMPLOYMENT.—

(1) IN GENERAL.—If a participating agency elects to employ a participant, the agency shall extend to the participant, not later than the commencement of the final academic year of the participant, an offer of employment in the agency conditioned upon satisfactory completion of the Institute program by the participant as specified in the participation agreement.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act is intended to alter or restrict any qualifications for employment established by any of the participating agencies.

(e) SUCCESSFUL COMPLETION.—The Board shall establish criteria to be met by participants the satisfaction of which shall entitle participants to a certificate acknowledging their satisfactory completion of the Institute program.

(f) CURRICULUM.—

(1) IN GENERAL.—The Board shall develop the Institute curriculum and shall assign such personnel provided under section 4(c)(4) as may be necessary for instruction under the curriculum and for adequate administrative support. In addition, the Board is authorized under section 3109(b) of title 5, United States Code, to enter into contracts with instructors employed at institutions of higher education or equivalent institutions and for other services necessary to provide for the establishment and operation of the Institute.

(2) SUPPLEMENTAL INSTRUCTION.—With the prior approval of the Board, a participant may enroll in courses of study at institutions of higher education with advanced syllabi in foreign affairs, languages, economics, religion, art, and history in lieu of one of the periods of instruction provided for under paragraph (1), (2), or (3) of subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) STIPEND.—The Board shall establish a schedule of stipends to be provided to program participants to offset the costs of tuition, fees, and books, not to exceed the comparable allowances established for the Reserve Officer Training Corps pursuant to section 209 of title 37, United States Code.

(2) DEBT RELIEF.—

(A) IN GENERAL.—The head of a participating agency that employs an individual who has satisfactorily completed the Institute program is authorized to provide for the repayment of student loans made to the participant for expenses incurred while the participant was enrolled in the Institute.

(B) FACTORS FOR EXERCISE OF DISCRETION.—In determining whether, or to what extent, to provide loan repayment under subparagraph (A), the head of the participating agency shall consider the individual's length of Government service, acceptance of hardship postings, possession of critical foreign languages and cultural skills, and proficiency in critical foreign languages.

SEC. 6. ANNUAL REPORT.

Not later than December 1 of each year, the Chairman of the Board shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that—

(1) summarizes the activities of the Institute over the previous academic year ending on September 30;

(2) describes the programs planned for the current and succeeding two academic years; and

(3) provides statistical data on—

(A) the number of applicants for participation in the Institute;

(B) the number of participants enrolled in the Institute;

(C) the number of participants who have successfully completed the Institute program;

(D) the number of employment offers extended to participants from participating agencies;

(E) the number of employment offers accepted by participants;

(F) the costs associated with the operations of the Institute, together with an itemization of the costs associated with the operations of the Board; and

(G) any other information that the Chairman of the Board determines to be useful for evaluating the operations of the Institute.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the President $7,500,000 for the fiscal year 2003 to carry out this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 355—EXTENDING THE AUTHORITIES RELATING TO THE SENATE NATIONAL SECURITY WORKING GROUP

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 355

Resolved, That Senate Resolution 105 of the One Hundred First Congress, agreed to April 13, 1989, as amended by Senate Resolution 383 of the One Hundred Sixth Congress, agreed to October 27, 2000, is further amended by adding at the end the following new section:

''SEC. 4. The provisions of this resolution shall remain in effect until December 31, 2004.''.

SENATE CONCURRENT RESOLUTION 156—RECOGNIZING AND HONORING AMERICA'S JEWISH COMMUNITY ON THE OCCASSION OF ITS 350TH ANNIVERSARY, SUPPORTING THE DESIGNATION OF AN ''AMERICAN JEWISH HISTORY MONTH'', AND FOR OTHER PURPOSES

Mr. VOINOVICH (for himself and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 156

Whereas in 1654, Jewish refugees from Brazil arrived on North American shores and formally established North America's first Jewish community in New Amsterdam, now New York City;

Whereas America welcomed Jews among the millions of immigrants that streamed through our Nation's history;

Whereas the waves of Jewish immigrants arriving in America helped shape our Nation;

Whereas the American Jewish community has been intimately involved in our Nation's civic, social, economic, and cultural life;

Whereas the American Jewish community has sought to actualize the broad principles of liberty and justice that are enshrined in the Constitution of the United States;

Whereas the American Jewish community is an equal participant in the religious life of our Nation;

Whereas American Jews have fought valiantly for the United States in every one of our Nation's military struggles, from the American Revolution to Operation Enduring Freedom;

Whereas not less than 16 American Jews have received the Medal of Honor;

Whereas 2004 marks the 350th anniversary of the American Jewish community;

Whereas the Library of Congress, the National Archives and Records Administration, the American Jewish Historical Society, and the Jacob Rader Marcus Center of the American Jewish Archives have formed ''The Commission for Commemorating 350 Years of American Jewish History'' (referred to in this resolution as the ''Commission'') to mark this historic milestone;

Whereas the Commission will use the combined resources of its participants to promote the celebration of the Jewish experience in the United States throughout 2004; and

Whereas the Commission is designating September 2004 as ''American Jewish History Month'': Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors and recognizes—

(A) the 350th anniversary of the American Jewish community; and

(B) ''The Commission for Commemorating 350 Years of American Jewish History'' and its efforts to plan, coordinate, and execute commemorative events celebrating 350 years of American Jewish history;

(2) supports the designation of an ''American Jewish History Month''; and

(3) urges all Americans to share in this commemoration so as to have a greater appreciation of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans.

SENATE CONCURRENT RESOLUTION 157—EXPRESSING THE SENSE OF CONGRESS THAT UNITED STATES DIPLOMATIC MISSIONS SHOULD PROVIDE THE FULL AND COMPLETE PROTECTION OF THE UNITED STATES TO CERTAIN CITIZENS OF THE UNITED STATES LIVING ABROAD

Mrs. LINCOLN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 157

Whereas there are numerous cases in which citizens of the United States are prevented from leaving Saudi Arabia against their will or in violation of United States law;

Whereas Amjad Radwan and Rasheed Radwan, 2 United States citizens, were prevented from leaving Saudi Arabia by their Saudi-national father in 1985;

Whereas Monica Stowers, the mother of Amjad Radwan and Rasheed Radwan and a United States citizen, traveled to Saudi Arabia in November 1990 and heard directly from her children of the physical and sexual abuse they had endured there;

Whereas upon learning of the abuse, Ms. Stowers brought her children to the United States Embassy in Riyadh, displayed their United States passports, and sought the protection of the Embassy and assistance in returning home to the United States;

Whereas personnel from the Department of State told Ms. Stowers and her children that

the Embassy was ''not a hotel'' and urged them to leave;

Whereas personnel from the Department of State informed Ms. Stowers' ex-husband, without her permission and in total disregard for her safety, that she and her children were in the Embassy;

Whereas personnel from the Department of State ordered United States Marines to physically eject Ms. Stowers and her children from the Embassy;

Whereas following her ejection, Ms. Stowers was arrested for refusing to leave Saudi Arabia without her children and sent to a women's prison;

Whereas the current Ambassador to Saudi Arabia, Robert W. Jordan, has pledged that no United States citizen will be similarly removed from the Embassy while he is ambassador;

Whereas American women in Saudi Arabia have directly informed Members of Congress of the physical abuse inflicted upon them by their Saudi husbands, the lack of support or protection for battered women in Saudi society, and the inability to leave Saudi Arabia with their children unless their husbands give permission;

Whereas these women and personnel from the Department of State estimate that there are hundreds of abused American women in Saudi Arabia who do not report their cases due to fear and hopelessness;

Whereas many of these abused American women do not attempt to escape for fear that failure would result in death or serious bodily injury to them and their children;

Whereas abused American women in Saudi Arabia are discouraged from seeking assistance from the United States Embassy or consulate in escaping with their children and are told that nothing can be done for them;

Whereas many of these women and their children are denied religious freedoms and other basic human rights while detained in Saudi Arabia;

Whereas a primary purpose of United States diplomatic missions is to protect the interests of United States citizens;

Whereas international law recognizes certain privileges and immunities for United States embassies, ambassadors' residences, and consulates; and

Whereas such privileges and immunities enable United States diplomatic personnel to provide sanctuary to United States citizens abroad: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that United States diplomatic and counselor missions should provide the full and complete protection of the United States to citizens of the United States who—

(1) are living or traveling abroad;

(2) are victims of international child abduction, domestic violence, or sexual abuse; and

(3) seek sanctuary in a United States diplomatic or counselor mission.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4898. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4899. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4900. Mr. FEINGOLD proposed an amendment to the bill H.R. 5005, supra.

SA 4901. Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) proposed an amendment to the bill H.R. 5005, supra.

SA 4902. Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. NELSON, of Nebraska) proposed an amendment to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH) to the bill H.R. 5005, supra.

SA 4903. Mr. DURBIN (for Mr. DORGAN (for himself, Mr. ENSIGN, Mr. HOLLINGS, and Mr. ALLEN)) submitted an amendment intended to be proposed by Mr. Durbin to the bill H.R. 3833, to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

SA 4904. Mr. DURBIN (for Mr. MCCAIN (for himself and Mr. HOLLINGS)) proposed an amendment to the bill H.R. 3609, to amend title 49, United States Code, to enhance the security and safety of pipelines.

SA 4905. Mr. DURBIN (for Mr. THOMPSON) proposed an amendment to the bill S. 3067, to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes.

TEXT OF AMENDMENTS

SA 4898. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, strike line 4 and insert the following:

(19) On behalf of the Secretary, subject to disapproval by the President, to direct the agencies described under subsection (f)(2) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Assistant Secretary for Information Analysis determines necessary.

(20) To perform such other duties relating to

SA 4899. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 96, strike line 2 and all that follows through page 109, line 13, and insert the following:

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

''§ 9701. Establishment of human resources management system by the Secretary

''(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

''(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

''(1) be flexible;

''(2) be contemporary;

''(3) not waive, modify, or otherwise affect—

''(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

''(B) any provision of section 2302, relating to prohibited personnel practices;

''(C)(i) any provision of law referred to in section 2302(b)(1); or

''(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

''(I) providing for equal employment opportunity through affirmative action; or

''(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

''(D) any other provision of this part (as described in subsection (c)); or

''(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

''(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

''(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

''(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part, as referred to

in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

''(1) subparts A, B, E, G, and H of this part; and

''(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

''(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

''(1) to modify the pay of any employee who serves in—

''(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

''(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

''(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

''(3) to exempt any employee from the application of such section 5307.

''(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

''(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

''(A) NOTICE OF PROPOSAL.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

''(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

''(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

''(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

''(B) PREIMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

''(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

''(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

''(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

''(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

''(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

''(ii) give each employee representative adequate access to information to make that participation productive.

''(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

''(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

''(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

''(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

''(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

''(1) SENSE OF CONGRESS.—It is the sense of Congress that—

''(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

''(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

''(i) should ensure that employees of the Department are afforded the protections of due process; and

''(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

''(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

''(A) shall be issued only after consultation with the Merit Systems Protection Board;

''(B) shall ensure the availability of procedures which shall—

''(i) be fully consistent with requirements of due process; and

''(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

''(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

''(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section and section 9702) shall cease to be available.

''§ 9702. Establishment of human resources management system by the President

''The authority under section 9701 to establish a human resources management system shall be exercised only when the President issues an order determining that—

''(1) the affected agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work;

''(2) the provisions of chapter 43, 51, 53, 71, 75, or 77 cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations;

''(3) the mission and responsibilities of the affected agency or subdivision have materially changed; and

''(4) a majority of the employees within that agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.''.

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

''97. Department of Homeland Security ..... 9701''.

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 731. LABOR-MANAGEMENT RELATIONS.

(a) EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the President may issue an order excluding any executive agency, or subdivision thereof, from coverage under chapter 71 of title 5, United States Code, if the President determines that—

(A) the agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work; and

(B) the provisions of such chapter 71 cannot be applied to that agency or subdivision in a matter consistent with national security requirements and considerations.

(2) ADDITIONAL DETERMINATION.—In addition to the requirements under paragraph (1), the President may issue an order excluding any executive agency, or subdivision thereof, transferred to the Department under this Act, from coverage under chapter 71 of title 5, United States Code, only if the President determines that—

(A) the mission and responsibilities of the agency or subdivision materially change; and

(B) a majority of the employees within such agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(3) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) or (2) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—Each unit, which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department under this Act, continue to be so recognized for such purposes, unless—

(1) the mission and responsibilities of the personnel in such unit (or subdivision), or

the threats of domestic terrorism being addressed by the personnel in such unit (or subdivision), materially change; and

(2) a substantial number of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SA 4900. Mr. FEINGOLD proposed an amendment to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the appropriate place in the bill insert the following sections:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2003.

SA 4901. Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) proposed an amendment to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Homeland Security Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) Each of the terms ''American homeland'' and ''homeland'' means the United States.

(2) The term ''appropriate congressional committee'' means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(3) The term ''assets'' includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) The term ''critical infrastructure'' has the meaning given that term in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)).

(5) The term ''Department'' means the Department of Homeland Security.

(6) The term ''emergency response providers'' includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.

(7) The term ''executive agency'' means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(8) The term ''functions'' includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.

(9) The term ''key resources'' means publicly or privately controlled resources essential to the minimal operations of the economy and government.

(10) The term ''local government'' means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation; and

(C) a rural community, unincorporated town or village, or other public entity.

(11) The term ''major disaster'' has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(12) The term ''personnel'' means officers and employees.

(13) The term ''Secretary'' means the Secretary of Homeland Security.

(14) The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

(15) The term ''terrorism'' means any activity that—

(A) involves an act that—

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

(16)(A) The term ''United States'', when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States.

(B) Nothing in this paragraph or any other provision of this Act shall be construed to modify the definition of ''United States'' for the purposes of the Immigration and Nationality Act or any other immigration or nationality law.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

(F) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland; and

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

(2) RESPONSIBILITY FOR INVESTIGATING AND PROSECUTING TERRORISM.—Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—

(1) IN GENERAL.—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) HEAD OF DEPARTMENT.—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) FUNCTIONS VESTED IN SECRETARY.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) except as otherwise provided by this Act, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department;

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary's responsibilities under this Act or otherwise provided by law; and

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments.

(c) COORDINATION WITH NON-FEDERAL ENTITIES.—With respect to homeland security, the Secretary shall coordinate through the Office of State and Local Coordination (established under section 801) (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public; and

(3) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

(d) MEETINGS OF NATIONAL SECURITY COUNCIL.—The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) ISSUANCE OF REGULATIONS.—The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5, United States Code, except as specifically provided in this Act, in laws granting regulatory authorities that are transferred by this Act, and in laws enacted after the date of enactment of this Act.

(f) SPECIAL ASSISTANT TO THE SECRETARY.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(2) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(3) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(4) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to—

(A) advise the Secretary on private sector products, applications, and solutions as they relate to homeland security challenges; and

(B) advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(5) working with Federal laboratories, Federally funded research and development centers, other Federally funded organizations, academia, and the private sector to develop innovative approaches to address homeland security challenges to produce and deploy the best available technologies for homeland security missions;

(6) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(7) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(g) STANDARDS POLICY.—All standards activities of the Department shall be conducted in accordance with section 12(d) of the National Technology Transfer Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget Circular A–119.

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) A Director of the Bureau of Citizenship and Immigration Services.

(7) An Under Secretary for Management.

(8) Not more than 12 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the department.

(b) INSPECTOR GENERAL.—There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code, and who shall report directly to the Secretary. In addition to such duties as may be provided in this Act and as assigned to the Commandant by the Secretary, the duties of the Commandant shall include those required by section 2 of title 14, United States Code.

(d) OTHER OFFICERS.—To assist the Secretary in the performance of the Secretary's functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Information Officer.

(3) A Chief Human Capital Officer.

(4) A Chief Financial Officer.

(5) An Officer for Civil Rights and Civil Liberties.

(e) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official's office or prescribed by the Secretary.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) UNDER SECRETARY OF HOMELAND SECURITY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—

(1) IN GENERAL.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Under Secretary shall assist the Secretary in discharging the responsibilities assigned by the Secretary.

(b) ASSISTANT SECRETARY FOR INFORMATION ANALYSIS; ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—

(1) ASSISTANT SECRETARY FOR INFORMATION ANALYSIS.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) RESPONSIBILITIES.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) DISCHARGE OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) RESPONSIBILITIES OF UNDER SECRETARY.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of terrorist threats to the homeland;

(B) detect and identify threats of terrorism against the United States; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.

(6) To recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public advisories related to threats to homeland security; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information under this Act is shared, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) STAFF.—

(1) IN GENERAL.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience to assist the Directorate in discharging responsibilities under this section.

(2) PRIVATE SECTOR ANALYSTS.—Analysts under this subsection may include analysts from the private sector.

(3) SECURITY CLEARANCES.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) DETAIL OF PERSONNEL.—

(1) IN GENERAL.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) COVERED AGENCIES.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) COOPERATIVE AGREEMENTS.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) BASIS.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) FUNCTIONS TRANSFERRED.—In accordance with title XV, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(5) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) INCLUSION OF CERTAIN ELEMENTS OF THE DEPARTMENT AS ELEMENTS OF THE INTELLIGENCE COMMUNITY.—Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(a)) is amended—

(1) by striking ''and'' at the end of subparagraph (I);

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

''(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; and''.

SEC. 202. ACCESS TO INFORMATION.

(a) IN GENERAL.—

(1) THREAT AND VULNERABILITY INFORMATION.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary, and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) OTHER INFORMATION.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) MANNER OF ACCESS.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) TREATMENT UNDER CERTAIN LAWS.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107–56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) ACCESS TO INTELLIGENCE AND OTHER INFORMATION.—

(1) ACCESS BY ELEMENTS OF FEDERAL GOVERNMENT.—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or other any element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) SHARING OF INFORMATION.—The Secretary, in consultation with the Director of Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department

has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

Subtitle B—Critical Infrastructure Information

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Critical Infrastructure Information Act of 2002''.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term ''agency'' has the meaning given it in section 551 of title 5, United States Code.

(2) COVERED FEDERAL AGENCY.—The term ''covered Federal agency'' means the Department of Homeland Security.

(3) CRITICAL INFRASTRUCTURE INFORMATION.—The term ''critical infrastructure information'' means information not customarily in the public domain and related to the security of critical infrastructure or protected systems—

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

(4) CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.—The term ''critical infrastructure protection program'' means any component or bureau of a covered Federal agency that has been designated by the President or any agency head to receive critical infrastructure information.

(5) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term ''Information Sharing and Analysis Organization'' means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

(A) gathering and analyzing critical infrastructure information in order to better understand security problems and interdependencies related to critical infrastructure and protected systems, so as to ensure the availability, integrity, and reliability thereof;

(B) communicating or disclosing critical infrastructure information to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure or protected systems; and

(C) voluntarily disseminating critical infrastructure information to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

(6) PROTECTED SYSTEM.—The term ''protected system''—

(A) means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of critical infrastructure; and

(B) includes any physical or computer-based system, including a computer, computer system, computer or communications network, or any component hardware or element thereof, software program, processing instructions, or information or data in transmission or storage therein, irrespective of the medium of transmission or storage.

(7) VOLUNTARY.—

(A) IN GENERAL.—The term ''voluntary'', in the case of any submittal of critical infrastructure information to a covered Federal agency, means the submittal thereof in the absence of such agency's exercise of legal authority to compel access to or submission of such information and may be accomplished by a single entity or an Information Sharing and Analysis Organization on behalf of itself or its members.

(B) EXCLUSIONS.—The term ''voluntary''—

(i) in the case of any action brought under the securities laws as is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))—

(I) does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(I)); and

(II) with respect to the submittal of critical infrastructure information, does not include any disclosure or writing that when made accompanied the solicitation of an offer or a sale of securities; and

(ii) does not include information or statements submitted or relied upon as a basis for making licensing or permitting determinations, or during regulatory proceedings.

SEC. 213. DESIGNATION OF CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.

A critical infrastructure protection program may be designated as such by one of the following:

(1) The President.

(2) The Secretary of Homeland Security.

SEC. 214. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.

(a) PROTECTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this subtitle, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) when disclosure of the information would be—

(I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the General Accounting Office.

(E) shall not, if provided to a State or local government or government agency—

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) EXPRESS STATEMENT.—For purposes of paragraph (1), the term ''express statement'', with respect to information or records, means—

(A) in the case of written information or records, a written marking on the information or records substantially similar to the following: ''This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002.''; or

(B) in the case of oral information, a similar written statement submitted within a reasonable period following the oral communication.

(b) LIMITATION.—No communication of critical infrastructure information to a covered Federal agency made pursuant to this subtitle shall be considered to be an action subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(c) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or otherwise affect the ability of a State, local, or Federal Government entity, agency, or authority, or any third party, under applicable law, to obtain critical infrastructure information in a manner not covered by subsection (a), including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(d) TREATMENT OF VOLUNTARY SUBMITTAL OF INFORMATION.—The voluntary submittal to the Government of information or records that are protected from disclosure by this subtitle shall not be construed to constitute compliance with any requirement to submit such information to a Federal agency under any other provision of law.

(e) PROCEDURES.—

(1) IN GENERAL.—The Secretary of the Department of Homeland Security shall, in consultation with appropriate representatives of the National Security Council and the Office of Science and Technology Policy, establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government. The procedures shall be established not later than 90 days after the date of the enactment of this subtitle.

(2) ELEMENTS.—The procedures established under paragraph (1) shall include mechanisms regarding—

(A) the acknowledgement of receipt by Federal agencies of critical infrastructure

information that is voluntarily submitted to the Government;

(B) the maintenance of the identification of such information as voluntarily submitted to the Government for purposes of and subject to the provisions of this subtitle;

(C) the care and storage of such information; and

(D) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting person or entity, and is otherwise not appropriately in the public domain.

(f) PENALTIES.—Whoever, being an officer or employee of the United States or of any department or agency thereof, knowingly publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law, any critical infrastructure information protected from disclosure by this subtitle coming to him in the course of this employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more than 1 year, or both, and shall be removed from office or employment.

(g) AUTHORITY TO ISSUE WARNINGS.—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted critical infrastructure information that forms the basis for the warning; or

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(h) AUTHORITY TO DELEGATE.—The President may delegate authority to a critical infrastructure protection program, designated under section 213, to enter into a voluntary agreement to promote critical infrastructure security, including with any Information Sharing and Analysis Organization, or a plan of action as otherwise defined in section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

SEC. 215. NO PRIVATE RIGHT OF ACTION.

Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.

Subtitle C—Information Security

SEC. 221. PROCEDURES FOR SHARING INFORMATION.

The Secretary shall establish procedures on the use of information shared under this title that—

(1) limit the redissemination of such information to ensure that it is not used for an unauthorized purpose;

(2) ensure the security and confidentiality of such information;

(3) protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(4) provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

SEC. 222. PRIVACY OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for privacy policy, including—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(2) assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personal information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department or that of the Department on the privacy of personal information, including the type of personal information collected and the number of people affected; and

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.

SEC. 223. ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

SEC. 224. NET GUARD.

The Under Secretary for Information Analysis and Infrastructure Protection may establish a national technology guard, to be known as ''NET Guard'', comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

SEC. 225. CYBER SECURITY ENHANCEMENT ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the ''Cyber Security Enhancement Act of 2002''.

(b) AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER CRIMES.—

(1) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the following factors and the extent to which the guidelines may or may not account for them—

(i) the potential and actual loss resulting from the offense;

(ii) the level of sophistication and planning involved in the offense;

(iii) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(iv) whether the defendant acted with malicious intent to cause harm in committing the offense;

(v) the extent to which the offense violated the privacy rights of individuals harmed;

(vi) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(vii) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(viii) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) STUDY AND REPORT ON COMPUTER CRIMES.—Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this section and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

(d) EMERGENCY DISCLOSURE EXCEPTION.—

(1) IN GENERAL.—Section 2702(b) of title 18, United States Code, is amended—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in paragraph (6)(A), by inserting ''or'' at the end;

(C) by striking paragraph (6)(C); and

(D) by adding at the end the following:

''(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.''.

(2) REPORTING OF DISCLOSURES.—A government entity that receives a disclosure under section 2702(b) of title 18, United States Code, shall file, not later than 90 days after such disclosure, a report to the Attorney General stating the paragraph of that section under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress 1 year after the date of enactment of this Act.

(e) GOOD FAITH EXCEPTION.—Section 2520(d)(3) of title 18, United States Code, is amended by inserting ''or 2511(2)(i)'' after ''2511(3)''.

(f) INTERNET ADVERTISING OF ILLEGAL DEVICES.—Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''or disseminates by electronic means'' after ''or other publication''; and

(2) by inserting ''knowing the content of the advertisement and'' before ''knowing or having reason to know''.

(g) STRENGTHENING PENALTIES.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting ''except as provided in paragraph (5),'' before ''a fine under this title'';

(3) in paragraph (4)(C), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

''(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.''.

(h) PROVIDER ASSISTANCE.—

(1) SECTION 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting '', statutory authorization'' after ''subpoena''.

(2) SECTION 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting '', statutory authorization,'' after ''court order'' the last place it appears.

(i) EMERGENCIES.—Section 3125(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(C) an immediate threat to a national security interest; or

''(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;''.

(j) PROTECTING PRIVACY.—

(1) SECTION 2511.—Section 2511(4) of title 18, United States Code, is amended—

(A) by striking paragraph (b); and

(B) by redesignating paragraph (c) as paragraph (b).

(2) SECTION 2701.—Section 2701(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting '', or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State'' after ''commercial gain'';

(B) in paragraph (1)(A), by striking ''one year'' and inserting ''5 years'';

(C) in paragraph (1)(B), by striking ''two years'' and inserting ''10 years''; and

(D) by striking paragraph (2) and inserting the following:

''(2) in any other case—

''(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

''(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.''.

Subtitle D—Office of Science and Technology

SEC. 231. ESTABLISHMENT OF OFFICE; DIRECTOR.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this title referred to as the ''Office'').

(2) AUTHORITY.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be established within the National Institute of Justice.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. 232. MISSION OF OFFICE; DUTIES.

(a) MISSION.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) DUTIES.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, evaluation, and cost-benefit analyses in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. 233. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

For the purposes of this title, the term ''law enforcement technology'' includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. 234. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

(a) AUTHORITY TO TRANSFER FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(b) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is established in the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

(c) REPORT ON IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this title. The report shall—

(1) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office; and

(2) include such other information and recommendations as the Attorney General considers appropriate.

SEC. 235. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) IN GENERAL.—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as ''Centers'') and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) PURPOSE OF CENTERS.—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) ANNUAL MEETING.—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. 236. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting ''coordinate and'' before ''provide''.

SEC. 237. AMENDMENTS RELATING TO NATIONAL INSTITUTE OF JUSTICE.

Section 202(c) of the Omnibus Crime Control and Safety Streets Act of 1968 (42 U.S.C. 3722(c)) is amended—

(1) in paragraph (3) by inserting '', including cost effectiveness where practical,'' before ''of projects''; and

(2) by striking ''and'' after the semicolon at the end of paragraph (8), striking the period at the end of paragraph (9) and inserting ''; and'', and by adding at the end the following:

''(10) research and development of tools and technologies relating to prevention, detection, investigation, and prosecution of crime; and

''(11) support research, development, testing, training, and evaluation of tools and technology for Federal, State, and local law enforcement agencies.''.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the responsibility for—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) developing, in consultation with other appropriate executive agencies, a national policy and strategic plan for, identifying priorities, goals, objectives and policies for, and coordinating the Federal Government's civilian efforts to identify and develop countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including the development of comprehensive, research-based definable goals for such efforts and development of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts;

(3) supporting the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

(A) preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to federal, state, local government, and private sector entities;

(7) entering into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture and the Attorney General as provided in section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401), as amended by section 1709(b);

(9) collaborating with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as ''select agents'' in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a);

(10) supporting United States leadership in science and technology;

(11) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;

(12) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;

(13) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs; and

(14) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats

carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities, goals, objectives, and policies and develop a coordinated strategy for such activities in collaboration with the Secretary of Homeland Security to ensure consistency with the national policy and strategic plan developed pursuant to section 302(2).

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

(c) ADMINISTRATION OF COUNTERMEASURES AGAINST SMALLPOX.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding the following:

''(p) ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH PROFESSIONALS.—

''(1) IN GENERAL.—For purposes of this section, and subject to other provisions of this subsection, a covered person shall be deemed to be an employee of the Public Health Service with respect to liability arising out of administration of a covered countermeasure against smallpox to an individual during the effective period of a declaration by the Secretary under paragraph (2)(A).

''(2) DECLARATION BY SECRETARY CONCERNING COUNTERMEASURE AGAINST SMALLPOX.—

''(A) AUTHORITY TO ISSUE DECLARATION.—

''(i) IN GENERAL.—The Secretary may issue a declaration, pursuant to this paragraph, concluding that an actual or potential bioterrorist incident or other actual or potential public health emergency makes advisable the administration of a covered countermeasure to a category or categories of individuals.

''(ii) COVERED COUNTERMEASURE.—The Secretary shall specify in such declaration the substance or substances that shall be considered covered countermeasures (as defined in paragraph (8)(A)) for purposes of administration to individuals during the effective period of the declaration.

''(iii) EFFECTIVE PERIOD.—The Secretary shall specify in such declaration the beginning and ending dates of the effective period of the declaration, and may subsequently amend such declaration to shorten or extend such effective period, provided that the new closing date is after the date when the declaration is amended.

''(iv) PUBLICATION.—The Secretary shall promptly publish each such declaration and amendment in the Federal Register.

''(B) LIABILITY OF UNITED STATES ONLY FOR ADMINISTRATIONS WITHIN SCOPE OF DECLARATION.—Except as provided in paragraph (5)(B)(ii), the United States shall be liable under this subsection with respect to a claim arising out of the administration of a covered countermeasure to an individual only if—

''(i) the countermeasure was administered by a qualified person, for a purpose stated in paragraph (7)(A)(i), and during the effective period of a declaration by the Secretary under subparagraph (A) with respect to such countermeasure; and

''(ii)(I) the individual was within a category of individuals covered by the declaration; or

''(II) the qualified person administering the countermeasure had reasonable grounds to believe that such individual was within such category.

''(C) PRESUMPTION OF ADMINISTRATION WITHIN SCOPE OF DECLARATION IN CASE OF ACCIDENTAL VACCINIA INOCULATION.—

''(i) IN GENERAL.—If vaccinia vaccine is a covered countermeasure specified in a declaration under subparagraph (A), and an individual to whom the vaccinia vaccine is not administered contracts vaccinia, then, under the circumstances specified in clause (ii), the individual—

''(I) shall be rebuttably presumed to have contracted vaccinia from an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B); and

''(II) shall (unless such presumption is rebutted) be deemed for purposes of this subsection to be an individual to whom a covered countermeasure was administered by a qualified person in accordance with the terms of such declaration and as described by subparagraph (B).

''(ii) CIRCUMSTANCES IN WHICH PRESUMPTION APPLIES.—The presumption and deeming stated in clause (i) shall apply if—

''(I) the individual contracts vaccinia during the effective period of a declaration under subparagraph (A) or by the date 30 days after the close of such period; or

''(II) the individual resides or has resided with an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B) and contracts vaccinia after such date.

''(3) EXCLUSIVITY OF REMEDY.—The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this subsection encompasses.

''(4) CERTIFICATION OF ACTION BY ATTORNEY GENERAL.—Subsection (c) applies to actions under this subsection, subject to the following provisions:

''(A) NATURE OF CERTIFICATION.—The certification by the Attorney General that is the basis for deeming an action or proceeding to be against the United States, and for removing an action or proceeding from a State court, is a certification that the action or proceeding is against a covered person and is based upon a claim alleging personal injury or death arising out of the administration of a covered countermeasure.

''(B) CERTIFICATION OF ATTORNEY GENERAL CONCLUSIVE.—The certification of the Attorney General of the facts specified in subparagraph (A) shall conclusively establish such facts for purposes of jurisdiction pursuant to this subsection.

''(5) DEFENDANT TO COOPERATE WITH UNITED STATES.—

''(A) IN GENERAL.—A covered person shall cooperate with the United States in the processing and defense of a claim or action under this subsection based upon alleged acts or omissions of such person.

''(B) CONSEQUENCES OF FAILURE TO COOPERATE.—Upon the motion of the United States or any other party and upon finding that such person has failed to so cooperate—

''(i) the court shall substitute such person as the party defendant in place of the United States and, upon motion, shall remand any such suit to the court in which it was instituted if it appears that the court lacks subject matter jurisdiction;

''(ii) the United States shall not be liable based on the acts or omissions of such person; and

''(iii) the Attorney General shall not be obligated to defend such action.

''(6) RECOURSE AGAINST COVERED PERSON IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

''(A) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any covered person to carry out any obligation or responsibility assumed by such person under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person.

''(B) VENUE.—The United States may maintain an action under this paragraph against such person in the district court of the United States in which such person resides or has its principal place of business.

''(7) DEFINITIONS.—As used in this subsection, terms have the following meanings:

''(A) COVERED COUNTERMEASURE.—The term 'covered countermeasure', or 'covered countermeasure against smallpox', means a substance that is—

''(i)(I) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

''(II) vaccinia immune globulin used to control or treat the adverse effects of vaccinia inoculation; and

''(ii) specified in a declaration under paragraph (2).

''(B) COVERED PERSON.—The term 'covered person', when used with respect to the administration of a covered countermeasure, includes any person who is—

''(i) a manufacturer or distributor of such countermeasure;

''(ii) a health care entity under whose auspices such countermeasure was administered;

''(iii) a qualified person who administered such countermeasure; or

''(iv) an official, agent, or employee of a person described in clause (i), (ii), or (iii).

''(C) QUALIFIED PERSON.—The term 'qualified person', when used with respect to the administration of a covered countermeasure, means a licensed health professional or other individual who is authorized to administer such countermeasure under the law of the State in which the countermeasure was administered.''.

SEC. 305. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues, or to carry out other responsibilities under this Act, including coordinating and integrating both the extramural and intramural programs described in section 308.

SEC. 306. MISCELLANEOUS PROVISIONS.

(a) CLASSIFICATION.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(b) CONSTRUCTION.—Nothing in this title shall be construed to preclude any Under Secretary of the Department from carrying out research, development, demonstration, or deployment activities, as long as such activities are coordinated through the Under Secretary for Science and Technology.

(c) REGULATIONS.—The Secretary, acting through the Under Secretary for Science and Technology, may issue necessary regulations with respect to research, development, demonstration, testing, and evaluation activities of the Department, including the conducting, funding, and reviewing of such activities.

(d) NOTIFICATION OF PRESIDENTIAL LIFE SCIENCES DESIGNATIONS.—Not later than 60 days before effecting any transfer of Department of Energy life sciences activities pursuant to section 303(1)(D) of this Act, the President shall notify the appropriate congressional committees of the proposed transfer and shall include the reasons for the transfer and a description of the effect of the transfer on the activities of the Department of Energy.

SEC. 307. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term ''Fund'' means the Acceleration Fund for Research and Development of Homeland Security Technologies established in subsection (c).

(2) HOMELAND SECURITY RESEARCH.—The term ''homeland security research'' means research relevant to the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term ''HSARPA'' means the Homeland Security Advanced Research Projects Agency established in subsection (b).

(4) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary for Science and Technology.

(b) HSARPA.—

(1) ESTABLISHMENT.—There is established the Homeland Security Advanced Research Projects Agency.

(2) DIRECTOR.—HSARPA shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

(3) RESPONSIBILITIES.—The Director shall administer the Fund to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses, federally funded research and development centers, and universities. The Director shall administer the Fund to—

(A) support basic and applied homeland security research to promote revolutionary changes in technologies that would promote homeland security;

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies; and

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities.

(4) TARGETED COMPETITIONS.—The Director may solicit proposals to address specific vulnerabilities identified by the Director.

(5) COORDINATION.—The Director shall ensure that the activities of HSARPA are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

(6) PERSONNEL.—In hiring personnel for HSARPA, the Secretary shall have the hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261). The term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(7) DEMONSTRATIONS.—The Director, periodically, shall hold homeland security technology demonstrations to improve contact among technology developers, vendors and acquisition personnel.

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies, which shall be administered by the Director of HSARPA.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 to the Fund for fiscal year 2003 and such sums as may be necessary thereafter.

(3) COAST GUARD.—Of the funds authorized to be appropriated under paragraph (2), not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from nonhomeland security missions to the ports, waterways and coastal security mission.

SEC. 308. CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING AND EVALUATION.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall carry out the responsibilities under section 302(4) through both extramural and intramural programs.

(b) EXTRAMURAL PROGRAMS.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate;

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 302(14); and

(C) distribute funds through grants, cooperative agreements, and contracts.

(2) UNIVERSITY-BASED CENTERS FOR HOMELAND SECURITY.—

(A) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish within 1 year of the date of enactment of this Act a university-based center or centers for homeland security. The purpose of this center or centers shall be to establish a coordinated, university-based system to enhance the Nation's homeland security.

(B) CRITERIA FOR SELECTION.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider the following criteria:

(i) Demonstrated expertise in the training of first responders.

(ii) Demonstrated expertise in responding to incidents involving weapons of mass destruction and biological warfare.

(iii) Demonstrated expertise in emergency medical services.

(iv) Demonstrated expertise in chemical, biological, radiological, and nuclear countermeasures.

(v) Strong affiliations with animal and plant diagnostic laboratories.

(vi) Demonstrated expertise in food safety.

(vii) Affiliation with Department of Agriculture laboratories or training centers.

(viii) Demonstrated expertise in water and wastewater operations.

(ix) Demonstrated expertise in port and waterway security.

(x) Demonstrated expertise in multi-modal transportation.

(xi) Nationally recognized programs in information security.

(xii) Nationally recognized programs in engineering.

(xiii) Demonstrated expertise in educational outreach and technical assistance.

(xiv) Demonstrated expertise in border transportation and security.

(xv) Demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.

(C) DISCRETION OF SECRETARY.—The Secretary shall have the discretion to establish such centers and to consider additional criteria as necessary to meet the evolving needs of homeland security and shall report to Congress concerning the implementation of this paragraph as necessary.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

(c) INTRAMURAL PROGRAMS.—

(1) CONSULTATION.—In carrying out the duties under section 302, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of the Federal Government, whether operated by a contractor or the Government.

(2) LABORATORIES.—The Secretary, acting through the Under Secretary for Science and Technology, may establish a headquarters laboratory for the Department at any laboratory or site and may establish additional laboratory units at other laboratories or sites.

(3) CRITERIA FOR HEADQUARTERS LABORATORY.—If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

(A) Establish criteria for the selection of the headquarters laboratory in consultation with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

(C) Evaluate all appropriate laboratories or sites against the criteria.

(D) Select a laboratory or site on the basis of the criteria.

(E) Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

(4) LIMITATION ON OPERATION OF LABORATORIES.—No laboratory shall begin operating as the headquarters laboratory of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) AUTHORITY TO UTILIZE NATIONAL LABORATORIES AND SITES.—

(1) IN GENERAL.—In carrying out the missions of the Department, the Secretary may utilize the Department of Energy national laboratories and sites through any 1 or more of the following methods, as the Secretary considers appropriate:

(A) A joint sponsorship arrangement referred to in subsection (b).

(B) A direct contract between the Department and the applicable Department of Energy laboratory or site, subject to subsection (c).

(C) Any ''work for others'' basis made available by that laboratory or site.

(D) Any other method provided by law.

(2) ACCEPTANCE AND PERFORMANCE BY LABS AND SITES.—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept and perform work for the Secretary, consistent with resources provided, and perform such work on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

(b) JOINT SPONSORSHIP ARRANGEMENTS.—

(1) LABORATORIES.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(2) SITES.—The Department may be a joint sponsor of a Department of Energy site in

the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(3) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement referred to in paragraph (1) or (2).

(4) LEAD AGENT.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship arrangement under this subsection between the Department and a Department of Energy national laboratory or site.

(5) FEDERAL ACQUISITION REGULATION.—Any work performed by a Department of Energy national laboratory or site under a joint sponsorship arrangement under this subsection shall comply with the policy on the use of federally funded research and development centers under the Federal Acquisition Regulations.

(6) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under a joint sponsorship arrangement under this subsection under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of this subsection.

(c) SEPARATE CONTRACTING.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through direct contracts with the operator of a national laboratory or site of the Department of Energy, the Secretary of Homeland Security and the Secretary of Energy shall ensure that direct contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the direct contracts of the Department of Energy with such operator.

(d) AUTHORITY WITH RESPECT TO COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS AND LICENSING AGREEMENTS.—In connection with any utilization of the Department of Energy national laboratories and sites under this section, the Secretary may permit the director of any such national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of that Act (15 U.S.C. 3710, 3710a).

(e) REIMBURSEMENT OF COSTS.—In the case of an activity carried out by the operator of a Department of Energy national laboratory or site in connection with any utilization of such laboratory or site under this section, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

(f) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy unless such activities support the missions of the Department of Homeland Security.

(g) OFFICE FOR NATIONAL LABORATORIES.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites under this section in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(h) DEPARTMENT OF ENERGY COORDINATION ON HOMELAND SECURITY RELATED RESEARCH.—The Secretary of Energy shall ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort and maximize the effective application of Federal budget resources.

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—In accordance with title XV, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) DIRECTION OF ACTIVITIES.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) NOTIFICATION.—

(1) IN GENERAL.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) LIMITATION.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 1501.

SEC. 311. HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established within the Department a Homeland Security Science and Technology Advisory Committee (in this section referred to as the ''Advisory Committee''). The Advisory Committee shall make recommendations with respect to the activities of the Under Secretary for Science and Technology, including identifying research areas of potential importance to the security of the Nation.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 20 members appointed by the Under Secretary for Science and Technology, which shall include emergency first-responders or representatives of organizations or associations of emergency first-responders. The Advisory Committee shall also include representatives of citizen groups, including economically disadvantaged communities. The individuals appointed as members of the Advisory Committee—

(A) shall be eminent in fields such as emergency response, research, engineering, new product development, business, and management consulting;

(B) shall be selected solely on the basis of established records of distinguished service;

(C) shall not be employees of the Federal Government; and

(D) shall be so selected as to provide representation of a cross-section of the research, development, demonstration, and deployment activities supported by the Under Secretary for Science and Technology.

(2) NATIONAL RESEARCH COUNCIL.—The Under Secretary for Science and Technology may enter into an arrangement for the National Research Council to select members of the Advisory Committee, but only if the panel used by the National Research Council reflects the representation described in paragraph (1).

(c) TERMS OF OFFICE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term of office of each member of the Advisory Committee shall be 3 years.

(2) ORIGINAL APPOINTMENTS.—The original members of the Advisory Committee shall be appointed to three classes of three members each. One class shall have a term of 1 year, 1 a term of 2 years, and the other a term of 3 years.

(3) VACANCIES.—A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(d) ELIGIBILITY.—A person who has completed two consecutive full terms of service on the Advisory Committee shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

(e) MEETINGS.—The Advisory Committee shall meet at least quarterly at the call of the Chair or whenever one-third of the members so request in writing. Each member shall be given appropriate notice of the call of each meeting, whenever possible not less than 15 days before the meeting.

(f) QUORUM.—A majority of the members of the Advisory Committee not having a conflict of interest in the matter being considered by the Advisory Committee shall constitute a quorum.

(g) CONFLICT OF INTEREST RULES.—The Advisory Committee shall establish rules for determining when 1 of its members has a conflict of interest in a matter being considered by the Advisory Committee.

(h) REPORTS.—

(1) ANNUAL REPORT.—The Advisory Committee shall render an annual report to the Under Secretary for Science and Technology for transmittal to Congress on or before January 31 of each year. Such report shall describe the activities and recommendations of the Advisory Committee during the previous year.

(2) ADDITIONAL REPORTS.—The Advisory Committee may render to the Under Secretary for transmittal to Congress such additional reports on specific policy matters as it considers appropriate.

(i) FACA EXEMPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

(j) TERMINATION.—The Department of Homeland Security Science and Technology Advisory Committee shall terminate 3 years after the effective date of this Act.

SEC. 312. HOMELAND SECURITY INSTITUTE.

(a) ESTABLISHMENT.—The Secretary shall establish a federally funded research and development center to be known as the

''Homeland Security Institute'' (in this section referred to as the ''Institute'').

(b) ADMINISTRATION.—The Institute shall be administered as a separate entity by the Secretary.

(c) DUTIES.—The duties of the Institute shall be determined by the Secretary, and may include the following:

(1) Systems analysis, risk analysis, and simulation and modeling to determine the vulnerabilities of the Nation's critical infrastructures and the effectiveness of the systems deployed to reduce those vulnerabilities.

(2) Economic and policy analysis to assess the distributed costs and benefits of alternative approaches to enhancing security.

(3) Evaluation of the effectiveness of measures deployed to enhance the security of institutions, facilities, and infrastructure that may be terrorist targets.

(4) Identification of instances when common standards and protocols could improve the interoperability and effective utilization of tools developed for field operators and first responders.

(5) Assistance for Federal agencies and departments in establishing testbeds to evaluate the effectiveness of technologies under development and to assess the appropriateness of such technologies for deployment.

(6) Design of metrics and use of those metrics to evaluate the effectiveness of homeland security programs throughout the Federal Government, including all national laboratories.

(7) Design of and support for the conduct of homeland security-related exercises and simulations.

(8) Creation of strategic technology development plans to reduce vulnerabilities in the Nation's critical infrastructure and key resources.

(d) CONSULTATION ON INSTITUTE ACTIVITIES.—In carrying out the duties described in subsection (c), the Institute shall consult widely with representatives from private industry, institutions of higher education, nonprofit institutions, other Government agencies, and federally funded reseach and development centers.

(e) USE OF CENTERS.—The Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

(f) ANNUAL REPORTS.—The Institute shall transmit to the Secretary and Congress an annual report on the activities of the Institute under this section.

(g) TERMINATION.—The Homeland Security Institute shall terminate 3 years after the effective date of this Act.

SEC. 313. TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish and promote a program to encourage technological innovation in facilitating the mission of the Department (as described in section 101).

(b) ELEMENTS OF PROGRAM.—The program described in subsection (a) shall include the following components:

(1) The establishment of a centralized Federal clearinghouse for information relating to technologies that would further the mission of the Department for dissemination, as appropriate, to Federal, State, and local government and private sector entities for additional review, purchase, or use.

(2) The issuance of announcements seeking unique and innovative technologies to advance the mission of the Department.

(3) The establishment of a technical assistance team to assist in screening, as appropriate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to assess the feasibility, scientific and technical merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

(c) MISCELLANEOUS PROVISIONS.—

(1) IN GENERAL.—Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.

(2) CERTAIN PROPOSALS.—The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

(3) COORDINATION.—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 441 takes effect.

(4) Establishing and administering rules, in accordance with section 428, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

(5) Establishing national immigration enforcement policies and priorities.

(6) Except as provided in subtitle C, administering the customs laws of the United States.

(7) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 421.

(8) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

SEC. 403. FUNCTIONS TRANSFERRED.

In accordance with title XV (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto;

(4) the Federal Law Enforcement Training Center of the Department of the Treasury; and

(5) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

Subtitle B—United States Customs Service

SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.

(a) ESTABLISHMENT.—There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

(b) COMMISSIONER OF CUSTOMS.—

(1) IN GENERAL.—There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by striking

''Commissioner of Customs, Department of the Treasury''

and inserting

''Commissioner of Customs, Department of Homeland Security.''.

(3) CONTINUATION IN OFFICE.—The individual serving as the Commissioner of Customs on the day before the effective date of this Act may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).

SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.

(a) RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.—

(1) RETENTION OF AUTHORITY.—Notwithstanding section 403(a)(1), authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) STATUTES.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66);

section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) MAINTENANCE OF CUSTOMS REVENUE FUNCTIONS.—

(1) MAINTENANCE OF FUNCTIONS.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 411) on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) FUNCTIONS.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) NEW PERSONNEL.—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to work with personnel of the Department in performing customs revenue functions.

SEC. 413. PRESERVATION OF CUSTOMS FUNDS.

Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

SEC. 414. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request for the United States Customs Service.

SEC. 415. DEFINITION.

In this subtitle, the term ''customs revenue function'' means the following:

(1) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 416. GAO REPORT TO CONGRESS.

Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

SEC. 417. ALLOCATION OF RESOURCES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary shall ensure that adequate staffing is provided to assure that levels of customs revenue services provided on the day before the effective date of this Act shall continue to be provided.

(b) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would—

(1) result in any significant reduction in customs revenue services, including hours of operation, provided at any office within the Department or any port of entry;

(2) eliminate or relocate any office of the Department which provides customs revenue services; or

(3) eliminate any port of entry.

(c) DEFINITION.—In this section, the term ''customs revenue services'' means those customs revenue functions described in paragraphs (1) through (6) and paragraph (8) of section 415.

SEC. 418. REPORTS TO CONGRESS.

(a) CONTINUING REPORTS.—The United States Customs Service shall, on and after the effective date of this Act, continue to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate any report required, on the day before such the effective date of this Act, to be so submitted under any provision of law.

(b) REPORT ON CONFORMING AMENDMENTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under section 412(a)(2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

SEC. 419. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).'';

(2) in paragraph (4), by striking ''(other than the excess fees determined by the Secretary under paragraph (5))''; and

(3) by striking paragraph (5) and inserting the following:

''(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

''(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

''(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.''.

(b) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107–210) is amended by striking paragraph (2).

Subtitle C—Miscellaneous Provisions

SEC. 421. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) TRANSFER OF AGRICULTURAL IMPORT AND ENTRY INSPECTION FUNCTIONS.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) COVERED ANIMAL AND PLANT PROTECTION LAWS.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading ''Bureau of Animal Industry'' in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) Section 1 of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107–171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) EXCLUSION OF QUARANTINE ACTIVITIES.—For purposes of this section, the term ''functions'' does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (a) under a law specified in subsection (b).

(3) EFFECTIVE ADMINISTRATION.—The Secretary, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred pursuant to subsection (a).

(e) TRANSFER AGREEMENT.—

(1) AGREEMENT REQUIRED; REVISION.—Before the end of the transition period, as defined in section 1501, the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) REQUIRED TERMS.—The agreement required by this subsection shall specifically address the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Secretary to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(3) COOPERATION AND RECIPROCITY.—The Secretary of Agriculture and the Secretary may include as part of the agreement the following:

(A) Authority for the Secretary to perform functions delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(B) Authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Out of funds collected by fees authorized under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall transfer, from time to time in accordance with the agreement under subsection (e), to the Secretary funds for activities carried out by the Secretary for which such fees were collected.

(2) LIMITATION.—The proportion of fees collected pursuant to such sections that are transferred to the Secretary under this subsection may not exceed the proportion of the costs incurred by the Secretary to all costs incurred to carry out activities funded by such fees.

(g) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period defined under section 1501, the Secretary of Agriculture shall transfer to the Secretary not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) PROTECTION OF INSPECTION ANIMALS.—Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting ''or the Department of Homeland Security'' after ''Department of Agriculture''; and

(B) by inserting ''or the Secretary of Homeland Security'' after ''Secretary of Agriculture'';

(2) by striking ''Secretary'' each place it appears (other than in sections 501(a) and 501(e)) and inserting ''Secretary concerned''; and

(3) by adding at the end of section 501 the following new subsection:

''(e) SECRETARY CONCERNED DEFINED.—In this title, the term 'Secretary concerned' means—

''(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

''(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.''.

SEC. 422. FUNCTIONS OF ADMINISTRATOR OF GENERAL SERVICES.

(a) OPERATION, MAINTENANCE, AND PROTECTION OF FEDERAL BUILDINGS AND GROUNDS.—Nothing in this Act may be construed to affect the functions or authorities of the Administrator of General Services with respect to the operation, maintenance, and protection of buildings and grounds owned or occupied by the Federal Government and under the jurisdiction, custody, or control of the Administrator. Except for the law enforcement and related security functions transferred under section 403(3), the Administrator shall retain all powers, functions, and authorities vested in the Administrator under chapter 10 of title 40, United States Code, and other provisions of law that are necessary for the operation, maintenance, and protection of such buildings and grounds.

(b) COLLECTION OF RENTS AND FEES; FEDERAL BUILDINGS FUND.—

(1) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(A) to direct the transfer of, or affect, the authority of the Administrator of General Services to collect rents and fees, including fees collected for protective services; or

(B) to authorize the Secretary or any other official in the Department to obligate amounts in the Federal Buildings Fund established by section 490(f) of title 40, United States Code.

(2) USE OF TRANSFERRED AMOUNTS.—Any amounts transferred by the Administrator of General Services to the Secretary out of rents and fees collected by the Administrator shall be used by the Secretary solely for the protection of buildings or grounds owned or occupied by the Federal Government.

SEC. 423. FUNCTIONS OF TRANSPORTATION SECURITY ADMINISTRATION.

(a) CONSULTATION WITH FEDERAL AVIATION ADMINISTRATION.—The Secretary and other officials in the Department shall consult with the Administrator of the Federal Aviation Administration before taking any action that might affect aviation safety, air carrier operations, aircraft airworthiness, or the use of airspace. The Secretary shall establish a liaison office within the Department for the purpose of consulting with the Administrator of the Federal Aviation Administration.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report containing a plan for complying with the requirements of section 44901(d) of title 49, United States Code, as amended by section 425 of this Act.

(c) LIMITATIONS ON STATUTORY CONSTRUCTION.—

(1) GRANT OF AUTHORITY.—Nothing in this Act may be construed to vest in the Secretary or any other official in the Department any authority over transportation security that is not vested in the Under Secretary of Transportation for Security, or in the Secretary of Transportation under chapter 449 of title 49, United States Code, on the day before the date of enactment of this Act.

(2) OBLIGATION OF AIP FUNDS.—Nothing in this Act may be construed to authorize the Secretary or any other official in the Department to obligate amounts made available under section 48103 of title 49, United States Code.

SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, and subject to subsection (b), the Transportation Security Administration shall be maintained as a distinct entity within the Department under the Under Secretary for Border Transportation and Security.

(b) SUNSET.—Subsection (a) shall cease to apply 2 years after the date of enactment of this Act.

SEC. 425. EXPLOSIVE DETECTION SYSTEMS.

Section 44901(d) of title 49, United States Code, is amended by adding at the end the following:

''(2) DEADLINE.—

''(A) IN GENERAL.—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

''(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

''(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

''(B) CRITERIA FOR DETERMINATION.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

''(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

''(ii) the need to ensure that such installations and modifications are effective; and

''(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

''(C) RESPONSE.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

''(D) AIRPORT EFFORT REQUIRED.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

''(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

''(ii) make security projects a priority for the obligation or expenditure of funds made

available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

''(3) REPORTS.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.''.

SEC. 426. TRANSPORTATION SECURITY.

(a) TRANSPORTATION SECURITY OVERSIGHT BOARD.—

(1) ESTABLISHMENT.—Section 115(a) of title 49, United States Code, is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(2) MEMBERSHIP.—Section 115(b)(1) of title 49, United States Code, is amended—

(A) by striking subparagraph (G);

(B) by redesignating subparagraphs (A) through (F) as subparagraphs (B) through (G), respectively; and

(C) by inserting before subparagraph (B) (as so redesignated) the following:

''(A) The Secretary of Homeland Security, or the Secretary's designee.''.

(3) CHAIRPERSON.—Section 115(b)(2) of title 49, United States Code, is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security''.

(b) APPROVAL OF AIP GRANT APPLICATIONS FOR SECURITY ACTIVITIES.—Section 47106 of title 49, United States Code, is amended by adding at the end the following:

''(g) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.''.

SEC. 427. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term ''affected agency'' means—

(1) the Department;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary.

(b) COORDINATION.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall ensure that appropriate information (as determined by the Secretary) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

SEC. 428. VISA ISSUANCE.

(a) DEFINITION.—In this subsection, the term ''consular office'' has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, and shall have the authority to refuse visas in accordance with law and to develop programs of homeland security training for consular officers (in addition to consular training provided by the Secretary of State), which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(2) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c) AUTHORITY OF THE SECRETARY OF STATE.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) CONSTRUCTION REGARDING AUTHORITY.—Nothing in this section, consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law, shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country adoption).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104–114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999); 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106–553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681–865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—

(1) IN GENERAL.—Nothing in this section may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(2) CONSTRUCTION REGARDING DELEGATION OF AUTHORITY.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)), consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law.

(e) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) FUNCTIONS.—Employees assigned under paragraph (1) shall perform the following functions:

(A) Provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(B) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(C) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) EVALUATION OF CONSULAR OFFICERS.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) REPORT.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) TRAINING AND HIRING.—

(A) IN GENERAL.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, and fraud detection techniques, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

(7) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(8) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(f) NO CREATION OF PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

(g) STUDY REGARDING USE OF FOREIGN NATIONALS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct a study of the role of foreign nationals in the granting or refusal of visas and other documents authorizing entry of aliens into the United States. The study shall address the following:

(A) The proper role, if any, of foreign nationals in the process of rendering decisions on such grants and refusals.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the use of foreign nationals.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report containing the findings of the study conducted under paragraph (1) to the Committee on the Judiciary, the Committee on International Relations, and the Committee on Government Reform of the House of Representatives, and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Government Affairs of the Senate.

(h) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report on how the provisions of this section will affect procedures for the issuance of student visas.

(i) VISA ISSUANCE PROGRAM FOR SAUDI ARABIA.—Notwithstanding any other provision of law, after the date of the enactment of this Act all third party screening programs in Saudi Arabia shall be terminated. On-site personnel of the Department of Homeland Security shall review all visa applications prior to adjudication.

SEC. 429. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) IN GENERAL.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) PROHIBITION.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) IN GENERAL.—The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.

(b) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.

(c) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(3) directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

(4) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(5) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(6) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(7) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the Directorate; and

(8) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) FISCAL YEARS 2003 AND 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

Subtitle D—Immigration Enforcement Functions

SEC. 441. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the Under Secretary for Border and Transportation Security all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(1) The Border Patrol program.

(2) The detention and removal program.

(3) The intelligence program.

(4) The investigations program.

(5) The inspections program.

SEC. 442. ESTABLISHMENT OF BUREAU OF BORDER SECURITY.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department of Homeland Security a bureau to be known as the ''Bureau of Border Security''.

(2) ASSISTANT SECRETARY.—The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security, who—

(A) shall report directly to the Under Secretary for Border and Transportation Security; and

(B) shall have a minimum of 5 years professional experience in law enforcement, and a minimum of 5 years of management experience.

(3) FUNCTIONS.—The Assistant Secretary of the Bureau of Border Security—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the Under Secretary for Border and Transportation Security by section 441 and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

(ii) otherwise vested in the Assistant Secretary by law;

(B) shall oversee the administration of such policies; and

(C) shall advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Border Security that may affect the Bureau of Citizenship and Immigration Services established under subtitle E, including potentially conflicting policies or operations.

(4) PROGRAM TO COLLECT INFORMATION RELATING TO FOREIGN STUDENTS.—The Assistant Secretary of the Bureau of Border Security shall be responsible for administering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

(5) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the date on which the transfer of functions specified under section 441 takes effect,

the Assistant Secretary of the Bureau of Border Security shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one local office of such bureau.

(B) REPORT.—Not later than 2 years after the date on which the transfer of functions specified under section 441 takes effect, the Secretary shall submit a report to the Congress on the implementation of such program.

(b) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Border Security.

(2) FUNCTIONS.—In consultation with Bureau of Border Security personnel in local offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration enforcement issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services (established under subtitle E), as appropriate.

(c) LEGAL ADVISOR.—There shall be a principal legal advisor to the Assistant Secretary of the Bureau of Border Security. The legal advisor shall provide specialized legal advice to the Assistant Secretary of the Bureau of Border Security and shall represent the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review.

SEC. 443. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

The Under Secretary for Border and Transportation Security shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Border Security that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Border Security and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Border Security.

SEC. 444. EMPLOYEE DISCIPLINE.

The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.

SEC. 445. REPORT ON IMPROVING ENFORCEMENT FUNCTIONS.

(a) IN GENERAL.—The Secretary, not later than 1 year after being sworn into office, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 441 takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such functions.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Secretary of State, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Director of the Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

SEC. 446. SENSE OF CONGRESS REGARDING CONSTRUCTION OF FENCING NEAR SAN DIEGO, CALIFORNIA.

It is the sense of the Congress that completing the 14-mile border fence project required to be carried out under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) should be a priority for the Secretary.

Subtitle E—Citizenship and Immigration Services

SEC. 451. ESTABLISHMENT OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department a bureau to be known as the ''Bureau of Citizenship and Immigration Services''.

(2) DIRECTOR.—The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services, who—

(A) shall report directly to the Deputy Secretary;

(B) shall have a minimum of 5 years of management experience; and

(C) shall be paid at the same level as the Assistant Secretary of the Bureau of Border Security.

(3) FUNCTIONS.—The Director of the Bureau of Citizenship and Immigration Services—

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this Act or otherwise vested in the Director by law;

(B) shall oversee the administration of such policies;

(C) shall advise the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security of the Department, including potentially conflicting policies or operations;

(D) shall establish national immigration services policies and priorities;

(E) shall meet regularly with the Ombudsman described in section 452 to correct serious service problems identified by the Ombudsman; and

(F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to Congress within 3 months after its submission to Congress.

(4) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 455, the Director of the Bureau of Citizenship and Immigration Services shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one field office and one service center of such bureau.

(B) REPORT.—Not later than 2 years after the effective date specified in section 455, the Secretary shall submit a report to Congress on the implementation of such program.

(5) PILOT INITIATIVES FOR BACKLOG ELIMINATION.—The Director of the Bureau of Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such applications from recurring, in accordance with section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)). Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

(b) TRANSFER OF FUNCTIONS FROM COMMISSIONER.—In accordance with title XV (relating to transition provisions), there are transferred from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:

(1) Adjudications of immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.

(c) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—In consultation with Bureau of Citizenship and Immigration Services personnel in field offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration services issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Border Security of the Department.

(d) LEGAL ADVISOR.—

(1) IN GENERAL.—There shall be a principal legal advisor to the Director of the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The legal advisor shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Director of the Bureau of Citizenship and Immigration Services with respect to legal matters affecting the Bureau of Citizenship and Immigration Services; and

(B) representing the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review.

(e) BUDGET OFFICER.—

(1) IN GENERAL.—There shall be a Budget Officer for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—

(A) IN GENERAL.—The Budget Officer shall be responsible for—

(i) formulating and executing the budget of the Bureau of Citizenship and Immigration Services;

(ii) financial management of the Bureau of Citizenship and Immigration Services; and

(iii) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services.

(f) CHIEF OF OFFICE OF CITIZENSHIP.—

(1) IN GENERAL.—There shall be a position of Chief of the Office of Citizenship for the

Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

SEC. 452. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN.

(a) IN GENERAL.—Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the ''Ombudsman''). The Ombudsman shall report directly to the Deputy Secretary. The Ombudsman shall have a background in customer service as well as immigration law.

(b) FUNCTIONS.—It shall be the function of the Ombudsman—

(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2).

(c) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

(A) shall identify the recommendations the Office of the Ombudsman has made on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior comment or amendment from the Secretary, Deputy Secretary, Director of the Bureau of Citizenship and Immigration Services, or any other officer or employee of the Department or the Office of Management and Budget.

(d) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(e) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman's responsibilities under this subsection.

(f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such director by the Ombudsman within 3 months after submission to such director.

(g) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department and report directly to Congress through the Ombudsman; and

(D) at the local ombudsman's discretion, may determine not to disclose to the Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the Ombudsman shall maintain a phone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

SEC. 453. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

(a) IN GENERAL.—The Director of the Bureau of Citizenship and Immigration Services shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Citizenship and Immigration Services and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Citizenship and Immigration Services.

(b) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with subsection (a)(2) with respect to a decision of the Bureau of Citizenship and Immigration Services, or any of its components, consideration shall be given to—

(1) the accuracy of the findings of fact and conclusions of law used in rendering the decision;

(2) any fraud or misrepresentation associated with the decision; and

(3) the efficiency with which the decision was rendered.

SEC. 454. EMPLOYEE DISCIPLINE.

The Director of the Bureau of Citizenship and Immigration Services may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Citizenship and Immigration Services who willfully deceives Congress or agency leadership on any matter.

SEC. 455. EFFECTIVE DATE.

Notwithstanding section 4, sections 451 through 456, and the amendments made by such sections, shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 456. TRANSITION.

(a) REFERENCES.—With respect to any function transferred by this subtitle to, and exercised on or after the effective date specified in section 455 by, the Director of the Bureau of Citizenship and Immigration Services, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Bureau of Citizenship and Immigration Services; or

(2) to such component is deemed to refer to the Bureau of Citizenship and Immigration Services.

(b) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this subtitle may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in section 455.

(2) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this subtitle (and functions that the Secretary determines are properly related to the functions of the Bureau of Citizenship and Immigration Services), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this subtitle, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Bureau of

Citizenship and Immigration Services for allocation to the appropriate component of the Department. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated. The Secretary shall have the right to adjust or realign transfers of funds and personnel effected pursuant to this subtitle for a period of 2 years after the effective date specified in section 455.

SEC. 457. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking ''services, including the costs of similar services provided without charge to asylum applicants or other immigrants.'' and inserting ''services.''.

SEC. 458. BACKLOG ELIMINATION.

Section 204(a)(1) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)(1)) is amended by striking ''not later than one year after the date of enactment of this Act;'' and inserting ''1 year after the date of the enactment of the Homeland Security Act of 2002;''.

SEC. 459. REPORT ON IMPROVING IMMIGRATION SERVICES.

(a) IN GENERAL.—The Secretary, not later than 1 year after the effective date of this Act, shall submit to the Committees on the Judiciary and Appropriations of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Citizenship and Immigration Services, after the transfer of functions specified in this subtitle takes effect, will complete efficiently, fairly, and within a reasonable time, the adjudications described in paragraphs (1) through (5) of section 451(b).

(b) CONTENTS.—For each type of adjudication to be undertaken by the Director of the Bureau of Citizenship and Immigration Services, the report shall include the following:

(1) Any potential savings of resources that may be implemented without affecting the quality of the adjudication.

(2) The goal for processing time with respect to the application.

(3) Any statutory modifications with respect to the adjudication that the Secretary considers advisable.

(c) CONSULTATION.—In carrying out subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Labor, the Assistant Secretary of the Bureau of Border Security of the Department, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process for applying for and making adjudications described in section 451(b) and related processes.

SEC. 460. REPORT ON RESPONDING TO FLUCTUATING NEEDS.

Not later than 30 days after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on changes in law, including changes in authorizations of appropriations and in appropriations, that are needed to permit the Immigration and Naturalization Service, and, after the transfer of functions specified in this subtitle takes effect, the Bureau of Citizenship and Immigration Services of the Department, to ensure a prompt and timely response to emergent, unforeseen, or impending changes in the number of applications for immigration benefits, and otherwise to ensure the accommodation of changing immigration service needs.

SEC. 461. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF TRACKING SYSTEM.—The Secretary, not later than 1 year after the effective date of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Secretary for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) FEASIBILITY STUDY FOR ONLINE FILING AND IMPROVED PROCESSING.—

(1) ONLINE FILING.—The Secretary, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

(2) REPORT.—A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the effective date of this Act.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish, not later than 60 days after the effective date of this Act, an advisory committee (in this section referred to as the ''Technology Advisory Committee'') to assist the Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the House of Representatives and the Senate.

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

SEC. 462. CHILDREN'S AFFAIRS.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration laws of the United States with respect to the care of unaccompanied alien children that were vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (d).

(b) FUNCTIONS.—

(1) IN GENERAL.—Pursuant to the transfer made by subsection (a), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child;

(C) making placement determinations for all unaccompanied alien children who are in Federal custody by reason of their immigration status;

(D) implementing the placement determinations;

(E) implementing policies with respect to the care and placement of unaccompanied alien children;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien children;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien children reside;

(H) reuniting unaccompanied alien children with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children;

(J) maintaining statistical information and other data on unaccompanied alien children for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody by reason of his or her immigration status;

(iii) information relating to the child's placement, removal, or release from each facility in which the child has resided;

(iv) in any case in which the child is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the child is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien children; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(2) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of the Bureau of Citizenship and Immigration Services, and the Assistant Secretary of the Bureau of Border Security to ensure that such determinations ensure that unaccompanied alien children described in such subparagraph—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity; and

(iii) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(B) shall not release such children upon their own recognizance.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to use the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien children.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to transfer the

responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.

(d) EFFECTIVE DATE.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

(e) REFERENCES.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(f) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (d).

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 1512 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this section, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) DEFINITIONS.—As used in this section—

(1) the term ''placement'' means the placement of an unaccompanied alien child in either a detention facility or an alternative to such a facility; and

(2) the term ''unaccompanied alien child'' means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

Subtitle F—General Immigration Provisions

SEC. 471. ABOLISHMENT OF INS.

(a) IN GENERAL.—Upon completion of all transfers from the Immigration and Naturalization Service as provided for by this Act, the Immigration and Naturalization Service of the Department of Justice is abolished.

(b) PROHIBITION.—The authority provided by section 1502 may be used to reorganize functions or organizational units within the Bureau of Border Security or the Bureau of Citizenship and Immigration Services, but may not be used to recombine the two bureaus into a single agency or otherwise to combine, join, or consolidate functions or organizational units of the two bureaus with each other.

SEC. 472. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

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

(1) the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) has completed at least 3 years of current continuous service with 1 or more covered entities; and

(B) is serving under an appointment without time limitation;

but does not include any person under subparagraphs (A)–(G) of section 663(a)(2) of Public Law 104–208 (5 U.S.C. 5597 note);

(2) the term ''covered entity'' means—

(A) the Immigration and Naturalization Service;

(B) the Bureau of Border Security of the Department of Homeland Security; and

(C) the Bureau of Citizenship and Immigration Services of the Department of Homeland Security; and

(3) the term ''transfer date'' means the date on which the transfer of functions specified under section 441 takes effect.

(b) STRATEGIC RESTRUCTURING PLAN.—Before the Attorney General or the Secretary obligates any resources for voluntary separation incentive payments under this section, such official shall submit to the appropriate committees of Congress a strategic restructuring plan, which shall include—

(1) an organizational chart depicting the covered entities after their restructuring pursuant to this Act;

(2) a summary description of how the authority under this section will be used to help carry out that restructuring; and

(3) the information specified in section 663(b)(2) of Public Law 104–208 (5 U.S.C. 5597 note).

As used in the preceding sentence, the ''appropriate committees of Congress'' are the Committees on Appropriations, Government Reform, and the Judiciary of the House of Representatives, and the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate.

(c) AUTHORITY.—The Attorney General and the Secretary may, to the extent necessary to help carry out their respective strategic restructuring plan described in subsection (b), make voluntary separation incentive payments to employees. Any such payment—

(1) shall be paid to the employee, in a lump sum, after the employee has separated from service;

(2) shall be paid from appropriations or funds available for the payment of basic pay of the employee;

(3) shall be equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(B) an amount not to exceed $25,000, as determined by the Attorney General or the Secretary;

(4) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before the end of—

(A) the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(B) the 3-year period beginning on the date of the enactment of this Act,

whichever occurs first;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any payments which it is otherwise required to make, the Department of Justice and the Department of Homeland Security shall, for each fiscal year with respect to which it makes any voluntary separation incentive payments under this section, remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund the amount required under paragraph (2).

(2) AMOUNT REQUIRED.—The amount required under this paragraph shall, for any fiscal year, be the amount under subparagraph (A) or (B), whichever is greater.

(A) FIRST METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additional costs to the retirement systems under title 5, United States Code (payable out of the Civil Service Retirement and Disability Fund) resulting from the voluntary separation of the employees described in paragraph (3), as determined under regulations of the Office of Personnel Management.

(B) SECOND METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

(3) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subsection relates.

(4) FINAL BASIC PAY DEFINED.—In this subsection, the term ''final basic pay'' means, with respect to an employee, the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who receives a voluntary separation incentive payment under this section and who, within 5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Deputy Secretary or the Under Secretary for Border and Transportation Security (for transfer to the appropriate component of the Department of Homeland Security, if necessary).

(f) EFFECT ON EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in any covered entity.

(2) USE OF VOLUNTARY SEPARATIONS.—A covered entity may redeploy or use the full-

time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 473. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT RELATING TO DISCIPLINARY ACTION.

(a) IN GENERAL.—The Attorney General and the Secretary may each, during a period ending not later than 5 years after the date of the enactment of this Act, conduct a demonstration project for the purpose of determining whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management.

(b) SCOPE.—A demonstration project under this section—

(1) may not cover any employees apart from those employed in or under a covered entity; and

(2) shall not be limited by any provision of chapter 43, 75, or 77 of title 5, United States Code.

(c) PROCEDURES.—Under the demonstration project—

(1) the use of alternative means of dispute resolution (as defined in section 571 of title 5, United States Code) shall be encouraged, whenever appropriate; and

(2) each covered entity under the jurisdiction of the official conducting the project shall be required to provide for the expeditious, fair, and independent review of any action to which section 4303 or subchapter II of chapter 75 of such title 5 would otherwise apply (except an action described in section 7512(5) of such title 5).

(d) ACTIONS INVOLVING DISCRIMINATION.—Notwithstanding any other provision of this section, if, in the case of any matter described in section 7702(a)(1)(B) of title 5, United States Code, there is no judicially reviewable action under the demonstration project within 120 days after the filing of an appeal or other formal request for review (referred to in subsection (c)(2)), an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 7702(e)(1) of such title 5 (in the matter following subparagraph (C) thereof).

(e) CERTAIN EMPLOYEES.—Employees shall not be included within any project under this section if such employees are—

(1) neither managers nor supervisors; and

(2) within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code.

Notwithstanding the preceding sentence, an aggrieved employee within a unit (referred to in paragraph (2)) may elect to participate in a complaint procedure developed under the demonstration project in lieu of any negotiated grievance procedure and any statutory procedure (as such term is used in section 7121 of such title 5).

(f) REPORTS.—The General Accounting Office shall prepare and submit to the Committees on Government Reform and the Judiciary of the House of Representatives and the Committees on Governmental Affairs and the Judiciary of the Senate periodic reports on any demonstration project conducted under this section, such reports to be submitted after the second and fourth years of its operation. Upon request, the Attorney General or the Secretary shall furnish such information as the General Accounting Office may require to carry out this subsection.

(g) DEFINITION.—In this section, the term ''covered entity'' has the meaning given such term in section 472(a)(2).

SEC. 474. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the missions of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services are equally important and, accordingly, they each should be adequately funded; and

(2) the functions transferred under this subtitle should not, after such transfers take effect, operate at levels below those in effect prior to the enactment of this Act.

SEC. 475. DIRECTOR OF SHARED SERVICES.

(a) IN GENERAL.—Within the Office of Deputy Secretary, there shall be a Director of Shared Services.

(b) FUNCTIONS.—The Director of Shared Services shall be responsible for the coordination of resources for the Bureau of Border Security and the Bureau of Citizenship and Immigration Services, including—

(1) information resources management, including computer databases and information technology;

(2) records and file management; and

(3) forms management.

SEC. 476. SEPARATION OF FUNDING.

(a) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other deposits available for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) SEPARATE BUDGETS.—To ensure that the Bureau of Citizenship and Immigration Services and the Bureau of Border Security are funded to the extent necessary to fully carry out their respective functions, the Director of the Office of Management and Budget shall separate the budget requests for each such entity.

(c) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under subsection (a) that is for the bureau with jurisdiction over the function to which the fee relates.

(d) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security for purposes not authorized by section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

SEC. 477. REPORTS AND IMPLEMENTATION PLANS.

(a) DIVISION OF FUNDS.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) DIVISION OF PERSONNEL.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division of personnel between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(c) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—The Secretary, not later than 120 days after the effective date of this Act, and every 6 months thereafter until the termination of fiscal year 2005, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate an implementation plan to carry out this Act.

(2) CONTENTS.—The implementation plan should include details concerning the separation of the Bureau of Citizenship and Immigration Services and the Bureau of Border Security, including the following:

(A) Organizational structure, including the field structure.

(B) Chain of command.

(C) Procedures for interaction among such bureaus.

(D) Fraud detection and investigation.

(E) The processing and handling of removal proceedings, including expedited removal and applications for relief from removal.

(F) Recommendations for conforming amendments to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(G) Establishment of a transition team.

(H) Methods to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(d) COMPTROLLER GENERAL STUDIES AND REPORTS.—

(1) STATUS REPORTS ON TRANSITION.—Not later than 18 months after the date on which the transfer of functions specified under section 441 takes effect, and every 6 months thereafter, until full implementation of this subtitle has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report containing the following:

(A) A determination of whether the transfers of functions made by subtitles D and E have been completed, and if a transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfers of functions made by subtitles D and E have been completed, an identification of any issues that have arisen due to the completed transfers.

(C) An identification of any issues that may arise due to any future transfer of functions.

(2) REPORT ON MANAGEMENT.—Not later than 4 years after the date on which the transfer of functions specified under section 441 takes effect, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security have improved, with respect to each function transferred, the following:

(i) Operations.

(ii) Management, including accountability and communication.

(iii) Financial administration.

(iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(3) REPORT ON FEES.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds.

SEC. 478. IMMIGRATION FUNCTIONS.

(a) ANNUAL REPORT.—

(1) IN GENERAL.—One year after the date of the enactment of this Act, and each year thereafter, the Secretary shall submit a report to the President, to the Committees on

the Judiciary and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate, on the impact the transfers made by this subtitle has had on immigration functions.

(2) MATTER INCLUDED.—The report shall address the following with respect to the period covered by the report:

(A) The aggregate number of all immigration applications and petitions received, and processed, by the Department;

(B) Region-by-region statistics on the aggregate number of immigration applications and petitions filed by an alien (or filed on behalf of an alien) and denied, disaggregated by category of denial and application or petition type.

(C) The quantity of backlogged immigration applications and petitions that have been processed, the aggregate number awaiting processing, and a detailed plan for eliminating the backlog.

(D) The average processing period for immigration applications and petitions, disaggregated by application or petition type.

(E) The number and types of immigration-related grievances filed with any official of the Department of Justice, and if those grievances were resolved.

(F) Plans to address grievances and improve immigration services.

(G) Whether immigration-related fees were used consistent with legal requirements regarding such use.

(H) Whether immigration-related questions conveyed by customers to the Department (whether conveyed in person, by telephone, or by means of the Internet) were answered effectively and efficiently.

(b) SENSE OF CONGRESS REGARDING IMMIGRATION SERVICES.—It is the sense of Congress that—

(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this subtitle take effect; and

(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

SEC. 502. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall include—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, which shall be renamed ''FIRESAT''.

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 506. DEFINITION.

In this title, the term ''Nuclear Incident Response Team'' means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

SEC. 507. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) FEDERAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order 12148 (44 Fed. Reg. 43239) and Executive Order 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

SEC. 508. USE OF NATIONAL PRIVATE SECTOR NETWORKS IN EMERGENCY RESPONSE.

To the maximum extent practicable, the Secretary shall use national private sector

networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

SEC. 509. USE OF COMMERCIALLY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES.

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

SEC. 601. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS.

(a) FINDINGS.—Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism declared by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a $6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a ''Johnny Micheal Spann Patriot Trust''.

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, or law enforcement operations or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107–40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) None of the activities of any Johnny Micheal Spann Patriot Trust shall be conducted in a manner inconsistent with any law that prohibits attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than $1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in paragraph (1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in paragraph (1).

(d) TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 301(20)(A) of the Federal Election Campaign Act of 1971 so that a general solicitation of funds by an individual described in paragraph (1) of section 323(e) of such Act will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

(e) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods and sensitive law enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust; provided that, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

(f) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) The budget, appropriations, expenditures of funds, accounting, and finance.

(2) Procurement.

(3) Human resources and personnel.

(4) Information technology and communications systems.

(5) Facilities, property, equipment, and other material resources.

(6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.

(7) Identification and tracking of performance measures relating to the responsibilities of the Department.

(8) Grants and other assistance management programs.

(9) The transition and reorganization process, to ensure an efficient and orderly transfer of functions and personnel to the Department, including the development of a transition plan.

(10) The conduct of internal audits and management analyses of the programs and activities of the Department.

(11) Any other management duties that the Secretary may designate.

(b) IMMIGRATION.—

(1) IN GENERAL.—In addition to the responsibilities described in subsection (a), the Under Secretary for Management shall be responsible for the following:

(A) Maintenance of all immigration statistical information of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services. Such statistical information shall include information and statistics of the type contained in the publication entitled ''Statistical Yearbook of the Immigration and Naturalization Service'' prepared by the Immigration and Naturalization Service (as in effect immediately before the date on which the transfer of functions specified under section 441 takes effect), including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such bureau, and the reasons for such denials, disaggregated by category of denial and application or petition type.

(B) Establishment of standards of reliability and validity for immigration statistics collected by such bureaus.

(2) TRANSFER OF FUNCTIONS.—In accordance with title XV, there shall be transferred to the Under Secretary for Management all functions performed immediately before such transfer occurs by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service with respect to the following programs:

(A) The Border Patrol program.

(B) The detention and removal program.

(C) The intelligence program.

(D) The investigations program.

(E) The inspections program.

(F) Adjudication of immigrant visa petitions.

(G) Adjudication of naturalization petitions.

(H) Adjudication of asylum and refugee applications.

(I) Adjudications performed at service centers.

(J) All other adjudications performed by the Immigration and Naturalization Service.

SEC. 702. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 703. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 704. CHIEF HUMAN CAPITAL OFFICER.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

SEC. 705. ESTABLISHMENT OF OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

(a) IN GENERAL.—The Secretary shall appoint in the Department an Officer for Civil Rights and Civil Liberties, who shall—

(1) review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling by employees and officials of the Department; and

(2) make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer.

(b) REPORT.—The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) and any actions taken by the Department in response to such allegations.

SEC. 706. CONSOLIDATION AND CO-LOCATION OF OFFICES.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a plan for consolidating and co-locating—

(1) any regional offices or field offices of agencies that are transferred to the Department under this Act, if such officers are located in the same municipality; and

(2) portions of regional and field offices of other Federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 801. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland; and

(4) develop a process for receiving meaningful input from State and local government to assist the development of the national strategy for combating terrorism and other homeland security activities.

Subtitle B—Inspector General

SEC. 811. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF CERTAIN INVESTIGATIONS.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION REQUIRED.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice and a written response thereto that includes—

(1) a statement as to whether the Inspector General agrees or disagrees with such exercise; and

(2) the reasons for any disagreement, to the President of the Senate and the Speaker of the House of Representatives and to appropriate committees and subcommittees of Congress.

(d) ACCESS TO INFORMATION BY CONGRESS.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(e) OVERSIGHT RESPONSIBILITY—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8I the following:

''SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

''SEC. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.''.

SEC. 812. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

''(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

''(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or

agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

''(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

''(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

''(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

''(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

''(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

''(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

''(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

''(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

''(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

''(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

''(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

''(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.''.

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term ''memoranda of understanding'' means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

Subtitle C—United States Secret Service

SEC. 821. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—Acquisitions

SEC. 831. RESEARCH AND DEVELOPMENT PROJECTS.

(a) AUTHORITY.—During the 5-year period following the effective date of this Act, the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1) IN GENERAL.—When the Secretary carries out basic, applied, and advanced research and development projects, including the expenditure of funds for such projects, the Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (b) of this section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) PROTOTYPE PROJECTS.—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) REPORT.—Not later than 2 years after the effective date of this Act, and annually thereafter, the Comptroller General shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on—

(1) whether use of the authorities described in subsection (a) attracts nontraditional Government contractors and results in the acquisition of needed technologies; and

(2) if such authorities were to be made permanent, whether additional safeguards are needed with respect to the use of such authorities.

(c) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

(d) DEFINITION OF NONTRADITIONAL GOVERNMENT CONTRACTOR.—In this section, the term ''nontraditional Government contractor'' has the same meaning as the term ''nontraditional defense contractor'' as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

SEC. 832. PERSONAL SERVICES.

The Secretary—

(1) may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109 of title 5, United States Code; and

(2) may, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 833. SPECIAL STREAMLINED ACQUISITION AUTHORITY.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may use the authorities set forth in this section with respect to any procurement made during the period beginning on the effective date of this Act and ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in section 101) would be seriously impaired without the use of such authorities.

(2) DELEGATION.—The authority to make the determination described in paragraph (1) may not be delegated by the Secretary to an officer of the Department who is not appointed by the President with the advice and consent of the Senate.

(3) NOTIFICATION.—Not later than the date that is 7 days after the date of any determination under paragraph (1), the Secretary

shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) notification of such determination; and

(B) the justification for such determination.

(b) INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.—

(1) IN GENERAL.—The Secretary may designate certain employees of the Department to make procurements described in subsection (a) for which in the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

(2) NUMBER OF EMPLOYEES.—The number of employees designated under paragraph (1) shall be—

(A) fewer than the number of employees of the Department who are authorized to make purchases without obtaining competitive quotations, pursuant to section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c));

(B) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(C) sufficiently limited to allow for the careful monitoring of employees designated under such paragraph.

(3) REVIEW.—Procurements made under the authority of this subsection shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than 7 employees making procurements under this subsection.

(c) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to be—

(A) in the case of a contract to be awarded and performed, or purchase to be made, within the United States, $200,000; and

(B) in the case of a contract to be awarded and performed, or purchase to be made, outside of the United States, $300,000.

(2) CONFORMING AMENDMENTS.—Section 18(c)(1) of the Office of Federal Procurement Policy Act is amended—

(A) by striking ''or'' at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting ''; or''; and

(C) by adding at the end the following:

''(H) the procurement is by the Secretary of Homeland Security pursuant to the special procedures provided in section 833(c) of the Homeland Security Act of 2002.''.

(d) APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

(2) LIMITATION.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)) and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall be deemed to be $7,500,000 for purposes of property or services under the authority of this subsection.

(3) CERTAIN AUTHORITY.—Authority under a provision of law referred to in paragraph (2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for a procurement described in subsection (a).

(e) REPORT.—Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 101.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1).

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) to monitor the use of procurement authority by employees designated under subsection (b)(1).

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

SEC. 834. UNSOLICITED PROPOSALS.

(a) REGULATIONS REQUIRED.—Within 1 year of the date of enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations with regard to unsolicited proposals.

(b) CONTENT OF REGULATIONS.—The regulations prescribed under subsection (a) shall require that before initiating a comprehensive evaluation, an agency contact point shall consider, among other factors, that the proposal—

(1) is not submitted in response to a previously published agency requirement; and

(2) contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost-related or price-related factors.

SEC. 835. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b).

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity completes after the date of enactment of this Act, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is after the date of enactment of this Act and which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as I partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary to—

(i) treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock; and

(ii) treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701 (a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVERS.—The Secretary shall waive subsection (a) with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security, or to prevent the loss of any jobs in the United States or prevent the Government from incurring any additional costs that otherwise would not occur.

Subtitle E—Human Resources Management

SEC. 841. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

''Sec.

''9701. Establishment of human resources management system.

"§ 9701. Establishment of human resources management system

''(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

''(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

''(1) be flexible;

''(2) be contemporary;

''(3) not waive, modify, or otherwise affect—

''(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

''(B) any provision of section 2302, relating to prohibited personnel practices;

''(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

''(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

''(I) providing for equal employment opportunity through affirmative action; or

''(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

''(D) any other provision of this part (as described in subsection (c)); or

''(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

''(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

''(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

''(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

''(1) subparts A, B, E, G, and H of this part; and

''(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

''(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

''(1) to modify the pay of any employee who serves in—

''(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

''(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

''(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

''(3) to exempt any employee from the application of such section 5307.

''(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

''(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

''(A) NOTICE OF PROPOSAL.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

''(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

''(ii) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

''(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

''(B) PRE-IMPLEMENTATION CONGRESSIONAL NOTIFICATION, CONSULTATION, AND MEDIATION.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

''(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

''(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

''(iii) at the Secretary's option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

''(C) IMPLEMENTATION.—

''(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the Secretary and the Director, may be implemented immediately.

''(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

''(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

''(D) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

''(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

''(ii) give each employee representative adequate access to information to make that participation productive.

''(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly as internal rules of departmental procedure which shall not be subject to review. Such procedures shall include measures to ensure—

''(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

''(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection;

''(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

''(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

''(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

''(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

''(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

''(i) should ensure that employees of the Department are afforded the protections of due process; and

''(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

''(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

''(A) shall be issued only after consultation with the Merit Systems Protection Board;

''(B) shall ensure the availability of procedures which shall—

''(i) be consistent with requirements of due process; and

''(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

''(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

''(g) PROVISIONS RELATING TO LABOR-MANAGEMENT RELATIONS.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

''(h) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.''.

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

''97. Department of Homeland Security ..... 9701''.

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer under this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 842. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) WAIVER.—If the President determines that the application of subsections (a), (b), and (d) would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(e) RULE OF CONSTRUCTION.—Nothing in section 9701(e) of title 5, United States Code, shall be considered to apply with respect to any agency or subdivision of any agency, which is excluded from the coverage of chapter 71 of title 5, United States Code, by virtue of an order issued in accordance with section 7103(b) of such title and the preceding provisions of this section (as applicable), or to any employees of any such agency or subdivision or to any individual or entity representing any such employees or any representatives thereof.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 851. DEFINITION.

In this subtitle, the term ''executive agency'' has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 852. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 853. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 852 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $200,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $300,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term ''simplified acquisition threshold definitions'' means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 854. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 852, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

SEC. 855. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 852 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority

under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 856. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 852, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 852.

SEC. 857. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIREMENTS.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following matters:

(1) ASSESSMENT.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

SEC. 858. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

SEC. 861. SHORT TITLE.

This subtitle may be cited as the ''Support Anti-terrorism by Fostering Effective Technologies Act of 2002'' or the ''SAFETY Act''.

SEC. 862. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall be responsible for the administration of this subtitle.

(b) DESIGNATION OF QUALIFIED ANTI-TERRORISM TECHNOLOGIES.—The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this subtitle in accordance with criteria that shall include, but not be limited to, the following:

(1) Prior United States government use or demonstrated substantial utility and effectiveness.

(2) Availability of the technology for immediate deployment in public and private settings.

(3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.

(4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this subtitle are extended.

(5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.

(6) Evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.

(7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism, including technologies that prevent, defeat or respond to such acts.

(c) REGULATIONS.—The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States, Code, as may be necessary to carry out this subtitle.

SEC. 863. LITIGATION MANAGEMENT.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law. Such Federal cause of action shall be brought only for claims for injuries that are proximately caused by sellers that provide qualified anti-terrorism technology to Federal and non-Federal government customers.

(2) JURISDICTION.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller.

(b) SPECIAL RULES.—In an action brought under this section for damages the following provisions apply:

(1) PUNITIVE DAMAGES.—No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2) NONECONOMIC DAMAGES.—

(A) IN GENERAL.—Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) DEFINITION.—For purposes of subparagraph (A), the term ''noneconomic damages'' means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(c) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action under this section shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(d) GOVERNMENT CONTRACTOR DEFENSE.—

(1) IN GENERAL.—Should a product liability or other lawsuit be filed for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in paragraphs (2) and (3) of this subsection, have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, there shall be a rebuttable presumption that the government contractor defense applies in such lawsuit. This presumption shall only be overcome by evidence showing that the Seller acted fraudulently or with willful misconduct in submitting information to the Secretary during the course of the Secretary's consideration of such technology under this subsection. This presumption of the government contractor defense shall apply regardless of whether the claim against the Seller arises from a sale of the product to Federal Government or non-Federal Government customers.

(2) EXCLUSIVE RESPONSIBILITY.—The Secretary will be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense in any product liability lawsuit for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3),

have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such technology and will supply the Secretary with all such information.

(3) CERTIFICATE.—For anti-terrorism technology reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the anti-terrorism technology on an Approved Product List for Homeland Security.

(e) EXCLUSION.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 864. RISK MANAGEMENT.

(a) IN GENERAL.—

(1) LIABILITY INSURANCE REQUIRED.—Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to Federal and non-Federal government customers (''Seller'') shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section and certified by the Secretary to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(2) MAXIMUM AMOUNT.—For the total claims related to 1 such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.

(3) SCOPE OF COVERAGE.—Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against or response or recovery from an act of terrorism:

(A) contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) contractors, subcontractors, suppliers, and vendors of the customer.

(4) THIRD PARTY CLAIMS.—Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

(b) RECIPROCAL WAIVER OF CLAIMS.—The Seller shall enter into a reciprocal waiver of claims with its contractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(c) EXTENT OF LIABILITY.—Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

SEC. 865. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) QUALIFIED ANTI-TERRORISM TECHNOLOGY.—For purposes of this subtitle, the term ''qualified anti-terrorism technology'' means any product, equipment, service (including support services), device, or technology (including information technology) designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

(2) ACT OF TERRORISM.—(A) The term ''act of terrorism'' means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and

(iii) uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

(3) INSURANCE CARRIER.—The term ''insurance carrier'' means any corporation, association, society, order, firm, company, mutual, partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(4) LIABILITY INSURANCE.—

(A) IN GENERAL.—The term ''liability insurance'' means insurance for legal liabilities incurred by the insured resulting from—

(i) loss of or damage to property of others;

(ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(iii) bodily injury (including) to persons other than the insured or its employees; or

(iv) loss resulting from debt or default of another.

(5) LOSS.—The term ''loss'' means death, bodily injury, or loss of or damage to property, including business interruption loss.

(6) NON-FEDERAL GOVERNMENT CUSTOMERS.—The term ''non-Federal Government customers'' means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85-804 to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

Subtitle H—Miscellaneous Provisions

SEC. 871. ADVISORY COMMITTEES.

(a) IN GENERAL.—The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92–463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

(b) TERMINATION.—Any advisory committee established by the Secretary shall terminate 2 years after the date of its establishment, unless the Secretary makes a written determination to extend the advisory committee to a specified date, which shall not be more than 2 years after the date on which such determination is made. The Secretary may make any number of subsequent extensions consistent with this subsection.

SEC. 872. REORGANIZATION.

(a) REORGANIZATION.—The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

(1) pursuant to section 1502(b); or

(2) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

(b) LIMITATIONS.—

(1) IN GENERAL.—Authority under subsection (a)(1) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this Act.

(2) ABOLITIONS.—Authority under subsection (a)(2) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

SEC. 873. USE OF APPROPRIATED FUNDS.

(a) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(c) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SEC. 874. FUTURE YEAR HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under

section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

SEC. 875. MISCELLANEOUS AUTHORITIES.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 876. MILITARY ACTIVITIES.

Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.

SEC. 877. REGULATORY AUTHORITY AND PREEMPTION.

(a) REGULATORY AUTHORITY.—Except as otherwise provided in sections 306(c), 862(c), and 1706(b), this Act vests no new regulatory authority in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act may not be construed as altering or diminishing the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

(b) PREEMPTION OF STATE OR LOCAL LAW.—Except as otherwise provided in this Act, this Act preempts no State or local law, except that any authority to preempt State or local law vested in any Federal agency or official transferred to the Department pursuant to this Act shall be transferred to the Department effective on the date of the transfer to the Department of that Federal agency or official.

SEC. 878. COUNTERNARCOTICS OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department and between the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism. Such official shall—

(1) ensure the adequacy of resources within the Department for illicit drug interdiction; and

(2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy.

SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of International Affairs. The Office shall be headed by a Director, who shall be a senior official appointed by the Secretary.

(b) DUTIES OF THE DIRECTOR.—The Director shall have the following duties:

(1) To promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security. Such exchange shall include the following:

(A) Exchange of information on research and development on homeland security technologies.

(B) Joint training exercises of first responders.

(C) Exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange where the United States has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage international activities within the Department in coordination with other Federal officials with responsibility for counter-terrorism matters.

SEC. 880. PROHIBITION OF THE TERRORISM INFORMATION AND PREVENTION SYSTEM.

Any and all activities of the Federal Government to implement the proposed component program of the Citizen Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited.

SEC. 881. REVIEW OF PAY AND BENEFIT PLANS.

Notwithstanding any other provision of this Act, the Secretary shall, in consultation with the Director of the Office of Personnel Management, review the pay and benefit plans of each agency whose functions are transferred under this Act to the Department and, within 90 days after the date of enactment, submit a plan to the President of the Senate and the Speaker of the House of Representatives and the appropriate committees and subcommittees of Congress, for ensuring, to the maximum extent practicable, the elimination of disparities in pay and benefits throughout the Department, especially among law enforcement personnel, that are inconsistent with merit system principles set forth in section 2301 of title 5, United States Code.

SEC. 882. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 883. REQUIREMENT TO COMPLY WITH LAWS PROTECTING EQUAL EMPLOYMENT OPPORTUNITY AND PROVIDING WHISTLEBLOWER PROTECTIONS.

Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—

(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Pub. L. 107–174)); or

(2) to provide whistleblower protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) and (9) of such title and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002).

SEC. 884. FEDERAL LAW ENFORCEMENT TRAINING CENTER.

(a) IN GENERAL.—The transfer of an authority or an agency under this Act to the Department of Homeland Security does not affect training agreements already entered into with the Federal Law Enforcement Training Center with respect to the training of personnel to carry out that authority or the duties of that transferred agency.

(b) CONTINUITY OF OPERATIONS.—All activities of the Federal Law Enforcement Training Center transferred to the Department of Homeland Security under this Act shall continue to be carried out at the locations such activities were carried out before such transfer.

SEC. 885. JOINT INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) STRUCTURE.—It is the sense of Congress that the Secretary should model the Joint Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida and Alameda, California, to the maximum extent feasible and appropriate.

SEC. 886. SENSE OF CONGRESS REAFFIRMING THE CONTINUED IMPORTANCE AND APPLICABILITY OF THE POSSE COMITATUS ACT.

(a) FINDINGS.—Congress finds the following:

(1) Section 1385 of title 18, United States Code (commonly known as the ''Posse Comitatus Act''), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.

(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.

(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law.

(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.

(5) Existing laws, including chapter 15 of title 10, United States Code (commonly known as the ''Insurrection Act''), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.

(b) SENSE OF CONGRESS.—Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of Congress that nothing in this Act should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

SEC. 887. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Department shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term ''non-homeland security missions'' means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term ''homeland security missions'' means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Coast Guard to perform its missions shall be maintained intact and without significant reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(d) CERTAIN TRANSFERS PROHIBITED.—No mission, function, or asset (including for purposes of this subsection any ship, aircraft, or helicopter) of the Coast Guard may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the Coast Guard's capability to perform its missions.

(e) CHANGES TO MISSIONS.—

(1) PROHIBITION.—The Secretary may not substantially or significantly reduce the missions of the Coast Guard or the Coast Guard's capability to perform those missions, except as specified in subsequent Acts.

(2) WAIVER.—The Secretary may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling, and immediate need exists for such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively if the restrictions under paragraph (1) are not waived.

(f) ANNUAL REVIEW.—

(1) IN GENERAL.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) REPORT.—The report under this paragraph shall be submitted to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

(i) REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SEC. 889. HOMELAND SECURITY FUNDING ANALYSIS IN PRESIDENT'S BUDGET.

(a) IN GENERAL.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

''(33)(A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is

submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

''(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

''(II) an estimate of the current service levels of homeland security spending;

''(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

''(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

''(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

''(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

''(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 'Annual Report to Congress on Combatting Terrorism', the term 'homeland security' refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

''(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.''.

(b) REPEAL OF DUPLICATIVE REPORTS.—The following sections are repealed:

(1) Section 1051 of Public Law 105–85.

(2) Section 1403 of Public Law 105–261.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2005 budget submission.

SEC. 890. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in section 408 by striking the last sentence of subsection (c); and

(2) in section 402 by striking paragraph (1) and inserting the following:

''(1) AIR CARRIER.—The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.''.

Subtitle I—Information Sharing

SEC. 891. SHORT TITLE; FINDINGS; AND SENSE OF CONGRESS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Homeland Security Information Sharing Act''.

(b) FINDINGS.—Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(c) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 892. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include 1 or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term ''homeland security information'' means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''State and local personnel'' means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term ''State'' includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 893. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 892. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 892, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 894. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 892.

SEC. 895. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting ''or of a foreign government'' after ''(including personnel of a state or subdivision of a state'';

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: ''or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation'';

(ii) in subclause (IV)—

(I) by inserting ''or foreign'' after ''may disclose a violation of State'';

(II) by inserting ''or of a foreign government'' after ''to an appropriate official of a State or subdivision of a State''; and

(III) by striking ''or'' at the end;

(iii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iv) by adding at the end the following:

''(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(C) in subparagraph (C)(iii)—

(i) by striking ''Federal'';

(ii) by inserting ''or clause (i)(VI)'' after ''clause (i)(V)''; and

(iii) by adding at the end the following: ''Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 896. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

''(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

''(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 897. FOREIGN INTELLIGENCE INFORMATION.

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56; 50 U.S.C. 403–5d) is amended by adding at the end the following: ''Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

(1) by striking ''section 2517(6)'' and inserting ''paragraphs (6) and (8) of section 2517 of title 18, United States Code,''; and

(2) by inserting ''and (VI)'' after ''Rule 6(e)(3)(C)(i)(V)''.

SEC. 898. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

SEC. 899. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

SEC. 901. NATIONAL HOMELAND SECURITY COUNCIL.

There is established within the Executive Office of the President a council to be known as the ''Homeland Security Council'' (in this title referred to as the ''Council'').

SEC. 902. FUNCTION.

The function of the Council shall be to advise the President on homeland security matters.

SEC. 903. MEMBERSHIP.

The members of the Council shall be the following:

(1) The President.

(2) The Vice President.

(3) The Secretary of Homeland Security.

(4) The Attorney General.

(5) The Secretary of Defense.

(6) Such other individuals as may be designated by the President.

SEC. 904. OTHER FUNCTIONS AND ACTIVITIES.

For the purpose of more effectively coordinating the policies and functions of the United States Government relating to homeland security, the Council shall—

(1) assess the objectives, commitments, and risks of the United States in the interest of homeland security and to make resulting recommendations to the President;

(2) oversee and review homeland security policies of the Federal Government and to make resulting recommendations to the President; and

(3) perform such other functions as the President may direct.

SEC. 905. STAFF COMPOSITION.

The Council shall have a staff, the head of which shall be a civilian Executive Secretary, who shall be appointed by the President. The President is authorized to fix the pay of the Executive Secretary at a rate not to exceed the rate of pay payable to the Executive Secretary of the National Security Council.

SEC. 906. RELATION TO THE NATIONAL SECURITY COUNCIL.

The President may convene joint meetings of the Homeland Security Council and the National Security Council with participation by members of either Council or as the President may otherwise direct.

TITLE X—INFORMATION SECURITY

SEC. 1001. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the ''Federal Information Security Management Act of 2002''.

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

''SUBCHAPTER II—INFORMATION SECURITY

''§ 3531. Purposes

''The purposes of this subchapter are to—

''(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

''(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

''(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

''(4) provide a mechanism for improved oversight of Federal agency information security programs;

''(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

''(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.''.

''§ 3532. Definitions

''(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

''(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

''(1) the term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

''(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

''(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

''(C) availability, which means ensuring timely and reliable access to and use of information; and

''(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

''(2) the term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, the function, operation, or use of which—

''(A) involves intelligence activities;

''(B) involves cryptologic activities related to national security;

''(C) involves command and control of military forces;

''(D) involves equipment that is an integral part of a weapon or weapons system; or

''(E) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);

''(3) the term 'information technology' has the meaning given that term in section 11101 of title 40; and

''(4) the term 'information system' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, and includes—

''(A) computers and computer networks;

''(B) ancillary equipment;

''(C) software, firmware, and related procedures;

''(D) services, including support services; and

''(E) related resources.''.

''§ 3533. Authority and functions of the Director

''(a) The Director shall oversee agency information security policies and practices, by—

''(1) promulgating information security standards under section 11331 of title 40;

''(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

''(3) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(A) information collected or maintained by or on behalf of an agency; or

''(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(4) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

''(5) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303(b)(5) of title 40, to enforce accountability for compliance with such requirements;

''(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

''(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

''(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

''(A) a summary of the findings of evaluations required by section 3535;

''(B) significant deficiencies in agency information security practices;

''(C) planned remedial action to address such deficiencies; and

''(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology

under section 20(d)(9) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).''.

''(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

''§ 3534. Federal agency responsibilities

''(a) The head of each agency shall—

''(1) be responsible for—

''(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(i) information collected or maintained by or on behalf of the agency; and

''(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

''(i) information security standards promulgated by the Director under section 11331 of title 40; and

''(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

''(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

''(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

''(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

''(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40 for information security classifications and related requirements;

''(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

''(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

''(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

''(A) designating a senior agency information security officer who shall—

''(i) carry out the Chief Information Officer's responsibilities under this section;

''(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

''(iii) have information security duties as that official's primary duty; and

''(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

''(B) developing and maintaining an agencywide information security program as required by subsection (b);

''(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

''(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

''(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

''(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

''(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

''(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

''(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

''(2) policies and procedures that—

''(A) are based on the risk assessments required by paragraph (1);

''(B) cost-effectively reduce information security risks to an acceptable level;

''(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

''(D) ensure compliance with—

''(i) the requirements of this subchapter;

''(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

''(iii) minimally acceptable system configuration requirements, as determined by the agency; and

''(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

''(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

''(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

''(A) information security risks associated with their activities; and

''(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

''(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

''(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

''(B) may include testing relied on in a evaluation under section 3535;

''(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

''(7) procedures for detecting, reporting, and responding to security incidents, including—

''(A) mitigating risks associated with such incidents before substantial damage is done; and

''(B) notifying and consulting with, as appropriate—

''(i) law enforcement agencies and relevant Offices of Inspector General;

''(ii) an office designated by the President for any incident involving a national security system; and

''(iii) any other agency or office, in accordance with law or as directed by the President; and

''(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

''(c) Each agency shall—

''(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

''(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

''(A) annual agency budgets;

''(B) information resources management under subchapter 1 of this chapter;

''(C) information technology management under subtitle III of title 40;

''(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

''(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

''(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

''(G) internal accounting and administrative controls under section 3512 of title 31, United States Code, (known as the 'Federal Managers Financial Integrity Act'); and

''(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

''(A) as a material weakness in reporting under section 3512 of title 31; and

''(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

''(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

''(A) the time periods, and

''(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

''(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

''(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

''§ 3535. Annual independent evaluation

''(a)(1) Each year each agency shall have performed an independent evaluation of the

information security program and practices of that agency to determine the effectiveness of such program and practices.

''(2) Each evaluation by an agency under this section shall include—

''(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

''(B) an assessment (made on the basis of the results of the testing) of compliance with—

''(i) the requirements of this subchapter; and

''(ii) related information security policies, procedures, standards, and guidelines; and

''(C) separate presentations, as appropriate, regarding information security relating to national security systems.

''(b) Subject to subsection (c)—

''(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

''(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

''(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

''(1) only by an entity designated by the agency head; and

''(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(d) The evaluation required by this section—

''(1) shall be performed in accordance with generally accepted government auditing standards; and

''(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

''(e) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

''(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

''(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

''(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

''(h) The Comptroller General shall periodically evaluate and report to Congress on—

''(1) the adequacy and effectiveness of agency information security policies and practices; and

''(2) implementation of the requirements of this subchapter.

''§ 3536. National security systems

''The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

''(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

''(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

''(3) complies with the requirements of this subchapter.

''§ 3537. Authorization of appropriations

''There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

''§ 3538. Effect on existing law

''Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to Congress or the Comptroller General of the United States.''.

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading ''SUBCHAPTER II'' are amended to read as follows:

''3531. Purposes.
''3532. Definitions.
''3533. Authority and functions of the Director.
''3534. Federal agency responsibilities.
''3535. Annual independent evaluation.
''3536. National security systems.
''3537. Authorization of appropriations.
''3538. Effect on existing law.''.

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(3) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection 2224(b), by striking ''(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)'' and inserting ''(b) OBJECTIVES OF THE PROGRAM.—'';

(ii) in subsection 2224(b), by striking ''(2) the program shall at a minimum meet the requirements of section 3534 and 3535 of title 44, United States Code.''; and

(iii) in subsection 2224(c), by inserting '', including through compliance with subtitle II of chapter 35 of title 44'' after ''infrastructure''.

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted Data or Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 1002. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Section 11331 of title 40, United States Code, is amended to read as follows:

''§ 11331. Responsibilities for Federal information systems standards

''(a) DEFINITION.—In this section, the term 'information security' has the meaning given that term in section 3532(b)(1) of title 44.

''(b) REQUIREMENT TO PRESCRIBE STANDARDS.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

''(B) REQUIRED STANDARDS.—Standards promulgated under subparagraph (A) shall include—

''(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

''(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

''(C) REQUIRED STANDARDS BINDING.—Information security standards described under subparagraph (B) shall be compulsory and binding.

''(2) STANDARDS AND GUIDELINES FOR NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems, as defined under section 3532(3) of title 44, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

''(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

''(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

''(2) are otherwise consistent with policies and guidelines issued under section 3533 of title 44.

''(d) REQUIREMENTS REGARDING DECISIONS BY DIRECTOR.—

''(1) DEADLINE.—The decision regarding the promulgation of any standard by the Director under subsection (b) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

''(2) NOTICE AND COMMENT.—A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of

Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, is amended by striking the item relating to section 11331 and inserting the following:

''11331. Responsibilities for Federal information systems standards.''.

SEC. 1003. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

''(a) The Institute shall—

''(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

''(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code);

''(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems; and

''(4) carry out the responsibilities described in paragraph (3) through the Computer Security Division.

''(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

''(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

''(B) guidelines recommending the types of information and information systems to be included in each such category; and

''(C) minimum information security requirements for information and information systems in each such category;

''(2) a definition of and guidelines concerning detection and handling of information security incidents; and

''(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

''(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

''(1) consult with other agencies and offices (including, but not limited to, the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

''(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

''(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

''(2) provide the public with an opportunity to comment on proposed standards and guidelines;

''(3) submit to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code—

''(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

''(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

''(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this Act;

''(5) ensure that such standards and guidelines do not require specific technological solutions or products, including any specific hardware or software security solutions;

''(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

''(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.

''(d) The Institute shall—

''(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code;

''(2) provide assistance to agencies regarding—

''(A) compliance with the standards and guidelines developed under subsection (a);

''(B) detecting and handling information security incidents; and

''(C) information security policies, procedures, and practices;

''(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

''(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

''(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

''(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

''(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

''(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

''(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

''(e) As used in this section—

''(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

''(2) the term 'information security' has the same meaning as provided in section 3532(1) of such title;

''(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

''(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

''(5) the term 'national security system' has the same meaning as provided in section 3532(b)(2) of such title.''.

SEC. 1004. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), is amended—

(1) in subsection (a), by striking ''Computer System Security and Privacy Advisory Board'' and inserting ''Information Security and Privacy Advisory Board'';

(2) in subsection (a)(1), by striking ''computer or telecommunications'' and inserting ''information technology'';

(3) in subsection (a)(2)—

(A) by striking ''computer or telecommunications technology'' and inserting ''information technology''; and

(B) by striking ''computer or telecommunications equipment'' and inserting ''information technology'';

(4) in subsection (a)(3)—

(A) by striking ''computer systems'' and inserting ''information system''; and

(B) by striking ''computer systems security'' and inserting ''information security'';

(5) in subsection (b)(1) by striking ''computer systems security'' and inserting ''information security'';

(6) in subsection (b) by striking paragraph (2) and inserting the following:

''(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and'';

(7) in subsection (b)(3) by inserting ''annually'' after ''report'';

(8) by inserting after subsection (e) the following new subsection:

''(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

''(h) As used in this section, the terms ''information system'' and ''information technology'' have the meanings given in section 20.''.

SEC. 1005. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FEDERAL COMPUTER SYSTEM SECURITY TRAINING AND PLAN.—

(1) REPEAL.—Section 11332 of title 40, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, as amended by striking the item relating to section 11332.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking subtitle G of title X (44 U.S.C. 3531 note).

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''sections 11331 and 11332(b) and (c) of title 40'' and inserting ''section

11331 of title 40 and subchapter II of this title''; and

(ii) by striking the semicolon and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end the following:

''(c) INVENTORY OF INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

''(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

''(3) Such inventory shall be—

''(A) updated at least annually;

''(B) made available to the Comptroller General; and

''(C) used to support information resources management, including—

''(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

''(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

''(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

''(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

''(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

''(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.''.

(3) Section 3506(g) of such title is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''section 11332 of title 40'' and inserting ''subchapter II of this chapter''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

SEC. 1006. CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)).

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

SEC. 1101. LEGAL STATUS OF EOIR.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1102.

SEC. 1102. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

''POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL'';

(2) in subsection (a)—

(A) by inserting ''Attorney General,'' after ''President,''; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

''(g) ATTORNEY GENERAL.—

''(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

''(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.''.

SEC. 1103. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1102, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice

SEC. 1111. BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice under the general authority of the Attorney General the Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this section referred to as the ''Bureau'').

(2) DIRECTOR.—There shall be at the head of the Bureau a Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this subtitle referred to as the ''Director''). The Director shall be appointed by the Attorney General and shall perform such functions as the Attorney General shall direct. The Director shall receive compensation at the rate prescribed by law under section 5314 of title V, United States Code, for positions at level III of the Executive Schedule.

(3) COORDINATION.—The Attorney General, acting through the Director and such other officials of the Department of Justice as the Attorney General may designate, shall provide for the coordination of all firearms, explosives, tobacco enforcement, and arson enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among any officer, employee, or agency of the Department of Justice involved in the performance of these and related functions.

(4) PERFORMANCE OF TRANSFERRED FUNCTIONS.—The Attorney General may make such provisions as the Attorney General determines appropriate to authorize the performance by any officer, employee, or agency of the Department of Justice of any function transferred to the Attorney General under this section.

(b) RESPONSIBILITIES.—Subject to the direction of the Attorney General, the Bureau shall be responsible for investigating—

(1) criminal and regulatory violations of the Federal firearms, explosives, arson, alcohol, and tobacco smuggling laws;

(2) the functions transferred by subsection (c); and

(3) any other function related to the investigation of violent crime or domestic terrorism that is delegated to the Bureau by the Attorney General.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—Subject to paragraph (2), but notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

(2) ADMINISTRATION AND REVENUE COLLECTION FUNCTIONS.—There shall be retained within the Department of the Treasury the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms relating to the administration and enforcement of chapters 51 and 52 of the Internal Revenue Code of 1986, sections 4181 and 4182 of the Internal Revenue Code of 1986, and title 27, United States Code.

(3) BUILDING PROSPECTUS.—Prospectus PDC-98W10, giving the General Services Administration the authority for site acquisition, design, and construction of a new headquarters building for the Bureau of Alcohol, Tobacco and Firearms, is transferred, and deemed to apply, to the Bureau of Alcohol, Tobacco, Firearms, and Explosives established in the Department of Justice under subsection (a).

(d) TAX AND TRADE BUREAU.—

(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Tax and Trade Bureau.

(2) ADMINISTRATOR.—The Tax and Trade Bureau shall be headed by an Administrator, who shall perform such duties as assigned by the Under Secretary for Enforcement of the Department of the Treasury. The Administrator shall occupy a career-reserved position within the Senior Executive Service.

(3) RESPONSIBILITIES.—The authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms that are not transferred to the Department of Justice under this section shall be retained and administered by the Tax and Trade Bureau.

SEC. 1112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 8D(b)(1) by striking ''Bureau of Alcohol, Tobacco and Firearms'' and inserting ''Tax and Trade Bureau''; and

(2) in section 9(a)(1)(L)(i), by striking ''Bureau of Alcohol, Tobacco, and Firearms'' and inserting ''Tax and Trade Bureau''.

(b) Section 1109(c)(2)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (7 U.S.C. 1445-3(c)(2)(A)(i)) is amended by striking ''(on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms'' and inserting ''by manufacturers of tobacco products to the Tax and Trade Bureau''.

(c) Section 2(4)(J) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 8 U.S.C.A. 1701(4)(J)) is amended by striking ''Bureau of Alcohol, Tobacco, and Firearms'' and inserting ''Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''.

(d) Section 3(1)(E) of the Firefighters' Safety Study Act (15 U.S.C. 2223b(1)(E)) is amended by striking ''the Bureau of Alcohol, Tobacco, and Firearms,'' and inserting ''the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,''.

(e) Chapter 40 of title 18, United States Code, is amended—

(1) by striking section 841(k) and inserting the following:

''(k) 'Attorney General' means the Attorney General of the United States.'';

(2) in section 846(a), by striking ''the Attorney General and the Federal Bureau of Investigation, together with the Secretary'' and inserting ''the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives''; and

(3) by striking ''Secretary'' each place it appears and inserting ''Attorney General''.

(f) Chapter 44 of title 18, United States Code, is amended—

(1) in section 921(a)(4)(B), by striking ''Secretary'' and inserting ''Attorney General'';

(2) in section 921(a)(4), by striking ''Secretary of the Treasury'' and inserting ''Attorney General'';

(3) in section 921(a), by striking paragraph (18) and inserting the following:

''(18) The term 'Attorney General' means the Attorney General of the United States'';

(4) in section 922(p)(5)(A), by striking ''after consultation with the Secretary'' and inserting ''after consultation with the Attorney General'';

(5) in section 923(*l*), by striking ''Secretary of the Treasury'' and inserting ''Attorney General''; and

(6) by striking ''Secretary'' each place it appears, except before ''of the Army'' in section 921(a)(4) and before ''of Defense'' in section 922(p)(5)(A), and inserting the term ''Attorney General''.

(g) Section 1261(a) of title 18, United States Code, is amended to read as follows:

''(a) The Attorney General—

''(1) shall enforce the provisions of this chapter; and

''(2) has the authority to issue regulations to carry out the provisions of this chapter.''.

(h) Section 1952(c) of title 18, United States Code, is amended by striking ''Secretary of the Treasury'' and inserting ''Attorney General''.

(i) Chapter 114 of title 18, United States Code, is amended—

(1) by striking section 2341(5), and inserting the following:

''(5) the term 'Attorney General' means the Attorney General of the United States''; and

(2) by striking ''Secretary'' each place it appears and inserting ''Attorney General''.

(j) Section 6103(i)(8)(A)(i) of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by striking ''or the Bureau of Alcohol, Tobacco and Firearms'' and inserting '', the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury,''.

(k) Section 7801(a) of the Internal Revenue Code of 1986 (relating to the authority of the Department of the Treasury) is amended—

(1) by striking ''SECRETARY.—Except'' and inserting ''SECRETARY.—

''(1) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(2) ADMINISTRATION AND ENFORCEMENT OF CERTAIN PROVISIONS BY ATTORNEY GENERAL.—

''(A) IN GENERAL.—The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term 'Secretary' or 'Secretary of the Treasury' shall, when applied to those provisions, mean the Attorney General; and the term 'internal revenue officer' shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives so designated by the Attorney General:

''(i) Chapter 53.

''(ii) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clause (i).

''(B) USE OF EXISTING RULINGS AND INTERPRETATIONS.—Nothing in this Act alters or repeals the rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002, which concern the provisions of this title referred to in subparagraph (A). The Attorney General shall consult with the Secretary to achieve uniformity and consistency in administering provisions under chapter 53 of title 26, United States Code.''.

(l) Section 2006(2) of title 28, United States Code, is amended by inserting '', the Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,'' after ''the Secretary of the Treasury''.

(m) Section 713 of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 713. Audit of Internal Revenue Service, Tax and Trade Bureau, and Bureau of Alcohol, Tobacco, Firearms, and Explosives'';

(2) in subsection (a), by striking ''Bureau of Alcohol, Tobacco, and Firearms,'' and inserting ''Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''; and

(3) in subsection (b)

(A) in paragraph (1)(B), by striking ''or the Bureau'' and inserting ''or either Bureau'';

(B) in paragraph (2)—

(i) by striking ''or the Bureau'' and inserting ''or either Bureau''; and

(ii) by striking ''and the Director of the Bureau'' and inserting ''the Tax and Trade Bureau, Department of the Treasury, and the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''; and

(C) in paragraph (3), by striking ''or the Bureau'' and inserting ''or either Bureau''.

(n) Section 9703 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii)(III), by inserting ''and'' after the semicolon;

(B) in clause (iv), by striking ''; and'' and inserting a period; and

(C) by striking clause (v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated by paragraph (3), by striking ''Bureau of Alcohol, Tobacco and Firearms'' and inserting ''Tax and Trade Bureau''.

(o) Section 609N(2)(L) of the Justice Assistance Act of 1984 (42 U.S.C. 10502(2)(L)) is amended by striking ''Bureau of Alcohol, Tobacco, and Firearms'' and inserting ''Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''.

(p) Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended—

(1) by striking ''Secretary of the Treasury'' each place it appears and inserting ''Attorney General''; and

(2) in subparagraph (3)(B), by striking ''Bureau of Alcohol, Tobacco and Firearms'' and inserting ''Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice''.

(q) Section 80303 of title 49, United States Code, is amended—

(1) by inserting ''or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General'' after ''section 80304 of this title.''; and

(2) by inserting '', the Attorney General,'' after ''by the Secretary''.

(r) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking ''(b) and (c)'' and inserting ''(b), (c), and (d)'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c), the following:

''(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302 (a)(2) or (a)(5).''.

(s) Section 103 of the Gun Control Act of 1968 (Public Law 90–618; 82 Stat. 1226) is amended by striking ''Secretary of the Treasury'' and inserting ''Attorney General''.

SEC. 1113. POWERS OF AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

Chapter 203 of title 18, United States Code, is amended by adding the following:

''§ 3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives.

''(a) Special agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, as well as any other investigator or officer charged by the Attorney General with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

''(b) Any special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.

''(c)(1) Except as provided in paragraphs (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to—

''(A) the seizure, summary and judicial forfeiture, and condemnation of property;

''(B) the disposition of such property;

''(C) the remission or mitigation of such forfeiture; and

''(D) the compromise of claims,

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

''(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 Attorney General.

''(3) Notwithstanding any other provision of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.''.

SEC. 1114. EXPLOSIVES TRAINING AND RESEARCH FACILITY.

(a) ESTABLISHMENT.—There is established within the Bureau an Explosives Training

and Research Facility at Fort AP Hill, Fredericksburg, Virginia.

(b) PURPOSE.—The facility established under subsection (a) shall be utilized to train Federal, State, and local law enforcement officers to—

(1) investigate bombings and explosions;

(2) properly handle, utilize, and dispose of explosive materials and devices;

(3) train canines on explosive detection; and

(4) conduct research on explosives.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to establish and maintain the facility established under subsection (a).

(2) AVAILABILITY OF FUNDS.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1115. PERSONNEL MANAGEMENT DEMONSTRATION PROJECT.

Notwithstanding any other provision of law, the Personnel Management Demonstration Project established under section 102 of title I of Division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Pub. L. 105–277; 122 Stat. 2681–585) shall be transferred to the Attorney General of the United States for continued use by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, and the Secretary of the Treasury for continued use by the Tax and Trade Bureau.

Subtitle C—Explosives

SEC. 1121. SHORT TITLE.

This subtitle may be referred to as the ''Safe Explosives Act''.

SEC. 1122. PERMITS FOR PURCHASERS OF EXPLOSIVES.

(a) DEFINITIONS.—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:

''(j) 'Permittee' means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter.''; and

(2) by adding at the end the following:

''(r) 'Alien' means any person who is not a citizen or national of the United States.

''(s) 'Responsible person' means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.''.

(b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking ''and'' at the end;

(2) by striking subsection (a)(3) and inserting the following:

''(3) other than a licensee or permittee knowingly—

''(A) to transport, ship, cause to be transported, or receive any explosive materials; or

''(B) to distribute explosive materials to any person other than a licensee or permittee; or

''(4) who is a holder of a limited permit—

''(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

''(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder.''; and

(3) by striking subsection (b) and inserting the following:

''(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

''(1) a licensee;

''(2) a holder of a user permit; or

''(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.''.

(c) LICENSES AND USER PERMITS.—Section 843(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting ''or limited permit'' after ''user permit''; and

(B) by inserting before the period at the end the following: '', including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person'';

(2) in the second sentence, by striking ''$200 for each'' and inserting ''$50 for a limited permit and $200 for any other''; and

(3) by striking the third sentence and inserting ''Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.''.

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 842(i);'';

(2) in paragraph (4)—

(A) by inserting ''(A) the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary determines appropriate, that'' before ''the applicant''; and

(B) by adding at the end the following:

''(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and'';

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 842(i); and

''(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.''.

(e) APPLICATION APPROVAL.—Section 843(c) of title 18, United States Code, is amended by striking ''forty-five days'' and inserting ''90 days for licenses and permits,''.

(f) INSPECTION AUTHORITY.—Section 843(f) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking ''permittees'' and inserting ''holders of user permits''; and

(B) by inserting ''licensees and permittees'' before ''shall submit'';

(2) in the second sentence, by striking ''permittee'' the first time it appears and inserting ''holder of a user permit''; and

(3) by adding at the end the following: ''The Secretary may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).

(g) POSTING OF PERMITS.—Section 843(g) of title 18, United States Code, is amended by inserting ''user'' before ''permits''.

(h) BACKGROUND CHECKS; CLEARANCES.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

''(h)(1) If the Secretary receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

''(2)(A) If the Secretary determines that the responsible person or the employee is not one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

''(B) If the Secretary determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

''(i) confirms the determination;

''(ii) explains the grounds for the determination;

''(iii) provides information on how the disability may be relieved; and

''(iv) explains how the determination may be appealed.''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) EXCEPTION.—Notwithstanding any provision of this Act, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

SEC. 1123. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) DISTRIBUTION OF EXPLOSIVES.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking ''or'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''or who has been committed to a mental institution;''; and

(3) by adding at the end the following:

''(7) is an alien, other than an alien who—

''(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act); or

''(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

''(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

''(ii) is a person having the power to direct or cause the direction of the management

and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

''(8) has been discharged from the armed forces under dishonorable conditions;

''(9) having been a citizen of the United States, has renounced the citizenship of that person.''.

(b) POSSESSION OF EXPLOSIVE MATERIALS.—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking ''or'' at the end; and

(2) by inserting after paragraph (4) the following:

''(5) who is an alien, other than an alien who—

''(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

''(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

''(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

''(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

''(6) who has been discharged from the armed forces under dishonorable conditions;

''(7) who, having been a citizen of the United States, has renounced the citizenship of that person''; and

(3) by inserting ''or affecting'' before ''interstate'' each place that term appears.

SEC. 1124. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''(i) FURNISHING OF SAMPLES.—

''(1) IN GENERAL.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

''(A) samples of such explosive materials or ammonium nitrate;

''(B) information on chemical composition of those products; and

''(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

''(2) REIMBURSEMENT.—The Secretary shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.''.

SEC. 1125. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word ''shall'' the following: ''or any institution or organization receiving Federal financial assistance,''.

SEC. 1126. RELIEF FROM DISABILITIES.

Section 845(b) of title 18, United States Code, is amended to read as follows:

''(b)(1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 842(i) may apply to the Secretary for relief from such prohibition.

''(2) The Secretary may grant the relief requested under paragraph (1) if the Secretary determines that the circumstances regarding the applicability of section 842(i), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

''(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under the license or permit pending final action on an application for relief filed pursuant to this section.''.

SEC. 1127. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(p) THEFT REPORTING REQUIREMENT.—

''(1) IN GENERAL.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

''(2) PENALTY.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than $10,000, imprisoned not more than 5 years, or both.''.

SEC. 1128. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this subtitle and the amendments made by this subtitle.

TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

SEC. 1201. AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.

Section 44303 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Secretary of Transportation'';

(2) by moving the text of paragraph (2) of section 201(b) of the Air Transportation Safety and System Stabilization Act (115 Stat. 235) to the end and redesignating such paragraph as subsection (b);

(3) in subsection (b) (as so redesignated)—

(A) by striking the subsection heading and inserting ''AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—'';

(B) in the first sentence by striking ''the 180-day period following the date of enactment of this Act, the Secretary of Transportation'' and inserting ''the period beginning on September 22, 2001, and ending on December 31, 2003, the Secretary''; and

(C) in the last sentence by striking ''this paragraph'' and inserting ''this subsection''.

SEC. 1202. EXTENSION OF INSURANCE POLICIES.

Section 44302 of title 49, United States Code, is amended by adding at the end the following:

''(f) EXTENSION OF POLICIES.—

''(1) IN GENERAL.—The Secretary shall extend through August 31, 2003, and may extend through December 31, 2003, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

''(2) SPECIAL RULES.—Notwithstanding paragraph (1)—

''(A) in no event shall the total premium paid by the air carrier for the policy, as amended, be more than twice the premium that the air carrier was paying to the Department of Transportation for its third party policy as of June 19, 2002; and

''(B) the coverage in such policy shall begin with the first dollar of any covered loss that is incurred.''.

SEC. 1203. CORRECTION OF REFERENCE.

Effective November 19, 2001, section 147 of the Aviation and Transportation Security Act (Public Law 107–71) is amended by striking ''(b)'' and inserting ''(c)''.

SEC. 1204. REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) evaluates the availability and cost of commercial war risk insurance for air carriers and other aviation entities for passengers and third parties;

(B) analyzes the economic effect upon air carriers and other aviation entities of available commercial war risk insurance; and

(C) describes the manner in which the Department could provide an alternative means of providing aviation war risk reinsurance covering passengers, crew, and third parties through use of a risk-retention group or by other means.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Subtitle A—Chief Human Capital Officers

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Chief Human Capital Officers Act of 2002''.

SEC. 1302. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

''Sec.
''1401. Establishment of agency Chief Human Capital Officers.
''1402. Authority and functions of agency Chief Human Capital Officers.

''§ 1401. Establishment of agency Chief Human Capital Officers

''The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

''(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

''(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

''(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

''§ 1402. Authority and functions of agency Chief Human Capital Officers

''(a) The functions of each Chief Human Capital Officer shall include—

''(1) setting the workforce development strategy of the agency;

''(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

''(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

''(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

''(5) identifying best practices and benchmarking studies, and

''(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

''(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

''(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

''(A) are the property of the agency or are available to the agency; and

''(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

''(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''14. Agency Chief Human Capital Officers ..... 1401''.

SEC. 1303. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 1304. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

''(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

''(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

''(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

''(ii) integrating those strategies into the budget and strategic plans of those agencies;

''(B) closing skill gaps in mission critical occupations;

''(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

''(D) sustaining a culture that cultivates and develops a high performing workforce;

''(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

''(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.''.

SEC. 1305. EFFECTIVE DATE.

This subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B—Reforms Relating to Federal Human Capital Management

SEC. 1311. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

''(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).''.

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and''.

SEC. 1312. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period and inserting ''; and''; and

(C) by adding at the end of the following:

''(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

''(A) public notice has been given; and

''(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.''; and

(2) by inserting after section 3318 the following:

''§ 3319. Alternative ranking and selection procedures

''(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

''(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

''(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

''(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

''(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

''(1) the number of employees hired under that system;

''(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska

Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

''(3) the way in which managers were trained in the administration of that system.

''(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

''3319. Alternative ranking and selection procedures.''.

SEC. 1313. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

''SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

''§ 3521. Definitions

''In this subchapter, the term—

''(1) 'agency' means an Executive agency as defined under section 105; and

''(2) 'employee'—

''(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

''(i) is serving under an appointment without time limitation; and

''(ii) has been currently employed for a continuous period of at least 3 years; and

''(B) shall not include—

''(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

''(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government.

''(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

''(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

''(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

''(vi) any employee who—

''(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

''(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

''(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

''§ 3522. Agency plans; approval

''(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

''(b) The plan of an agency under subsection (a) shall include—

''(1) the specific positions and functions to be reduced or eliminated;

''(2) a description of which categories of employees will be offered incentives;

''(3) the time period during which incentives may be paid;

''(4) the number and amounts of voluntary separation incentive payments to be offered; and

''(5) a description of how the agency will operate without the eliminated positions and functions.

''(c) The Director of the Office of Personnel Management shall review each agency's plan an may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive of the Office of Personnel Management.

''§ 3523. Authority to provide voluntary separation incentive payments

''(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

''(b) A voluntary incentive payment—

''(1) shall be offered to agency employees on the basis of—

''(A) 1 or more organizational units;

''(B) 1 or more occupational series or levels;

''(C) 1 or more geographical locations;

''(D) skills, knowledge, or other factors related to a position;

''(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

''(F) any appropriate combination of such factors;

''(2) shall be paid in a lump sum after the employee's separation;

''(3) shall be equal to the lesser of—

''(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

''(B) an amount determined by the agency head, not to exceed $25,000;

''(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

''(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

''(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

''(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

''§ 3524. Effect of subsequent employment with the Government

''(a) The term 'employment'—

''(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

''(2) in subsection (c) does not include employment under such a contract.

''(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

''(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may waive the repayment if—

''(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

''(B) in case of an emergency involving a direct threat to life or property, the individual—

''(i) has skills directly related to resolving the emergency; and

''(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

''(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

''(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

''§ 3525. Regulations

''The Office of Personnel Management may prescribe regulations to carry out this subchapter.''.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

''CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT'';

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

''SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

''3521. Definitions.

''3522. Agency plans; approval.

''3523. Authority to provide voluntary separation incentive payments.

''3524. Effect of subsequent employment with the Government.

''3525. Regulations.''.

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

''(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

''(B) is serving under an appointment that is not time limited;

''(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

''(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

''(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

''(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

''(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

''(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

''(i) 1 or more organizational units;

''(ii) 1 or more occupational series or levels;

''(iii) 1 or more geographical locations;

''(iv) specific periods;

''(v) skills, knowledge, or other factors related to a position; or

''(vi) any appropriate combination of such factors;''.

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

''(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

''(ii) is serving under an appointment that is not time limited;

''(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

''(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

''(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

''(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

''(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

''(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

''(I) 1 or more organizational units;

''(II) 1 or more occupational series or levels;

''(III) 1 or more geographical locations;

''(IV) specific periods;

''(V) skills, knowledge, or other factors related to a position; or

''(VI) any appropriate combination of such factors.''.

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 State. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 1314. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking ''and a member of a uniformed service'' and inserting '', a member of a uniformed service, and a student who provides voluntary services under section 3111''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking ''chapter 81 of this title'' and inserting ''section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81''.

Subtitle C—Reforms Relating to the Senior Executive Service

SEC. 1321. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking ''3393a'';

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting ''or'' at the end;

(ii) in paragraph (2), by striking ''or'' at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

''(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43.''; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting ''or'' at the end;

(ii) in paragraph (2), by striking ''or'' at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking ''or removal from the Senior Executive Service for failure to be recertified under section 3393a'';

(4) in chapter 83—

(A) in section 8336(h)(1), by striking ''for failure to be recertified as a senior executive under section 3393a or''; and

(B) in section 8339(h), in the first sentence, by striking '', except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive''; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking ''for failure to be recertified as a senior executive under section 3393a or''; and

(B) in section 8421(a)(2), by striking '', except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age''.

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 1322. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

(a) IN GENERAL.—Section 5307 of title 5, United States Code, is amended by adding at the end the following:

''(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting 'the total annual compensation payable to the Vice President under section 104 of title 3' for 'the annual rate of basic pay payable for level I of the Executive Schedule' in the case of any employee who—

''(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

''(B) holds a position in or under an agency which is described in paragraph (2).

''(2) An agency described in this paragraph is any agency which, for purposes of the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance.

''(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

''(B) An agency's certification under this subsection shall be for a period of 2 calendar years, except that such certification may be terminated at any time, for purposes of either or both of those years, upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

''(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

''(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).''.

(b) CONFORMING AMENDMENTS.—(1) Section 5307(a) of title 5, United States Code, is amended by inserting ''or as otherwise provided under subsection (d),'' after ''under law,''.

(2) Section 5307(c) of such title is amended by striking ''this section,'' and inserting ''this section (subject to subsection (d)),''.

Subtitle D—Academic Training

SEC. 1331. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

''§ 4107. Academic degree training

''(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

''(1) contributes significantly to—

''(A) meeting an identified agency training need;

''(B) resolving an identified agency staffing problem; or

''(C) accomplishing goals in the strategic plan of the agency;

''(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

''(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

''(b) In exercising authority under subsection (a), an agency shall—

''(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

''(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

''(B) provide employees effective education and training to improve organizational and individual performance;

''(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

''(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

''(A) a noncareer appointment in the senior Executive Service; or

''(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

''(4) to the greatest extent practicable, facilitate the use of online degree training.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

''4107. Academic degree training.''.

SEC. 1332. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or''; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and''.

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Arming Pilots Against Terrorism Act''.

SEC. 1402. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44921. Federal flight deck officer program

''(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing passenger air transportation or intrastate passenger air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'.

''(b) PROCEDURAL REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

''(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

''(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

''(A) The type of firearm to be used by a Federal flight deck officer.

''(B) The type of ammunition to be used by a Federal flight deck officer.

''(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

''(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

''(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

''(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

''(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

''(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

''(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

''(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

''(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

''(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

''(M) Any other issues that the Under Secretary considers necessary.

''(N) The Under Secretary's decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

''(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

''(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

''(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

''(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

''(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

''(1) IN GENERAL.—The Under Secretary shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

''(2) TRAINING.—

''(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

''(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

''(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

''(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

''(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

''(C) TRAINING IN USE OF FIREARMS.—

''(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

''(ii) CONDUCT OF TRAINING.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

''(iii) REQUALIFICATION.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Under Secretary.

''(d) DEPUTIZATION.—

''(1) IN GENERAL.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

''(2) QUALIFICATION.—A pilot is qualified to be a Federal flight deck officer under this section if—

''(A) the pilot is employed by an air carrier;

''(B) the Under Secretary determines (in the Under Secretary's discretion) that the pilot meets the standards established by the Under Secretary for being such an officer; and

''(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

''(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

''(4) REVOCATION.—The Under Secretary may, (in the Under Secretary's discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

''(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

''(f) AUTHORITY TO CARRY FIREARMS.—

''(1) IN GENERAL.—The Under Secretary shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

''(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State.

''(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

''(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

''(h) LIMITATION ON LIABILITY.—

''(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

''(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

''(3) LIABILITY OF FEDERAL GOVERNMENT.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

''(i) PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

''(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

''(2) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

''(j) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

''(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

''(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

''(k) APPLICABILITY.—

''(1) EXEMPTION.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

''(2) PILOT DEFINED.—The term 'pilot' means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command.''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

''44921. Federal flight deck officer program.''.

(2) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (Public Law 107–71) is repealed.

(c) FEDERAL AIR MARSHAL PROGRAM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the Federal air marshal program is critical to aviation security.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act, including any amendment made by this Act, shall be construed as preventing the Under Secretary of Transportation for Security from implementing and training Federal air marshals.

SEC. 1403. CREW TRAINING.

(a) IN GENERAL.—Section 44918(e) of title 49, United States Code, is amended—

(1) by striking ''The Administrator'' and inserting the following:

''(1) IN GENERAL.—The Under Secretary'';

(2) by adding at the end the following:

''(2) ADDITIONAL REQUIREMENTS.—In updating the training guidance, the Under Secretary, in consultation with the Administrator, shall issue a rule to—

''(A) require both classroom and effective hands-on situational training in the following elements of self defense:

''(i) recognizing suspicious activities and determining the seriousness of an occurrence;

''(ii) deterring a passenger who might present a problem;

''(iii) crew communication and coordination;

''(iv) the proper commands to give to passengers and attackers;

''(v) methods to subdue and restrain an attacker;

''(vi) use of available items aboard the aircraft for self-defense;

''(vii) appropriate and effective responses to defend oneself, including the use of force against an attacker;

''(viii) use of protective devices assigned to crew members (to the extent such devices are approved by the Administrator or Under Secretary);

''(ix) the psychology of terrorists to cope with their behavior and passenger responses to that behavior;

''(x) how to respond to aircraft maneuvers that may be authorized to defend against an act of criminal violence or air piracy;

''(B) require training in the proper conduct of a cabin search, including the duty time required to conduct the search;

''(C) establish the required number of hours of training and the qualifications for the training instructors;

''(D) establish the intervals, number of hours, and elements of recurrent training;

''(E) ensure that air carriers provide the initial training required by this paragraph within 24 months of the date of enactment of this subparagraph; and

''(F) ensure that no person is required to participate in any hands-on training activity that that person believes will have an adverse impact on his or her health or safety.

''(3) RESPONSIBILITY OF UNDER SECRETARY.—(A) CONSULTATION.—In developing the rule under paragraph (2), the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, and representatives of air carriers, the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

''(B) DESIGNATION OF OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

''(C) NECESSARY RESOURCES AND KNOWLEDGE.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge.''; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraphs (2) and (3) (as added by paragraph (2) of this section).

(b) ENHANCE SECURITY MEASURES.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by adding at the end the following:

''(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.''.

(c) BENEFITS AND RISKS OF PROVIDING FLIGHT ATTENDANTS WITH NONLETHAL WEAPONS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aide in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

SEC. 1404. COMMERCIAL AIRLINE SECURITY STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the following:

(1) The number of armed Federal law enforcement officers (other than Federal air marshals), who travel on commercial airliners annually and the frequency of their travel.

(2) The cost and resources necessary to provide such officers with supplemental training in aircraft anti-terrorism training that is comparable to the training that Federal air marshals are provided.

(3) The cost of establishing a program at a Federal law enforcement training center for the purpose of providing new Federal law enforcement recruits with standardized training comparable to the training that Federal air marshals are provided.

(4) The feasibility of implementing a certification program designed for the purpose of ensuring Federal law enforcement officers have completed the training described in paragraph (2) and track their travel over a 6-month period.

(5) The feasibility of staggering the flights of such officers to ensure the maximum amount of flights have a certified trained Federal officer on board.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study. The report may be submitted in classified and redacted form.

SEC. 1405. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

(a) IN GENERAL.—Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

''(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.''.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (1) by striking ''Secretary'' the first and third places it appears and inserting ''Under Secretary''; and

(2) in paragraph (2) by striking ''Secretary'' each place it appears and inserting ''Under Secretary''.

SEC. 1406. TECHNICAL AMENDMENTS.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsection (i) (relating to short-term assessment and deployment of emerging security technologies and procedures) as subsection (j);

(2) by redesignating the second subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons) as subsection (i); and

(3) by redesignating the third subsection (h) (relating to limitation on liability for acts to thwart criminal violence for aircraft piracy) as subsection (k).

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

SEC. 1501. DEFINITIONS.

For purposes of this title:

(1) The term ''agency'' includes any entity, organizational unit, program, or function.

(2) The term ''transition period'' means the 12-month period beginning on the effective date of this Act.

SEC. 1502. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act.

(b) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Department pursuant to this Act that will not be transferred to the Department under the plan.

(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(6) Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.

(c) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

SEC. 1503. REVIEW OF CONGRESSIONAL COMMITTEE STRUCTURES.

It is the sense of Congress that each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department.

Subtitle B—Transitional Provisions

SEC. 1511. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(d) TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTIONS.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and in accordance with the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

(e) PROHIBITION ON USE OF TRANSPORTATION TRUST FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, no funds derived from the Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, or Harbor Maintenance Trust Fund, may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

(2) LIMITATION.—This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development.

SEC. 1512. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term ''completed administrative action'' includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) PENDING PROCEEDINGS.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) REFERENCES.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) EMPLOYMENT PROVISIONS.—(1) Notwithstanding the generality of the foregoing (including subsections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(f) STATUTORY REPORTING REQUIREMENTS.—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

SEC. 1513. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 1514. NATIONAL IDENTIFICATION SYSTEM NOT AUTHORIZED.

Nothing in this Act shall be construed to authorize the development of a national identification system or card.

SEC. 1515. CONTINUITY OF INSPECTOR GENERAL OVERSIGHT.

Notwithstanding the transfer of an agency to the Department pursuant to this Act, the Inspector General that exercised oversight of such agency prior to such transfer shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of such agency to the Department pursuant to this Act and the appointment of the Inspector General of the Department of Homeland Security in accordance with section 103(b).

SEC. 1516. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

SEC. 1517. REFERENCE.

With respect to any function transferred by or under this Act (including under a reorganization plan that becomes effective under section 1502) and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is so transferred.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANSPORTATION SECURITY

SEC. 1601. RETENTION OF SECURITY SENSITIVE INFORMATION AUTHORITY AT DEPARTMENT OF TRANSPORTATION.

(a) Section 40119 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''and the Administrator of the Federal Aviation Administration each'' after ''for Security''; and

(B) by striking ''criminal violence and aircraft piracy'' and inserting ''criminal violence, aircraft piracy, and terrorism and to ensure security''; and

(2) in subsection (b)(1)—

(A) by striking '', the Under Secretary'' and inserting ''and the establishment of a Department of Homeland Security, the Secretary of Transportation'';

(B) by striking ''carrying out'' and all that follows through ''if the Under Secretary'' and inserting ''ensuring security under this title if the Secretary of Transportation''; and

(C) in subparagraph (C) by striking ''the safety of passengers in transportation'' and inserting ''transportation safety''.

(b) Section 114 of title 49, United States Code, is amended by adding at the end the following:

''(s) NONDISCLOSURE OF SECURITY ACTIVITIES.—

''(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107–71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

''(A) be an unwarranted invasion of personal privacy;

''(B) reveal a trade secret or privileged or confidential commercial or financial information; or

''(C) be detrimental to the security of transportation.

''(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

''(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.''.

SEC. 1602. INCREASE IN CIVIL PENALTIES.

Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

''(8) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security shall be $10,000; except that the maximum civil penalty shall be $25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).''.

SEC. 1603. ALLOWING UNITED STATES CITIZENS AND UNITED STATES NATIONALS AS SCREENERS.

Section 44935(e)(2)(A)(ii) of title 49, United States Code, is amended by striking ''citizen of the United States'' and inserting ''citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))''.

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 1701. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95–452) is amended—

(1) by inserting ''Homeland Security,'' after ''Transportation,'' each place it appears; and

(2) by striking ''; and'' each place it appears in paragraph (1) and inserting '';'';

SEC. 1702. EXECUTIVE SCHEDULE.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting ''Secretary of Homeland Security.'' as a new item after ''Affairs.'';

(2) in section 5313, by inserting ''Deputy Secretary of Homeland Security.'' as a new item after ''Affairs.'';

(3) in section 5314, by inserting ''Under Secretaries, Department of Homeland Security.'', ''Director of the Bureau of Citizenship and Immigration Services.'' as new items after ''Affairs.'' the third place it appears;

(4) in section 5315, by inserting ''Assistant Secretaries, Department of Homeland Security.'', ''General Counsel, Department of Homeland Security.'', ''Officer for Civil Rights and Civil Liberties, Department of Homeland Security.'', ''Chief Financial Officer, Department of Homeland Security.'', ''Chief Information Officer, Department of Homeland Security.'', and ''Inspector General, Department of Homeland Security.'' as new items after ''Affairs.'' the first place it appears; and

(5) in section 5315, by striking ''Commissioner of Immigration and Naturalization, Department of Justice.''.

(b) SPECIAL EFFECTIVE DATE.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 1703. UNITED STATES SECRET SERVICE.

(a) IN GENERAL.—(1) The United States Code is amended in section 202 of title 3, and in section 3056 of title 18, by striking ''of the Treasury'', each place it appears and inserting ''of Homeland Security''.

(2) Section 208 of title 3, United States Code, is amended by striking ''of Treasury'' each place it appears and inserting ''of Homeland Security''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 1704. COAST GUARD.

(a) TITLE 14, U.S.C.—Title 14, United States Code, is amended in sections 1, 3, 53, 95, 145, 516, 666, 669, 673, 673a (as redesignated by subsection (e)(1)), 674, 687, and 688 by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(b) TITLE 10, U.S.C.—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888, 946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b), 1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731a(e), 16131(a), 16136(a), 16301(g), and 18501 by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(2) Section 801(1) of such title is amended by striking ''the General Counsel of the Department of Transportation'' and inserting ''an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security''.

(3) Section 983(d)(2)(B) of such title is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(4) Section 2665(b) of such title is amended by striking ''Department of Transportation'' and inserting ''Department in which the Coast Guard is operating''.

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking ''Secretaries of the Army, Air Force, and Transportation'' both places it appears and inserting ''Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security''; and

(B) in subsection (b), by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(6) Section 7361(b) of such title is amended in the subsection heading by striking ''TRANSPORTATION'' and inserting ''HOMELAND SECURITY''.

(7) Section 12522(c) of such title is amended in the subsection heading by striking ''TRANSPORTATION'' and inserting ''HOMELAND SECURITY''.

(c) TITLE 37, U.S.C.—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(d) TITLE 38, U.S.C.—Title 38, United States Code, is amended in sections 101(25)(d), 1560(a), 3002(5), 3011(a)(1)(A)(ii)(I), 3011(a)(1)(A)(ii)(II), 3011(a)(1)(B)(ii)(III), 3011(a)(1)(C)(iii)(II)(cc), 3012(b)(1)(A)(v), 3012(b)(1)(B)(ii)(V), 3018(b)(3)(B)(iv), 3018A(a)(3), 3018B(a)(1)(C), 3018B(a)(2)(C), 3018C(a)(5), 3020(m), 3035(b)(2), 3035(c), 3035(d), 3035(e), 3680A(g), and 6105(c) by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(e) OTHER DEFENSE-RELATED LAWS.—(1) Section 363 of Public Law 104–193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking ''of Transportation'' and inserting ''of Homeland Security''; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking ''of Transportation'' and inserting ''of Homeland Security''.

(2) Section 721(1) of Public Law 104–201 (10 U.S.C. 1073 note) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(3) Section 4463(a) of Public Law 102–484 (10 U.S.C. 1143a note) is amended by striking ''after consultation with the Secretary of Transportation''.

(4) Section 4466(h) of Public Law 102–484 (10 U.S.C. 1143 note) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(5) Section 542(d) of Public Law 103–337 (10 U.S.C. 1293 note) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(6) Section 740 of Public Law 106–181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(7) Section 1407(b)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security''.

(8) Section 2301(5)(D) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(5)(D)) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(9) Section 2307(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6677(a)) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(10) Section 1034(a) of Public Law 105–85 (21 U.S.C. 1505a(a)) is amended by striking ''of Transportation'' and inserting ''of Homeland Security''.

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking ''of Transportation'' in the fourth paragraph and inserting ''of Homeland Security'';

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security'';

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security'';

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking ''Secretaries of Army, Navy, Air Force, or Transportation'' and inserting ''Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,''; and

(E) in section 15(e) (50 U.S.C. App. 465(e)), by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security''.

(f) TECHNICAL CORRECTION.—(1) Title 14, United States Code, is amended by redesignating section 673 (as added by section 309 of Public Law 104–324) as section 673a.

(2) The table of sections at the beginning of chapter 17 of such title is amended by redesignating the item relating to such section as section 673a.

(g) EFFECTIVE DATE.—The amendments made by this section (other than subsection (f)) shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 1705. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) IN GENERAL.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 42 U.S.C. 300hh–12) is amended—

(1) in subsection (a)(1)—

(A) by striking ''Secretary of Health and Human Services'' and inserting ''Secretary of Homeland Security'';

(B) by inserting ''the Secretary of Health and Human Services and'' between ''in coordination with'' and ''the Secretary of Veterans Affairs''; and

(C) by inserting ''of Health and Human Services'' after ''as are determined by the Secretary''; and

(2) in subsections (a)(2) and (b), by inserting ''of Health and Human Services'' after ''Secretary'' each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 1706. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO TITLE 40.—Section 581 of title 40, United States Code, is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by inserting ''and'' after the semicolon at the end of paragraph (1);

(B) by striking ''; and'' at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

(b) LAW ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Section 1315 of title 40, United States Code, is amended to read as follows:

"§ 1315. Law enforcement authority of Secretary of Homeland Security for protection of public property

''(a) IN GENERAL.—To the extent provided for by transfers made pursuant to the Homeland Security Act of 2002, the Secretary of Homeland Security (in this section referred to as the 'Secretary') shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

''(b) OFFICERS AND AGENTS.—

''(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

''(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

''(A) enforce Federal laws and regulations for the protection of persons and property;

''(B) carry firearms;

''(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

''(D) serve warrants and subpoenas issued under the authority of the United States; and

''(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.

''(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

''(c) REGULATIONS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

''(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

''(d) DETAILS.—

''(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

''(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

''(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

''(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

''(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, and local law enforcement agencies, with the consent of the agencies.

''(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

''(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

''(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

''(1) preclude or limit the authority of any Federal law enforcement agency; or

''(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator's custody and control.''.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate authority for the protection of specific buildings to another Federal agency where, in the Secretary's discretion, the Secretary determines it necessary for the protection of that building.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 40, United States Code, is amended by striking the item relating to section 1315 and inserting the following:

''1315. Law enforcement authority of Secretary of Homeland Security for protection of public property.''.

SEC. 1707. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—

(1) in section 114(l)(2)(B), by inserting ''for a period not to exceed 90 days'' after ''effective''; and

(2) in section 114(l)(2)(B), by inserting ''ratified or'' after ''unless''.

SEC. 1708. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 1709. COLLABORATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The second sentence of section 351A(e)(1) of the Public Health Service Act (42 U.S.C. 262A(e)(1)) is amended by striking ''consultation with'' and inserting ''collaboration with the Secretary of Homeland Security and''.

(b) DEPARTMENT OF AGRICULTURE.—The second sentence of section 212(e)(1) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401) is amended by striking ''consultation with'' and inserting ''collaboration with the Secretary of Homeland Security and''.

SEC. 1710. RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) INVESTIGATION AND SURVEILLANCE ACTIVITIES.—Section 20105 of title 49, United States Code, is amended—

(1) by striking ''Secretary of Transportation'' in the first sentence of subsection (a) and inserting ''Secretary concerned'';

(2) by striking ''Secretary'' each place it appears (except the first sentence of subsection (a)) and inserting ''Secretary concerned'';

(3) by striking ''Secretary's duties under chapters 203–213 of this title'' in subsection (d) and inserting ''duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)'';

(4) by striking ''chapter.'' in subsection (f) and inserting ''chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).''; and

(5) by adding at the end the following new subsection:

''(g) DEFINITIONS.—In this section—

''(1) the term 'safety' includes security; and

''(2) the term 'Secretary concerned' means—

''(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

''(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.''.

(b) REGULATIONS AND ORDERS.—Section 20103(a) of such title is amended by inserting after ''1970.'' the following: ''When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.''.

(c) NATIONAL UNIFORMITY OF REGULATION.—Section 20106 of such title is amended—

(1) by inserting ''and laws, regulations, and orders related to railroad security'' after ''safety'' in the first sentence;

(2) by inserting ''or security'' after ''safety'' each place it appears after the first sentence; and

(3) by striking ''Transportation'' in the second sentence and inserting ''Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),''.

SEC. 1711. HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—

(1) by striking ''transportation'' the first place it appears in subsection (b)(1) and inserting ''transportation, including security,'';

(2) by striking ''aspects'' in subsection (b)(1)(B) and inserting ''aspects, including security,''; and

(3) by adding at the end the following:

''(C) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.''.

(b) PREEMPTION.—Section 5125 of that title is amended—

(1) by striking ''chapter or a regulation prescribed under this chapter'' in subsection (a)(1) and inserting ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security'';

(2) by striking ''chapter or a regulation prescribed under this chapter.'' in subsection (a)(2) and inserting ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.''; and

(3) by striking ''chapter or a regulation prescribed under this chapter,'' in subsection (b)(1) and inserting ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security,''.

SEC. 1712. OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting ''homeland security,'' after ''national security,''; and

(2) in section 208(a)(1) (42 U.S.C. 6617(a)(1)), by inserting ''the Office of Homeland Security,'' after ''National Security Council,''.

SEC. 1713. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

Section 7902(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

''(13) The Under Secretary for Science and Technology of the Department of Homeland Security.

''(14) Other Federal officials the Council considers appropriate.''.

SEC. 1714. CLARIFICATION OF DEFINITION OF MANUFACTURER.

Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa–33(3)) is amended—

(1) in the first sentence, by striking ''under its label any vaccine set forth in the Vaccine Injury Table'' and inserting ''any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine''; and

(2) in the second sentence, by inserting ''including any component or ingredient of any such vaccine'' before the period.

SEC. 1715. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa–33(5)) is amended by adding at the end the following: ''For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine's product license application or product label.''.

SEC. 1716. CLARIFICATION OF DEFINITION OF VACCINE.

Section 2133 of the Public Health Service Act (42 U.S.C. 300aa–33) is amended by adding at the end the following:

''(7) The term 'vaccine' means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body's immune response to a disease or diseases and includes all components and ingredients listed in the vaccines's product license application and product label.''.

SEC. 1717. EFFECTIVE DATE.

The amendments made by sections 1714, 1715, and 1716 shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

SA 4902. Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska) proposed an amendment to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the appropriate place add the following:

TITLE —NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 601. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the ''Commission'').

SEC. 602. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York, Somerset County, Pennsylvania, and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001; and

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and immediate response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 603. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as a co-chairperson of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) who is of the Democratic party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) who is of the Democratic party, who shall serve as a co-chairperson of the Commission;

(3) 2 members shall be appointed by the majority leader leader of the Senate;

(4) 2 members shall be appointed by the Speaker of the House of Representatives;

(5) 2 members shall be appointed by the minority leader of the Senate; and

(6) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 90 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, begin the operations of the Commission.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the co-chairpersons or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 604. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation;

(vii) the role of congressional oversight and resource allocation; and

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) RELATIONSHIP TO INTELLIGENCE COMMITTEES' INQUIRY.—When investigating facts and circumstances relating to the intelligence community, the Commission shall—

(I) first review the information compiled by, and the findings, conclusions, and recommendations of, the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001 (referred to in this subsection as the ''Joint Inquiry''); and

(2) after that review pursue any appropriate area of inquiry if the Commission determines that—

(A) the Joint Inquiry had not investigated that area;

(B) the Joint Inquiry's investigation of that area had not been complete; or

(C) new information not reviewed by the Joint Inquiry had become available with respect to that area.

SEC. 605. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only upon—

(I) the agreement of the co-chairpersons; or

(II) the affirmative vote of 5 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under paragraph (I)(B) may be issued under the signature of either co-chairperson or both co-chairpersons of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the co-chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpeonaor to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, of the Government information, suggestions, estimates, and statistics for the purpose of this title. Each department, bureau, agency, board, commission, office, independent establishment or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by either co-chairperson, the chairperson of any subcommittee created by a majority of the Commissioner or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 606. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the greatest extent feasible; and

(2) release public versions of the reports required under section 610 (a) and (b).

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or executive order.

SEC. 607. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The co-chairpersons, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 608. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 609. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 610. REPORTS OF THE COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

SA 4903. Mr. DURBIN (for Mr. DORGAN (for himself, Mr. ENSIGN, Mr. HOLLINGS, and Mr. ALLEN)) submitted an amendment intended to be proposed by Mr. DURBIN to the bill H.R. 3833, to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Dot Kids Implementation and Efficiency Act of 2002''.

SEC. 2. FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress finds that—

(1) the World Wide Web presents a stimulating and entertaining opportunity for children to learn, grow, and develop educationally and intellectually;

(2) Internet technology also makes available an extensive amount of information that is harmful to children, as studies indicate that a significant portion of all material available on the Internet is related to pornography;

(3) young children, when trying to use the World Wide Web for positive purposes, are often presented—either mistakenly or intentionally—with material that is inappropriate for their age, which can be extremely frustrating for children, parents, and educators;

(4) exposure of children to material that is inappropriate for them, including pornography, can distort the education and development of the Nation's youth and represents a serious harm to American families that can lead to a host of other problems for children, including appropriate use of chat rooms, physical molestation, harassment, and legal and financial difficulties;

(5) young boys and girls, older teens, troubled youth, frequent Internet users, chat room participants, online risk takers, and those who communicate online with strangers are at greater risk for receiving unwanted sexual solication on the Internet;

(6) studies have shown that 19 percent of youth (ages 10 to 17) who used the Internet regularly were the targets of unwanted sexual solicitation, but less than 10 percent of the solicitations were reported to the police;

(7) children who come across illegal content should report it to the congressionally authorized CyberTipline, an online mechanism developed by the National Center for Missing and Exploited Children, for citizens to report sexual crimes against children;

(8) the CyberTipline has received more than 64,400 reports, including reports of child pornography, online enticement for sexual acts, child molestation (outside the family), and child prostitution;

(9) although the computer software and hardware industries, and other related industries, have developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, to date such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(10) the creation of a ''green-light'' area within the United States country code Internet domain, that will contain only content that is appropriate for children under the age of 13, is analogous to the creation of a children's section within a library and will promote the positive experiences of children and families in the United States; and

(11) while custody, care, and nurture of the child reside first with the parent, the protection of the physical and psychological wellbeing of minors by shielding them from material that is harmful to them is a compelling governmental interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the creation of a second-level domain within the United States country code Internet domain for the location of material that is suitable for minors and not harmful to minors; and

(2) to ensure that the National Telecommunications and Information Administration oversees the creation of such a second-level domain and ensures the effective and efficient establishment and operation of the new domain.

SEC. 3. NTIA AUTHORITY.

Section 103(b)(3) of the National Telecommunications and Information Administration Organization Act (47 U.S.C 902(b)(3)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(C) shall assign to the NTIA responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the United States country code domain in accordance with section 157.''.

SEC. 4 CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended in part C by adding at the end the following new section:

''SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

''(a) RESPONSIBILITIES.—The NTIA shall require the registry selected to operate and maintain the United States country code Internet domain to establish, operate, and maintain a second-level domain within the United States country code domain that provides access only to material that is suitable for minors and not harmful to minors (in this section referred to as the 'new domain').

''(b) CONDITIONS OF CONTRACTS.—

''(1) INITIAL RESISTRY.—The NTIA shall not exercise any option periods under any contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain unless the initial registry agrees, during the 90-day period beginning upon the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002, to carry out, and to operate the new domain in accordance with, the requirements under subsection (c). Nothing in this subsection shall be construed to prevent the initial registry of the United States country code Internet domain from participating in the NTIA's process for selecting a successor registry or to prevent the NTIA from awarding, to the initial registry, the contract to be successor registry subject to the requirements of paragraph (2).

''(2) SUCCESSOR REGISTRIES.—The NTIA shall not enter into any contract for operating and maintaining the United States country code Internet domain with any successor registry unless such registry enters into an agreement with the NTIA, during the 90-day period after selection of such registry, that provides for the registry to carry out, and the new domain to operate in accordance with, the requirements under section (c).

(c) REQUIREMENTS OF NEW DOMAIN.—The registry and new domain shall be subject to the following requirements:

''(1) Written content standards for the new domain, except that the NTIA shall not have any authority to establish such standards.

''(2) Written agreements with each registrar for the new domain that require that use of the new domain is in accordance with the standards and requirements of the registry.

''(3) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to use the new domain in accordance with the standards and requirements of the registry.

''(4) Rules and procedures for enforcement and oversight that minimize the possibility that the new domain provides access to content that is not in accordance with the standards and requirements of the registry.

''(5) A process for removing from the new domain any content that is not in accordance with the standards and requirements of the registry.

''(6) A process to provide registrants to the new domain with an opportunity for a prompt, expeditious, and impartial dispute resolution process regarding any material of the registrant excluded from the new domain.

''(7) Continuous and uninterrupted service for the new domain during any transition to a new registry selected to operate and maintain new domain or the United States country code domain.

''(8) Procedures and mechanisms to promote the accuracy of contact information submitted by registrants and retained by registrars in the new domain.

''(9) Operationality of the new domain not later than one year after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002.

''(10) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit two-way and multiuser interactive services in the new domain, unless the registrant certifies to the registrar that such service will be offered in compliance with the content standards established pursuant to paragraph (1) and is designed to reduce the risk of exploitation of minors using such two-way and multiuser interactive services.

''(11) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit hyperlinks in the new domain that take new domain users outside of the new domain.

''(12) Any other action that the NTIA considers necessary to establish, operate, or maintain the new domain in accordance with the purposes of this section.

''(d) OPTION PERIODS FOR INITIAL REGISTRY.—The NTIA shall grant the initial registry the option periods available under the contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain if, and may not grant such option periods unless, the NTIA finds that the initial registry has satisfactorily performed its obligations under this Act and under the contract. Nothing in this section shall preempt or alter the NTIA's authority to terminate such contract for the operation of the United States country code Internet domain for cause or for convenience.

''(e) TREATMENT OF REGISTRY AND OTHER ENTITIES.—

''(1) IN GENERAL.—Only to the extent that such entities carry out functions under this section, the following entities are deemed to be interactive computer services for purposes of section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)):

''(A) The registry that operates and maintains the new domain.

''(B) Any entity that contracts with such registry to carry out functions to ensure that content accessed through the new domain complies with the limitations applicable to the new domain.

''(C) Any registrar for the registry of the new domain that is operating in compliance with its agreement with the registry.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall be construed to affect the applicability of any other provision of title II of the Communications Act of 1934 to the entities covered by subparagraph (A), (B), or (C) of paragraph (1).

''(f) EDUCATION.—The NTIA shall carry out a program to publicize the availability of the new domain and to educate the parents of minors regarding the process for utilizing the new domain in combination and coordination with hardware and software technologies that provide for filtering or blocking. The program under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

''(g) COORDINATION WITH FEDERAL GOVERNMENT.—The registry selected to operate and maintain the new domain shall—

''(1) consult with appropriate agencies of the Federal Government regarding procedures and actions to prevent minors and families who use the new domain from being targeted by adults and other children for predatory behavior, exploitation, or illegal actions; and

''(2) based upon the consultations conducted pursuant to paragraph (1), establish such procedures and take such actions as the registry may deem necessary to prevent such targeting.

The consultations, procedures, and actions required under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

''(h) COMPLIANCE REPORT.—The registry shall prepare, on an annual basis, a report on the registry's monitoring and enforcement procedures for the new domain. The registry shall submit each such report, setting forth the results of the review of its monitoring and enforcement procedures for the new domain, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(i) SUSPENSION OF NEW DOMAIN.—If the NTIA finds, pursuant to its own review or upon a good faith petition by the registry, that the new domain is not serving its intended purpose, the NTIA shall instruct the registry to suspend operation of the new domain until such time as the NTIA determines that the new domain can be operated as intended.

''(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) HARMFUL TO MINORS.—The term 'harmful to minors' means, with respect to material, that—

''(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, that it is designed to appeal to, or is designed to pander to, the prurient interest;

''(B) the material depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

''(C) taken as a whole, the material lacks serious, literary, artistic, political, or scientific value for minors.

''(2) MINOR.—The term 'minor' means any person under 13 years of age.

''(3) REGISTRY.—The term 'registry' means the registry selected to operate and maintain the United States country code Internet domain.

''(4) SUCCESSOR REGISTRY.—The term 'successor registry' means any entity that enters into a contract with the NTIA to operate and maintain the United States country code Internet domain that covers any period after the termination or expiration of the contract to operate and maintain the United States country code Internet domain, and any option periods under such contract, that was signed on October 26, 2001.

''(5) SUITABLE FOR MINORS.—The term 'suitable for minors' means, with respect to material, that it—

''(A) is not psychologically or intellectually inappropriate for minors; and

''(B) serves—

''(i) the educational, informational, intellectual, or cognitive needs of minors; or

''(ii) the social, emotional, or entertainment needs of minors.''.

SA 4904. Mr. DURBIN (for Mr. MCCAIN (for himself and Mr. HOLLINGS)) proposed an amendment to the bill H.R. 3609, to amend title 49, United States Code, to enhance the security and safety of pipelines; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the ''Pipeline Safety Improvement Act of 2002''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. ONE-CALL NOTIFICATION PROGRAMS.

(a) MINIMUM STANDARDS.—Section 6103 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting '', including all government operators'' before the semicolon at the end; and

(B) in paragraph (2) by inserting '', including all government and contract excavators'' before the semicolon at the end; and

(2) in subsection (c) by striking ''provide for'' and inserting ''provide for and document''.

(b) COMPLIANCE WITH MINIMUM STANDARDS.—Section 6104(d) is amended by striking ''Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to'' and inserting ''The Secretary shall''.

(c) IMPLEMENTATION OF BEST PRACTICES GUIDELINES.—

(1) IN GENERAL.—Section 6105 is amended to read as follows:

''§ 6105. Implementation of best practices guidelines

''(a) ADOPTION OF BEST PRACTICES.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled 'Common Ground', as periodically updated.

''(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to and participate in programs sponsored by a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary may make grants to a non-profit organization described in subsection (b).

''(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2003 through 2006. Such sums shall remain available until expended.

''(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 61 is amended by striking the item relating to section 6105 and inserting the following:

''6105. Implementation of best practices guidelines.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR GRANTS FOR STATES.—Section 6107(a) is amended by striking ''$1,000,000 for fiscal year 2000'' and all that follows before the period at the end of the first sentence and inserting ''$1,000,000 for each of fiscal years 2003 through 2006''.

(2) FOR ADMINISTRATION.—Section 6107(b) is amended by striking ''for fiscal years 1999, 2000, and 2001'' and inserting ''for fiscal years 2003 through 2006''.

SEC. 3. ONE-CALL NOTIFICATION OF PIPELINE OPERATORS.

(a) LIMITATION ON PREEMPTION.—Section 60104(c) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.''.

(b) MINIMUM REQUIREMENTS.—Section 60114(a)(2) is amended by inserting '', including a government employee or contractor,'' after ''person''.

(c) CRIMINAL PENALTIES.—Section 60123(d) is amended—

(1) in the matter preceding paragraph (1) by striking ''knowingly and willfully'';

(2) in paragraph (1) by inserting ''knowingly and willfully'' before ''engages'';

(3) by striking paragraph (2)(B) and inserting the following:

''(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''; and

(4) by adding after paragraph (2) the following:

''Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.''.

SEC. 4. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) in subsection (a) by striking ''GENERAL AUTHORITY.—'' and inserting ''AGREEMENTS WITHOUT CERTIFICATION.—'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(3) by inserting after subsection (a) the following:

''(b) AGREEMENTS WITH CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

''(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

''(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

''(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

''(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

''(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

''(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

''(A) the State authority fails to comply with the terms of the agreement;

''(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

''(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.''.

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended to read as follows:

''(e) ENDING AGREEMENTS.—

''(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

''(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

''(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

''(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

''(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.''.

(c) SECRETARY'S RESPONSE TO STATE NOTICES OF VIOLATIONS.—Subsection (c) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended—

(1) by striking ''Each agreement'' and inserting the following:

''(1) IN GENERAL.—Each agreement'';

(2) by adding at the end the following:

''(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

''(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

''(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions.''; and

(3) by aligning the text of paragraph (1) (as designated by this subsection) with paragraph (2) (as added by this subsection).

SEC. 5. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended to read as follows:

''§ 60116. Public education programs

''(a) IN GENERAL.—Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

''(b) MODIFICATION OF EXISTING PROGRAMS.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency, and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

''(c) STANDARDS.—The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.''.

SEC. 6. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

''§ 60129. Protection of employees providing pipeline safety information

''(a) DISCRIMINATION AGAINST EMPLOYEE.—

''(1) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

''(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

''(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

''(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

''(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

''(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

''(2) EMPLOYER DEFINED.—In this section, the term 'employer' means—

''(A) a person owning or operating a pipeline facility; or

''(B) a contractor or subcontractor of such a person.

''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person or persons named in the complaint and the Secretary of Transportation of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person or persons under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person or persons named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 60-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 90 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person or persons alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons who committed such violation to—

''(i) take affirmative action to abate the violation;

''(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person or persons against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

''(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person or persons to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award of costs is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an action of an employee of an employer who, acting without direction from the employer (or such employer's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.''.

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

''(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60129. Protection of employees providing pipeline safety information.''.

SEC. 7. SAFETY ORDERS.

Section 60117 is amended by adding at the end the following:

''(l) SAFETY ORDERS.—If the Secretary decides that a pipeline facility has a potential safety-related condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the safety-related condition.''.

SEC. 8. PENALTIES.

(a) PIPELINE FACILITIES HAZARDOUS TO LIFE AND PROPERTY.—(Environment)

(1) GENERAL AUTHORITY.—Section 60112(a) is amended to read as follows:

''(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

''(1) operation of the facility is or would be hazardous to life, property, or the environment; or

''(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.''.

(2) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended by striking ''is hazardous'' and inserting ''is or would be hazardous''.

(b) ENFORCEMENT.—

(1) GENERAL PENALTIES.—Section 60122(a)(1) is amended—

(A) by striking ''$25,000'' and inserting ''$100,000''; and

(B) by striking ''$500,000'' and inserting ''$1,000,000''.

(2) PENALTY CONSIDERATIONS.—Section 60122(b) is amended by striking ''under this section'' and all that follows through paragraph (4) and inserting ''under this section—

''(1) the Secretary shall consider—

''(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

''(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

''(C) good faith in attempting to comply; and

''(2) the Secretary may consider—

''(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

''(B) other matters that justice requires.''.

(3) CIVIL ACTIONS.—Section 60120(a) is amended—

(A) by striking ''(a) CIVIL ACTIONS.—(1)'' and all that follows through ''(2) At the request'' and inserting the following:

''(a) CIVIL ACTIONS.—

''(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122.

''(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—At the request''; and

(B) by aligning the remainder of the text of paragraph (2) with the text of paragraph (1).

(c) CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.—Section 60123(b) is amended—

(1) by striking ''or'' after ''gas pipeline facility'' and inserting '', an''; and

(2) by inserting after ''liquid pipeline facility'' the following: '', or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce''.

(d) COMPTROLLER GENERAL STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties on operators of hazardous liquid and gas transmission pipelines.

(2) ANALYSIS.—In conducting the study, the Comptroller General shall examine, at a minimum, the following:

(A) The frequency with which the Secretary has substituted corrective orders for fines and penalties.

(B) Changes in the amounts of fines recommended by safety inspectors, assessed by the Secretary, and actually collected.

(C) An evaluation of the overall effectiveness of the Secretary's enforcement strategy.

(D) The extent to which the Secretary has complied with the report of the Government Accounting Office entitled ''Pipeline Safety: The Office of Pipeline Safety is Changing How it Oversees the Pipeline Industry''.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the results of the study.

SEC. 9. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

''§ 60130. Pipeline safety information grants to communities

''(a) GRANT AUTHORITY.—

''(1) IN GENERAL.—The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipeline facilities in local communities, other than facilities regulated under Public Law 93–153 (43 U.S.C. 1651 et seq.). The Secretary shall establish competitive procedures for awarding grants under this section and criteria for selecting grant recipients. The amount of any grant under this section may not exceed $50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

''(2) TECHNICAL ASSISTANCE DEFINED.—In this subsection, the term 'technical assistance' means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in official proceedings conducted under this chapter.

''(b) PROHIBITED USES.—Funds provided under this section may not be used for lobbying or in direct support of litigation.

''(c) ANNUAL REPORT.—

''(1) IN GENERAL.—Not later than 90 days after the last day of each fiscal year for which grants are made by the Secretary under this section, the Secretary shall report to the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives on grants made under this section in the preceding fiscal year.

''(2) CONTENTS.—The report shall include—

''(A) a listing of the identity and location of each recipient of a grant under this section in the preceding fiscal year and the amount received by the recipient;

''(B) a description of the purpose for which each grant was made; and

''(C) a description of how each grant was used by the recipient.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $1,000,000 for each of the fiscal years 2003 through 2006. Such amounts shall not be derived from user fees collected under section 60301.''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60130. Pipeline safety information grants to communities.''.

SEC. 10. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—Section 60118 is amended by adding at the end the following:

''(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—If the Secretary or the National Transportation Safety Board investigate an accident involving a pipeline facility, the operator of the facility shall make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.''.

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by striking ''If the Secretary'' and inserting the following:

''(1) IN GENERAL.—If the Secretary'';

(2) by adding the end the following:

''(2) ACTIONS ATTRIBUTABLE TO AN EMPLOYEE.—If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—

''(A) the Secretary, after notice and an opportunity for a hearing, determines that the employee's actions did not contribute substantially to the cause of the accident; or

''(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 60131 and can safely perform those activities.

''(3) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS.—An action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.''; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Section 60118 is amended by adding at the end the following:

''(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to infringe upon the constitutional rights of an operator or its employees.''.

SEC. 11. POPULATION ENCROACHMENT AND RIGHTS-OF-WAY.

(a) IN GENERAL.—Section 60127 is amended to read as follows:

''§ 60127. Population encroachment and rights-of-way

''(a) STUDY.—The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices, zoning ordinances, and preservation of environmental resources with regard to pipeline rights-of-way and their maintenance.

''(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices, zoning ordinances, and preservation of environmental resources—

''(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

''(2) to address and prevent the hazards and risks to the public, pipeline workers, and the environment associated with encroachment on pipeline rights-of-way;

''(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way; and

''(4) to address how to best preserve environmental resources in conjunction with maintaining pipeline rights-of-way, recognizing pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

''(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

''(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

''(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

''(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment and maintenance on pipeline rights-of-way so as to more effectively protect public safety, pipeline workers, and the environment.

''(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

''(A) Congress and appropriate Federal agencies; and

''(B) States for further distribution to appropriate local authorities.

''(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way and to address the potential methods of preserving environmental resources while maintaining pipeline rights-of-way, consistent with pipeline safety.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60127 and inserting the following:

''60127. Population encroachment and rights-of-way.''.

SEC. 12. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The heads of the participating agencies shall carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipeline facilities.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the heads of the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities in the program authorized by subsection (a).

(2) AREAS OF EXPERTISE.—Under the memorandum of understanding, each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program within its expertise are implemented in accordance with this section. The Department of Transportation's responsibilities shall reflect its lead role in pipeline safety and expertise in pipeline inspection, integrity management, and damage prevention. The Department of Energy's responsibilities shall reflect its expertise in system reliability, low-volume gas leak detection, and surveillance technologies. The National Institute of Standards and Technology's responsibilities shall reflect its expertise in materials research and assisting in the development of consensus technical standards, as that term is used in section 12(d)(4) of Public Law 104–13 (15 U.S.C. 272 note).

(c) PROGRAM ELEMENTS.—The program authorized by subsection (a) shall include research, development, demonstration, and standardization activities related to—

(1) materials inspection;

(2) stress and fracture analysis, detection of cracks, corrosion, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;

(3) internal inspection and leak detection technologies, including detection of leaks at very low volumes;

(4) methods of analyzing content of pipeline throughput;

(5) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;

(6) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;

(7) communication, control, and information systems surety;

(8) fire safety of pipelines;

(9) improved excavation, construction, and repair technologies; and

(10) other appropriate elements.

(d) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review, and the report to Congress shall include the comments of the committees. The 5-year program plan shall be based on the memorandum of understanding under subsection (b) and take into account related activities of other Federal agencies.

(2) CONSULTATION.—In preparing the program plan and selecting and prioritizing appropriate project proposals, the Secretary of Transportation shall consult with or seek the advice of appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries, utilities, manufacturers, institutions of higher learning, Federal agencies, pipeline research institutions, national laboratories, State pipeline safety officials, labor organizations, environmental organizations, pipeline safety advocates, and professional and technical societies.

(e) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the heads of the participating agencies shall transmit jointly to Congress a report on the status and results to date of the implementation of the program plan prepared under subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) DEPARTMENT OF TRANSPORTATION.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $10,000,000 for each of the fiscal years 2003 through 2006.

(2) DEPARTMENT OF ENERGY.—There is authorized to be appropriated to the Secretary of Energy for carrying out this section $10,000,000 for each of the fiscal years 2003 through 2006.

(3) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is authorized to be appropriated to the Director of the National Institute of Standards and Technology for carrying out this section $5,000,000 for each of the fiscal years 2003 through 2006.

(4) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301 of title 49, United States Code.

(g) PIPELINE INTEGRITY PROGRAM.—Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

(h) PARTICIPATING AGENCIES DEFINED.—In this section, the term ''participating agencies'' means the Department of Transportation, the Department of Energy, and the National Institute of Standards and Technology.

SEC. 3. PIPELINE QUALIFICATION PROGRAMS.

(a) VERIFICATION PROGRAM.—

(1) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

''§ 60131. Verification of pipeline qualification programs

''(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the individuals who perform covered tasks are qualified to conduct such tasks.

''(b) STANDARDS AND CRITERIA.—

''(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

''(2) CONTENTS.—The standards and criteria shall include the following:

''(A) The establishment of methods for evaluating the acceptability of the qualifications of individuals described in subsection (a).

''(B) A requirement that pipeline operators develop and implement written plans and procedures to qualify individuals described in subsection (a) to a level found acceptable using the methods established under subparagraph (A) and evaluate the abilities of individuals described in subsection (a) according to such methods.

''(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be reviewed and verified under subsection (e).

''(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—The Secretary shall require each pipeline operator to develop and adopt, not later than 2 years after the date of enactment of this section, a qualification program that complies with the standards and criteria described in subsection (b).

''(d) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

''(1) A method for examining or testing the qualifications of individuals described in subsection (a). The method may include written examination, oral examination, observation during on-the-job performance, on-the-job training, simulations, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

''(2) A requirement that the operator complete the qualification of all individuals described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

''(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

''(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

''(e) REVIEW AND VERIFICATION OF PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall review the qualification program of each pipeline operator and verify its compliance with the standards and criteria described in subsection (b) and that it includes the elements described in subsection (d). The Secretary shall record the results of that review for use in the next review of an operator's program.

''(2) DEADLINE FOR COMPLETION.—Reviews and verifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

''(3) INADEQUATE PROGRAMS.—If the Secretary decides that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary shall act as under section 60108(a)(2) to require the operator to revise the qualification program.

''(4) PROGRAM MODIFICATIONS.—If the operator of a pipeline facility significantly modifies a program that has been verified under this subsection, the operator shall notify the Secretary of the modifications. The Secretary shall review and verify such modifications in accordance with paragraph (1).

''(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section if the waiver or modification is not inconsistent with pipeline safety.

''(6) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in subsection (d) not later than 2 years after the date of enactment of this section.

''(f) INTRASTATE PIPELINE FACILITIES.—In the case of an intrastate pipeline facility operator, the duties and powers of the Secretary under this section with respect to the qualification program of the operator shall be vested in the appropriate State regulatory agency, consistent with this chapter.

''(g) COVERED TASK DEFINED.—In this section, the term 'covered task'—

''(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, including any subsequent modifications; and

''(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, including any subsequent modifications.

''(h) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at end the following:

''60131. Verification of pipeline qualification programs.''.

(b) PILOT PROGRAM FOR CERTIFICATION OF CERTAIN PIPELINE WORKERS.—

(1) IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall—

(A) develop tests and other requirements for certifying the qualifications of individuals who operate computer-based systems for controlling the operations of pipelines; and

(B) establish and carry out a pilot program for 3 pipeline facilities under which the individuals operating computer-based systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

(2) REPORT.—The Secretary shall include in the report required under section 60131(h), as added by subsection (a) of this section, the results of the pilot program. The report shall include—

(A) a description of the pilot program and implementation of the pilot program at each of the 3 pipeline facilities;

(B) an evaluation of the pilot program, including the effectiveness of the process for certifying individuals who operate computer-based systems for controlling the operations of pipelines;

(C) any recommendations of the Secretary for requiring the certification of all individuals who operate computer-based systems for controlling the operations of pipelines; and

(D) an assessment of the ramifications of requiring the certification of other individuals performing safety-sensitive functions for a pipeline facility.

(3) COMPUTER-BASED SYSTEMS DEFINED.—In this subsection, the term ''computer-based systems'' means supervisory control and data acquisition systems.

SEC. 14. RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS FOR GAS PIPELINES.

(a) IN GENERAL.—Section 60109 is amended by adding at the end the following:

''(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

''(1) REQUIREMENT.—Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator located in an area identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, and shall adopt and implement a written integrity management program for such facility to reduce the risks.

''(2) REGULATIONS.—

''(A) IN GENERAL.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require an operator to conduct a risk analysis and adopt an integrity management program within a time period prescribed by the Secretary, ending not later than 24 months after such date of enactment. Not later than 18 months after such date of enactment, each operator of a gas pipeline facility shall begin a baseline integrity assessment described in paragraph (3).

''(B) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

''(3) MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

''(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety. The operator shall complete such assessment not later than 10 years after the date of enactment of this subsection. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

''(B) Subject to paragraph (5), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

''(C) Clearly defined criteria for evaluating the results of assessments conducted under subparagraphs (A) and (B) and for taking actions based on such results.

''(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

''(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

''(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

''(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

''(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

''(4) TREATMENT OF BASELINE INTEGRITY ASSESSMENTS.—In the case of a baseline integrity assessment conducted by an operator in the period beginning on the date of enactment of this subsection and ending on the date of issuance of regulations under this subsection, the Secretary shall accept the assessment as complete, and shall not require the operator to repeat any portion of the assessment, if the Secretary determines that the assessment was conducted in accordance with the requirements of this subsection.

''(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

''(6) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

''(A) The minimum requirements described in paragraph (3).

''(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

''(C) The manner in which the inspections or testing are conducted.

''(D) The criteria used in analyzing results of the inspections or testing.

''(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

''(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

''(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1).

In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

''(7) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

''(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

''(B) the use of emergency flow restricting devices.

''(8) LACK OF REGULATIONS.—In the absence of regulations addressing the elements of an integrity management program described in this subsection, the operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program described in this subsection not later than 24 months after the date of enactment of this subsection and shall complete the baseline integrity assessment described in this subsection not later than 10 years after such date of enactment. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

''(9) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

''(A) REVIEW OF PROGRAMS.—

''(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

''(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

''(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

''(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment. The Secretary shall review any such amendment in accordance with this paragraph.

''(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity

management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

''(10) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (9), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

''(11) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.''.

(b) INTEGRITY MANAGEMENT REGULATIONS.—Section 60109 is further amended by adding at the end the following:

''(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 4 years after the date of enactment of this subsection, the Comptroller General shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).''.

(c) CONFORMING AMENDMENT.—Section 60118(a) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by adding at the end the following:

''(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).''.

(d) STUDY OF REASSESSMENT INTERVALS.—

(1) STUDY.—The Comptroller General shall conduct a study to evaluate the 7-year reassessment interval required by section 60109(c)(3)(B) of title 49, United States Code, as added by subsection (a) of this section.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under paragraph (1).

SEC. 15. NATIONAL PIPELINE MAPPING SYSTEM.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

''§ 60132. National pipeline mapping system

''(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) shall provide to the Secretary of Transportation the following information with respect to the facility:

''(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

''(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

''(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

''(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

''(c) TECHNICAL ASSISTANCE TO IMPROVE LOCAL RESPONSE CAPABILITIES.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60132. National pipeline mapping system.''.

SEC. 16. COORDINATION OF ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

''§ 60133. Coordination of environmental reviews

''(a) INTERAGENCY COMMITTEE.—

''(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

''(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

''(A) The Secretary of Transportation.

''(B) The Administrator of the Environmental Protection Agency.

''(C) The Director of the United States Fish and Wildlife Service.

''(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

''(E) The Director of the Bureau of Land Management.

''(F) The Director of the Minerals Management Service.

''(G) The Assistant Secretary of the Army for Civil Works.

''(H) The Chairman of the Federal Energy Regulatory Commission.

''(3) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

''(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

''(5) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

''(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

''(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

''(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

''(2) to preempt applicable Federal, State, or local environmental law.

''(d) INTERIM OPERATIONAL ALTERNATIVES.—

''(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

''(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

''(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

''(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

''(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

''(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

''(f) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other

relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60133. Coordination of environmental reviews.''.

SEC. 17. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 18. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this title, the Secretary of Transportation shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT–2000–069).

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 19. NTSB SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in subsections (a) and (b) of section 1135, title 49, United States Code.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 20. MISCELLANEOUS AMENDMENTS.

(a) GENERAL AUTHORITY AND PURPOSE.—

(1) IN GENERAL.—Section 60102(a) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by striking ''(a)(1)'' and all that follows through ''The Secretary of Transportation'' and inserting the following:

''(a) PURPOSE AND MINIMUM SAFETY STANDARDS.—

''(1) PURPOSE.—The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

''(2) MINIMUM SAFETY STANDARDS.—The Secretary'';

(C) by moving the remainder of the text of paragraph (2) (as so redesignated), including subparagraphs (A) and (B) but excluding subparagraph (C), 2 ems to the right; and

(D) in paragraph (3) (as so redesignated) by inserting ''QUALIFICATIONS OF PIPELINE OPERATORS.—'' before ''The qualifications''.

(2) CONFORMING AMENDMENTS.—Chapter 601 is amended—

(A) by striking the heading for section 60102 and inserting the following:

''§ 60102. Purpose and general authority''; and

(B) in the analysis for such chapter by striking the item relating to section 60102 and inserting the following:

''60102. Purpose and general authority.''.

(b) CONFLICTS OF INTEREST.—Section 60115(b)(4) is amended by adding at the end the following:

''(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.''.

SEC. 21. TECHNICAL AMENDMENTS.

Chapter 601 is amended—

(1) in section 60110(b) by striking ''circumstances'' and all that follows through ''operator'' and inserting the following: ''circumstances, if any, under which an operator'';

(2) in section 60114 by redesignating subsection (d) as subsection (c);

(3) in section 60122(a)(1) by striking ''section 60114(c)'' and inserting ''section 60114(b)''; and

(4) in section 60123(a) by striking ''60114(c)'' and inserting ''60114(b)''.

SEC. 22. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended to read as follows:

''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

''(1) $45,800,000 for fiscal year 2003, of which $31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

''(2) $46,800,000 for fiscal year 2004, of which $35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

''(3) $47,100,000 for fiscal year 2005, of which $41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

''(4) $50,000,000 for fiscal year 2006, of which $45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.''.

(b) STATE GRANTS.—Section 60125 is amended—

(1) by striking subsections (b), (d), and (f) and redesignating subsection (c) as subsection (b); and

(2) in subsection (b)(1) (as so redesignated) by striking subparagraphs (A) through (H) and inserting the following:

''(A) $19,800,000 for fiscal year 2003, of which $14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

''(B) $21,700,000 for fiscal year 2004, of which $16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

''(C) $24,600,000 for fiscal year 2005, of which $19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

''(D) $26,500,000 for fiscal year 2006, of which $21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.''.

(c) OIL SPILLS; EMERGENCY RESPONSE GRANTS.—Section 60125 is amended by inserting after subsection (b) (as redesignated by subsection (b)(1) of this section) the following:

''(c) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006.

''(d) EMERGENCY RESPONSE GRANTS.—

''(1) IN GENERAL.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $6,000,000 for each of fiscal years 2003 through 2006 to carry out this subsection.''.

(d) CONFORMING AMENDMENT.—Section 60125(e) is amended by striking ''or (b) of this section''.

SEC. 23. INSPECTIONS BY DIRECT ASSESSMENT.

Section 60102, as amended by this Act, is further amended by adding at the end the following:

''(m) INSPECTIONS BY DIRECT ASSESSMENT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.''.

SEC. 24. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

SEC. 25. PIPELINE BRIDGE RISK STUDY.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks warranting particularized attention in connection with pipeline operators risk assessment programs and whether particularized inspection standards need to be developed by the Department of Transportation to recognize the peculiar risks posed by such bridges.

(b) PUBLIC PARTICIPATION AND COMMENTS.—In conducting the study, the Secretary shall provide, to the maximum extent practicable, for public participation and comment and shall solicit views and comments from the public and interested persons, including participants in the pipeline industry with knowledge and experience in inspection of pipeline facilities.

(c) COMPLETION AND REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall complete the study and transmit to Congress a report detailing the results of the study.

(d) FUNDING.—The Secretary may carry out this section using only amounts that are specifically appropriated to carry out this section.

SEC. 26. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES IN NEW ENGLAND.

(a) STUDY.—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study

on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network.

(b) CONSIDERATION.—In carrying out the study, the Commission shall consider the ability of natural gas pipeline and storage facilities in New England to meet current and projected demand by gas-fired power generation plants and other consumers.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Energy Regulatory Commission shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the results of the study conducted under subsection (a), including recommendations for addressing potential natural gas transmission and storage capacity problems in New England.

SA 4905. Mr. DURBIN (for Mr. THOMPSON) proposed an amendment to the bill S. 3067, to amend title 44, United States Code, to extend certain government information security reform for one year, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ONE-YEAR EXTENSION OF GOVERNMENT INFORMATION SECURITY REFORM.

Section 3536 of title 44, United States Code, is amended by striking ''after the date'' and all that follows and inserting ''after November 30, 2003.''.

SEC. 2. DESIGNATION OF LAW AS GOVERNMENT INFORMATION SECURITY REFORM ACT.

Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

''SEC. 1060. SHORT TITLE.

''This subtitle may be cited as the 'Government Information Security Reform Act'.''.

Amend the title so as to read: ''A bill to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes.''.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 13, 2002 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Mr. DURBIN. Madam President, in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations and that they be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

OVERSEAS PRIVATE INVESTMENT CORPORATION

Collister Johnson, Jr., of Virginia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004. (Reappointment)

DEPARTMENT OF STATE

John Randle Hamilton, of North Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

John F. Keane, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Irene B. Brooks, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Susan Bayh.

Allen I. Olson, of Minnesota, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Alice Chamberlin.

DEPARTMENT OF STATE

David N. Greenlee, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

Peter DeShazo, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Deputy Permanent Representative of the United States of America to the Organization of American States.

OVERSEAS PRIVATE INVESTMENT CORPORATION

John L. Morrison, of Minnesota, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004, vice John J. Pikarski, Jr., term expired.

DEPARTMENT OF STATE

J. Cofer Black, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large, vice Francis Xavier Taylor.

BROADCASTING BOARD OF GOVERNORS

Blanquita Walsh Cullum, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005, vice Cheryl F. Halpern, term expired.

FOREIGN SERVICE

Nominations in the Foreign Service received by the Senate on October 8, 2002, beginning with William Joseph Burns, of Pennsylvania, and ending with Michael L. Young, of Colorado.

Nominations in the Foreign Service received by the Senate on October 8, 2002, beginning with Jon Christopher Karber, of Arizona, and ending with Peter Fernandez, of New York.

Mr. DURBIN. Madam President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nomination: Alan Olson, of Minnesota, to be a commissioner on the part of the United States on the International Joint Commission, United States and Canada, the nomination placed on the Executive Calendar, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

UNANIMOUS CONSENT AGREEMENT—S. 1214 AND CARE ACT

Mr. DURBIN. Madam President, I ask unanimous consent that at 9:30 a.m., Thursday, November 14, the Senate proceed to the consideration of the conference report to accompany S. 1214, the port and maritime security legislation; that there be 60 minutes for debate with respect to the conference report, with the time equally divided and controlled between the chairman and ranking member of the Commerce Committee; that at 10:30 a.m., without further intervening action or debate, the Senate proceed to vote on the adoption of the conference report; that immediately following adoption of the conference report, Senator SANTORUM be recognized to propound a unanimous consent request relating to the CARE Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING AUTHORITIES RELATING TO THE NATIONAL SECURITY WORKING GROUP

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 355, submitted earlier today by the majority leader and the Republican leader.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 355) extending the authorities relating to the Senate National Security Working Group.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Madam President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table, en bloc, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 355) was agreed to, as follows:

S. RES. 355

Resolved, That Senate Resolution 105 of the One Hundred First Congress, agreed to April 13, 1989, as amended by Senate Resolution 383 of the One Hundred Sixth Congress, agreed to October 27, 2000, is further amended by adding at the end the following new section:

SEC. 4. THE PROVISIONS OF THIS RESOLUTION SHALL REMAIN IN EFFECT UNTIL DECEMBER 31, 2004.''.

ALLOWING CERTAIN CATCH-UP CONTRIBUTIONS

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate

proceed to the immediate consideration of H.R. 3340, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3340) to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3340) was read the third time and passed.

COURT SERVICES AND OFFENDER SUPERVISION AGENCY INTERSTATE SUPERVISION ACT OF 2002

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 717, S. 3044.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3044) to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Madam President, I ask unanimous consent that the bill be read a third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3044) was read the third time and passed, as follows:

S. 3044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Court Services and Offender Supervision Agency Interstate Supervision Act of 2002''.

SEC. 2. INTERSTATE SUPERVISION.

Section 11233(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–133(b)(2), D.C. Official Code) is amended—

(1) by amending subparagraph (G) to read as follows:

''(G) arrange for the supervision of District of Columbia offenders on parole, probation, and supervised release who seek to reside in jurisdictions outside the District of Columbia;'';

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

''(I) arrange for the supervision of offenders on parole, probation, and supervised release from jurisdictions outside the District of Columbia who seek to reside in the District of Columbia; and

''(J) have the authority to enter into agreements, including the Interstate Compact for Adult Offender Supervision, with any State or group of States in accordance with the Agency's responsibilities under subparagraphs (G) and (I).''.

FACILITATING USE OF PORTION OF FORMER O'REILLY GENERAL HOSPITAL IN SPRINGFIELD, MISSOURI

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5349, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5349) to facilitate the use of a portion of the former O'Reilly General Hospital in Springfield, Missouri, by the local Boys and Girls Club through the release of the reversionary interest and other interests retained by the United States in 1955 when the land was conveyed to the State of Missouri.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5349) was read the third time and passed.

WESTERN SHOSHONE CLAIMS DISTRIBUTION ACT

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 634, S. 958.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 958) to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part printed in black brackets and insert the part printed in italic.]

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Western Shoshone Claims Distribution Act''.

[SEC. 2. DISTRIBUTION OF DOCKET 326–K FUNDS.

[The funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326–K before the Indian Claims Commission, including all earned interest, shall be distributed as follows:

[(1) The Secretary shall establish a Western Shoshone Judgment Roll consisting of all Western Shoshones who—

[(A) have at least ¼ degree of Western Shoshone Blood;

[(B) are citizens of the United States; and

[(C) are living on the date of enactment of this Act.

[(2) Any individual determined or certified as eligible by the Secretary to receive a per capita payment from any other judgment fund awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be eligible for enrollment under this Act.

[(3) The Secretary shall publish in the Federal Register rules and regulations governing the establishment of the Western Shoshone Judgment Roll and shall utilize any documents acceptable to the Secretary in establishing proof of eligibility. The Secretary's determination on all applications for enrollment under this paragraph shall be final.

[(4) Upon completing the Western Shoshone Judgment Roll under paragraph (1), the Secretary shall make a per capita distribution of 100 percent of the funds described in this section, in a sum as equal as possible, to each person listed on the Roll.

[(5)(A) With respect to the distribution of funds under this section, the per capita shares of living competent adults who have reached the age of 19 years on the date of the distribution provided for under paragraph (4), shall be paid directly to them.

[(B) The per capita shares of deceased individuals shall be distributed to their heirs and legatees in accordance with regulations prescribed by the Secretary.

[(C) The shares of legally incompetent individuals shall be administered pursuant to regulations and procedures established by the Secretary under section 3(b)(3) of Public Law 93–134 (25 U.S.C. 1403(b)(3)).

[(D) The shares of minors and individuals who are under the age of 19 years on the date of the distribution provided for under paragraph (4) shall be held by the Secretary in supervised individual Indian money accounts. The funds from such accounts shall be disbursed over a period of 4 years in payments equaling 25 percent of the principal, plus the interest earned on that portion of the per capita share. The first payment shall be disbursed to individuals who have reached the age of 18 years if such individuals are deemed legally competent. Subsequent payments shall be disbursed within 90 days of the individual's following 3 birthdays.

[(6) All funds distributed under this Act are subject to the provisions of section 7 of Public Law 93–134 (25 U.S.C. 1407).

[(7) All per capita shares belonging to living competent adults certified as eligible to share in the judgment fund distribution under this section, and the interest earned on those shares, that remain unpaid for a period of 6-years shall be added to the principal funds that are held and invested in accordance with section 3, except that in the case of a minor, such 6-year period shall not begin to run until the minor reaches the age of majority.

[(8) Any other residual principal and interest funds remaining after the distribution under paragraph (4) is complete shall be added to the principal funds that are held and invested in accordance with section 3.

[(9) Receipt of a share of the judgment funds under this section shall not be construed as a waiver of any existing treaty rights pursuant to the ''1863 Treaty of Ruby Valley'', inclusive of all Articles I through VIII, and shall not prevent any Western Shoshone Tribe or Band or individual Shoshone

Indian from pursuing other rights guaranteed by law.

[SEC. 3. DISTRIBUTION OF DOCKETS 326–A–1 AND 326–A–3.

[The funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326–A–1 and 326–A–3 before the United States Court of Claims, and the funds referred to under paragraphs (7) and (8) of section 2, together with all earned interest, shall be distributed as follows:

[(1)(A) Not later than 120 days after the date of enactment of this Act, the Secretary shall establish in the Treasury of the United States a trust fund to be known as the ''Western Shoshone Educational Trust Fund'' for the benefit of the Western Shoshone members. There shall be credited to the Trust Fund the funds described in the matter preceding this paragraph.

[(B) The principal in the Trust Fund shall not be expended or disbursed. The Trust Fund shall be invested as provided for in section 1 of the Act of June 24, 1938 (25 U.S.C. 162a).

[(C)(i) All accumulated and future interest and income from the Trust Fund shall be distributed, subject to clause (ii)—

[(I) as educational grants and as other forms of educational assistance determined appropriate by the Administrative Committee established under paragraph (2) to individual Western Shoshone members as required under this Act; and

[(II) to pay the reasonable and necessary expenses of such Administrative Committee (as defined in the written rules and procedures of such Committee).

[(ii) Funds shall not be distributed under this paragraph on a per capita basis.

[(2)(A) An Administrative Committee to oversee the distribution of the educational grants and assistance authorized under paragraph (1)(C) shall be established as provided for in this paragraph.

[(B) The Administrative Committee shall consist of 1 representative from each of the following organizations:

[(i) The Western Shoshone Te-Moak Tribe.

[(ii) The Duckwater Shoshone Tribe.

[(iii) The Yomba Shoshone Tribe.

[(iv) The Ely Shoshone Tribe.

[(v) The Western Shoshone Business Council of the Duck Valley Reservation.

[(vi) The Fallon Band of Western Shoshone.

[(vii) The at large community.

[(C) Each member of the Committee shall serve for a term of 4 years. If a vacancy remains unfilled in the membership of the Committee for a period in excess of 60 days, the Committee shall appoint a replacement from among qualified members of the organization for which the replacement is being made and such member shall serve until the organization to be represented designates a replacement.

[(D) The Secretary shall consult with the Committee on the management and investment of the funds subject to distribution under this section.

[(E) The Committee shall have the authority to disburse the accumulated interest fund under this Act in accordance with the terms of this Act. The Committee shall be responsible for ensuring that the funds provided through grants and assistance under paragraph (1)(C) are utilized in a manner consistent with the terms of this Act. In accordance with paragraph (1)(C)(i)(II), the Committee may use a portion of the interest funds to pay all of the reasonable and necessary expenses of the Committee, including per diem rates for attendance at meetings that are the same as those paid to Federal employees in the same geographic location.

[(F) The Committee shall develop written rules and procedures that include such matters as operating procedures, rules of conduct, eligibility criteria for receipt of educational grants or assistance (such criteria to be consistent with this Act), application selection procedures, appeal procedures, fund disbursement procedures, and fund recoupment procedures. Such rules and procedures shall be subject to the approval of the Secretary. A portion of the interest funds in the Trust Fund, not to exceed $100,000, may be used by the Committee to pay the expenses associated with developing such rules and procedures. At the discretion of the Committee, and with the approval of the appropriate tribal governing body, jurisdiction to hear appeals of the Committee's decisions may be exercised by a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations.

[(G) The Committee shall employ an independent certified public accountant to prepare an annual financial statement that includes the operating expenses of the Committee and the total amount of educational grants or assistance disbursed for the fiscal year for which the statement is being prepared under this section. The Committee shall compile a list of names of all individuals approved to receive such grants or assistance during such fiscal year. The financial statement and the list shall be distributed to each organization represented on the Committee and the Secretary and copies shall be made available to the Western Shoshone members upon request.

[SEC. 4. DEFINITIONS.

[In this Act:

[(1) ADMINISTRATIVE COMMITTEE; COMMITTEE.—The terms ''Administrative Committee'' and ''Committee'' mean the Administrative Committee established under section 3(2).

[(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[(3) TRUST FUND.—The term ''Trust Fund'' means the Western Shoshone Educational Trust Fund established under section 3(1).

[(4) WESTERN SHOSHONE MEMBERS.—The term ''Western Shoshone members'' means an individual who appears on the Western Shoshone Judgment Roll established under section 2(1), or an individual who is the lineal descendant of an individual appearing on the roll, and who—

[(A) satisfies all eligibility criteria established by the Administrative Committee under section 3(F);

[(B) fulfills all application requirements established by the Committee; and

[(C) agrees to utilize funds distributed in accordance with section 3(1)(C)(i)(I) in a manner approved by the Committee for educational purposes.

[SEC. 5. REGULATIONS.

[The Secretary may promulgate such regulations as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Western Shoshone Claims Distribution Act''.

SEC. 2. DISTRIBUTION OF DOCKET 326–K FUNDS.

The funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326–K before the Indian Claims Commission, including all earned interest, shall be distributed as follows:

(1) The Secretary shall establish a Western Shoshone Judgment Roll consisting of all Western Shoshones who—

(A) have at least ¼ degree of Western Shoshone Blood;

(B) are citizens of the United States; and

(C) are living on the date of enactment of this Act.

(2) Any individual determined or certified as eligible by the Secretary to receive a per capita payment from any other judgment fund awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be eligible for enrollment under this Act.

(3) The Secretary shall publish in the Federal Register rules and regulations governing the establishment of the Western Shoshone Judgment Roll and shall utilize any documents acceptable to the Secretary in establishing proof of eligibility. The Secretary's determination on all applications for enrollment under this paragraph shall be final.

(4) Upon completing the Western Shoshone Judgment Roll under paragraph (1), the Secretary shall make a per capita distribution of 100 percent of the funds described in this section, in a sum as equal as possible, to each person listed on the Roll.

(5)(A) With respect to the distribution of funds under this section, the per capita shares of living competent adults who have reached the age of 19 years on the date of the distribution provided for under paragraph (4), shall be paid directly to them.

(B) The per capita shares of deceased individuals shall be distributed to their heirs and legatees in accordance with regulations prescribed by the Secretary.

(C) The shares of legally incompetent individuals shall be administered pursuant to regulations and procedures established by the Secretary under section 3(b)(3) of Public Law 93–134 (25 U.S.C. 1403(b)(3)).

(D) The shares of minors and individuals who are under the age of 19 years on the date of the distribution provided for under paragraph (4) shall be held by the Secretary in supervised individual Indian money accounts. The funds from such accounts shall be disbursed over a period of 4 years in payments equaling 25 percent of the principal, plus the interest earned on that portion of the per capita share. The first payment shall be disbursed to individuals who have reached the age of 18 years if such individuals are deemed legally competent. Subsequent payments shall be disbursed within 90 days of the individual's following 3 birthdays.

(6) Notwithstanding section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407), the per capita shares (or the availability of those shares) shall not—

(A) be subject to Federal or State income taxation;

(B) be considered to be income or resources; or

(C) be used as a basis for denying or reducing financial assistance or any other benefit to which a household or member would otherwise be entitled under—

(i) the Social Security Act (42 U.S.C. 301 et seq.); or

(ii) any other Federal or federally-assisted program.

(7) All per capita shares belonging to living competent adults certified as eligible to share in the judgment fund distribution under this section, and the interest earned on those shares, that remain unpaid for a period of 6-years shall be added to the principal funds that are held and invested in accordance with section 3, except that in the case of a minor, such 6-year period shall not begin to run until the minor reaches the age of majority.

(8) Any other residual principal and interest funds remaining after the distribution under paragraph (4) is complete shall be added to the principal funds that are held and invested in accordance with section 3.

SEC. 3. DISTRIBUTION OF DOCKETS 326–A–1 AND 326–A–3.

The funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326–A–1 and 326–A–3 before the United States Court of

Claims, and the funds referred to under paragraphs (7) and (8) of section 2, together with all earned interest, shall be distributed as follows:

(1)(A) Not later than 120 days after the date of enactment of this Act, the Secretary shall establish in the Treasury of the United States a trust fund to be known as the ''Western Shoshone Educational Trust Fund'' for the benefit of the Western Shoshone members. There shall be credited to the Trust Fund the funds described in the matter preceding this paragraph.

(B) The principal in the Trust Fund shall not be expended or disbursed. The Trust Fund shall be invested as provided for in section 1 of the Act of June 24, 1938 (25 U.S.C. 162a).

(C)(i) All accumulated and future interest and income from the Trust Fund shall be distributed, subject to clause (ii)—

(I) as educational grants and as other forms of educational assistance determined appropriate by the Administrative Committee established under paragraph (2) to individual Western Shoshone members as required under this Act; and

(II) to pay the reasonable and necessary expenses of such Administrative Committee (as defined in the written rules and procedures of such Committee).

(ii) Funds shall not be distributed under this paragraph on a per capita basis.

(2)(A) An Administrative Committee to oversee the distribution of the educational grants and assistance authorized under paragraph (1)(C) shall be established as provided for in this paragraph.

(B) The Administrative Committee shall consist of 1 representative from each of the following organizations:

(i) The Western Shoshone Te-Moak Tribe.

(ii) The Duckwater Shoshone Tribe.

(iii) The Yomba Shoshone Tribe.

(iv) The Ely Shoshone Tribe.

(v) The Western Shoshone Committee of the Duck Valley Reservation.

(vi) The Fallon Band of Western Shoshone.

(vii) The at large community.

(C) Each member of the Committee shall serve for a term of 4 years. If a vacancy remains unfilled in the membership of the Committee for a period in excess of 60 days, the Committee shall appoint a replacement from among qualified members of the organization for which the replacement is being made and such member shall serve until the organization to be represented designates a replacement.

(D) The Secretary shall consult with the Committee on the management and investment of the funds subject to distribution under this section.

(E) The Committee shall have the authority to disburse the accumulated interest fund under this Act in accordance with the terms of this Act. The Committee shall be responsible for ensuring that the funds provided through grants and assistance under paragraph (1)(C) are utilized in a manner consistent with the terms of this Act. In accordance with paragraph (1)(C)(i)(II), the Committee may use a portion of the interest funds to pay all of the reasonable and necessary expenses of the Committee, including per diem rates for attendance at meetings that are the same as those paid to Federal employees in the same geographic location.

(F) The Committee shall develop written rules and procedures that include such matters as operating procedures, rules of conduct, eligibility criteria for receipt of educational grants or assistance (such criteria to be consistent with this Act), application selection procedures, appeal procedures, fund disbursement procedures, and fund recoupment procedures. Such rules and procedures shall be subject to the approval of the Secretary. A portion of the interest funds in the Trust Fund, not to exceed $100,000, may be used by the Committee to pay the expenses associated with developing such rules and procedures. At the discretion of the Committee, and with the approval of the appropriate tribal governing body, jurisdiction to hear appeals of the Committee's decisions may be exercised by a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations.

(G) The Committee shall employ an independent certified public accountant to prepare an annual financial statement that includes the operating expenses of the Committee and the total amount of educational grants or assistance disbursed for the fiscal year for which the statement is being prepared under this section. The Committee shall compile a list of names of all individuals approved to receive such grants or assistance during such fiscal year. The financial statement and the list shall be distributed to each organization represented on the Committee and the Secretary and copies shall be made available to the Western Shoshone members upon request.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATIVE COMMITTEE; COMMITTEE.—The terms ''Administrative Committee'' and ''Committee'' mean the Administrative Committee established under section 3(2).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) TRUST FUND.—The term ''Trust Fund'' means the Western Shoshone Educational Trust Fund established under section 3(1).

(4) WESTERN SHOSHONE MEMBERS.—The term ''Western Shoshone members'' means an individual who appears on the Western Shoshone Judgment Roll established under section 2(1), or an individual who is the lineal descendant of an individual appearing on the roll, and who—

(A) satisfies all eligibility criteria established by the Administrative Committee under section 3(F);

(B) fulfills all application requirements established by the Committee; and

(C) agrees to utilize funds distributed in accordance with section 3(1)(C)(i)(I) in a manner approved by the Committee for educational purposes.

SEC. 5. REGULATIONS.

The Secretary may promulgate such regulations as are necessary to carry out this Act.

Mr. DURBIN. I ask unanimous consent that the committee substitute amendment be agreed to; the bill, as amended, be read the third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 958), as amended, was read the third time and passed.

EXTENDING PROCEDURAL RELIEF UNDER USA PATRIOT ACT

Mr. DURBIN. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2845 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2845) to extend for one year procedural relief provided under the USA PATRIOT Act for individuals who were or are victims or survivors of victims of a terrorist attack on the United States on September 11, 2001.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Madam President, I ask unanimous consent that the bill be read the third time and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2845) was read the third time and passed, as follows:

S. 2845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF PERIOD OF LAWFUL PRESENCE IN THE UNITED STATES FOR CERTAIN ALIEN VICTIMS OF TERRORIST ATTACK ON UNITED STATES ON SEPTEMBER 11, 2001.

Section 422(a)(1)(B) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56; 115 Stat. 357) is amended by striking ''1 year'' and inserting ''2 years''.

AMENDMENTS TO THE MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000 AND THE FOREIGN ASSISTANCE ACT OF 1961

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 689, H.R. 4073.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4073) to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those acts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 4073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. AMENDMENTS TO THE MICROENTERPRISE FOR SELF–RELIANCE ACT OF 2000.

[(a) PURPOSES.—Section 103 of the Microenterprise for Self-Reliance Act of 2000 (Public Law 106–309) is amended—

[(1) in paragraph (3), by striking ''microentrepreneurs'' and inserting ''microenterprise households'';

[(2) in paragraph (4), by striking ''and'' at the end;

[(3) in paragraph (5)—

[(A) by striking ''microfinance policy'' and inserting ''microenterprise policy'';

[(B) by striking ''the poorest of the poor'' and inserting ''the very poor''; and

[(C) by striking the period at the end and inserting ''; and''; and

[(4) by adding at the end the following:

[''(6) to encourage the United States Agency for International Development to develop, assess, and implement effective outreach methods and tools to ensure that all microenterprise assistance authorized under this title, and the amendments made by this title, is used to assist the greatest absolute number of economically viable clients among the very poor, and that at least 50 percent of all microenterprise assistance authorized under this title, and the amendments made under this title, is used in support of programs or lines of service that target the very poor.''.

[(b) DEFINITIONS.—Section 104 of such Act is amended—

[(1) in paragraph (2), by striking ''for microentrepreneurs'' and inserting ''to microentrepreneurs and their households''; and

[(2) by adding at the end the following:

[''(5) VERY POOR; POOREST PEOPLE IN DEVELOPING COUNTRIES.—The terms 'very poor' and 'poorest people in developing countries' mean those persons living either in the bottom 50 percent below the poverty line as established by the national government of the country or on less than the equivalent of $1 per day.''.

[SEC. 2. AMENDMENTS TO THE MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

[(a) FINDINGS AND POLICY.—Section 108(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f(a)(2)) is amended by striking ''the development of the enterprises of the poor'' and inserting ''the access to financial services and the development of microenterprises''.

[(b) PROGRAM.—Section 108(b) of such Act (22 U.S.C. 2151f(b)) is amended to read as follows:

[''(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of financial services to microenterprise households lacking full access to credit, including through—

[''(1) loans and guarantees to microfinance institutions for the purpose of expanding the availability of savings and credit to poor and low-income households;

[''(2) training programs for microfinance institutions in order to enable them to better meet the financial services needs of their clients; and

[''(3) training programs for clients in order to enable them to make better use of credit, increase their financial literacy, and to better manage their enterprises.''.

[(c) ELIGIBILITY CRITERIA.—Section 108(c) of such Act (22 U.S.C. 2151f(c)) is amended—

[(1) in the first sentence of the matter preceding paragraph (1)—

[(A) by striking ''credit institutions'' and inserting ''microfinance institutions''; and

[(B) by striking ''micro- and small enterprises'' and inserting ''microenterprise households''; and

[(2) in paragraphs (1) and (2), by striking ''credit'' each place it appears and inserting ''financial services''.

[(d) ADDITIONAL REQUIREMENT.—Section 108(d) of such Act (22 U.S.C. 2151f(d)) is amended by striking ''micro- and small enterprise programs'' and inserting ''programs for microenterprise households''.

[(e) AVAILABILITY OF FUNDS.—Section 108(f)(1) of such Act (22 U.S.C. 2151f(f)(1)) is amended by striking ''for each of fiscal years 2001 and 2002'' and inserting ''for each of fiscal years 2001 through 2004''.

[(f) CONFORMING AMENDMENT.—Section 108 of such Act (22 U.S.C. 2151f) is amended in the heading to read as follows:

[''SEC. 108. MICROENTERPRISE DEVELOPMENT CREDITS.''.

[SEC. 3. AMENDMENTS TO THE MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

[(a) FINDINGS AND POLICY.—Section 131(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(a)) is amended to read as follows:

[''(a) FINDINGS AND POLICY.—Congress finds and declares that—

[''(1) access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems;

[''(2) it is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries;

[''(3) access to financial services and the development of microenterprises can be supported by programs providing credit, savings, training, technical assistance, business development services, and other financial and non-financial services; and

[''(4) given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.''.

[(b) AUTHORIZATION.—Section 131(b) of such Act (22 U.S.C. 2152a(b)) is amended—

[(1) in paragraph (3)—

[(A) in the first sentence of the matter preceding subparagraph (A), by striking ''targeted to very poor entrepreneurs'' and all that follows and inserting ''used in support of programs or lines of service under which 50 percent or more of the incoming or prospective clients are initially very poor.''; and

[(B) in subparagraph (A)(i) , by striking ''entrepreneurs'' and inserting ''clients''; and

[(2) in paragraph (4)(D)—

[(A) in clause (i), by striking ''very small loans'' and inserting ''financial services to poor entrepreneurs''; and

[(B) in clause (ii), by striking ''microfinance'' and inserting ''microenterprise''.

[(c) MONITORING SYSTEM.—Section 131(c) of such Act (22 U.S.C. 2152a(c)) is amended by striking paragraph (4) and inserting the following:

[''(4) adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive needed microenterprise credits, loans, and assistance.''

[(d) DEVELOPMENT AND APPLICATION OF POVERTY MEASUREMENT METHODS.—Section 131 of such Act (22 U.S.C. 2152a) is amended—

[(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

[(2) by inserting after subsection (c) the following:

[''(d) DEVELOPMENT AND CERTIFICATION OF POVERTY MEASUREMENT METHODS; APPLICATION OF METHODS.—

[''(1) DEVELOPMENT AND CERTIFICATION.—(A) The Administrator of the United States Agency for International Development, in consultation with appropriate microfinance institutions, microenterprise institutions, and other appropriate entities shall develop no fewer than two low-cost methods for measuring the poverty levels of the current or prospective clients of microenterprise organizations for purposes of assistance under this section. In developing such methods, the Administrator shall give consideration to methods already in use by practitioner institutions.

[''(B) The Administrator shall field-test the methods developed under this paragraph, and as part of the testing, institutions and programs may use these methods on a voluntary basis to demonstrate their ability to reach the very poor.

[''(C) Not later than October 1, 2004, the Administrator shall, from among the low-cost poverty measurement methods developed under this paragraph, certify no fewer than two of such methods as approved methods for measuring the poverty levels of the current or prospective clients of microenterprise organizations for purposes of assistance under this section.

[''(2) APPLICATION.—Beginning on and after October 1, 2004, assistance furnished under this section to a program or to a line of service within an institution shall qualify, in whole or in part, as targeted assistance to the very poor if one or more of the measurement methods approved under paragraph (1), or one or more of the measurement methods approved in accordance with paragraph (1) after October 1, 2004, verifies that at least 50 percent of the incoming or prospective clients of the program or line of service are initially among the very poor.''.

[(e) LEVEL OF ASSISTANCE.—Section 131(e) of such Act, as redesignated by subsection (d), is amended by inserting ''and $175,000,000 for fiscal year 2003 and $200,000,000 for fiscal year 2004'' after ''fiscal years 2001 and 2002''.

[(f) DEFINITIONS.—Section 131(f) of such Act, as redesignated by subsection (d), is amended by adding at the end the following:

[''(5) VERY POOR; POOREST PEOPLE IN DEVELOPING COUNTRIES.—The terms 'very poor' and 'poorest people in developing countries' mean those persons living either in the bottom 50 percent below the poverty line as established by the national government of the country or on less than the equivalent of $1 per day.''.

[SEC. 4. REPORT TO CONGRESS.

[Not later than July 1, 2004, the Administrator of the United States Agency for International Development shall submit to Congress a report that contains—

[(1) a description of the interim poverty measurement methods developed and implemented pursuant to section 131(d)(1) of the Foreign Assistance Act of 1961, as added by section 3(d);

[(2) an analysis of the results of the application of such interim poverty measurement methods to sustainable poverty-focused programs under such section; and

[(3) a description of the proposed final poverty measurement methods to be implemented beginning on October 1, 2004, in accordance with section 131(d)(2) of such Act, as added by section 3(d).]

SECTION 1. AMENDMENTS TO THE MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000.

(a) PURPOSES.—Section 103 of the Microenterprise for Self-Reliance Act of 2000 (Public Law 106–309) is amended—

(1) in paragraph (3), by striking ''microentrepreneurs'' and inserting ''microenterprise households'';

(2) in paragraph (4), by striking ''and'' at the end;

(3) in paragraph (5)—

(A) by striking ''microfinance policy'' and inserting ''microenterprise policy'';

(B) by striking ''the poorest of the poor'' and inserting ''the very poor''; and

(C) by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(6) to ensure that in the implementation of this title at least 50 percent of all microenterprise assistance under this title, and the amendments made under this title, shall be targeted to the very poor.''.

(b) DEFINITIONS.—Section 104 of such Act is amended—

(1) in paragraph (2), by striking ''for microentrepreneurs'' and inserting ''to microentrepreneurs and their households''; and

(2) by adding at the end the following:

''(5) VERY POOR.—The term 'very poor' means individuals—

''(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

''(B) living on the equivalent of less than $1 per day.''.

SEC. 2. AMENDMENTS TO THE MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) FINDINGS AND POLICY.—Section 108(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f(a)(2)) is amended by striking ''the development of the enterprises of the poor'' and inserting ''the access to financial services and the development of microenterprises''.

(b) PROGRAM.—Section 108(b) of such Act (22 U.S.C. 2151f(b)) is amended to read as follows:

''(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of financial services to microenterprise households lacking full access to credit, including through—

''(1) loans and guarantees to microfinance institutions for the purpose of expanding the availability of savings and credit to poor and low-income households;

''(2) training programs for microfinance institutions in order to enable them to better meet the financial services needs of their clients; and

''(3) training programs for clients in order to enable them to make better use of credit, increase their financial literacy, and to better manage their enterprises to improve their quality of life.''.

(c) ELIGIBILITY CRITERIA.—Section 108(c) of such Act (22 U.S.C. 2151f(c)) is amended—

(1) in the first sentence of the matter preceding paragraph (1)—

(A) by striking ''credit institutions'' and inserting ''microfinance institutions''; and

(B) by striking ''micro- and small enterprises'' and inserting ''microenterprise households''; and

(2) in paragraphs (1) and (2), by striking ''credit'' each place it appears and inserting ''financial services''.

(d) ADDITIONAL REQUIREMENT.—Section 108(d) of such Act (22 U.S.C. 2151f(d)) is amended by striking ''micro- and small enterprise programs'' and inserting ''programs for microenterprise households''.

(e) AVAILABILITY OF FUNDS.—Section 108(f)(1) of such Act (22 U.S.C. 2151f(f)(1)) is amended by striking ''for each of fiscal years 2001 and 2002'' and inserting ''for each of fiscal years 2001 through 2004''.

(f) CONFORMING AMENDMENT.—Section 108 of such Act (22 U.S.C. 2151f) is amended in the heading to read as follows:

''SEC. 108. MICROENTERPRISE DEVELOPMENT CREDITS.''.

SEC. 3. AMENDMENTS TO THE MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) FINDINGS AND POLICY.—Section 131(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(a)) is amended to read as follows:

''(a) FINDINGS AND POLICY.—Congress finds and declares that—

''(1) access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems;

''(2) it is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries;

''(3) access to financial services and the development of microenterprises can be supported by programs providing credit, savings, training, technical assistance, business development services, and other financial and non-financial services; and

''(4) given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.''.

(b) AUTHORIZATION.—Section 131(b) of such Act (22 U.S.C. 2152a(b)) is amended—

(1) in paragraph (3)(A)(i), by striking ''entrepreneurs'' and inserting ''clients''; and

(2) in paragraph (4)(D)—

(A) in clause (i), by striking ''very small loans'' and inserting ''financial services to poor entrepreneurs''; and

(B) in clause (ii), by striking ''microfinance'' and inserting ''microenterprise''.

(c) MONITORING SYSTEM.—Section 131(c) of such Act (22 U.S.C. 2152a(c)) is amended by striking paragraph (4) and inserting the following:

''(4) adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive needed microenterprise loans, savings, and assistance.''.

(d) DEVELOPMENT AND APPLICATION OF POVERTY MEASUREMENT METHODS.—Section 131 of such Act (22 U.S.C. 2152a) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

''(d) DEVELOPMENT AND CERTIFICATION OF POVERTY MEASUREMENT METHODS; APPLICATION OF METHODS.—

''(1) DEVELOPMENT AND CERTIFICATION.—(A) The Administrator of the United States Agency for International Development, in consultation with microenterprise institutions and other appropriate organizations, shall develop no fewer than two low-cost methods for partner institutions to use to assess the poverty levels of their current or prospective clients. The United States Agency for International Development shall develop poverty indicators that correlate with the circumstances of the very poor.

''(B) The Administrator shall field-test the methods developed under subparagraph (A). As part of the testing, institutions and programs may use the methods on a voluntary basis to demonstrate their ability to reach the very poor.

''(C) Not later than October 1, 2004, the Administrator shall, from among the low-cost poverty measurement methods developed under subparagraph (A), certify no fewer than two such methods as approved methods for measuring the poverty levels of current or prospective clients of microenterprise institutions for purposes of assistance under this section.

''(2) APPLICATION.—The Administrator shall require that, with reasonable exceptions, all organizations applying for microenterprise assistance under this Act use one of the certified methods, beginning no later than October 1, 2005, to determine and report the poverty levels of current or prospective clients.''.

(e) LEVEL OF ASSISTANCE.—Section 131(e) of such Act, as redesignated by subsection (d), is amended by inserting ''and $175,000,000 for fiscal year 2003 and $200,000,000 for fiscal year 2004'' after ''fiscal years 2001 and 2002''.

(f) DEFINITIONS.—Section 131(f) of such Act, as redesignated by subsection (d), is amended by adding at the end the following:

''(5) VERY POOR.—The term 'very poor' means those individuals—

''(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

''(B) living on less than the equivalent of $1 per day.''.

SEC. 4. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners.

(b) REPORTS FOR FISCAL YEAR 2006 AND BEYOND.—Beginning with fiscal year 2006, the Administrator of the United States Agency for International Development shall annually submit to Congress on a timely basis a report that addresses the United States Agency for International Development's compliance with the Microenterprise for Self-Reliance Act of 2000 by documenting—

(1) the percentage of its resources that were allocated to the very poor (as defined in paragraph (5) of section 131(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(f)(5))) based on the data collected from its partners using the certified methods; and

(2) the absolute number of the very poor reached.

Mr. DURBIN. Madam President, I ask unanimous consent that the committee substitute amendment be agreed to; the bill, as amended, be read the third time and passed and the motion to reconsider be laid upon the table, with no intervening action or debate; that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (H.R. 4073), as amended, was read the third time and passed.

DOT KIDS IMPLEMENTATION AND EFFICIENCY ACT OF 2002

Mr. DURBIN. Madam President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3833 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3833) to facilitate the creation of a new second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Madam President, I rise in support of H.R. 3833, the Dot Kids Implementation and Efficiency Act of 2002. Earlier this year Senator ENSIGN and I introduced the companion legislation, S. 2537, in the Senate and today I am pleased to offer an amendment in the nature of a substitute along with my colleagues Senators ENSIGN, HOLLINGS, and ALLEN.

As anyone who has surfed online knows, the development of the Internet has been a mixed blessing. On the one hand the Internet has brought enormous benefits to adults and children alike as it gives us new options for reading the news, researching school

papers, shopping, conducting business, and communicating with each other. But, on the other hand, the Internet also poses great risks to our children because there is no perfect way to protect them from the mountains of material that is inappropriate for their eyes.

Just after we had introduced this bill in the Senate a seventh grade girl at Erik Ramstad Middle School in North Dakota reported she had been solicited for a sexual encounter online. In a school assembly the same day 30 other students revealed that they have been threatened online.

The National Center for Missing and Exploited Children has charted 5,700 reported cases of online enticement in the past four years, and those are only cases that were intercepted by parents. And while there is not yet any way to compile Federal, State, and local cases involving sex, children, and the Internet, experts estimate that there are 4,000–5,000 each year.

The most recent study available ''Online Victimization: A Report on the Nation's Youth'' found that ''almost one out of five young people who use the Internet regularly were exposed to unwanted sexual solicitations or approaches'' and ''twenty-five percent had been exposed to unwanted online pornography'' in the previous year.

This is a frightening situation. Computers have become an open door for predators into the homes of children. It is necessary to create a safe haven online for children to surf.

Today we have before us a bill called the Dot Kids Implementation and Efficiency Act that will help this situation by creating a safe haven on the Internet for kids.

Introduced in the Senate by myself and Senator ENSIGN, after it was successfully shepherded through the House by Representatives SHIMKUS, UPTON, and MARKEY, the idea behind the ''dot kids'' domain is very simple—to create a space on the web that can be a cybersanctuary for kids. A place where parents and kids can be confident that every site on the ''dot-kids'' domain contains materials that are suitable for children under the age of thirteen.

The bill calls for the creation of a sub-domain under our Nation's country code ''.us'' called ''.kids.us'' which will only host content that is age appropriate for children. A number of safeguards were also put in this bill. ''Dot-kids-dot-us'' will be monitored for content and safety; and should objectionable material appear, it will be taken down immediately.

One of those safeguards is a restriction on peer-to-peer communication unless the entity hosting the site certifies that it will be done safely. And further, hyperlinks, which would take children out of the safe ''dot-kids'' domain are expressly prohibited to help insure that parents can be confident that when their children visit sites in ''dot-kids'' they will stay within the dot-kids domain.

Last October the Department of Commerce awarded the contract to handle the management and commercialization of the ''dot-us'' domain. And while this bill is careful to not change the terms of the existing contract it would condition the next contract on the creation of the ''dot-kids-dot-us'' domain.

So, under this bill, participation in ''dot-kids'' would be completely voluntary. Not only will whomever accepts the next contract know what they will be getting into, parents will choose to use it, and website operators will choose to be located within it.

The only requirement will be that site operators on the ''dot-kids'' domain agree to keep their sites full of material that is suitable for minors. Personally, I think the idea of using our country's Top-Level-Domain to create a cyber-sanctuary for children makes a great deal of sense and I want to thank all of my colleagues and the many stakeholders who have been involved in this legislation for all their hard work and cooperation in making this bill a reality today.

I urge my colleagues to support the Dot Kids Implementation and Efficiency Act.

Mr. ENSIGN. Madam President, I am pleased to rise in support of H.R. 3833, the Dot Kids bill of 2002. Senator DORGAN and I introduced this bipartisan bill earlier this year to protect children on the Internet, and I am gratified that the Senate will act on it today.

It is estimated today that over 140 million Americans use the Internet, many of them children. Most schools are equipped with computers, where our children learn to navigate the Internet; in most cases children do so with better skill than parents. No longer do our children have to go to the library and sift through voluminous card catalogues for their research projects. No longer do our children need to be in school to communicate with their teachers and fellow classmates—they can do it from home by using e-mail and instant messaging. Families simply need a computer with an Internet connection to provide children with access to a greater breadth of information than the Library of Congress. The educational opportunities are limitless.

However, the Internet can also be used as a tool for evil. Many young children have tragically fallen victim to on-line predators. They have been stalked by pedophiles masquerading as other children. Many more young children on the Internet are routinely exposed to graphic violence, drugs and inappropriate sexual content despite parents' efforts at restricting such content.

Congress first acted to protect children on the Internet in 1996 with passage of the Communications Decency Act, CDA. This legislation criminalized engaging in indecent or patently offensive speech on computer networks if the speech could be viewed by anyone 18 years of age or younger, but it did not survive constitutional challenges. The U.S. Supreme Court held in Reno v. American Civil Liberties Union that the CDA violated First Amendment free-speech protections. Congress subsequently responded in 1998 with passage of the Children's Online Protection Act, COPA, legislation that prohibited communication of material that is harmful to minors on for-profit websites. The U.S. Supreme Court, however, in American Civil Liberties Union v. Reno, upheld an injunction by U.S. Court of Appeals for the Third Circuit on constitutional grounds and remanded the case for further review.

Another attempt was made to strike the careful balance between the first amendment and protecting children on the Internet with passage of the Children's Internet Protection Act of 2000, CIPA. This legislation required schools and libraries that receive Federal funding to install filtering software to block from minors Internet content that contains child pornography, or other obscene and indecent material that is harmful to minors. Moreover, this legislation required federally funded libraries to block adults from accessing websites containing obscene material or child pornography. However, the U.S. District Court for the Eastern District of Pennsylvania unanimously held in American Library Association v. United States that CIPA was unconstitutional.

The bill before us today represents the most recent effort by Congress to craft legislation that can both protect children on the Internet and withstand constitutional scrutiny.

The Dot Kids bill establishes a children's section of the Internet, much like a children's section of the library, where children will be safe from pedophiles, pornography, and violence. We worked to craft the Dot Kids bill to withstand first amendment challenges by not imposing a burden on free speech to adults; the use of the Dot Kids subdomain is completely voluntary. As such, it recognizes and protects the rights of those who wish to view content not suitable for minors outside of the Dot Kids subdomain. Content within the Dot Kids subdomain must be suitable for children under 13 years of age. Dot Kids also protects children from accessing websites outside the Dot Kids subdomain or engaging in uncertified interactive services. This is a major victory for children and families. Chat rooms and instant messaging is a key component in allowing pedophiles to stalk children over the Internet. Liability protection was also provided for the domain administrator by utilizing the ''Good Samaritan'' provision in the Communications Act of 1934. This provision will ensure that the Dot Kids administrator will not be held liable for actions voluntarily taken in good faith to restrict access to, or availability of, obscene, harassing, violent or other objectionable material.

I am pleased that the Family Research Council, the National Center for Missing and Exploited Children, the American Center for Law and Justice, a Safer America for Everyone, SAFE, and the National Law Center for Children and Families have joined our effort in supporting this proposal.

The U.S. House of Representatives previously passed this measure by an overwhelming majority vote with the hard work of many dedicated Members of Congress including Congressman SHIMKUS, Congressman TAUZIN, Congressman UPTON, Congressman MARKEY and Congressman DINGELL.

Mr. HOLLINGS. Madam President, I rise today in support of the substitute amendment to H.R. 3833, the Dot Kids Implementation and Efficiency Act of 2002. I am proud to co-sponsor this amendment with Senators DORGAN, ENSIGN, and ALLEN. This bipartisan legislation is a result of compromise and hard work by interested parties including Senators DORGAN, ENSIGN, ALLEN, and MCCAIN. I also want to thank Representatives SHIMKUS, MARKEY, and UPTON for their efforts in the House on the companion legislation. They have all demonstrated their commitment to making the Internet safe for children.

In short, H.R. 3833 will create a safe haven for children on the Internet. It creates a domain designated strictly for minors—''.kids.us''. This new domain will allow parents to be confident that their child can experience the Internet, at least in part, without being exposed to objectionable material. Only content producers who can meet the standard of providing material suitable for minors will be allowed to register a .kids domain.

Really, this bill is just a next step of sorts for me. After all, I have been a strong advocate for a safe harbor for television to ensure that children are protected from objectionable material. I am happy to see that we are now able to extend such protections online, ensuring that children can safely surf the Internet without being bombarded with images of sex, violence, and drugs or being lured by child predators.

I am pleased that we have been able to reach an agreeable compromise on this bill and look forward to working with the Department of Commerce and the administrator for the U.S country code domain to implement this legislation.

Mr. DURBIN. Senators DORGAN, ENSIGN, HOLLINGS, and ALLEN have a substitute amendment at the desk, and I ask unanimous consent that the amendment be considered and agreed to and the motion to reconsider be laid upon the table; that the bill, as amended, be read three times and passed and the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4903) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H.R. 3833), as amended, was read the third time and passed.

PIPELINE INFRASTRUCTURE PROTECTION TO ENHANCE SECURITY AND SAFETY ACT

Mr. DURBIN. Madam President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3609 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3609) to amend title 49, to enhance the security and safety of pipelines.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Madam President, Congressional action to send comprehensive pipeline safety legislation to the President is long overdue. The Senate has worked long and hard during both the 106th and the 107th Congresses on this important issue and we should not let any more time pass without taking needed action to improve pipeline safety. I am hopeful we will finally achieve final passage on this issue before adjournment.

The Office of Pipeline Safety, OPS, within the Department of Transportation's Research and Special Programs Administration, RSPA, oversees the transportation of about 65 percent of the petroleum and most of the natural gas transported in the United States. OPS regulates the day-to-day safety of 3,000 gas pipeline operators with more than 1.6 million miles of pipeline. It also regulates more than 200 hazardous liquid operators with 155,000 miles of pipelines. Given the immense array of pipelines that traverse our nation, reauthorization of our pipeline safety programs is critical to the safety and security of thousands of communities and millions of Americans nationwide.

As my colleagues know, the Senate has approved pipeline safety legislation three times in the last three years. Twice we passed stand alone bills, in 2000 and again in 2001. Beginning in the 106th Congress, we worked on a bipartisan basis to develop and approve legislation to promote both public and environmental safety by reauthorizing and strengthening our Federal pipeline safety programs which expired in September 2000. In particular, the efforts of Senators Slade Gorton and PATTY MURRAY were instrumental to the Senate's efforts to address this important safety issue.

In our protracted effort to enact pipeline safety legislation—the House had not approved its version of a related measure—we resorted to adding the pipeline safety bill to the Energy bill during its floor consideration last March. Subsequently, the House approved its pipeline safety legislation in July. While the House-passed energy bill did not include pipeline safety provisions, the House agreed to try to reach a consensus on the important issue in the context of the energy conference. As a result, the measure before us today is the sound, pro-safety agreement that was achieved during the energy conference deliberations.

The members of the energy conference are to be commended for their commitment to this important issue. They developed a consensus pipeline safety title that includes the best provisions from both the Senate- and House-passed bills. Although I did not serve as a formal member of that conference, we shared a goal of enacting comprehensive legislation to promote pipeline safety for the public, the environment, and the economy.

I want to commend Representatives BILLY TAUZIN, JOHN DINGELL, and DON YOUNG and Senators JEFF BINGAMAN and FRANK MURKOWSKI for their leadership and hard work on this issue and their courtesies to ensure the Senate authorizing committee was fully consulted during the process. Given that a consensus on a comprehensive energy package will not be achieved during this Congress, it is time to move forward and approve the agreement that was reached regarding pipeline safety.

In large part, the legislation before us is the result of several tragic pipeline accidents that have occurred in recent years. Since 1999, pipeline accidents have resulted in 78 fatalities. In June 1999, a fatal accident occurred in Bellingham, Washington, when gasoline leaked from an underground pipeline and was subsequently ignited. That accident resulted in three deaths, a number of injuries, and severe environmental damage to the area. On August 19, 2000, a natural gas transmission line ruptured in Carlsbad, New Mexico, killing 12 members of two families. These were two very serious accidents and they helped spur the Senate's action to address identified safety shortcomings.

As I mentioned, the Senate has worked at length to improve pipeline safety and reduce the risk of future accidents. During the last Congress, with the assistance of a bipartisan group of Senators, the Senate passed the Pipeline Safety Improvement Act of 2000. Since the House failed to approve pipeline safety legislation, we were never able to send a measure to the President.

When the 107th Congress convened, one of the first legislative actions taken by the Senate was to consider and pass S. 235, the Pipeline Safety Improvement Act of 2001, a measure nearly identical to what we passed in the prior Congress. Early attention by the Senate demonstrated our firm commitment to improving pipeline safety. Although it has taken far longer than I

would have hoped, it is important that we are taking this action today as we work to finish our legislative activities for the year.

Despite the tragic accidents I highlighted earlier, the safety record of the pipeline industry has generally improved significantly and compares favorably to other forms of transportation. According to the Department of Transportation, pipeline related incidents dropped nearly 80 percent between 1975 and 1998, and the loss of product due to accidental ruptures has been cut in half. From 1989 through 2001, pipeline accidents resulted in about 24 fatalities per year, far fewer than the number of fatal accidents experienced among other modes of transportation. But this record must not be used as an excuse for inaction on legislation to strengthen pipeline safety.

The pipeline safety program expired more than two years ago. It is essential that the Congress take final action on this critical public and environmental safety issue. This legislation reauthorizes and strengthens Federal pipeline safety programs, providing additional funding for safety enforcement and research and development efforts. It also provides for increased State oversight authority and facilitates greater public education efforts at the local community level.

This pending pipeline safety legislation includes many important provisions. I urge my colleagues to support final passage of this critical safety improvement legislation.

Mr. BREAUX. Madam President, I rise in support of H.R. 3609, the Pipeline Safety Improvement Act of 2002, which will improve the safety and security of our Nation's pipeline systems through important reforms within our Federal safety regulatory program. This idea is not new. The Senate passed this legislation in the 106th Congress, and again in February 2001 as one of the first orders of business of the 107th Congress. The Senate also passed the same language as part of the Energy Policy Act of 2002. This bill is the product of good-faith compromise over three years of work, including compromise with the House of Representatives, and I ask my colleagues to join me in its support.

Both liquid and natural gas pipelines provide transportation of vital energy resources to many parts of our country. In my State, pipelines support what was recently determined to be a $92 billion oil and gas industry. Louisiana is the third leading producer of natural gas and fourth leading producer of crude oil in the country. These products must be transported to the rest of the country for consumption, and pipelines are a key part of this infrastructure. In Louisiana alone, there are over 40,000 miles of gas pipelines, some of which pass through towns, residential areas, schools, churches, and other high-consequence areas. Oil and other product pipelines also number in the thousands of miles in my State.

In recent years, we have experienced at least two major pipeline accidents: one in Bellingham, WA, and the other near Carlsbad, NM. I am deeply sympathetic to the families of the victims of these tragedies. Nothing can possibly replace their losses. What we have endeavored to do here is take steps to ensure that we as a government address the risks of such accidents in the best possible manner. I think that this legislation will increase the tools available to the Secretary of Transportation to ensure that our pipeline system is as safe as possible. I would ask that the Secretary use the tools that we provide to ensure the aggressive oversight of pipeline safety practices, and involve and protect the affected communities to the greatest possible extent.

Passage of this bill will help to ensure the safety and security of natural gas and hazardous liquid pipelines and will take strides to increase the safety of our network of oil and natural gas pipelines. I appreciate the considerable number of hours that went into creating this bill by all of the parties. I am also satisfied with the spirit of compromise that accompanied the parties' diligent efforts. As a result of their cooperative work we have a bill that reaffirms our efforts to regulate gas and hazardous liquid pipelines safety and effectively without interfering with the pipeline gas and hazardous liquid pipelines safely and effectively without interfering with the pipeline operators' and owners' ability to provide service to our Nation and without compromising national security.

While there were many who worked arduously to ensure passage of legislation in this area, Senator MURRAY, Senator BINGAMAN, and Senator MCCAIN should be recognized for their important contributions. Senator MURRAY vigorously pursued changes to increase the level of safety and public participation in pipeline safety, and she worked closely with other Commerce Committee members to ensure a reasonable and fair compromise. Senator BINGAMAN was instrumental in helping bolster the bill's provisions on research and development. We also added provisions he authored to focus our research on progressive areas that will help us develop better systems of early detection, and to ensure that we can avoid accidents such as those that occurred in Bellingham, WA, and near Carlsbad, NM. Senator MCCAIN is to be recognized for his continuing efforts to get this legislation passed. He first initiated this effort years ago as Chairman of the Committee. Last, I would like to thank the efforts of my dedicated staff and all those staff members who helped reach this agreement.

Clearly, this measure is a compromise, and as such, not every group got exactly what they wanted, but this measure will advance the programs and system regulating the safety of our pipeline system. It will require our regulators to finalize a number of overdue regulations. The bill also updates the penalties that would be levied for misconduct and provides whistle blower protection for employees who reveal misconduct. Further, the bill helps us focus on long-term research needs so as to make our future pipeline system even safer. Investment today in research will help us be more efficient and effective in providing a safer and more secure system. While I was for the most part pleased with the final product that we negotiated in this bill, I was concerned that we did not include provisions that would have outlined what sort of pipeline safety information should be made available to the public. Concerns were raised that public disclosure of certain pipeline safety information could jeopardize security. We need to take a look at how we get safety information to the people who need it, but protect that information from those who wish to do harm if it is security-sensitive.

Overall, this is good legislation. It will improve the safety of our pipelines and communities through which pipelines run, and I urge my colleagues to support it.

Mr. DURBIN. I understand Senators MCCAIN and HOLLINGS have a substitute amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to; the motion to reconsider by laid upon the table; the bill, as amended, be read three times and passed and the motion to reconsider be laid upon the table; and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4904) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H.R. 3609), as amended, was read the third time and passed.

GOVERNMENT INFORMATION SECURITY REFORM ACT

Mr. DURBIN. I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of S. 3067 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3067) to amend title 44, United States Code, to make Government information security reform permanent, and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. DURBIN. Madam President, I understand Senator THOMPSON has a substitute amendment at the desk, and I ask unanimous consent that it be considered and agreed to; that the title amendment be agreed to; that the bill, as amended, be read the third time and passed and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4905) was agreed to, as follows:

(Purpose: To substitute a one-year extension of authority)

Strike all after the enacting clause and insert the following:

SECTION 1. ONE-YEAR EXTENSION OF GOVERNMENT INFORMATION SECURITY REFORM.

Section 3536 of title 44, United States Code, is amended by striking ''after the date'' and all that follows and inserting ''after November 30, 2003.''.

SEC. 2. DESIGNATION OF LAW AS GOVERNMENT INFORMATION SECURITY REFORM ACT.

Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

''SEC. 1060. SHORT TITLE.

''This subtitle may be cited as the 'Government Information Security Reform Act'.''.

Amend the title so as to read: ''A bill to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes.''.

The bill (S. 3067), as amended, was read the third time and passed.

ORDERS FOR THURSDAY, NOVEMBER 14, 2002

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, November 14; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate proceed under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Madam President, the next rollcall vote will be on the adoption of the port security conference report at approximately 10:30 a.m. on Thursday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:39 p.m., adjourned until Thursday, November 14, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 12, 2002:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ARTHUR J. LICHTE, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. STANLEY R. SZEMBORSKI, 0000

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be lieutenant commander

ANTHONY J. ALARID, 0000
MICHAEL S. ANTONELLIS, 0000
MICHAEL A. ARGUELLES, 0000
HECTOR A. AVELLA, 0000
PAUL E. BAKER, 0000
BARBARA J. BARATA, 0000
CHRISTOPHER M. BARROWS, 0000
EDWARD K. BEALE, 0000
SCOTT A. BEAUREGARD, 0000
WILLIAM D. BELLATTY, 0000
BRYAN R. BENDER, 0000
RALPH L. BENHART, 0000
BENJAMIN A. BENSON, 0000
DAVID F. BERLINER, 0000
PAUL R. BISSAILLON, 0000
RONALD E. BRAHM, 0000
JOHN A. BRENNER, 0000
DONALD L. BROWN, 0000
TIMOTHY J. BUCHANAN, 0000
RUSSELL S. BURNSIDE, 0000
WILLIAM CARTER, 0000
ANTHONY J. CERAOLO, 0000
PATRICK W. CLARK, 0000
LESLIE W. CLAYBORNE, 0000
ROCKY L. COLE, 0000
RICHARD W. CONDIT, 0000
VERNON E. CRAIG, 0000
MICHAEL W. CRIBBS, 0000
CHRISTOPHER CURATILO, 0000
GREGORY J. CZERWONKA, 0000
CHRISTEL A. DAHL, 0000
BRYAN E. DAILEY, 0000
JAMES W. DALITSCH, 0000
TIMOTHY E. DARLEY, 0000
JOSEPH E. DEER, 0000
ANN B. DEYOUNG, 0000
EDWIN DIAZROSARIO, 0000
TIMOTHY E. DICKERSON, 0000
DOUGLAS C. DIXON, 0000
JEAN T. DONALDSON, 0000
CHARLENE L. DOWNEY, 0000
PATRICK J. DUGAN, 0000
KATHRYN C. DUNBAR, 0000
JOHN C. DURBIN, 0000
BRYAN L. DURR, 0000
BRIAN E. EDMISTON, 0000
DAVID M. EHLERS, 0000
THOMAS M. EMERICK, 0000
DENNIS C. EVANS, 0000
RENDALL B. FARLEY, 0000
DALE C. FOLSOM, 0000
CHRISTOPHER W. FORANDO, 0000
GREGORY T. FULLER, 0000
ERIC J. GANDEE, 0000
GEORGE D. GANOUNG, 0000
CHRISTIAN J. GLANDER, 0000
MICHAEL W. GLANDER, 0000
GENE G. GONZALES, 0000
JEFFREY W. GOOD, 0000
MARK D. GORDON, 0000
SAMUEL J. GOSWELLEN, 0000
THOMAS A. GRIFFITTS, 0000
JASON R. HAMILTON, 0000
KEVIN J. HANSON, 0000
JAMES A. HEALY, 0000
JOSEPH J. HEALY, 0000
MICHAEL L. HERSHBERGER, 0000
JOSEPH P. HIGGINS, 0000
DANIEL J. HIGMAN, 0000
RUSSELL E. HOLMES, 0000
KATHERINE A. HOWARD, 0000
JERRY A. HUBBARD, 0000
DAVID A. HUSTED, 0000
JEFFREY A. JANSZEN, 0000
TERRENCE M. JOHNS, 0000
EUGENE E. JOHNSON, 0000
LAMAR V. JOHNSON, 0000
RICHARD L. JUNG, 0000
STEPHEN D. JUTRAS, 0000
ROBERT M. KEITH, 0000
QUENTIN C. KENT, 0000
IAN R. KIERNAN, 0000
SCOTT H. KIM, 0000
ERICH F. KLEIN, 0000
NICHOLAS R. KOESTER, 0000
JOSEPH E. KRAMEK, 0000
MIRIAM L. LAFFERTY, 0000
BURT A. LAHN, 0000
ROBERT J. LANDOLFI, 0000
STEVEN A. LANG, 0000
JAMES R. LANGEVIN, 0000
SCOTT E. LANGUM, 0000
KEITH H. LAPLANT, 0000
SCOTT X. LARSON, 0000
STEPHEN G. LEFAVE, 0000
MICHAEL R. LEONGUERRERO, 0000
MICHAEL C. LONG, 0000
JESS P. LOPEZ, 0000
JUAN LOPEZ, 0000
TUNG T. LY, 0000
LISA K. MACK, 0000
WILLIAM J. MAKELL, 0000
JOSEPH P. MALINAUSKAS, 0000
AUGUST T. MARTIN, 0000
CAROL L. MCCARTHER, 0000
THOMAS W. MCDEVITT, 0000
STEVEN P. MCGEE, 0000
PATRICK W. MCMAHON, 0000
JASON A. MERRIWEATHER, 0000
JAMES F. MILLER, 0000
JAMES W. MITCHELL, 0000
KEVIN G. MORGAN, 0000
PATRICK J. MURPHY, 0000
NICOLE S. NANCARROW, 0000
RANDALL J. NAVARRO, 0000
JACK C. NEVE, 0000
ANTHONY J. NYGRA, 0000
ROBERT R. OATMAN, 0000
STEPHEN H. OBER, 0000
STEVEN F. OSGOOD, 0000
KEITH A. OVERSTREET, 0000
GEOFFREY D. OWEN, 0000
KIM J. PACSAI, 0000
JOHN K. PARK, 0000
EDWIN W. PARKINSON, 0000
VINCENT E. PATTERSON, 0000
KEVIN Y. PEKAREK, 0000
DARYL R. PELOQUIN, 0000
MATTHEW F. PERCIAK, 0000
CORNELL I. PERRY, 0000
MARK G. PHIPPS, 0000
ZACHARY H. PICKETT, 0000
KENNETH A. PIERRO, 0000
MICHAEL E. PLATT, 0000
NATHAN A. PODOLL, 0000
GARY K. POLASKI, 0000
RONALD P. POOLE, 0000
KENNETH U. POTOLICCHIO, 0000
STEVEN J. PRUYN, 0000
LEE S. PUTNAM, 0000
GREGORY M. RAINEY, 0000
JEFFREY K. RANDALL, 0000
SEAN P. REGAN, 0000
FRANCISCO S. REGO, 0000
JAMES M. REILLY, 0000
JOSHUA D. REYNOLDS, 0000
RODD M. RICKLEFS, 0000
RONALD L. RIEDINGER, 0000
JAMES V. ROCCO, 0000
STANLEY T. ROMANOWICZ, 0000
SHANNAN D. ROONEY, 0000
CHARLES A. ROSKAM, 0000
KILEY R. ROSS, 0000
AARON E. ROTH, 0000
WARREN J. RUSSELL, 0000
MATTHEW A. RYMER, 0000
KRISTINA E. SALICETI, 0000
CHRISTOPHER S. SCHUBERT, 0000
JAMES W. SEEMAN, 0000
EDWARD B. SHEPPARD, 0000
JOHN P. SHERLOCK, 0000
ARTHUR R. SHUMAN, 0000
MICHAEL J. SIMBULAN, 0000
DARELL SINGLETERRY, 0000
JEROME F. SINNAEVE, 0000
CHARLES G. SMITH, 0000
MATTHEW J. SMITH, 0000
ROBERT L. SMITH, 0000
STUART M. SOCKMAN, 0000
GREGORY STANCLIK, 0000
BION B. STEWART, 0000
ANTHONY A. STOBBE, 0000
PAUL M. STOCKLIN, 0000
CARRIE M. STOFFEL, 0000
CHRISTOPHER A. STRONG, 0000
CHARLES W. TENNEY, 0000
LAURA J. THOMPSON, 0000
THERESA L. TIERNEY, 0000
SHAWN C. TRIPP, 0000
NANCY J. TRUAX, 0000
ADAM J. TYNDALE, 0000
DANIEL D. UNRUH, 0000
JOSEPH G. UZMANN, 0000
MATTHEW R. WALKER, 0000
DANIEL P. WALSH, 0000
THOMAS F. WALSH, 0000
MICHELLE R. WEBBER, 0000
MICHAEL C. WESSEL, 0000
RICHARD J. WESTER, 0000
SHERMAN P. WHITMORE, 0000
GARY S. WILLIAMS, 0000
DONALD L. WINFIELD, 0000
CHARLES T. WRIGHT, 0000
JEFFREY V. YAROSH, 0000
MICHAEL E. YENSZ, 0000
CHERIAN ZACHARIAH, 0000
MICHAEL B. ZAMPERINI, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

TOM R. MACKENZIE, 0000
TERRENCE D. WRIGHT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

STEPHEN M. ACKMAN, 0000
CAROLINE F. ADAMS, 0000
DANIEL J. AHERN, 0000
CHARLES A. ALBRECHT, 0000
JOSEPH W. ALDRIDGE, 0000
BLAIR C. ALEXANDER, 0000
NESTOR A. ALIGA, 0000
DANIEL L. ALLEN, 0000
SHARON D. ALLEN, 0000
MICHELE H. ALTIERI, 0000
JACK M. ANDERSON, 0000
MARK E. ANDERSON, 0000
MYRON L. ANDERSON, 0000
JOHN K. ANDREW II, 0000
DOUGLAS P. ANSON, 0000
JOSEPH F. ARATA, 0000
BOBBY C. ARMSTRONG JR., 0000
MELAYNE E. ARNOLD, 0000
STUART D. ARTMAN, 0000
MICHAEL L. ASHLEY, 0000
WILLIAM A. AYERS JR., 0000
ARTHUR T. AYLWARD JR., 0000
WAYNE P. BAIR, 0000
JOSE A. BANCHS, 0000
CHARLES D. BANFI JR., 0000
JOEL W. BARBER, 0000
KENNETH P. BARDEN JR., 0000
CORINNE E. BARDGETT, 0000
CRAIG A. BARGFREDE, 0000
STEPHEN W. BARKSDALE, 0000
MICHAEL L. BARNES, 0000
GREGORY W. BATTS, 0000
TRAVIS G. BEESON, 0000
WILLIAM J. BEISWENGER JR., 0000
MICHAEL J. BENDICH, 0000
DAVID H. BENNETT, 0000
SUSAN G. BERG, 0000
THOMAS M. BERGER, 0000
MARK E. BERGMAN, 0000
HAROLD A. R. BERLOTH, 0000
ALTON G. BERRY, 0000
GREGORY L. BERRY, 0000
BRIAN K. BERSCH, 0000
JOEL E. BEST, 0000
EMILIO C. BIANCHI, 0000
CAROLE R. BISHOP, 0000
MICHAEL P. BISHOP, 0000
WILLIAM R. BISHOP, 0000
JOHN R. BIVENS, 0000
TADEUS A. BLACH, 0000
JACK M. BLACK, 0000
THOMAS R. BLACKERBY, 0000
IRVIN R. BLACKMON, 0000
GEORGE C. BLACKWELL JR., 0000
DELMER F. BLANKENHAGEN, 0000
DIANA L. BODNER, 0000
PAUL D. BOGGS, 0000
MARGARET W. BOOR, 0000
VERNON R. BORN, 0000
CHARLES A. BORSAVAGE, 0000
MICHAEL BOSMA, 0000
WILLIAM E. BRADLEY, 0000
DARREL R. BRANHAGEN, 0000
ROBERT L. BRAY, 0000
EDWARD S. BRENNAN, 0000
SIDNEY O. BREWER, 0000
DAVID L. BRIGHTMAN, 0000
GEORGE A. BRINEGAR, 0000
DANIEL B. BRITT, 0000
TIMOTHY B. BRITT, 0000
DAWN S. S. BROOKSGALLAHAN, 0000
DEAN W. BROWN, 0000
JAMES K. BROWN JR., 0000
WILLIAM J. BRUNKHORST, 0000
ALBERT BRUNSON, 0000
GLENN A. BRUNSON, 0000
THOMAS A. BRUSEGAARD, 0000
JOHN E. BRYAN, 0000
ROBERT D. BUNDRICK, 0000
PHILLIP R. BURGESS, 0000
JOHN A. BURKHART JR., 0000
CURTIS R. BURNS, 0000
MIKEL J. BURROUGHS, 0000
DALE A. BURTYK, 0000
BRIAN M. BUXTON, 0000
WILLIAM E. BYNUM III, 0000
ROBIN K. BYROM, 0000
MARK D. CALVO, 0000
DAVID B. CAMERON, 0000
GUY F. CAMPION, 0000
LAWRENCE A. CANNON, 0000
TIMOTHY S. CARLIN, 0000
MICHAEL L. CARMIN, 0000
LESLIE J. CARROLL, 0000
ROBERT W. CASE, 0000
MARY C. CASEY, 0000
EDWARD J. CASH, 0000
LARRY W. CHAMBERS, 0000
SCOTT E. CHAMBERS, 0000
CARL L. CHAPPELL JR., 0000
MICHAEL A. CHESNEY, 0000
JOE E. CHESNUT JR., 0000
ROBERT E. CHEVAS, 0000
DON A. CHIRI, 0000
FRANK A. CIPOLLA, 0000
TIMOTHY P. CLAPP, 0000
BLANE CLARK, 0000
JAMES K. CLAY, 0000
JAMES A. CLERIHEW, 0000
ROBERT P. CLINEBELL, 0000
STEPHEN M. CLOWSER, 0000
JANET L. COBB, 0000
ROBERT A. COBB, 0000
ROBERT C. COCHRAN, 0000
ANDREAS K. COFER, 0000
SAMUEL J. COLELLA, 0000
CURTIS C. COLLIER, 0000
KEVIN J. COLLINS, 0000
WILFREDO COLON, 0000
GARY G. CONLON, 0000
ADELE O. CONNELL, 0000
JACK R. COOK JR., 0000
PENELOPE L. COOK, 0000
JOSEPH E. COOLEY, 0000
NANCY L. COOPER, 0000
ROWLAND COOPER, 0000
LARRY D. COPELIN, 0000
DON S. CORNETT JR., 0000
VICTOR M. CORREA, 0000
GREGORY E. COUCH, 0000
ANDRE N. COULOMBE, 0000
GEORGE W. COVERT JR., 0000
JAMES M. COYNE, 0000
TEDDY C. CRANFORD, 0000
DON CROSBY, 0000
RICHARD C. CROTTY, 0000
CAROL R. CROUCH, 0000
RANDY B. CROWDER, 0000
NOEL D. CULBERT, 0000
GEORGE B. CULPEPPER, 0000
DONALD J. CURRIER, 0000
LARRY W. CURTIS, 0000
ROBERT J. CURTIS, 0000
MICHAEL A. DANGERFIELD, 0000
JOE C. DANIEL, 0000
ANTHONY J. DAQUILA, 0000
GEORGE H. DAVIS JR., 0000
GLORIA E. DAVIS, 0000
GORDON M. DAVIS, 0000
DAVID I. DAWLEY, 0000
KENNETH M. DAY, 0000
GENE M. DEAL, 0000
ANDRE J. DEBOSE, 0000
RAYMOND DENISEWICH, 0000
JAMES W. DETTMAN, 0000
PAUL DEVINCENZO, 0000
PAUL F. DICKER, 0000
GLEN R. DIEHL, 0000
CARL D. DIETZ, 0000
ERNEST M. DILWORTH, 0000
CARL J. DISALVATORE, 0000
LOUIS F. DISANTO, 0000
RODNEY P. DIXON, 0000
CHAUNCEY D. DOCKINS, 0000
DOUGLAS A. DODS, 0000
GUILLERMO V. DOMINGUEZ, 0000
TIMOTHY J. DORN, 0000
JEFFRY E. DORNEY, 0000
RONALD E. DORVILLE, 0000
JUDY D. DOUGHERTY, 0000
KEVIN A. DOXEY, 0000
PETER S. DUKLIS JR., 0000
FRANK W. DULFER, 0000
DAVID T. DUNN, 0000
FRANK W. DUNN SR., 0000
GRACUS K. DUNN, 0000
JOSEPH M. DUREN, 0000
KENT J. DURING, 0000
EDWARD R. DWAN, 0000
JAMES M. DYE JR., 0000
DOUGLAS B. EARHART, 0000
ROCKY G. EASTER, 0000
SHEILA M. EDWARDS, 0000
HAROLD R. ELLENS, 0000
CARL A. ELLSWORTH, 0000
WILLIAM L. ENYART JR., 0000
THOMAS L. ESKER, 0000
DAVID M. EVANS, 0000
THOMAS J. EVELYN, 0000
WILLIAM J. FALLON, 0000
PETER A. FAST, 0000
MICHAEL H. FEEHAN, 0000
STEVEN J. FELDMANN, 0000
JOHN J. FERENCE, 0000
REBECCA L. FERNANDEZ, 0000
THOMAS E. FERNANDEZ, 0000
JOSE A. FERNANDEZRUIZ, 0000
KEVIN J. FINNEGAN, 0000
RENEE T. FINNEGAN, 0000
NORA V. FISHER, 0000
PHILIP R. FISHER, 0000
DAVID W. FITZGERALD, 0000
WILLIAM F. FITZPATRICK, 0000
DARRELL N. FLANNERY, 0000
ROBERTA A. FLATH, 0000
ELIZABETH W. FLEMING, 0000
MYRON M. FONSECA, 0000
ROBERT S. FORBES, 0000
JOHN P. FOREMAN, 0000
JOHN H. FOSTER JR., 0000
VINCENT L. FOULK, 0000
WALTER E. FOUNTAIN, 0000
FREDERICK R. FOWLER, 0000
KARL F. FRANTZ, 0000
GEOFFREY A. FREEMAN, 0000
SAMUEL L. FRIAR, 0000
ARTHUR R. FRIEDMAN, 0000
RORY T. FROEHLICH, 0000
TED C. FULTZ, 0000
RAYMOND H. GAIER III, 0000
ROBERT GAY, 0000
RICHARD GEORGI, 0000
PAUL F. GERBERS, 0000
WILLIAM H. GERETY, 0000
CELESTE GERLACH, 0000
DAVID K. GILBERT, 0000
STEVEN J. GILLINGHAM, 0000
LAWRENCE F. GIUSTI, 0000
JOHN L. GLATZ, 0000
RAYMOND J. GODLESKI JR., 0000
DAVID C. GOETSCH, 0000
PETER S. GOLDBERG, 0000
PETER A. GOLDING, 0000
WANDA L. GOOD, 0000
BRIAN W. GOODWIN, 0000
THOMAS A. GOONAN, 0000
JOSE A. GOTAY, 0000
VINCENT R. GRACE, 0000
JAMES L. GREEN, 0000
PAUL T. GREEN, 0000
ROBERT B. GREEN, 0000
JOHN H. GREENWADE, 0000
DONALD H. GREENWOOD, 0000
BONNIE J. GRIFFIS, 0000
ANDREW C. GRIMES JR., 0000
LAWRENCE E. GRIMES, 0000
HERBERT S. GROGAN, 0000
MONA A. GRUPP, 0000
DAVID K. GUIER, 0000
TIMOTHY A. GUSS, 0000
MELANIE M. GUTJAHR, 0000
SIGFREDO. GUZMAN, 0000
ERIC G. HAERTEL, 0000
KENT A. HALBERSTADT, 0000
JIMMY C. HALFACRE, 0000
STEPHEN E. HAMBRECHT, 0000
AUDIE V. HAMRICK JR., 0000
JAMES F. HANKINS, 0000
JOHN C. HANLEY, 0000
STEPHANIE E. HAP, 0000
GARY A. HARBER, 0000
DAYRA E. HARBISON, 0000
ROBERT C. HARGREAVES, 0000
PATRICIA A. HARNEY, 0000
GARY P. HARPER, 0000
MARK D. HARRELL, 0000
JAMES M. HARRINGTON, 0000
KATHALEEN F. HARRIS, 0000
STEVEN L. HARTMAN, 0000
THOMAS D. HASBROOK, 0000
CHRISTOPHER J. HASER, 0000
CHARLES H. HASH, 0000
KENNETH E. HASSLER, 0000
JACK P. HAUSEN, 0000
PAUL A. HAVELES, 0000
CURTIS M. HELLENBRAND, 0000
FORREST B. HENDRICK, 0000
JOSEPH F. HENNEKEY, 0000
WALTER C. HERIN JR., 0000
PATRICIA A. HERITSCH, 0000
JOSEPH L. HERMON, 0000
JULIE A. HERNANDEZ, 0000
MARK R. HERTEL, 0000
JAMES M. HESSON JR., 0000
TODD R. HIGGINS, 0000
DANNY R. HILL, 0000
FRANK G. HILL, 0000
CLARENCE HILTON, 0000
JUDITH M. HOHMANN, 0000
DAVID R. HOLTGRIEVE, 0000
CHARLES E. HOLWERDA, 0000
THOMAS D. HOOK, 0000
JAY J. HOOPER, 0000
JAMES T. HORNSTEIN, 0000
RAYMOND T. HOROHO, 0000
VANCE B. HORTON JR., 0000
JONATHAN M. HOUSE, 0000
STEVEN P. HUBER, 0000
DENNIS C. HUEBSCHMAN, 0000
RONALD W. HUFF, 0000
GERALD S. HUGHES, 0000
PAUL F. HULSLANDER, 0000
PAUL D. HUMPHRIES, 0000
JAMES W. HUNT, 0000
BENJAMIN T. HUSSEY JR., 0000
CHARLES A. IADIMARCO, 0000
DONALD S. IANNAZZI, 0000
HENRY J. IARRUSSO, 0000
ETHEL M. IFFLANDER, 0000
HERBERT A. IRISH, 0000
DAVID F. IRWIN, 0000
MIGUEL A. ISAAC, 0000
JONATHAN G. IVES, 0000
BILLY I. JACKSON, 0000
HARRY T. JACKSON, 0000
JANNETT N. JACKSON, 0000
JEANINE E. JACKSON, 0000
PAMELA D. JACKSON, 0000
BRUCE A. JAHNKE, 0000
BRIAN N. JALBERT, 0000
CRAIG N. JENKINS, 0000
KAREN L. JENNINGS, 0000
CRAIG D. JOHNSON, 0000
GEORGE H. JOHNSON, 0000
GEORGE O. JOHNSON, 0000
CHARLES T. JONES, 0000
DARRELL W. JONES, 0000
KENNETH D. JONES, 0000
PHILIP D. JONES, 0000
ROBERT M. JONES, 0000
BRENT R. JORGENSON, 0000
MITCHELL W. JOSH, 0000
MELVIN N. KAKU, 0000
THOMAS G. KANE, 0000
WILLIAM A. KASTEN, 0000
KATHERINE P. KASUN, 0000
MARK J. KATKOW, 0000
LARRY D. KAY, 0000
PAUL R. KEMPAINEN, 0000
DONALD E. KENNEDY, 0000
KERRY M. KENNEDY, 0000
ROBERT W. KENYON, 0000
WILLIAM H. KERN, 0000
CAROL A. KERR, 0000
SCOTT W. KERR, 0000
ALLEN J. KESSEL, 0000
GOPAL S. KHALSA, 0000
ROBERT G. KILBER, 0000
KERRY L. KIMBLE, 0000

GREGORY L. KING, 0000
CARL F. KIST, 0000
KENNETH KITAHARA, 0000
STEPHEN R. KLASINSKI, 0000
RICHARD D. KNAPP, 0000
MICHAEL S. KNEELAND, 0000
KEVIN J. KNEY JR., 0000
BARBARA J. KOLL, 0000
ARTHUR D. KOPPERSMITH, 0000
ROBERT S. KORPANTY, 0000
ALEXANDER I. KOZLOV, 0000
KATHLEEN A. KRAMER, 0000
DONALD L. KREBS, 0000
ALAN W. KREZECZOWSKI, 0000
ELENA KUSKY, 0000
DAVID W. LACROIX, 0000
GERALD LAGO, 0000
CHRISTOPHER W. LAI, 0000
KIRK D. LAMB, 0000
WORNEST E. LAMBERT, 0000
RANDALL W. LAMBRECHT, 0000
THEODORE R. LAMMOT IV, 0000
DUNNICA O. LAMPTON, 0000
MARTIN J. LANGAN, 0000
DAVID N. LANGLEY, 0000
PEDRO J. LANZO, 0000
BRIAN J. LARSON, 0000
THOMAS G. LAWRACY, 0000
JAMES E. LAWRENCE, 0000
JAMES H. LAWSON, 0000
DAVID E. LECKRONE, 0000
ALAN J. LECLAIR, 0000
JON D. LEE, 0000
JUSTIN E. N. LEE, 0000
DONALD C. LEINS, 0000
JOHN A. LENDRUM, 0000
MICHAEL R. LIECHTY, 0000
JEFFREY J. LIETHEN, 0000
MARION W. LILES, 0000
LEONARD LIVOTE, 0000
MARK E. LOGAN, 0000
JON E. LOPEY, 0000
PHILIP R. LOSCHIAVO, 0000
JEFFREY A. LOUDERMILK, 0000
STEVEN B. LOVE, 0000
CARROLL LUCAS, 0000
GWEN B. LYLE, 0000
DONALD C. LYNDE, 0000
MICHAEL J. LYONS, 0000
GEORGE E. MACDONALD JR., 0000
GORDON J. MACKENZIE JR., 0000
TOM R. MACKENZIE, 0000
DANIEL E. MAGILL, 0000
GARY A. MAJOR, 0000
MATTHEW S. MANEY, 0000
WILLIAM M. MARCHAND, 0000
MARCO A. MARIN, 0000
ANTHONY S. MARRACCINO, 0000
ROBERT T. MARSH, 0000
CHARLES E. MARSHALL, 0000
CHARLES D. MARTIN, 0000
CLARENCE R. MARTIN JR., 0000
ROBERT K. MARTIN, 0000
WESLEY M. MARTIN II, 0000
JAMES D. MARZE, 0000
JACQUELINE MASON, 0000
TIMOTHY J. MASON, 0000
SERGIO M. MATURINO, 0000
ROGER S. MATZKIND, 0000
JOHN F. MAUL, 0000
GEORGE P. MAXEY, 0000
WILLIAM R. MAY, 0000
CHRISTOPHER T. MAYER, 0000
CHARLES E. MAYO, 0000
KEVIN J. MCALEESE, 0000
DAVID G. MCALPIN, 0000
TERENCE J. MCARDLE, 0000
KATHY L. MCCAIN, 0000
ROGER L. MCCLELLAN, 0000
DENNIS J. MCGLONE, 0000
MARK A. MCKEE, 0000
BOBBY L. MCKINNON JR., 0000
ALEXANDER G. MCLAREN, 0000
RONALD D. MCNEIL, 0000
MARTHA A. MCRAVINOLIVER, 0000
DANNY L. MEADOR, 0000
MICHAEL M. MEDENIS, 0000
ANASTACIO MEDINA JR., 0000
GARY A. MEDVIGY, 0000
WILLIAM C. MEILI, 0000
VIVIAN R. MENYHERT, 0000
MITFORD H. MERRITT JR., 0000
DAVID D. METCALF, 0000
GREGORY E. MEYER, 0000
MARK S. MILLARD, 0000
BRIAN R. E. MILLER, 0000
CHARLOTTE L. MILLER, 0000
JON J. MILLER, 0000
KENT L. MILLIKEN, 0000
HECTOR MIRABILE, 0000
GUILLERMO MIRANDA, 0000
ERIN M. MISNER, 0000
DAVID T. MITCHELL JR., 0000
WALTER R. MITCHELL, 0000
PAULETTE A. MITTELSTEDT, 0000
THOMAS P. MOLLOY, 0000
PAUL E. MONDA, 0000
RODNEY D. MONTANG, 0000
JEFFREY W. MONTGOMERY, 0000
DAVID R. MOONEY, 0000
JAMES C. MOORE, 0000
ROBERT W. MOOTY, 0000
BRYAN E. MORGAN, 0000
MARIE R. MORIN, 0000
ALBERT W. MORRIS, 0000
THOMAS C. MORTENSON, 0000
RICHARD A. MORTON, 0000
DOUGLAS F. MOW JR., 0000
JOHN C. MURPHY, 0000
MARGARET A. T. MURPHY, 0000
MANDI A. MURRAY, 0000
SYLVESTER C. MURRAY, 0000
THOMAS P. MURRAY, 0000
JOHN D. MUSE, 0000
ALPHONSE M. NACLERIO, 0000
MATTHEW N. NAGASAKO, 0000
REBECCA L. NEILSON, 0000
GILBERT A. NELSON, 0000
JEFFREY M. NELSON, 0000
ROBERT E. NELSON, 0000
MICHAEL R. NEVIN, 0000
ALPHONZO L. NEWBY, 0000
SAMUEL T. NICHOLS JR., 0000
JAMES M. NICKELL, 0000
WARD S. NIHISER, 0000
ROBERT J. J. NISBET, 0000
NORMA J. NIXON, 0000
DANNY G. NOBLES, 0000
CARL R. NOLTE, 0000
ROBERT W. NOONAN, 0000
MARY R. NORRIS, 0000
DONALD W. NORTH, 0000
ALICIA L. NYLAND, 0000
DAVID C. OCHS, 0000
LOREN S. OELKERS, 0000
MICHAEL E. OHARE, 0000
LANCE Y. OKIHARA, 0000
CURTIS J. OLACHEA, 0000
GERALD A. OLSON, 0000
JACK D. OLSON, 0000
SCOT T. OLSON, 0000
THERESA J. OLSON, 0000
JOSEPH M. OLSZOWY, 0000
MARTIN J. ONEILL, 0000
VINCENT P. OPPENHEIM, 0000
RICHARD E. ORR, 0000
BASTIAN W. OSKAM, 0000
MARK G. OSWALD, 0000
TIMON M. OUJIRI, 0000
JAMES OWENS, 0000
ROBIN K. OWENS, 0000
WILLIE R. PALMER, 0000
OCTAVIA L. PARKER, 0000
RICKY D. PARKER, 0000
BRADFORD J. PARSONS, 0000
ANTHONY PATERNOSTRO, 0000
MARITA M. PATTERSON, 0000
DWIGHT C. PATTON, 0000
MARY T. PEARL, 0000
GARY E. PELCAK, 0000
JOSEPH P. PEROVICH, 0000
BRIAN D. PERRY SR., 0000
KATHY J. N. PERRY, 0000
BERNADETTE E. PETERS, 0000
HARRY E. PETERS, 0000
RODNEY R. PETERSON, 0000
RONALD D. PETERSON, 0000
SUSAN C. PETTY, 0000
JERRY L. PHILLABAUM, 0000
CHARLES W. PHILLIPS, 0000
GREGORY PHILLIPS, 0000
JEFFREY E. PHILLIPS, 0000
JOSEPH J. PHILLIPS, 0000
TIMOTHY S. PHILLIPS, 0000
JOSEPH A. PIASTA II, 0000
ROBERT L. PITTS, 0000
LUCAS N. POLAKOWSKI, 0000
JERRY M. POWERS, 0000
DAVID M. PRATT, 0000
ROBERT J. PRATT, 0000
HELEN L. PREWITT, 0000
DAVID A. PRICE, 0000
JOSEPH A. PRICE, 0000
RAYMOND M. PRUETT, 0000
DANIEL G. PUHL, 0000
LESLIE A. PURSER, 0000
DAVID W. PUSTER, 0000
ROBERT T. RAFFEL, 0000
PAUL M. RAGARD, 0000
JESUS G. RAMIREZ JR., 0000
ANNE M. RAMOS, 0000
LAWRENCE L. RANDLE, 0000
JOHN W. RANDOLPH, 0000
BILLY M. REIMER, 0000
PATRICK J. REINERT, 0000
WESLEY K. REMER, 0000
BRUCE A. RESNAK, 0000
HEINRICH J. REYES, 0000
ORLANDO REYESRENTAS, 0000
KEITH W. RICHARD, 0000
JOHNNY L. RICHARDS, 0000
JOSEPH M. RICHIE, 0000
THEODORE P. RIGO, 0000
RONALD C. RILEY, 0000
RAYMOND E. RIPPEL, 0000
GREGORY A. RITCH, 0000
WILLIAM E. ROCHELLE, 0000
PITMAN C. ROCK JR., 0000
PAMELA J. RODRIGUEZ, 0000
ALAN D. ROGERS, 0000
CAROL J. ROGERS, 0000
LARRY D. ROGERS, 0000
LUIS R. ROLDAN, 0000
FRANKLIN D. ROOSE, 0000
PHILIP L. ROSER, 0000
DANNY R. ROSS, 0000
MARK H. ROUSSEAU, 0000
ALICIA C. RUCKER, 0000
GREGORY L. RUNYON, 0000
MILLARD C. RUSHING, 0000
PAUL S. RUSINKO, 0000
JEFFREY W. RUSSELL, 0000
JOHN T. RUSSELL, 0000
JOHN A. RUSSO, 0000
ENGLISH R. RYAN, 0000
JOHN F. SACKETT, 0000
BOBBY L. SAILORS, 0000
HUGO E. SALAZAR, 0000
DENNIS D. SALTZMAN, 0000
ANTHONY M. SANCHEZ, 0000
KENNETH A. SANCHEZ, 0000
GUY L. SANDSPINGOT, 0000
ANGEL SANTIAGOTORRES, 0000
LUIS G. SANTONI, 0000
THOMAS N. SCHELLINGERHOUT, 0000
RICHARD L. SCHOEFF, 0000
DANIEL I. SCHULTZ, 0000
DANELLE L. SCOTKA, 0000
JAMES C. SCOTT JR., 0000
RICHARD R. SCOTT, 0000
WILLIE D. SCOTT JR., 0000
MARK D. SCRABA, 0000
VICKI L. SCRUGGS, 0000
CHARLES E. SEASTRUNK III, 0000
BRIAN J. SELIGA, 0000
WILLIAM L. SELLS JR., 0000
STEPHEN E. SEWELL, 0000
CHARLES F. SHAVER, 0000
DAVID F. SHAW, 0000
ROBERT G. SHAW, 0000
DEBORAH A. SHEA, 0000
LINDA L. SHEFFIELD, 0000
THADIOUS S. SHELLY, 0000
WILLIAM J. SHELTON, 0000
JOANNE F. SHERIDAN, 0000
RICHARD D. SHIELDS JR., 0000
MICHAEL V. SHUTE, 0000
LAURA L. SIEVERT, 0000
MICHAEL A. SIGMUND, 0000
CLIFFORD M. SILSBY, 0000
MELVIN SILVA, 0000
THOMAS W. SIMPSON, 0000
GLENN P. SINCLAIR, 0000
JAMES T. SIPES, 0000
JEROME SIRMANS, 0000
JOHN C. SKELLY III, 0000
DANIEL F. SLOAN, 0000
CARLON L. SMITH, 0000
CAROL S. SMITH, 0000
GEORGE R. SMITH III, 0000
JACK G. SMITH JR., 0000
JOHN J. SMITH JR., 0000
MARK A. SMITH, 0000
STERILLA A. SMITH, 0000
WILLIAM A. SMITH, 0000
TERRY K. SNOW, 0000
THOMAS A. SOBECKI, 0000
DALE K. SODERSTROM, 0000
MICHAEL E. SOJA, 0000
JOHN B. SOLAN, 0000
JOHN W. SONE, 0000
JESUS SOTO JR., 0000
DALE A. SOWELL, 0000
CHAD E. SPARKS, 0000
JEROME V. SPEARS, 0000
JAMES E. SPIESS, 0000
ROBERT M. SPILLERS, 0000
JOHN R. SPOTTS, 0000
CLAIR SCOTT J. ST, 0000
ROBERT F. STAAKE, 0000
CHARLES G. STEINMETZ IV, 0000
XAVIER STEWART, 0000
LARRY J. STICE, 0000
GEORGE L. STIGLER, 0000
DON S. STINSON, 0000
WILLIAM S. STIREWALT JR., 0000
LEE L. STOCKDALE, 0000
KENNETH C. STONE JR., 0000
MICHAEL E. STOUT, 0000
ANDREW K. STRAW, 0000
STANLEY M. STRICKLEN, 0000
JOHN K. STRUDWICK, 0000
JEFFREY L. STUART, 0000
JERRY E. SULLIVAN, 0000
ROBERT M. SUNDBERG, 0000
THOMAS C. SUPLER, 0000
RUSSEL S. SWANGER JR., 0000
LARRY J. SWARTZ, 0000
EDWARD SWEENEY, 0000
DONNA D. SWIFT, 0000
ROBERT C. A. SWISHER, 0000
JEFFREY J. SWOKOWSKI, 0000
DANIEL L. TACK, 0000
KEN H. TAKAYAMA, 0000
DANNY D. TALLENT, 0000
LEROY F. TARIO, 0000
RICHARD H. TAYLOR, 0000
ARTHUR N. TEAMERSON III, 0000
DEBRA R. TEMPLETON, 0000
GEORGE W. THOMAS, 0000
GLENDORA G. THOMAS, 0000
ROBERT F. THOMAS, 0000
TERRY A. THOMAS, 0000
ROGER M. W. THOMPSON, 0000
BOBBY C. THORNTON, 0000
KEITH C. TIEDKE, 0000
JAMES R. TILLEY, 0000
MICHAEL G. TOBIN, 0000
BRIAN S. TOLLIE, 0000
CHARLES K. TORRENCE, 0000
MITCHELL E. TORYANSKI, 0000
JOHN C. TRAYLOR, 0000
PAUL E. TRESSA JR., 0000
TIMOTHY R. TRIBBLE, 0000
GARY M. TRIPP, 0000
MICHAEL J. TROMBETTA, 0000
DAVID J. TRZASKOS, 0000
ANDRE M. TYLER, 0000
JAMES D. TYRE, 0000
STEVEN VANDERHOOF, 0000
DANIEL VARGAS, 0000

GERMAN J. VELEZ, 0000
ERIC C. VERBER, 0000
NEIL A. VESTERMARK, 0000
MILTON N. VICKERS, 0000
LUIS R. VISOT, 0000
PAUL H. VIVIAN, 0000
HARDEN D. VOLLMER, 0000
FREDDIE R. WAGGONER, 0000
RICHARD D. WAKEFIELD, 0000
ROBERT J. WALCOTT JR., 0000
DERYL V. WALL, 0000
DOUGLAS W. WALLACE, 0000
MICHAEL F. WALLACE, 0000
JAMES T. WALTON, 0000
DOUGLAS C. WARD, 0000
DWIGHT A. WARREN, 0000
FELTON WATKINS III, 0000
KIMBERLY A. WEAVER, 0000
PHILIP S. WEAVER, 0000
KENNETH W. WEBB, 0000
JOHN L. WEED, 0000
JOHN E. WEISGERBER, 0000
JERROLD D. WEISSINGER, 0000
TIMOTHY J. WELCH, 0000
MARK J. WELKER, 0000
IRENE N. WHEELWRIGHT, 0000
LEWIS M. WHISONANT, 0000
DAVID S. WHITE, 0000
PATRICIA R. WHITTINGTON, 0000
ANDREW T. WIENER, 0000
WILLIAM F. WILBANKS, 0000
BARRY J. WILLIAMS, 0000
FRANK P. WILLINGHAM, 0000
IVA E. WILSONBURKE, 0000
HENRY W. WILSON, 0000
WILLIAM T. WILSON, 0000
KENNETH E. WINDHAM, 0000
WILLIAM R. WING, 0000
CEDRIC F. WINGATE, 0000
DUANE L. WITTENBURG, 0000
DONALD L. WODASH, 0000
DANIEL J. WOLFE, 0000
STEPHEN A. WOMACK, 0000
ERIC WONG, 0000
BRADLEY W. WOOD, 0000
DONNA S. A. WOODBY, 0000
RAY C. WOOLERY, 0000
DAVID G. WRENN, 0000
JAMES H. WRIGHT, 0000
KIM R. WRIGHT, 0000
CRAIG S. WROBLEWSKI, 0000
STEVEN E. WUJCIAK, 0000
GEORGE A. YANTHIS, 0000
KAREN L. YATTO, 0000
RUDY L. YORK, 0000
CLEMENT W. YOUNG, 0000
JAMES G. YOUNG JR., 0000
PETER D. ZAMARCHI, 0000
JOSEPH M. ZIMA, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

PHILLIP K. PALL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

STEPHANIE L. O'NEAL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

THOMAS P. ROSDAHL, 0000

DEPARTMENT OF THE TREASURY

RAYMOND T. WAGNER, JR., OF MISSOURI, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 14, 2004, VICE GEORGE L. FARR.

NATIONAL SCIENCE FOUNDATION

ELIZABETH HOFFMAN, OF COLORADO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008, VICE STANLEY VINCENT JASKOLSKI, TERM EXPIRED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate November 12, 2002:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ALBERTO FAUSTINO TREVINO, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

CAROLYN Y. PEOPLES, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

SECURITIES INVESTOR PROTECTION CORPORATION

ARMANDO J. BUCELO, JR., OF FLORIDA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2002.

ARMANDO J. BUCELO, JR., OF FLORIDA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2005.

DEBORAH DOYLE MCWHINNEY, OF CALIFORNIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2004.

NATIONAL CONSUMER COOPERATIVE BANK

RAFAEL CUELLAR, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF THREE YEARS.

MICHAEL SCOTT, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF THREE YEARS.

FEDERAL DEPOSIT INSURANCE CORPORATION

JOHN M. REICH, OF VIRGINIA, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

DEPARTMENT OF STATE

JOHN R. DAWSON, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

GENE B. CHRISTY, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

CHARLES AARON RAY, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF CAMBODIA.

DAVID L. LYON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FIJI, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAURU, AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF TONGA, AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TUVALU.

LINDA ELLEN WATT, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

RICHARD ALLAN ROTH, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU.

ANTONIO O. GARZA, JR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MEXICO.

JOSEPH HUGGINS, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOTSWANA.

GROVER JOSEPH REES, OF LOUISIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF EAST TIMOR.

ROBIN RENEE SANDERS, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CONGO.

FRANCIS X. TAYLOR, OF MARYLAND, TO BE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS, AND TO HAVE THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE.

FRANCIS X. TAYLOR, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE (DIPLOMATIC SECURITY).

INTERNATIONAL MONETARY FUND

NANCY P. JACKLIN, OF NEW YORK, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF TWO YEARS.

BROADCASTING BOARD OF GOVERNORS

SETH CROPSEY, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE INTERNATIONAL BROADCASTING BUREAU, BROADCASTING BOARD OF GOVERNORS.

STEVEN J. SIMMONS, OF CONNECTICUT, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 13, 2003.

JOAQUIN F. BLAYA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2005.

D. JEFFREY HIRSCHBERG, OF WISCONSIN, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2004.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

WENDY JEAN CHAMBERLIN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

OVERSEAS PRIVATE INVESTMENT CORPORATION

DIANE M. RUEBLING, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2002.

C. WILLIAM SWANK, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2002.

SAMUEL E. EBBESEN, OF THE VIRGIN ISLANDS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2003.

NED L. SIEGEL, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2003.

POSTAL RATE COMMISSION

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 14, 2004.

RUTH Y. GOLDWAY, OF CALIFORNIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING NOVEMBER 22, 2008.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF DEFENSE

CHARLES S. ABELL, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.

DEPARTMENT OF JUSTICE

CAROL CHIEN-HUA LAM, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

GLENN T. SUDDABY, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

JOHNNY MACK BROWN, OF SOUTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF FOUR YEARS.

JOHN FRANCIS CLARK, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS.

ROBERT MAYNARD GRUBBS, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS.

JOSEPH R. GUCCIONE, OF NEW YORK, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.